

VOLUME II—PARTS 52, 53, & INDEX

FEDERAL ACQUISITION REGULATION

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GENERAL SERVICES ADMINISTRATION

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

(This edition includes the consolidation of all Federal Acquisition Circulars through 2001-27)

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 1

FEDERAL ACQUISITION REGULATION

Volume II

FOREWORD

This March 2005 edition is a complete reissue of the Federal Acquisition Regulation (FAR). It includes all Federal Acquisition Circulars through 2001-27. The effective date of the overall FAR remains April 1, 1984.

The FAR is the primary regulation for use by all Federal Executive agencies in their acquisition of supplies and services with appropriated funds. It became effective on April 1, 1984, and is issued within applicable laws under the joint authorities of the Administrator of General Services, the Secretary of Defense, and the Administrator for the National Aeronautics and Space Administration, under the broad policy guidelines of the Administrator, Office of Federal Procurement Policy, Office of Management and Budget.

The FAR precludes agency acquisition regulations that unnecessarily repeat, paraphrase, or otherwise restate the FAR, limits agency acquisition regulations to those necessary to implement FAR policies and procedures within an agency, and provides for coordination, simplicity, and uniformity in the Federal acquisition process. It also provides for agency and public participation in developing the FAR and agency acquisition regulations.

FEDERAL ACQUISITION REGULATION

SUBCHAPTER H—CLAUSES AND FORMS

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Sec.

- 52.000 Scope of part.
- Subpart 52.1—Instructions for Using Provisions and Clauses**
- 52.100 Scope of subpart.
52.101 Using Part 52.
52.102 Incorporating provisions and clauses.
52.103 Identification of provisions and clauses.
52.104 Procedures for modifying and completing provisions and clauses.
52.105 Procedures for using alternates.
52.106 [Reserved]
52.107 Provisions and clauses prescribed in Subpart 52.1.
- Subpart 52.2—Text of Provisions and Clauses**
- 52.200 Scope of subpart.
52.201 [Reserved]
52.202-1 Definitions.
52.203-1 [Reserved]
52.203-2 Certificate of Independent Price Determination.
52.203-3 Gratuities.
52.203-4 [Reserved]
52.203-5 Covenant Against Contingent Fees.
52.203-6 Restrictions on Subcontractor Sales to the Government.
52.203-7 Anti-Kickback Procedures.
52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity.
52.203-9 [Reserved]
52.203-10 Price or Fee Adjustment for Illegal or Improper Activity.
52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.
52.203-12 Limitation on Payments to Influence Certain Federal Transactions.
52.204-1 Approval of Contract.
52.204-2 Security Requirements.
52.204-3 Taxpayer Identification.
52.204-4 Printed or Copied Double-Sided on Recycled Paper.
52.204-5 Women-Owned Business (Other Than Small Business).
52.204-6 Data Universal Numbering System (DUNS) Number.
52.204-7 Central Contractor Registration.
52.204-8 Annual Representations and Certifications.
52.205 [Reserved]
52.206 [Reserved]
52.207-1 Notice of Cost Comparison (Sealed-Bid).
52.207-2 Notice of Cost Comparison (Negotiated).
52.207-3 Right of First Refusal of Employment.
52.207-4 Economic Purchase Quantity—Supplies.
52.207-5 Option to Purchase Equipment.
- 52.208-1 [Reserved]
52.208-2 [Reserved]
52.208-3 [Reserved]
52.208-4 Vehicle Lease Payments.
52.208-5 Condition of Leased Vehicles.
52.208-6 Marking of Leased Vehicles.
52.208-7 Tagging of Leased Vehicles.
52.208-8 Required Sources for Helium and Helium Usage Data.
52.208-9 Contractor Use of Mandatory Sources of Supply or Services.
52.209-1 Qualification Requirements.
52.209-2 [Reserved]
52.209-3 First Article Approval—Contractor Testing.
52.209-4 First Article Approval—Government Testing.
52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters.
52.209-6 Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.
52.210 [Reserved]
52.211-1 Availability of Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29.
52.211-2 Availability of Specifications Listed in the DoD Index of Specifications and Standards (DoDISS) and Descriptions Listed in the Acquisition Management Systems and Data Requirements Control List, DoD 5010.12-L.
52.211-3 Availability of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.
52.211-4 Availability for Examination of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.
52.211-5 Material Requirements.
52.211-6 Brand Name or Equal.
52.211-7 Alternatives to Government-Unique Standards.
52.211-8 Time of Delivery.
52.211-9 Desired and Required Time of Delivery.
52.211-10 Commencement, Prosecution, and Completion of Work.
52.211-11 Liquidated Damages—Supplies, Services, or Research and Development.
52.211-12 Liquidated Damages—Construction.
52.211-13 Time Extensions.
52.211-14 Notice of Priority Rating for National Defense Use.
52.211-15 Defense Priority and Allocation Requirements.

-
- 52.211-16 Variation in Quantity.
 - 52.211-17 Delivery of Excess Quantities.
 - 52.211-18 Variation in Estimated Quantity.
 - 52.212-1 Instructions to Offerors—Commercial Items.
 - 52.212-2 Evaluation—Commercial Items.
 - 52.212-3 Offeror Representations and Certifications—Commercial Items.
 - 52.212-4 Contract Terms and Conditions—Commercial Items.
 - 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.
 - 52.213-1 Fast Payment Procedure.
 - 52.213-2 Invoices.
 - 52.213-3 Notice to Supplier.
 - 52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).
 - 52.214-1 [Reserved]
 - 52.214-2 [Reserved]
 - 52.214-3 Amendments to Invitations for Bids.
 - 52.214-4 False Statements in Bids.
 - 52.214-5 Submission of Bids.
 - 52.214-6 Explanation to Prospective Bidders.
 - 52.214-7 Late Submissions, Modifications, and Withdrawals of Bids.
 - 52.214-8 [Reserved]
 - 52.214-9 [Reserved]
 - 52.214-10 Contract Award—Sealed Bidding.
 - 52.214-11 [Reserved]
 - 52.214-12 Preparation of Bids.
 - 52.214-13 Telegraphic Bids.
 - 52.214-14 Place of Performance—Sealed Bidding.
 - 52.214-15 Period for Acceptance of Bids.
 - 52.214-16 Minimum Bid Acceptance Period.
 - 52.214-17 [Reserved]
 - 52.214-18 Preparation of Bids—Construction.
 - 52.214-19 Contract Award—Sealed Bidding—Construction.
 - 52.214-20 Bid Samples.
 - 52.214-21 Descriptive Literature.
 - 52.214-22 Evaluation of Bids for Multiple Awards.
 - 52.214-23 Late Submissions, Modifications, Revisions, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding.
 - 52.214-24 Multiple Technical Proposals.
 - 52.214-25 Step Two of Two-Step Sealed Bidding.
 - 52.214-26 Audit and Records—Sealed Bidding.
 - 52.214-27 Price Reduction for Defective Cost or Pricing Data—Modifications—Sealed Bidding.
 - 52.214-28 Subcontractor Cost or Pricing Data—Modifications—Sealed Bidding.
 - 52.214-29 Order of Precedence—Sealed Bidding.
 - 52.214-30 [Reserved]
 - 52.214-31 Facsimile Bids.
 - 52.214-32 [Reserved]
 - 52.214-33 [Reserved]
 - 52.214-34 Submission of Offers in the English Language.
 - 52.214-35 Submission of Offers in U.S. Currency.
 - 52.215-1 Instructions to Offerors—Competitive Acquisition.
 - 52.215-2 Audit and Records—Negotiation.
 - 52.215-3 Request for Information or Solicitation for Planning Purposes.
 - 52.215-4 [Reserved]
 - 52.215-5 Facsimile Proposals.
 - 52.215-6 Place of Performance.
 - 52.215-7 [Reserved]
 - 52.215-8 Order of Precedence—Uniform Contract Format.
 - 52.215-9 Changes or Additions to Make-or-Buy Program.
 - 52.215-10 Price Reduction for Defective Cost or Pricing Data.
 - 52.215-11 Price Reduction for Defective Cost or Pricing Data—Modifications.
 - 52.215-12 Subcontractor Cost or Pricing Data.
 - 52.215-13 Subcontractor Cost or Pricing Data—Modifications.
 - 52.215-14 Integrity of Unit Prices.
 - 52.215-15 Pension Adjustments and Asset Reversions.
 - 52.215-16 Facilities Capital Cost of Money.
 - 52.215-17 Waiver of Facilities Capital Cost of Money.
 - 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions.
 - 52.215-19 Notification of Ownership Changes.
 - 52.215-20 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data.
 - 52.215-21 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data—Modifications.
 - 52.216-1 Type of Contract.
 - 52.216-2 Economic Price Adjustment—Standard Supplies.
 - 52.216-3 Economic Price Adjustment—Semistandard Supplies.
 - 52.216-4 Economic Price Adjustment—Labor and Material.
 - 52.216-5 Price Redetermination—Prospective.
 - 52.216-6 Price Redetermination—Retroactive.
 - 52.216-7 Allowable Cost and Payment.
 - 52.216-8 Fixed Fee.
 - 52.216-9 Fixed Fee—Construction.
 - 52.216-10 Incentive Fee.
 - 52.216-11 Cost Contract—No Fee.
 - 52.216-12 Cost-Sharing Contract—No Fee.
 - 52.216-13 Allowable Cost and Payment—Facilities.
 - 52.216-14 Allowable Cost and Payment—Facilities Use.
 - 52.216-15 Predetermined Indirect Cost Rates.

-
- 52.216-16 Incentive Price Revision—Firm Target.
 - 52.216-17 Incentive Price Revision—Successive Targets.
 - 52.216-18 Ordering.
 - 52.216-19 Order Limitations.
 - 52.216-20 Definite Quantity.
 - 52.216-21 Requirements.
 - 52.216-22 Indefinite Quantity.
 - 52.216-23 Execution and Commencement of Work.
 - 52.216-24 Limitation of Government Liability.
 - 52.216-25 Contract Definitization.
 - 52.216-26 Payments of Allowable Costs Before Definitization.
 - 52.216-27 Single or Multiple Awards.
 - 52.216-28 Multiple Awards for Advisory and Assistance Services.
 - 52.217-1 [Reserved]
 - 52.217-2 Cancellation Under Multi-year Contracts.
 - 52.217-3 Evaluation Exclusive of Options.
 - 52.217-4 Evaluation of Options Exercised at Time of Contract Award.
 - 52.217-5 Evaluation of Options.
 - 52.217-6 Option for Increased Quantity.
 - 52.217-7 Option for Increased Quantity—Separately Priced Line Item.
 - 52.217-8 Option to Extend Services.
 - 52.217-9 Option to Extend the Term of the Contract.
 - 52.218 [Reserved]
 - 52.219-1 Small Business Program Representations.
 - 52.219-2 Equal Low Bids.
 - 52.219-3 Notice of Total HUBZone Set-Aside.
 - 52.219-4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns.
 - 52.219-5 Very Small Business Set-Aside.
 - 52.219-6 Notice of Total Small Business Set-Aside.
 - 52.219-7 Notice of Partial Small Business Set-Aside.
 - 52.219-8 Utilization of Small Business Concerns.
 - 52.219-9 Small Business Subcontracting Plan.
 - 52.219-10 Incentive Subcontracting Program.
 - 52.219-11 Special 8(a) Contract Conditions.
 - 52.219-12 Special 8(a) Subcontract Conditions.
 - 52.219-13 [Reserved]
 - 52.219-14 Limitations on Subcontracting.
 - 52.219-15 [Reserved]
 - 52.219-16 Liquidated Damages—Subcontracting Plan.
 - 52.219-17 Section 8(a) Award.
 - 52.219-18 Notification of Competition Limited to Eligible 8(a) Concerns.
 - 52.219-19 Small Business Concern Representation for the Small Business Competitiveness Demonstration Program.
 - 52.219-20 Notice of Emerging Small Business Set-Aside.
 - 52.219-21 Small Business Size Representation for Targeted Industry Categories under the Small Business Competitiveness Demonstration Program.
 - 52.219-22 Small Disadvantaged Business Status.
 - 52.219-23 Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.
 - 52.219-24 Small Disadvantaged Business Participation Program—Targets.
 - 52.219-25 Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting.
 - 52.219-26 Small Disadvantaged Business Participation Program—Incentive Subcontracting.
 - 52.219-27 Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside.
 - 52.220 [Reserved]
 - 52.221 [Reserved]
 - 52.222-1 Notice to the Government of Labor Disputes.
 - 52.222-2 Payment for Overtime Premiums.
 - 52.222-3 Convict Labor.
 - 52.222-4 Contract Work Hours and Safety Standards Act—Overtime Compensation.
 - 52.222-5 [Reserved]
 - 52.222-6 Davis-Bacon Act.
 - 52.222-7 Withholding of Funds.
 - 52.222-8 Payrolls and Basic Records.
 - 52.222-9 Apprentices and Trainees.
 - 52.222-10 Compliance with Copeland Act Requirements.
 - 52.222-11 Subcontracts (Labor Standards).
 - 52.222-12 Contract Termination—Debarment.
 - 52.222-13 Compliance with Davis-Bacon and Related Act Regulations.
 - 52.222-14 Disputes Concerning Labor Standards.
 - 52.222-15 Certification of Eligibility.
 - 52.222-16 Approval of Wage Rates.
 - 52.222-17 Labor Standards for Construction Work—Facilities Contracts.
 - 52.222-18 Certification Regarding Knowledge of Child Labor for Listed End Products.
 - 52.222-19 Child Labor—Cooperation with Authorities and Remedies.
 - 52.222-20 Walsh-Healey Public Contracts Act.
 - 52.222-21 Prohibition of Segregated Facilities.
 - 52.222-22 Previous Contracts and Compliance Reports.
 - 52.222-23 Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction.
 - 52.222-24 Preaward On-Site Equal Opportunity Compliance Evaluation.
 - 52.222-25 Affirmative Action Compliance.
 - 52.222-26 Equal Opportunity.
 - 52.222-27 Affirmative Action Compliance Requirements for Construction.
 - 52.222-28 [Reserved]

52.222-29	Notification of Visa Denial.	52.223-8	[Reserved]
52.222-30	Davis-Bacon Act—Price Adjustment (None or Separately Specified Method).	52.223-9	Estimate of Percentage of Recovered Material Content for EPA-Designated Products.
52.222-31	Davis-Bacon Act—Price Adjustment (Percentage Method).	52.223-10	Waste Reduction Program.
52.222-32	Davis-Bacon Act—Price Adjustment (Actual Method).	52.223-11	Ozone-Depleting Substances.
52.222-33	[Reserved]	52.223-12	Refrigeration Equipment and Air Conditioners.
52.222-34	[Reserved]	52.223-13	Certification of Toxic Chemical Release Reporting.
52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans.	52.223-14	Toxic Chemical Release Reporting.
52.222-36	Affirmative Action for Workers with Disabilities.	52.224-1	Privacy Act Notification.
52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans.	52.224-2	Privacy Act.
52.222-38	Compliance with Veterans' Employment Reporting Requirements.	52.225-1	Buy American Act—Supplies.
52.222-39	Notification of Employee Rights Concerning Payment of Union Dues or Fees.	52.225-2	Buy American Act Certificate.
52.222-40	[Reserved]	52.225-3	Buy American Act—Free Trade Agreements—Israeli Trade Act.
52.222-41	Service Contract Act of 1965, as Amended.	52.225-4	Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate.
52.222-42	Statement of Equivalent Rates for Federal Hires.	52.225-5	Trade Agreements.
52.222-43	Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts).	52.225-6	Trade Agreements Certificate.
52.222-44	Fair Labor Standards Act and Service Contract Act—Price Adjustment.	52.225-7	Waiver of Buy American Act for Civil Aircraft and Related Articles.
52.222-45	[Reserved]	52.225-8	Duty-Free Entry.
52.222-46	Evaluation of Compensation for Professional Employees.	52.225-9	Buy American Act—Construction Materials.
52.222-47	SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA).	52.225-10	Notice of Buy American Act Requirement—Construction Materials.
52.222-48	Exemption from Application of Service Contract Act Provisions for Contracts for Maintenance, Calibration, and/or Repair of Certain Information Technology, Scientific and Medical and/or Office and Business Equipment—Contractor Certification.	52.225-11	Buy American Act—Construction Materials under Trade Agreements.
52.222-49	Service Contract Act—Place of Performance Unknown.	52.225-12	Notice of Buy American Act Requirement—Construction Materials under Trade Agreements.
52.222-50	[Reserved]	52.225-13	Restrictions on Certain Foreign Purchases.
52.223-1	[Reserved]	52.225-14	Inconsistency between English Version and Translation of Contract.
52.223-2	[Reserved]	52.225-15	Sanctioned European Union Country End Products.
52.223-3	Hazardous Material Identification and Material Safety Data.	52.225-16	Sanctioned European Union Country Services.
52.223-4	Recovered Material Certification.	52.225-17	Evaluation of Foreign Currency Offers.
52.223-5	Pollution Prevention and Right-to-Know Information.	52.226-1	Utilization of Indian Organizations and Indian-Owned Economic Enterprises.
52.223-6	Drug-Free Workplace.	52.226-2	Historically Black College or University and Minority Institution Representation.
52.223-7	Notice of Radioactive Materials.	52.227-1	Authorization and Consent.
		52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement.
		52.227-3	Patent Indemnity.
		52.227-4	Patent Indemnity—Construction Contracts.
		52.227-5	Waiver of Indemnity.
		52.227-6	Royalty Information.
		52.227-7	Patents—Notice of Government Licensee.
		52.227-8	[Reserved]
		52.227-9	Refund of Royalties.
		52.227-10	Filing of Patent Applications—Classified Subject Matter.

52.227-11 Patent Rights—Retention by the Contractor (Short Form).	52.230-1 Cost Accounting Standards Notices and Certification.
52.227-12 Patent Rights—Retention by the Contractor (Long Form).	52.230-2 Cost Accounting Standards.
52.227-13 Patent Rights—Acquisition by the Government.	52.230-3 Disclosure and Consistency of Cost Accounting Practices.
52.227-14 Rights in Data—General.	52.230-4 Consistency in Cost Accounting Practices.
52.227-15 Representation of Limited Rights Data and Restricted Computer Software.	52.230-5 Cost Accounting Standards—Educational Institution.
52.227-16 Additional Data Requirements.	52.230-6 Administration of Cost Accounting Standards.
52.227-17 Rights in Data—Special Works.	52.231 [Reserved]
52.227-18 Rights in Data—Existing Works.	52.232-1 Payments.
52.227-19 Commercial Computer Software—Restricted Rights.	52.232-2 Payments under Fixed-Price Research and Development Contracts.
52.227-20 Rights in Data—SBIR Program.	52.232-3 Payments under Personal Services Contracts.
52.227-21 Technical Data Declaration, Revision, and Withholding of Payment—Major Systems.	52.232-4 Payments under Transportation Contracts and Transportation-Related Services Contracts.
52.227-22 Major System—Minimum Rights.	52.232-5 Payments under Fixed-Price Construction Contracts.
52.227-23 Rights to Proposal Data (Technical).	52.232-6 Payment under Communication Service Contracts with Common Carriers.
52.228-1 Bid Guarantee.	52.232-7 Payments under Time-and-Materials and Labor-Hour Contracts.
52.228-2 Additional Bond Security.	52.232-8 Discounts for Prompt Payment.
52.228-3 Workers' Compensation Insurance (Defense Base Act).	52.232-9 Limitation on Withholding of Payments.
52.228-4 Workers' Compensation and War-Hazard Insurance Overseas.	52.232-10 Payments under Fixed-Price Architect-Engineer Contracts.
52.228-5 Insurance—Work on a Government Installation.	52.232-11 Extras.
52.228-6 [Reserved]	52.232-12 Advance Payments.
52.228-7 Insurance—Liability to Third Persons.	52.232-13 Notice of Progress Payments.
52.228-8 Liability and Insurance—Leased Motor Vehicles.	52.232-14 Notice of Availability of Progress Payments Exclusively for Small Business Concerns.
52.228-9 Cargo Insurance.	52.232-15 Progress Payments Not Included.
52.228-10 Vehicular and General Public Liability Insurance.	52.232-16 Progress Payments.
52.228-11 Pledges of Assets.	52.232-17 Interest.
52.228-12 Prospective Subcontractor Requests for Bonds.	52.232-18 Availability of Funds.
52.228-13 Alternative Payment Protections.	52.232-19 Availability of Funds for the Next Fiscal Year.
52.228-14 Irrevocable Letter of Credit.	52.232-20 Limitation of Cost.
52.228-15 Performance and Payment Bonds—Construction.	52.232-21 Limitation of Cost (Facilities).
52.228-16 Performance and Payment Bonds—Other Than Construction.	52.232-22 Limitation of Funds.
52.229-1 State and Local Taxes.	52.232-23 Assignment of Claims.
52.229-2 North Carolina State and Local Sales and Use Tax.	52.232-24 Prohibition of Assignment of Claims.
52.229-3 Federal, State, and Local Taxes.	52.232-25 Prompt Payment.
52.229-4 Federal, State, and Local Taxes (State and Local Adjustments).	52.232-26 Prompt Payment for Fixed-Price Architect-Engineer Contracts.
52.229-5 [Reserved]	52.232-27 Prompt Payment for Construction Contracts.
52.229-6 Taxes—Foreign Fixed-Price Contracts.	52.232-28 Invitation to Propose Performance-Based Payments.
52.229-7 Taxes—Fixed-Price Contracts with Foreign Governments.	52.232-29 Terms for Financing of Purchases of Commercial Items.
52.229-8 Taxes—Foreign Cost-Reimbursement Contracts.	52.232-30 Installment Payments for Commercial Items.
52.229-9 Taxes—Cost-Reimbursement Contracts with Foreign Governments.	52.232-31 Invitation to Propose Financing Terms.
52.229-10 State of New Mexico Gross Receipts and Compensating Tax.	52.232-32 Performance-Based Payments.

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- | | |
|--|---|
| 52.232-33 Payment by Electronic Funds Transfer—Central Contractor Registration. | 52.237-4 Payment by Government to Contractor. |
| 52.232-34 Payment by Electronic Funds Transfer—Other than Central Contractor Registration. | 52.237-5 Payment by Contractor to Government. |
| 52.232-35 Designation of Office for Government Receipt of Electronic Funds Transfer Information. | 52.237-6 Incremental Payment by Contractor to Government. |
| 52.232-36 Payment by Third Party. | 52.237-7 Indemnification and Medical Liability Insurance. |
| 52.232-37 Multiple Payment Arrangements. | 52.237-8 Restriction on Severance Payments to Foreign Nationals. |
| 52.232-38 Submission of Electronic Funds Transfer Information with Offer. | 52.237-9 Waiver of Limitation on Severance Payments to Foreign Nationals. |
| 52.233-1 Disputes. | 52.237-10 Identification of Uncompensated Overtime. |
| 52.233-2 Service of Protest. | 52.238 [Reserved] |
| 52.233-3 Protest after Award. | 52.239-1 Privacy or Security Safeguards. |
| 52.233-4 Applicable Law for Breach of Contract Claim. | 52.240 [Reserved] |
| 52.234-1 Industrial Resources Developed Under Defense Production Act Title III. | 52.241 Utility Services Provisions and Clauses. |
| 52.235 [Reserved] | 52.241-1 Electric Service Territory Compliance Representation. |
| 52.236-1 Performance of Work by the Contractor. | 52.241-2 Order of Precedence—Utilities. |
| 52.236-2 Differing Site Conditions. | 52.241-3 Scope and Duration of Contract. |
| 52.236-3 Site Investigation and Conditions Affecting the Work. | 52.241-4 Change in Class of Service. |
| 52.236-4 Physical Data. | 52.241-5 Contractor's Facilities. |
| 52.236-5 Material and Workmanship. | 52.241-6 Service Provisions. |
| 52.236-6 Superintendence by the Contractor. | 52.241-7 Change in Rates or Terms and Conditions of Service for Regulated Services. |
| 52.236-7 Permits and Responsibilities. | 52.241-8 Change in Rates or Terms and Conditions of Service for Unregulated Services. |
| 52.236-8 Other Contracts. | 52.241-9 Connection Charge. |
| 52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements. | 52.241-10 Termination Liability. |
| 52.236-10 Operations and Storage Areas. | 52.241-11 Multiple Service Locations. |
| 52.236-11 Use and Possession Prior to Completion. | 52.241-12 Nonrefundable, Nonrecurring Service Charge. |
| 52.236-12 Cleaning Up. | 52.241-13 Capital Credits. |
| 52.236-13 Accident Prevention. | 52.242-1 Notice of Intent to Disallow Costs. |
| 52.236-14 Availability and Use of Utility Services. | 52.242-2 Production Progress Reports. |
| 52.236-15 Schedules for Construction Contracts. | 52.242-3 Penalties for Unallowable Costs. |
| 52.236-16 Quantity Surveys. | 52.242-4 Certification of Final Indirect Costs. |
| 52.236-17 Layout of Work. | 52.242-5 [Reserved] |
| 52.236-18 Work Oversight in Cost-Reimbursement Construction Contracts. | 52.242-6 [Reserved] |
| 52.236-19 Organization and Direction of the Work. | 52.242-7 [Reserved] |
| 52.236-20 [Reserved] | 52.242-8 [Reserved] |
| 52.236-21 Specifications and Drawings for Construction. | 52.242-9 [Reserved] |
| 52.236-22 Design Within Funding Limitations. | 52.242-10 F.o.b. Origin—Government Bills of Lading or Prepaid Postage. |
| 52.236-23 Responsibility of the Architect-Engineer Contractor. | 52.242-11 F.o.b. Origin—Government Bills of Lading or Indicia Mail. |
| 52.236-24 Work Oversight in Architect-Engineer Contracts. | 52.242-12 Report of Shipment (REPSHIP). |
| 52.236-25 Requirements for Registration of Designers. | 52.242-13 Bankruptcy. |
| 52.236-26 Preconstruction Conference. | 52.242-14 Suspension of Work. |
| 52.236-27 Site Visit (Construction). | 52.242-15 Stop-Work Order. |
| 52.236-28 Preparation of Proposals—Construction. | 52.242-16 Stop-Work Order—Facilities. |
| 52.237-1 Site Visit. | 52.242-17 Government Delay of Work. |
| 52.237-2 Protection of Government Buildings, Equipment, and Vegetation. | 52.243-1 Changes—Fixed-Price. |
| 52.237-3 Continuity of Services. | 52.243-2 Changes—Cost-Reimbursement. |
| | 52.243-3 Changes—Time-and-Materials or Labor-Hours. |
| | 52.243-4 Changes. |

-
- 52.243-5 Changes and Changed Conditions.
 - 52.243-6 Change Order Accounting.
 - 52.243-7 Notification of Changes.
 - 52.244-1 [Reserved]
 - 52.244-2 Subcontracts.
 - 52.244-3 [Reserved]
 - 52.244-4 Subcontractors and Outside Associates and Consultants (Architect-Engineer Services).
 - 52.244-5 Competition in Subcontracting.
 - 52.244-6 Subcontracts for Commercial Items.
 - 52.245-1 Property Records.
 - 52.245-2 Government Property (Fixed-Price Contracts).
 - 52.245-3 Identification of Government-Furnished Property.
 - 52.245-4 Government-Furnished Property (Short Form).
 - 52.245-5 Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts).
 - 52.245-6 Liability for Government Property (Demolition Services Contracts).
 - 52.245-7 Government Property (Consolidated Facilities).
 - 52.245-8 Liability for the Facilities.
 - 52.245-9 Use and Charges.
 - 52.245-10 Government Property (Facilities Acquisition).
 - 52.245-11 Government Property (Facilities Use).
 - 52.245-12 Contract Purpose (Nonprofit Educational Institutions).
 - 52.245-13 Accountable Facilities (Nonprofit Educational Institutions).
 - 52.245-14 Use of Government Facilities.
 - 52.245-15 Transfer of Title to the Facilities.
 - 52.245-16 Facilities Equipment Modernization.
 - 52.245-17 Special Tooling.
 - 52.245-18 Special Test Equipment.
 - 52.245-19 Government Property Furnished “As Is.”
 - 52.246-1 Contractor Inspection Requirements.
 - 52.246-2 Inspection of Supplies—Fixed-Price.
 - 52.246-3 Inspection of Supplies—Cost-Reimbursement.
 - 52.246-4 Inspection of Services—Fixed-Price.
 - 52.246-5 Inspection of Services—Cost-Reimbursement.
 - 52.246-6 Inspection—Time-and-Material and Labor-Hour.
 - 52.246-7 Inspection of Research and Development—Fixed-Price.
 - 52.246-8 Inspection of Research and Development—Cost-Reimbursement.
 - 52.246-9 Inspection of Research and Development (Short Form).
 - 52.246-10 Inspection of Facilities.
 - 52.246-11 Higher-Level Contract Quality Requirement.
 - 52.246-12 Inspection of Construction.
 - 52.246-13 Inspection—Dismantling, Demolition, or Removal of Improvements.
 - 52.246-14 Inspection of Transportation.
 - 52.246-15 Certificate of Conformance.
 - 52.246-16 Responsibility for Supplies.
 - 52.246-17 Warranty of Supplies of a Noncomplex Nature.
 - 52.246-18 Warranty of Supplies of a Complex Nature.
 - 52.246-19 Warranty of Systems and Equipment under Performance Specifications or Design Criteria.
 - 52.246-20 Warranty of Services.
 - 52.246-21 Warranty of Construction.
 - 52.246-22 [Reserved]
 - 52.246-23 Limitation of Liability.
 - 52.246-24 Limitation of Liability—High-Value Items.
 - 52.246-25 Limitation of Liability—Services.
 - 52.247-1 Commercial Bill of Lading Notations.
 - 52.247-2 Permits, Authorities, or Franchises.
 - 52.247-3 Capability to Perform a Contract for the Relocation of a Federal Office.
 - 52.247-4 Inspection of Shipping and Receiving Facilities.
 - 52.247-5 Familiarization with Conditions.
 - 52.247-6 Financial Statement.
 - 52.247-7 Freight Excluded.
 - 52.247-8 Estimated Weights or Quantities Not Guaranteed.
 - 52.247-9 Agreed Weight—General Freight.
 - 52.247-10 Net Weight—General Freight.
 - 52.247-11 Net Weight—Household Goods or Office Furniture.
 - 52.247-12 Supervision, Labor, or Materials.
 - 52.247-13 Accessorial Services—Moving Contracts.
 - 52.247-14 Contractor Responsibility for Receipt of Shipment.
 - 52.247-15 Contractor Responsibility for Loading and Unloading.
 - 52.247-16 Contractor Responsibility for Returning Undelivered Freight.
 - 52.247-17 Charges.
 - 52.247-18 Multiple Shipments.
 - 52.247-19 Stopping in Transit for Partial Unloading.
 - 52.247-20 Estimated Quantities or Weights for Evaluation of Offers.
 - 52.247-21 Contractor Liability for Personal Injury and/or Property Damage.
 - 52.247-22 Contractor Liability for Loss of and/or Damage to Freight other than Household Goods.
 - 52.247-23 Contractor Liability for Loss of and/or Damage to Household Goods.
 - 52.247-24 Advance Notification by the Government.
 - 52.247-25 Government-Furnished Equipment With or Without Operators.
 - 52.247-26 Government Direction and Marking.
 - 52.247-27 Contract Not Affected by Oral Agreement.
 - 52.247-28 Contractor’s Invoices.
 - 52.247-29 F.o.b. Origin.
 - 52.247-30 F.o.b. Origin, Contractor’s Facility.
 - 52.247-31 F.o.b. Origin, Freight Allowed.
 - 52.247-32 F.o.b. Origin, Freight Prepaid.
 - 52.247-33 F.o.b. Origin, with Differentials.

- 52.247-34 F.o.b. Destination.
- 52.247-35 F.o.b. Destination, Within Consignee's Premises.
- 52.247-36 F.a.s. Vessel, Port of Shipment.
- 52.247-37 F.o.b. Vessel, Port of Shipment.
- 52.247-38 F.o.b. Inland Carrier, Point of Exportation.
- 52.247-39 F.o.b. Inland Point, Country of Importation.
- 52.247-40 Ex Dock, Pier, or Warehouse, Port of Importation.
- 52.247-41 C.& f. Destination.
- 52.247-42 C.i.f. Destination.
- 52.247-43 F.o.b. Designated Air Carrier's Terminal, Point of Exportation.
- 52.247-44 F.o.b. Designated Air Carrier's Terminal, Point of Importation.
- 52.247-45 F.o.b. Origin and/or F.o.b. Destination Evaluation.
- 52.247-46 Shipping Point(s) Used in Evaluation of F.o.b. Origin Offers.
- 52.247-47 Evaluation—F.o.b. Origin.
- 52.247-48 F.o.b. Destination—Evidence of Shipment.
- 52.247-49 Destination Unknown.
- 52.247-50 No Evaluation of Transportation Costs.
- 52.247-51 Evaluation of Export Offers.
- 52.247-52 Clearance and Documentation Requirements—Shipments to DoD Air or Water Terminal Transshipment Points.
- 52.247-53 Freight Classification Description.
- 52.247-54 [Reserved]
- 52.247-55 F.o.b. Point for Delivery of Government-Furnished Property.
- 52.247-56 Transit Arrangements.
- 52.247-57 Transportation Transit Privilege Credits.
- 52.247-58 Loading, Blocking, and Bracing of Freight Car Shipments.
- 52.247-59 F.o.b. Origin—Carload and Truckload Shipments.
- 52.247-60 Guaranteed Shipping Characteristics.
- 52.247-61 F.o.b. Origin—Minimum Size of Shipments.
- 52.247-62 Specific Quantities Unknown.
- 52.247-63 Preference for U.S.-Flag Air Carriers.
- 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels.
- 52.247-65 F.o.b. Origin, Prepaid Freight—Small Package Shipments.
- 52.247-66 Returnable Cylinders.
- 52.247-67 Submission of Commercial Transportation Bills to the General Services Administration for Audit.
- 52.248-1 Value Engineering.
- 52.248-2 Value Engineering—Architect-Engineer.
- 52.248-3 Value Engineering—Construction.
- 52.249-1 Termination for Convenience of the Government (Fixed-Price) (Short Form).
- 52.249-2 Termination for Convenience of the Government (Fixed-Price).
- 52.249-3 Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements).
- 52.249-4 Termination for Convenience of the Government (Services) (Short Form).
- 52.249-5 Termination for Convenience of the Government (Educational and Other Nonprofit Institutions).
- 52.249-6 Termination (Cost-Reimbursement).
- 52.249-7 Termination (Fixed-Price Architect-Engineer).
- 52.249-8 Default (Fixed-Price Supply and Service).
- 52.249-9 Default (Fixed-Price Research and Development).
- 52.249-10 Default (Fixed-Price Construction).
- 52.249-11 Termination of Work (Consolidated Facilities or Facilities Acquisition).
- 52.249-12 Termination (Personal Services).
- 52.249-13 Failure to Perform.
- 52.249-14 Excusable Delays.
- 52.250-1 Indemnification Under Public Law 85-804.
- 52.251-1 Government Supply Sources.
- 52.251-2 Interagency Fleet Management System Vehicles and Related Services.
- 52.252-1 Solicitation Provisions Incorporated by Reference.
- 52.252-2 Clauses Incorporated by Reference.
- 52.252-3 Alterations in Solicitation.
- 52.252-4 Alterations in Contract.
- 52.252-5 Authorized Deviations in Provisions.
- 52.252-6 Authorized Deviations in Clauses.
- 52.253-1 Computer Generated Forms.
- Subpart 52.3—Provision and Clause Matrix**
- 52.300 Scope of subpart.
- 52.301 Solicitation provisions and contract clauses (Matrix).

52.000 Scope of part.

This part—

- (a) Gives instructions for using provisions and clauses in solicitations and/or contracts;
- (b) Sets forth the solicitation provisions and contract clauses prescribed by this regulation; and
- (c) Presents a matrix listing the FAR provisions and clauses applicable to each principal contract type and/or purpose (e.g., fixed-price supply, cost-reimbursement research and development).

Subpart 52.1—Instructions for Using Provisions and Clauses

52.100 Scope of subpart.

This subpart—

- (a) Gives instructions for using Part 52, including the explanation and use of provision and clause numbers, prescriptions, prefaces, and the matrix;
- (b) Prescribes procedures for incorporating, identifying, and modifying provisions and clauses in solicitations and contracts, and for using alternates; and
- (c) Describes the derivation of FAR provisions and clauses.

52.101 Using Part 52.

(a) *Definition.* “Modification,” as used in this subpart, means a minor change in the details of a provision or clause that is specifically authorized by the FAR and does not alter the substance of the provision or clause (see 52.104).

(b) *Numbering—(1) FAR provisions and clauses.* Subpart 52.2 sets forth the text of all FAR provisions and clauses, each in its own separate subsection. The subpart is arranged by subject matter, in the same order as, and keyed to, the parts of the FAR. Each FAR provision or clause is uniquely identified. All FAR provision and clause numbers begin with “52.2,” since the text of all FAR provisions and clauses appear in Subpart 52.2. The next two digits of the provision or clause number correspond to the number of the FAR subject part in which the provision or clause is prescribed. The FAR provision or clause number is then completed by a hyphen and a sequential number assigned within each section of Subpart 52.2. The following example illustrates the makeup of the FAR provision or clause number (see Figure 1 below).

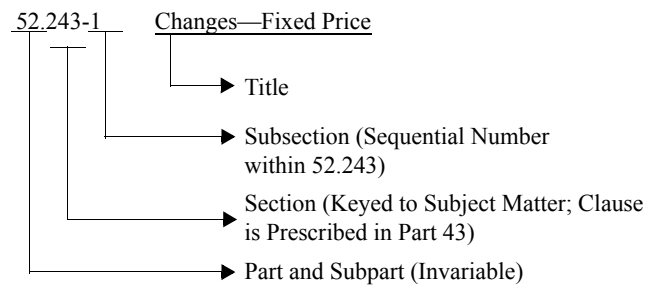


Figure 1

(2)(i) *Provisions or clauses that supplement the FAR.* Provisions or clauses that supplement the FAR are—

(A) Prescribed and included in authorized agency acquisition regulations issued within an agency to satisfy the specific needs of the agency as a whole;

(B) Prescribed and included in a regulation issued by a suborganization of an agency to satisfy the needs of that particular suborganization; or

(C) Developed for use at a suborganizational level of an agency, not meant for repetitive use, but intended to meet the needs of an individual acquisition and, thus, impractical to include in either an agency or suborganization acquisition regulation. (See 1.301(c).)

(ii) Supplemental provisions or clauses published in agency acquisition regulations shall be in full text and the prescription for the use of each shall be included. Supplemental provisions or clauses published in agency acquisition regulations shall be numbered in the same manner in which FAR provisions and clauses are numbered except that—

(A) If it is included in an agency acquisition regulation that is published in the *Federal Register* and is codified in Title 48, *Code of Federal Regulations* (48 CFR), the number shall be preceded by the chapter number within 48 CFR assigned by the CFR staff; and

(B) The sequential number shall be “70” or a higher number (see 1.303).

(iii) The sequential number at the end of the number of a provision or clause that supplements the FAR, like its counterpart at the end of any FAR provision or clause number, indicates the subsection location of the provision or clause in Subpart 52.2 of the agency acquisition regulation that contains its full text. If, for example, an agency acquisition regulation contains only one provision followed by only one clause supplementing the FAR in its section 52.236 (Construction and Architect-Engineer Contracts), then the sequential numbers would be “70” for the provision and “71” for the clause.

(c) *Prescriptions.* Each provision or clause in Subpart 52.2 is prescribed at that place in the FAR text where the subject matter of the provision or clause receives its primary treatment. The prescription includes all conditions, requirements,

and instructions for using the provision or clause and its alternates, if any. The provision or clause may be referred to in other FAR locations.

(d) *Introductory text.* Within Subpart 52.2, the introductory text of each provision or clause includes a cross-reference to the location in the FAR subject text that prescribes its use.

(e) *Matrix.* (1) The matrix in Subpart 52.3 contains a column for each principal type and/or purpose of contract (e.g., fixed-price supply, cost reimbursement research and development). The matrix lists the—

- (i) Required solicitation provisions;
- (ii) Required-when-applicable solicitation provisions;
- (iii) Optional solicitation provisions;
- (iv) Required contract clauses;
- (v) Required-when-applicable contract clauses; and
- (vi) Optional contract clauses.

(2) For each provision or clause listed, the matrix provides information on—

- (i) Whether incorporation by reference is or is not authorized (see 52.102);
- (ii) The section of the Uniform Contract Format (UCF) in which it is to be located, if it is used in an acquisition that is subject to the UCF;
- (iii) Its number;
- (iv) The citation of the FAR text that prescribes its use; and
- (v) Its title.

(3) Since the matrix does not provide sufficient information to determine the applicability of a provision or clause in the “required-when-applicable” and “optional” categories, contracting officers shall refer to the FAR text (cited in the matrix) that prescribes its use.

(4) The FAR matrix may be reproduced at agency levels, and at subordinate levels, for the purpose of supplementing it with agency-developed provisions and clauses. The resulting consolidated matrices may be included in agency acquisition regulations.

(f) *Dates.* Since they are subject to revision from time to time, all provisions, clauses, and alternates are dated; e.g., (Dec 1983). To avoid questions concerning which version of any provision, clause, or alternate is operative in any given solicitation or contract, its date shall be included whether it is incorporated by reference or in full text.

52.102 Incorporating provisions and clauses.

(a) Provisions and clauses should be incorporated by reference to the maximum practical extent, rather than being incorporated in full text, even if they—

- (1) Are used with one or more alternates or on an optional basis;

- (2) Are prescribed on a “substantially as follows” or “substantially the same as” basis, provided they are used verbatim;

- (3) Require modification or the insertion by the Government of fill-in material (see 52.104); or

- (4) Require completion by the offeror or prospective contractor. This instruction also applies to provisions completed as annual representations and certifications.

(b) Except for provisions and clauses prescribed in 52.107, any provision or clause that can be accessed electronically by the offeror or prospective contractor may be incorporated by reference in solicitations and/or contracts. However, the contracting officer, upon request, shall provide the full text of any provision or clause incorporated by reference.

(c) Agency approved provisions and clauses prescribed in agency acquisition regulations, and provisions and clauses not authorized by Subpart 52.3 to be incorporated by reference, need not be incorporated in full text, provided the contracting officer includes in the solicitation and contract a statement that—

- (1) Identifies all provisions and clauses that require completion by the offeror or prospective contractor;
- (2) Specifies that the provisions and clauses must be completed by the offeror or prospective contractor and must be submitted with the quotation or offer; and
- (3) Identifies to the offeror or prospective contractor at least one electronic address where the full text may be accessed.

(d) An agency may develop a group listing of provisions and clauses that apply to a specific category of contracts. An agency group listing may be incorporated by reference in solicitations and/or contracts in lieu of citing the provisions and clauses individually, provided the group listing is made available electronically to offerors and prospective contractors.

(e) A provision or clause that is not available electronically to offerors and prospective contractors shall be incorporated in solicitations and/or contracts in full text if it is—

- (1) A FAR provision or clause that otherwise is not authorized to be incorporated by reference (see Subpart 52.3); or

- (2) A provision or clause prescribed for use in an agency acquisition regulation.

(f) Provisions or clauses may not be incorporated by reference by being listed in the—

- (1) Provision at 52.252-3, Alterations in Solicitations;
- or
- (2) Clause at 52.252-4, Alterations in Contract.

52.103 Identification of provisions and clauses.

(a) Whenever any FAR provision or clause is used without deviation in a solicitation or contract, whether it is incorporated by reference or in full text, it shall be identified by num-

ber, title, and date. This identification shall also be used if the FAR provision or clause is used with an authorized deviation, except that the contracting officer shall then insert “(DEVIATION)” after the date. Solicited firms and contractors will be advised of the meaning of this insertion through the use of the (1) provision at 52.252-5, Authorized Deviations in Provisions, or (2) clause at 52.252-6, Authorized Deviations in Clauses. The above mentioned provision and clause are prescribed in 52.107(e) and (f).

(b) Any provision or clause that supplements the FAR whether it is incorporated by reference or in full text shall be clearly identified by number, title, date, and name of the regulation. When a supplemental provision or clause is used with an authorized deviation, insert “(DEVIATION)” after the name of the regulation.

(c) A provision or clause of the type described in 52.101(b)(2)(i)(C) shall be identified by the title, date, and the name of the agency or suborganization within the agency that developed it.

(d) Except for provisions or clauses covered by 52.103(c), the following hypothetical examples illustrate how a provision or clause that supplements the FAR shall be identified when it is incorporated in solicitations and/or contracts by reference or in full text:

(1) If Part 14 (Sealed Bidding) of the X Agency Acquisition Regulation, published in the *Federal Register* and codified as Chapter 99 in 48 CFR, prescribes the use of a provision entitled “Bid Envelopes,” dated October 1983, and that provision is sequentially the first provision or clause appearing in Section 52.214 of the X Agency Acquisition Regulation, then the identification of that provision shall be “9952.214-70—Bid Envelopes (Oct 1983).”

(2) Assume that Y, a major organizational element of the X Agency, is authorized to issue the Y Acquisition Regulation, which is not published in the *Federal Register* and codified in 48 CFR. If Part 36 (Construction and Architect-Engineer Contracts) of the Y Acquisition Regulation prescribes the use of a clause entitled “Refrigerated Display Cases,” dated March 1983, pertaining to a specialized type of construction work, and that clause is sequentially the second provision or clause appearing in Section 52.236 of the Y Acquisition Regulation, then the identification of that clause shall be “52.236-71—Refrigerated Display Cases (Mar 1983)—Y Acquisition Regulation.”

52.104 Procedures for modifying and completing provisions and clauses.

(a) The contracting officer must not modify provisions and clauses unless the FAR authorizes their modification. For example—

(1) “The contracting officer may use a period shorter than 60 days (but not less than 30 days) in paragraph (x) of the clause”; or

(2) “The contracting officer may substitute the words ‘task order’ for the word ‘Schedule’ wherever that word appears in the clause.”

(b) When modifying provisions or clauses incorporated by reference, insert the changed wording directly below the title of the provision or clause identifying to the lowest level necessary (e.g., paragraph, sentence, word), to clearly indicate what is being modified.

(c) When modifying provisions or clauses incorporated in full text, modify the language directly by substituting the changed wording as permitted.

(d) When completing blanks in provisions or clauses incorporated by reference, insert the fill-in information directly below the title of the provision or clause identifying to the lowest level necessary to clearly indicate the blanks being filled in.

(e) When completing blanks in provisions or clauses incorporated in full text, insert the fill-in information in the blanks of the provision or clause.

52.105 Procedures for using alternates.

(a) The FAR accommodates a major variation in a provision or clause by use of an alternate. The FAR prescribes alternates to a given provision or clause in the FAR subject text where the provision or clause is prescribed. The alternates to each provision or clause are titled “Alternate I,” “Alternate II,” “Alternate III,” etc.

(b) When an alternate is used, its date shall be cited along with the date of the basic provision or clause; e.g., 52.209-3 First Article Approval—Contractor Testing (Oct 1983)—Alternate I (Dec 1983).

(c) Under certain circumstances, a provision or clause may be used with two or more alternates. In these circumstances, each of the applicable alternates shall be cited, whether incorporated by reference or in full text; e.g., 52.209-3 First Article Approval—Contractor Testing (Oct 1983)—Alternate I (Dec 1983) and Alternate II (Feb 1984). However, under no circumstances may an alternate to a specific provision or clause be applied to any other provision or clause.

52.106 [Reserved]

52.107 Provisions and clauses prescribed in Subpart 52.1.

(a) The contracting officer shall insert the provision at 52.252-1, Solicitation Provisions Incorporated by Reference, in solicitations in order to incorporate provisions by reference.

(b) The contracting officer shall insert the clause at 52.252-2, Clauses Incorporated by Reference, in solicitations and contracts in order to incorporate clauses by reference.

(c) The contracting officer shall insert the provision at 52.252-3, Alterations in Solicitation, in solicitations in order to revise or supplement, as necessary, other parts of the solic-

itation that apply to the solicitation phase only, except for any provision authorized for use with a deviation.

(d) The contracting officer shall insert the clause at 52.252-4, Alterations in Contract, in solicitations and contracts in order to revise or supplement, as necessary, other parts of the contract, or parts of the solicitations that apply to the contract phase, except for any clause authorized for use with a deviation.

(e) The contracting officer shall insert the provision at 52.252-5, Authorized Deviations in Provisions, in solicitations that include any FAR or supplemental provision with an authorized deviation. Whenever any FAR or supplemental provision is used with an authorized deviation, the contracting officer shall identify it by the same number, title, and date

assigned to the provision when it is used without deviation, include regulation name for any supplemental provision, except that the contracting officer shall insert “(DEVIATION)” after the date of the provision.

(f) The contracting officer shall insert the clause at 52.252-6, Authorized Deviations in Clauses, in solicitations and contracts that include any FAR or supplemental clause with an authorized deviation. Whenever any FAR or supplemental clause is used with an authorized deviation, the contracting officer shall identify it by the same number, title, and date assigned to the clause when it is used without deviation, include regulation name for any supplemental clause, except that the contracting officer shall insert “(DEVIATION)” after the date of the clause.

Subpart 52.2—Text of Provisions and Clauses

52.200 Scope of subpart.

This subpart sets forth the text of all FAR provisions and clauses (see 52.101(b)(1)) and gives a cross-reference to the location in the FAR that prescribes the provision or clause.

52.201 [Reserved]

52.202-1 Definitions.

As prescribed in 2.201, insert the following clause:

DEFINITIONS (JULY 2004)

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

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

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

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

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

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

(End of clause)

52.203-1 [Reserved]

52.203-2 Certificate of Independent Price Determination.

As prescribed in 3.103-1, insert the following provision. If the solicitation is a Request for Quotations, the terms “Quotation” and “Quoter” may be substituted for “Offer” and “Offeror.”

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)

(a) The offeror certifies that—

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to—

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory—

(1) Is the person in the offeror’s organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; or

(2)(i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision _____ [insert full name of person(s) in the offeror’s organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror’s organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision.

(c) If the offeror deletes or modifies paragraph (a)(2) of this provision, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

(End of provision)

52.203-3 Gratuities.

As prescribed in 3.202, insert the following clause:

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 paragraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

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

(End of clause)

52.203-4 [Reserved]

52.203-5 Covenant Against Contingent Fees.

As prescribed in 3.404, insert the following clause:

COVENANT AGAINST CONTINGENT FEES (APR 1984)

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

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

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

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

“Improper influence,” as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding

a Government contract on any basis other than the merits of the matter.

(End of clause)

52.203-6 Restrictions on Subcontractor Sales to the Government.

As prescribed in 3.503-2, insert the following clause:

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.

(End of clause)

Alternate I (Oct 1995). As prescribed in 3.503-2, substitute the following paragraph in place of paragraph (b) of the basic clause:

(b) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For acquisitions of commercial items, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being treated differently from any other prospective purchaser for the sale of the commercial item(s).

52.203-7 Anti-Kickback Procedures.

As prescribed in 3.502-3, insert the following clause:

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 paragraph (c)(5) but excepting paragraph (c)(1), in all subcontracts under this contract which exceed \$100,000.

(End of clause)

52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity.

As prescribed in 3.104-9(a), insert the following clause:

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.

(End of clause)

52.203-9 [Reserved]**52.203-10 Price or Fee Adjustment for Illegal or Improper Activity.**

As prescribed in 3.104-9(b), insert the following clause:

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

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

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

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

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

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

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

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

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

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

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

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

(c) The Government may, at its election, reduce a prime contractor’s price or fee in accordance with the procedures of

paragraph (b) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.

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

(End of clause)

52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.

As prescribed in 3.808, insert the following provision:

CERTIFICATION AND DISCLOSURE REGARDING
PAYMENTS TO INFLUENCE CERTAIN FEDERAL
TRANSACTIONS (APR 1991)

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989—

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, Title 31, United States Code. Any person who

makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(End of provision)

52.203-12 Limitation on Payments to Influence Certain Federal Transactions.

As prescribed in 3.808, insert the following clause:

LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUNE 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 cooper-

ative 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 paragraph (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 paragraph (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 paragraph (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 paragraph (c)(1) of this clause. An event that materially affects the accuracy of the information reported includes—

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

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

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

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

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

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

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

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

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

(End of clause)

52.204-1 Approval of Contract.

As prescribed in 4.103, insert the following clause:

APPROVAL OF CONTRACT (DEC 1989)

This contract is subject to the written approval of [*identify title of designated agency official here*] and shall not be binding until so approved.

(End of clause)

52.204-2 Security Requirements.

As prescribed in 4.404(a), insert the following clause:

SECURITY REQUIREMENTS (AUG 1996)

(a) This clause applies to the extent that this contract involves access to information classified “Confidential,” “Secret,” or “Top Secret.”

(b) The Contractor shall comply with—

(1) The Security Agreement (DD Form 441), including the *National Industrial Security Program Operating Manual* (DoD 5220.22-M); and

(2) Any revisions to that manual, notice of which has been furnished to the Contractor.

(c) If, subsequent to the date of this contract, the security classification or security requirements under this contract are changed by the Government and if the changes cause an increase or decrease in security costs or otherwise affect any other term or condition of this contract, the contract shall be subject to an equitable adjustment as if the changes were directed under the Changes clause of this contract.

(d) The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph (d) but excluding any reference to the Changes clause of this contract, in all subcontracts under this contract that involve access to classified information.

(End of clause)

Alternate I (Apr 1984). If a cost contract for research and development with an educational institution is contemplated, add the following paragraphs (e), (f), and (g) to the basic clause:

(e) If a change in security requirements, as provided in paragraphs (b) and (c), results (1) in a change in the security classification of this contract or any of its elements from an unclassified status or a lower classification to a higher classification, or (2) in more restrictive area controls than previously

required, the Contractor shall exert every reasonable effort compatible with the Contractor's established policies to continue the performance of work under the contract in compliance with the change in security classification or requirements. If, despite reasonable efforts, the Contractor determines that the continuation of work under this contract is not practicable because of the change in security classification or requirements, the Contractor shall notify the Contracting Officer in writing. Until resolution of the problem is made by the Contracting Officer, the Contractor shall continue safeguarding all classified material as required by this contract.

(f) After receiving the written notification, the Contracting Officer shall explore the circumstances surrounding the proposed change in security classification or requirements, and shall endeavor to work out a mutually satisfactory method whereby the Contractor can continue performance of the work under this contract.

(g) If, 15 days after receipt by the Contracting Officer of the notification of the Contractor's stated inability to proceed, (1) the application to this contract of the change in security classification or requirements has not been withdrawn, or (2) a mutually satisfactory method for continuing performance of work under this contract has not been agreed upon, the Contractor may request the Contracting Officer to terminate the contract in whole or in part. The Contracting Officer shall terminate the contract in whole or in part, as may be appropriate, and the termination shall be deemed a termination under the terms of the Termination for the Convenience of the Government clause.

Alternate II (Apr 1984). If employee identification is required for security or other reasons in a construction contract or architect-engineer contract, add the following paragraph (e) to the basic clause:

(e) The Contractor shall be responsible for furnishing to each employee and for requiring each employee engaged on the work to display such identification as may be approved and directed by the Contracting Officer. All prescribed identification shall immediately be delivered to the Contracting Officer, for cancellation upon the release of any employee. When required by the Contracting Officer, the Contractor shall obtain and submit fingerprints of all persons employed or to be employed on the project.

52.204-3 Taxpayer Identification.

As prescribed in 4.905, insert the following provision:

TAXPAYER IDENTIFICATION (OCT 1998)

(a) Definitions.

"Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

"Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) Taxpayer Identification Number (TIN).

- TIN: _____.
- TIN has been applied for.
- TIN is not required because:
- Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
- Offeror is an agency or instrumentality of a foreign government;
- Offeror is an agency or instrumentality of the Federal Government.

(e) Type of organization.

- Sole proprietorship;
- Partnership;
- Corporate entity (not tax-exempt);
- Corporate entity (tax-exempt);
- Government entity (Federal, State, or local);
- Foreign government;
- International organization per 26 CFR 1.6049-4;
- Other _____.

(f) Common parent.

- Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.
- Name and TIN of common parent:
Name _____
TIN _____

(End of provision)

52.204-4 Printed or Copied Double-Sided on Recycled Paper.

As prescribed in 4.303, insert the following clause:

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, car-

bonless paper, file folders, white wove envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock meeting the 30 percent postconsumer material standard for use in submitting paper documents to the Government, it should use paper containing no less than 20 percent postconsumer material. This lesser standard should be used only when paper meeting the 30 percent postconsumer material standard is not obtainable at a reasonable price or does not meet reasonable performance standards.

(End of clause)

52.204-5 Women-Owned Business (Other Than Small Business).

As prescribed in 4.603(b), insert the following provision:

WOMEN-OWNED BUSINESS (OTHER THAN SMALL
BUSINESS) (MAY 1999)

(a) *Definition.* “Women-owned business concern,” as used in this provision, means a concern 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 its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) *Representation.* [Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (b)(1) of FAR 52.219-1, Small Business Program Representations, of this solicitation.] The offeror represents that it is a women-owned business concern.

(End of provision)

52.204-6 Data Universal Numbering System (DUNS) Number.

As prescribed in 4.603(a), insert the following provision:

DATA UNIVERSAL NUMBERING SYSTEM (DUNS)
NUMBER (OCT 2003)

(a) 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 number or “DUNS+4” that identifies the offeror’s name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet, Inc. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11) for the same parent concern.

(b) 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 name.

(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).

(End of provision)

52.204-7 Central Contractor Registration.

As prescribed in 4.1104, use the following clause:

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.

(End of clause)

Alternate I (Oct 2003). As prescribed in 4.1104, substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b)(1) The Contractor shall be registered in the CCR database by _____ [*Contracting Officer shall insert a date no later than December 31, 2003*]. The Contractor shall maintain registration during performance and through final payment of this contract.

(2) The Contractor shall enter, in the block with its name and address on the cover page of the SF 30, Amendment of solicitation/Modification of Contract, the annotation “DUNS” or “DUNS +4” followed by the DUNS or DUNS +4 number that

identifies the Contractor’s name and address exactly as stated in this contract. The DUNS number will be used by the Contracting Officer to verify that the Contractor is registered in the CCR database.

52.204-8 Annual Representations and Certifications.

As prescribed in 4.1202, insert the following provision:

ANNUAL REPRESENTATIONS AND CERTIFICATIONS
(JAN 2005)

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

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

(i) Paragraph (b) applies.

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

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

FAR CLAUSE #	TITLE	DATE	CHANGE
_____	_____	_____	_____

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

(End of provision)

52.205 [Reserved]

52.206 [Reserved]

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52.207-1 Notice of Cost Comparison (Sealed-Bid).

As prescribed in 7.305(a), insert the following provision:

NOTICE OF COST COMPARISON (SEALED-BID) (FEB 1993)

(a) This solicitation is part of a Government cost comparison to determine whether accomplishing the specified work under contract or by Government performance is more economical. If Government performance is determined to be more economical, this solicitation will be canceled and no contract will be awarded.

(b) The Government's cost estimate for performance by the Government will be based on the work statement in this solicitation and will be submitted by designated agency personnel to the Contracting Officer in a sealed envelope not later than the time set for bid opening. At the public bid opening, the Contracting Officer will open the bids and the envelope containing the cost estimate for Government performance and announce the result. This announcement will be based on an initial comparison of the cost of Government performance with the cost of contract performance, as indicated on the cost comparison form.

(c) The abstract of bids, completed cost comparison form, and detailed data supporting the cost estimate for Government performance will be made available to interested parties for review for a period of _____ [*insert a number from 15 to 30, depending on the complexity of the matter (see 7.306(a)(1)(iv))*] working days, beginning with the date the documents are available to interested parties. The Government will not make a final determination either for contract or Government performance during this period. During this period, directly affected parties may file with the Contracting Officer written requests, based on specific objections, for administrative review of the cost comparison result under the agency appeals procedures. The appeals procedure shall be used only to resolve questions concerning the calculation of the cost comparison and will not apply to decisions regarding selection of one bidder in preference to another. Agency determinations under the appeals procedure shall be final.

(d) After evaluation of bids and resolution of any requests under the appeals procedure, the Contracting Officer will either award a contract or cancel this solicitation. The completed cost comparison analysis will be made available to interested parties.

(e) A cost estimate for Government performance is considered a bid for purposes of this solicitation's Late Modifications of Bids or Withdrawal of Bids provision, and a late modification that displaces an otherwise low cost estimate for Government performance shall not be considered.

(End of provision)

52.207-2 Notice of Cost Comparison (Negotiated).

As prescribed in 7.305(b), insert the following provision:

NOTICE OF COST COMPARISON (NEGOTIATED)
(FEB 1993)

(a) This solicitation is part of a Government cost comparison to determine whether accomplishing the specified work under contract or by Government performance is more economical. If Government performance is determined to be more economical, this solicitation will be canceled and no contract will be awarded.

(b) The Government's cost estimate for performance by the Government will be based on the work statement in this solicitation and will be submitted by designated agency personnel to the Contracting Officer in a sealed envelope not later than the time set for receipt of initial proposals.

(c) After completion of proposal evaluation, negotiation, and selection of the most advantageous proposal, the Contracting Officer, in the presence of the preparer of the cost estimate for Government performance, will open the sealed cost estimate envelope. These officials will make a cost comparison before public announcement. Depending on whether the cost comparison result favors performance under contract or Government performance, the procedure in either paragraph (1) or (2) following applies:

(1) If the result of the cost comparison favors performance under contract and administrative approval is obtained, the Contracting Officer will award a contract and publicly reveal the completed cost comparison form showing the cost estimate for Government performance, its detailed supporting data, and the Contractor's name. However, this award is conditioned on the offer remaining the more economical alternative after (i) completion of a public review period of _____ [*insert a numeral from 15 to 30, depending upon the complexity of the matter (see 7.306(b)(3))*] working days beginning with the date this information is available to interested parties and (ii) resolution of any requests for review under the agency appeals procedure (see paragraph (d) of this section). The Government assumes no liability for costs incurred during the periods specified in (i) and (ii). The Contracting Officer will then either notify the Contractor in writing that it may proceed with performance of the contract or will cancel the contract at no cost to the Government.

(2) If the result of the cost comparison favors Government performance, the Contracting Officer will publicly disclose this result, the completed cost comparison form and its detailed supporting data, and the price of the offer most advantageous to the Government. After (i) completion of a public review period of _____ [*insert a numeral from 15 to 30, depending upon the complexity of the matter (see 7.306(b)(3))*] working days beginning with the date this information is available to interested parties and (ii) resolution of any requests for review under the agency appeals procedure (see paragraph (d) of this section), the Contracting Officer will either cancel this solicitation or award a contract, as appropriate.

(d) During the public review period, directly affected parties may file with the Contracting Officer written requests, based on specific objections, for administrative review of the cost comparison result under the agency appeals procedure. The appeals procedure shall be used only to resolve questions concerning the calculation of the cost comparison and will not apply to questions concerning award to one offeror in preference to another. Agency determinations under the appeals procedure shall be final.

(e) A cost estimate for Government performance is considered a proposal for purposes of this solicitation's Late Submissions, Modifications, and Withdrawal of Proposals or Quotations provision, and a late modification that displaces an otherwise low cost estimate for Government performance shall not be considered.

(End of provision)

52.207-3 Right of First Refusal of Employment.

As prescribed in 7.305(c), insert the following clause:

RIGHT OF FIRST REFUSAL OF EMPLOYMENT (NOV 1991)

(a) The Contractor shall give Government employees who have been or will be adversely affected or separated as a result of award of this contract the right of first refusal for employment openings under the contract in positions for which they are qualified, if that employment is consistent with post-Government employment conflict of interest standards.

(b) Within 10 days after contract award, the Contracting Officer will provide to the Contractor a list of all Government employees who have been or will be adversely affected or separated as a result of award of this contract.

(c) The Contractor shall report to the Contracting Officer the names of individuals identified on the list who are hired within 90 days after contract performance begins. This report shall be forwarded within 120 days after contract performance begins.

(End of clause)

52.207-4 Economic Purchase Quantity—Supplies.

As prescribed in 7.203, insert the following provision:

**ECONOMIC PURCHASE QUANTITY—SUPPLIES
(AUG 1987)**

(a) Offerors are invited to state an opinion on whether the quantity(ies) of supplies on which bids, proposals or quotes are requested in this solicitation is (are) economically advantageous to the Government.

(b) Each offeror who believes that acquisitions in different quantities would be more advantageous is invited to recommend an economic purchase quantity. If different quantities are recommended, a total and a unit price must be quoted for applicable items. An economic purchase quantity is that quantity at which a significant price break occurs. If there are significant price breaks at different quantity points, this information is desired as well.

OFFEROR RECOMMENDATIONS			
Item	Quantity	Price Quotation	Total

(c) The information requested in this provision is being solicited to avoid acquisitions in disadvantageous quantities and to assist the Government in developing a data base for future acquisitions of these items. However, the Government reserves the right to amend or cancel the solicitation and resolicit with respect to any individual item in the event quotations received and the Government's requirements indicate that different quantities should be acquired.

(End of provision)

52.207-5 Option to Purchase Equipment.

As prescribed in 7.404, insert a clause substantially the same as the following:

OPTION TO PURCHASE EQUIPMENT (FEB 1995)

(a) The Government may purchase the equipment provided on a lease or rental basis under this contract. The Contracting Officer may exercise this option only by providing a unilateral modification to the Contractor. The effective date of the purchase will be specified in the unilateral modification and may be any time during the period of the contract, including any extensions thereto.

(b) Except for final payment and transfer of title to the Government, the lease or rental portion of the contract becomes complete and lease or rental charges shall be discontinued on the day immediately preceding the effective date of purchase specified in the unilateral modification required in paragraph (a) of this clause.

(c) The purchase conversion cost of the equipment shall be computed as of the effective date specified in the unilateral modification required in paragraph (a) of this clause, on the basis of the purchase price set forth in the contract, minus the total purchase option credits accumulated during the period of lease or rental, calculated by the formula contained elsewhere in this contract.

(d) The accumulated purchase option credits available to determine the purchase conversion cost will also include any credits accrued during a period of lease or rental of the equipment under any previous Government contract if the equipment has been on continuous lease or rental. The movement of equipment from one site to another site shall be “continuous rental.”

52.208-1 [Reserved]

52.208-2 [Reserved]

52.208-3 [Reserved]

52.208-4 Vehicle Lease Payments.

As prescribed in 8.1104(a), insert the following clause in solicitations and contracts for leasing motor vehicles, unless the motor vehicles are leased in foreign countries:

VEHICLE LEASE PAYMENTS (APR 1984)

(a) Upon the submission of proper invoices or vouchers, the Government shall pay rent for each vehicle at the rate(s) specified in this contract.

(b) Rent shall accrue from the beginning of this contract, or from the date each vehicle is delivered to the Government, whichever is later, and shall continue until the expiration of the contract term or the termination of this contract. However, rent shall accrue only for the period that each vehicle is in the possession of the Government.

(c) Rent shall not accrue for any vehicle that the Contracting Officer determines does not comply with the Condition of Leased Vehicles clause of this contract or otherwise does not comply with the requirements of this contract, until the vehicle is replaced or the defects are corrected.

(d) Rent shall not accrue for any vehicle during any period when the vehicle is unavailable or unusable as a result of the Contractor’s failure to render services for the operation and maintenance of the vehicle as prescribed by this contract.

(e) Rent stated in monthly terms shall be prorated on the basis of 1/30th of the monthly rate for each day the vehicle is in the Government’s possession. If this contract contains a mileage provision, the Government shall pay rent as provided in the Schedule.

(End of clause)

52.208-5 Condition of Leased Vehicles.

As prescribed in 8.1104(b), insert the following clause in solicitations and contracts for leasing motor vehicles, unless the motor vehicles are leased in foreign countries:

CONDITION OF LEASED VEHICLES (APR 1984)

Each vehicle furnished under this contract shall be of good quality and in safe operating condition, and shall comply with

the Federal Motor Vehicle Safety Standards (49 CFR 571) and State safety regulations applicable to the vehicle. The Government shall accept or reject the vehicles promptly after receipt. If the Contracting Officer determines that any vehicle furnished is not in compliance with this contract, the Contracting Officer shall promptly inform the Contractor in writing. If the Contractor fails to replace the vehicle or correct the defects as required by the Contracting Officer, the Government may—

(a) By contract or otherwise, correct the defect or arrange for the lease of a similar vehicle and shall charge or set off against the Contractor any excess costs occasioned thereby; or

(b) Terminate the contract under the Default clause of this contract.

(End of clause)

52.208-6 Marking of Leased Vehicles.

As prescribed in 8.1104(c), insert the following clause in solicitations and contracts for leasing motor vehicles, unless the motor vehicles are leased in foreign countries:

MARKING OF LEASED VEHICLES (APR 1984)

(a) The Government may place nonpermanent markings or decals, identifying the using agency, on each side, and on the front and rear bumpers, of any motor vehicle leased under this contract. The Government shall use markings or decals that are removable without damage to the vehicle.

(b) The Contractor may use placards for temporary identification of vehicles except that the placards may not contain any references to the Contractor that may be construed as advertising or endorsement by the Government of the Contractor.

(End of clause)

52.208-7 Tagging of Leased Vehicles.

As prescribed in 8.1104(d), insert a clause substantially as follows:

TAGGING OF LEASED VEHICLES (MAY 1986)

While it is the intent that vehicles leased under this contract will operate on Federal tags, the Government reserves the right to utilize State tags if necessary to accomplish its mission. Should State tags be required, the Contractor shall furnish the Government documentation necessary to allow acquisition of such tags. Federal tags are the responsibility of the Government.

(End of clause)

52.208-8 Required Sources for Helium and Helium Usage Data.

As prescribed in 8.505, insert the following clause:

REQUIRED SOURCES FOR HELIUM AND HELIUM USAGE
DATA (APR 2002)

(a) *Definitions.*

“Bureau of Land Management,” as used in this clause, means the Department of the Interior, Bureau of Land Management, Amarillo Field Office, Helium Operations, located at 801 South Fillmore Street, Suite 500, Amarillo, TX 79101-3545.

“Federal helium supplier” means a private helium vendor that has an in-kind crude helium sales contract with the Bureau of Land Management (BLM) and that is on the BLM Amarillo Field Office’s Authorized List of Federal Helium Suppliers available via the Internet at http://www.nm.blm.gov/www/amfo/amfo_home.html.

“Major helium requirement” means an estimated refined helium requirement greater than 200,000 standard cubic feet (scf) (measured at 14.7 pounds per square inch absolute pressure and 70 degrees Fahrenheit temperature) of gaseous helium or 7510 liters of liquid helium delivered to a helium use location per year.

(b) *Requirements*—(1) Contractors must purchase major helium requirements from Federal helium suppliers, to the extent that supplies are available.

(2) The Contractor shall provide to the Contracting Officer the following data within 10 days after the Contractor or subcontractor receives a delivery of helium from a Federal helium supplier—

- (i) The name of the supplier;
- (ii) The amount of helium purchased;
- (iii) The delivery date(s); and
- (iv) The location where the helium was used.

(c) *Subcontracts.* The Contractor shall insert this clause, including this paragraph (c), in any subcontract or order that involves a major helium requirement.

(End of clause)

52.208-9 Contractor Use of Mandatory Sources of Supply or Services.

As prescribed in 8.004, insert the following clause:

CONTRACTOR USE OF MANDATORY SOURCES OF SUPPLY
OR SERVICES (JULY 2004)

(a) Certain supplies or services to be provided under this contract for use by the Government are required by law to be obtained from nonprofit agencies participating in the program operated by the Committee for Purchase From People Who Are Blind or Severely Disabled (the Committee) under the Javits-Wagner-O’Day Act (JWOD) (41 U.S.C. 48). Additionally, certain of these supplies are available from the Defense Logistics Agency (DLA), the General Services Administration (GSA), or the Department of Veterans Affairs (VA). The Contractor shall obtain mandatory supplies or services to be

provided for Government use under this contract from the specific sources indicated in the contract schedule.

(b) The Contractor shall immediately notify the Contracting Officer if a mandatory source is unable to provide the supplies or services by the time required, or if the quality of supplies or services provided by the mandatory source is unsatisfactory. The Contractor shall not purchase the supplies or services from other sources until the Contracting Officer has notified the Contractor that the Committee or a JWOD central nonprofit agency has authorized purchase from other sources.

(c) Price and delivery information for the mandatory supplies is available from the Contracting Officer for the supplies obtained through the DLA/GSA/VA distribution facilities. For mandatory supplies or services that are not available from DLA/GSA/VA, price and delivery information is available from the appropriate central nonprofit agency. Payments shall be made directly to the source making delivery. Points of contact for JWOD central nonprofit agencies are:

- (1) National Industries for the Blind (NIB)
1901 North Beauregard Street, Suite 200
Alexandria, VA 22311-1705
(703) 998-0770
- (2) NISH
2235 Cedar Lane
Vienna, VA 22182-5200
(703) 560-6800

(End of clause)

52.209-1 Qualification Requirements.

As prescribed in 9.206-2, insert the following clause:

QUALIFICATION REQUIREMENTS (FEB 1995)

(a) *Definition.* “Qualification requirement,” as used in this clause, means a Government requirement for testing or other quality assurance demonstration that must be completed before award.

(b) One or more qualification requirements apply to the supplies or services covered by this contract. For those supplies or services requiring qualification, whether the covered product or service is an end item under this contract or simply a component of an end item, the product, manufacturer, or source must have demonstrated that it meets the standards prescribed for qualification before award of this contract. The product, manufacturer, or source must be qualified at the time of award whether or not the name of the product, manufacturer, or source is actually included on a qualified products list, qualified manufacturers list, or qualified bidders list. Offerors should contact the agency activity designated below to obtain all requirements that they or their products or services, or their subcontractors or their products or services, must satisfy to become qualified and to arrange for an opportunity to

demonstrate their abilities to meet the standards specified for qualification.

(Name) _____

(Address) _____

(c) If an offeror, manufacturer, source, product or service covered by a qualification requirement has already met the standards specified, the relevant information noted below should be provided.

Offeror's Name _____

Manufacturer's Name _____

Source's Name _____

Item Name _____

Service Identification _____

Test Number _____
(to the extent known)

(d) Even though a product or service subject to a qualification requirement is not itself an end item under this contract, the product, manufacturer, or source must nevertheless be qualified at the time of award of this contract. This is necessary whether the Contractor or a subcontractor will ultimately provide the product or service in question. If, after award, the Contracting Officer discovers that an applicable qualification requirement was not in fact met at the time of award, the Contracting Officer may either terminate this contract for default or allow performance to continue if adequate consideration is offered and the action is determined to be otherwise in the Government's best interests.

(e) If an offeror, manufacturer, source, product or service has met the qualification requirement but is not yet on a qualified products list, qualified manufacturers list, or qualified bidders list, the offeror must submit evidence of qualification prior to award of this contract. Unless determined to be in the Government's interest, award of this contract shall not be delayed to permit an offeror to submit evidence of qualification.

(f) Any change in location or ownership of the plant where a previously qualified product or service was manufactured or performed requires reevaluation of the qualification. Similarly, any change in location or ownership of a previously qualified manufacturer or source requires reevaluation of the qualification. The reevaluation must be accomplished before the date of award.

(End of clause)

52.209-2 [Reserved]

52.209-3 First Article Approval—Contractor Testing.

As prescribed in 9.308-1(a) and (b), insert the following clause:

FIRST ARTICLE APPROVAL—CONTRACTOR TESTING (SEPT 1989)

[Contracting Officer shall insert details]

(a) The Contractor shall test _____ unit(s) of Lot/Item _____ as specified in this contract. At least _____ calendar days before the beginning of first article tests, the Contractor shall notify the Contracting Officer, in writing, of the time and location of the testing so that the Government may witness the tests.

(b) The Contractor shall submit the first article test report within _____ calendar days from the date of this contract to _____ [insert address of the Government activity to receive the report] marked "FIRST ARTICLE TEST REPORT: Contract No. _____, Lot/Item No. _____" Within _____ calendar days after the Government receives the test report, the Contracting Officer shall notify the Contractor, in writing, of the conditional approval, approval, or disapproval of the first article. The notice of conditional approval or approval shall not relieve the Contractor from complying with all requirements of the specifications and all other terms and conditions of this contract. A notice of conditional approval shall state any further action required of the Contractor. A notice of disapproval shall cite reasons for the disapproval.

(c) If the first article is disapproved, the Contractor, upon Government request, shall repeat any or all first article tests. After each request for additional tests, the Contractor shall make any necessary changes, modifications, or repairs to the first article or select another first article for testing. All costs related to these tests are to be borne by the Contractor, including any and all costs for additional tests following a disapproval. The Contractor shall then conduct the tests and deliver another report to the Government under the terms and conditions and within the time specified by the Government. The Government shall take action on this report within the time specified in paragraph (b) of this subsection. The Government reserves the right to require an equitable adjustment of the contract price for any extension of the delivery schedule, or for any additional costs to the Government related to these tests.

(d) If the Contractor fails to deliver any first article report on time, or the Contracting Officer disapproves any first article, the Contractor shall be deemed to have failed to make delivery within the meaning of the Default clause of this contract.

(e) Unless otherwise provided in the contract, and if the approved first article is not consumed or destroyed in testing, the Contractor may deliver the approved first article as part of the contract quantity if it meets all contract requirements for acceptance.

(f) If the Government does not act within the time specified in paragraph (b) or (c) of this subsection, the Contracting Officer shall, upon timely written request from the Contractor, equitably adjust under the changes clause of this contract the delivery or performance dates and/or the contract price, and any other contractual term affected by the delay.

(g) Before first article approval, the acquisition of materials or components for, or the commencement of production of, the balance of the contract quantity is at the sole risk of the Contractor. Before first article approval, the costs thereof shall not be allocable to this contract for (1) progress payments, or (2) termination settlements if the contract is terminated for the convenience of the Government.

(h) The Government may waive the requirement for first article approval test where supplies identical or similar to those called for in the schedule have been previously furnished by the offeror/contractor and have been accepted by the Government. The offeror/contractor may request a waiver.

(End of clause)

Alternate I (Jan 1997). As prescribed in 9.308-1(a)(2) and (b)(2), add the following paragraph (i) to the basic clause:

(i) The Contractor shall produce both the first article and the production quantity at the same facility.

Alternate II (Sept 1989). As prescribed in 9.308-1(a)(3) and (b)(3), substitute the following paragraph (g) for paragraph (g) of the basic clause:

(g) Before first article approval, the Contracting Officer may, by written authorization, authorize the Contractor to acquire specific materials or components or to commence production to the extent essential to meet the delivery schedules. Until first article approval is granted, only costs for the first article and costs incurred under this authorization are allocable to this contract for (1) progress payments, or (2) termination settlements if the contract is terminated for the convenience of the Government. If first article tests reveal deviations from contract requirements, the Contractor shall, at the location designated by the Government, make the required changes or replace all items produced under this contract at no change in the contract price.

52.209-4 First Article Approval—Government Testing.

As prescribed in 9.308-2(a) and (b), insert the following clause:

FIRST ARTICLE APPROVAL—GOVERNMENT TESTING
(SEPT 1989)

[Contracting Officer shall insert details]

(a) The Contractor shall deliver ___ unit(s) of Lot/Item ___ within ___ calendar days from the date of this contract to the Government at _____ [insert name and address of the testing facility] for first article tests. The shipping documentation shall contain this contract number and the Lot/Item identification. The characteristics that the first article must meet and

the testing requirements are specified elsewhere in this contract.

(b) Within ___ calendar days after the Government receives the first article, the Contracting Officer shall notify the Contractor, in writing, of the conditional approval, approval, or disapproval of the first article. The notice of conditional approval or approval shall not relieve the Contractor from complying with all requirements of the specifications and all other terms and conditions of this contract. A notice of conditional approval shall state any further action required of the Contractor. A notice of disapproval shall cite reasons for the disapproval.

(c) If the first article is disapproved, the Contractor, upon Government request, shall submit an additional first article for testing. After each request, the Contractor shall make any necessary changes, modifications, or repairs to the first article or select another first article for testing. All costs related to these tests are to be borne by the Contractor, including any and all costs for additional tests following a disapproval. The Contractor shall furnish any additional first article to the Government under the terms and conditions and within the time specified by the Government. The Government shall act on this first article within the time limit specified in paragraph (b) of this clause. The Government reserves the right to require an equitable adjustment of the contract price for any extension of the delivery schedule or for any additional costs to the Government related to these tests.

(d) If the Contractor fails to deliver any first article on time, or the Contracting Officer disapproves any first article, the Contractor shall be deemed to have failed to make delivery within the meaning of the Default clause of this contract.

(e) Unless otherwise provided in the contract, the Contractor—

(1) May deliver the approved first article as a part of the contract quantity, provided it meets all contract requirements for acceptance and was not consumed or destroyed in testing; and

(2) Shall remove and dispose of any first article from the Government test facility at the Contractor's expense.

(f) If the Government does not act within the time specified in paragraph (b) or (c) of this clause, the Contracting Officer shall, upon timely written request from the Contractor, equitably adjust under the Changes clause of this contract the delivery or performance dates and/or the contract price, and any other contractual term affected by the delay.

(g) The Contractor is responsible for providing operating and maintenance instructions, spare parts support, and repair of the first article during any first article test.

(h) Before first article approval, the acquisition of materials or components for, or the commencement of production of, the balance of the contract quantity is at the sole risk of the Contractor. Before first article approval, the costs thereof shall not be allocable to this contract for (1) progress payments, or

(2) termination settlements if the contract is terminated for the convenience of the Government.

(i) The Government may waive the requirement for first article approval test where supplies identical or similar to those called for in the schedule have been previously furnished by the Offeror/Contractor and have been accepted by the Government. The Offeror/Contractor may request a waiver.

(End of clause)

Alternate I (Jan 1997). As prescribed in 9.308-2(a)(2) and (b)(2), add the following paragraph (j) to the basic clause:

(j) The Contractor shall produce both the first article and the production quantity at the same facility.

Alternate II (Sept 1989). As prescribed in 9.308-2(a)(3) and (b)(3), substitute the following paragraph (h) for paragraph (h) of the basic clause:

(h) Before first article approval, the Contracting Officer may, by written authorization, authorize the Contractor to acquire specific materials or components or to commence production to the extent essential to meet the delivery schedules. Until first article approval is granted, only costs for the first article and costs incurred under this authorization are allocable to this contract for (1) progress payments, or (2) termination settlements if the contract is terminated for the convenience of the Government. If first article tests reveal deviations from contract requirements, the Contractor shall, at the location designated by the Government, make the required changes or replace all items produced under this contract at no change in the contract price.

52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters.

As prescribed in 9.409(a), insert the following provision:

CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY
MATTERS (DEC 2001)

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that—

(i) The Offeror and/or any of its Principals—

(A) Are are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have have not , within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or sub-contract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) The Offeror has has not , within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) “Principals,” for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror’s responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(End of provision)

52.209-6 Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.

As prescribed in 9.409(b), insert the following clause:

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.

(End of clause)

52.210 [Reserved]

52.211-1 Availability of Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29.

As prescribed in 11.204(a), insert the following provision:

AVAILABILITY OF SPECIFICATIONS LISTED IN THE GSA
INDEX OF FEDERAL SPECIFICATIONS, STANDARDS AND
COMMERCIAL ITEM DESCRIPTIONS, FPMR PART 101-29
(AUG 1998)

(a) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to—

GSA Federal Supply Service
Specifications Section, Suite 8100
470 East L'Enfant Plaza, SW
Washington, DC 20407

Telephone (202) 619-8925
Facsimile (202) 619-8978.

(b) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (a) of this provision. Additional copies will be issued for a fee.

(End of provision)

52.211-2 Availability of Specifications Listed in the DoD Index of Specifications and Standards (DoDISS) and Descriptions Listed in the Acquisition Management Systems and Data Requirements Control List, DoD 5010.12-L.

As prescribed in 11.204(b), insert the following provision:

AVAILABILITY OF SPECIFICATIONS LISTED IN THE DoD
INDEX OF SPECIFICATIONS AND STANDARDS (DoDISS)
AND DESCRIPTIONS LISTED IN THE ACQUISITION
MANAGEMENT SYSTEMS AND DATA REQUIREMENTS
CONTROL LIST, DoD 5010.12-L (DEC 2003)

Copies of specifications, standards, and data item descriptions cited in this solicitation may be obtained—

(a) From the ASSIST database via the Internet at <http://assist.daps.dla.mil>; or

(b) By submitting a request to the—

Department of Defense Single Stock Point (DoDSSP)
Building 4, Section D
700 Robbins Avenue
Philadelphia, PA 19111-5094

Telephone (215) 697-2179
Facsimile (215) 697-1462.

(End of provision)

52.211-3 Availability of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.

As prescribed in 11.204(c), insert a provision substantially the same as the following:

AVAILABILITY OF SPECIFICATIONS NOT LISTED IN THE
GSA INDEX OF FEDERAL SPECIFICATIONS, STANDARDS
AND COMMERCIAL ITEM DESCRIPTIONS (JUNE 1988)

The specifications cited in this solicitation may be obtained from:

(Activity) _____

(Complete address) _____

(Telephone number) _____

(Person to be contacted) _____

The request should identify the solicitation number and the specification requested by date, title, and number, as cited in the solicitation.

(End of provision)

52.211-4 Availability for Examination of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.

As prescribed in 11.204(d), insert a provision substantially the same as the following:

AVAILABILITY FOR EXAMINATION OF SPECIFICATIONS
NOT LISTED IN THE GSA INDEX OF FEDERAL
SPECIFICATIONS, STANDARDS AND COMMERCIAL ITEM
DESCRIPTIONS (JUNE 1988)

(Activity) _____

(Complete address) _____

(Telephone number) _____

(Person to be contacted) _____

(Time(s) for viewing) _____

(End of provision)

52.211-5 Material Requirements.

As prescribed in 11.304, insert the following clause:

MATERIAL REQUIREMENTS (AUG 2000)

(a) *Definitions.*

As used in this clause—

“New” means composed of previously unused components, whether manufactured from virgin material, recovered material in the form of raw material, or materials and by-products generated from, and reused within, an original manufacturing process; *provided* that the supplies meet contract requirements, including but not limited to, performance, reliability, and life expectancy.

“Reconditioned” means restored to the original normal operating condition by readjustments and material replacement.

“Recovered material” means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from,

and commonly reused within, an original manufacturing process.

“Remanufactured” means factory rebuilt to original specifications.

“Virgin material” means—

(1) Previously unused raw material, including previously unused copper, aluminum, lead, zinc, iron, other metal or metal ore; or

(2) Any undeveloped resource that is, or with new technology will become, a source of raw materials.

(b) Unless this contract otherwise requires virgin material or supplies composed of or manufactured from virgin material, the Contractor shall provide supplies that are new, reconditioned, or remanufactured, as defined in this clause.

(c) A proposal to provide unused former Government surplus property shall include a complete description of the material, the quantity, the name of the Government agency from which acquired, and the date of acquisition.

(d) A proposal to provide used, reconditioned, or remanufactured supplies shall include a detailed description of such supplies and shall be submitted to the Contracting Officer for approval.

(e) Used, reconditioned, or remanufactured supplies, or unused former Government surplus property, may be used in contract performance if the Contractor has proposed the use of such supplies, and the Contracting Officer has authorized their use.

(End of clause)

52.211-6 Brand Name or Equal.

As prescribed in 11.107(a), insert the following provision:

BRAND NAME OR EQUAL (AUG 1999)

(a) If an item in this solicitation is identified as “brand name or equal,” the purchase description reflects the characteristics and level of quality that will satisfy the Government’s needs. The salient physical, functional, or performance characteristics that “equal” products must meet are specified in the solicitation.

(b) To be considered for award, offers of “equal” products, including “equal” products of the brand name manufacturer, must—

(1) Meet the salient physical, functional, or performance characteristic specified in this solicitation;

(2) Clearly identify the item by—

(i) Brand name, if any; and

(ii) Make or model number;

(3) Include descriptive literature such as illustrations, drawings, or a clear reference to previously furnished descriptive data or information available to the Contracting Officer; and

(4) Clearly describe any modifications the offeror plans to make in a product to make it conform to the solicitation

requirements. Mark any descriptive material to clearly show the modifications.

(c) The Contracting Officer will evaluate “equal” products on the basis of information furnished by the offeror or identified in the offer and reasonably available to the Contracting Officer. The Contracting Officer is not responsible for locating or obtaining any information not identified in the offer.

(d) Unless the offeror clearly indicates in its offer that the product being offered is an “equal” product, the offeror shall provide the brand name product referenced in the solicitation.

(End of provision)

52.211-7 Alternatives to Government-Unique Standards.

As prescribed in 11.107(b), insert the following provision:

ALTERNATIVES TO GOVERNMENT-UNIQUE STANDARDS
(NOV 1999)

(a) This solicitation includes Government-unique standards. The offeror may propose voluntary consensus standards that meet the Government’s requirements as alternatives to the Government-unique standards. The Government will accept use of the voluntary consensus standard instead of the Government-unique standard if it meets the Government’s requirements unless inconsistent with law or otherwise impractical.

(b) If an alternative standard is proposed, the offeror must furnish data and/or information regarding the alternative in sufficient detail for the Government to determine if it meets the Government’s requirements. Acceptance of the alternative standard is a unilateral decision made solely at the discretion of the Government.

(c) Offers that do not comply with the Government-unique standards specified in this solicitation may be determined to be nonresponsive or unacceptable. The offeror may submit an offer that complies with the Government-unique standards specified in this solicitation, in addition to any proposed alternative standard(s).

(End of provision)

52.211-8 Time of Delivery.

As prescribed in 11.404(a)(2), insert the following clause:

TIME OF DELIVERY (JUNE 1997)

(a) The Government requires delivery to be made according to the following schedule:

REQUIRED DELIVERY SCHEDULE		
<i>[Contracting Officer insert specific details]</i>		
ITEM NO.	QUANTITY	WITHIN DAYS AFTER DATE OF CONTRACT

The Government will evaluate equally, as regards time of delivery, offers that propose delivery of each quantity within the applicable delivery period specified above. Offers that propose delivery that will not clearly fall within the applicable required delivery period specified above, will be considered nonresponsive and rejected. The Government reserves the right to award under either the required delivery schedule or the proposed delivery schedule, when an offeror offers an earlier delivery schedule than required above. If the offeror proposes no other delivery schedule, the required delivery schedule above will apply.

OFFEROR’S PROPOSED DELIVERY SCHEDULE		
ITEM NO.	QUANTITY	WITHIN DAYS AFTER DATE OF CONTRACT

(b) Attention is directed to the Contract Award provision of the solicitation that provides that a written award or acceptance of offer mailed, or otherwise furnished to the successful offeror, results in a binding contract. The Government will mail or otherwise furnish to the offeror an award or notice of award not later than the day award is dated. Therefore, the offeror should compute the time available for performance beginning with the actual date of award, rather than the date the written notice of award is received from the Contracting Officer through the ordinary mails. However, the Government will evaluate an offer that proposes delivery based on the Contractor’s date of receipt of the contract or notice of award by adding (1) five calendar days for delivery of the award through the ordinary mails, or (2) one working day if the solicitation states that the contract or notice of award will be transmitted electronically. (The term “working day” excludes weekends and U.S. Federal holidays.) If, as so computed, the

offered delivery date is later than the required delivery date, the offer will be considered nonresponsive and rejected.

(End of clause)

Alternate I (Apr 1984). If the delivery schedule is expressed in terms of specific calendar dates or specific periods and is based on an assumed date of award, the contracting officer may substitute the following paragraph (b) for paragraph (b) of the basic clause. The time may be expressed by substituting “on or before”; “during the months _____”; or “not sooner than _____ or later than _____” as headings for the third column of paragraph (a) the basic clause.

(b) The delivery dates or specific periods above are based on the assumption that the Government will make award by _____ [*Contracting Officer insert date*]. Each delivery date in the delivery schedule above will be extended by the number of calendar days after the above date that the contract is in fact awarded. Attention is directed to the Contract Award provision of the solicitation that provides that a written award or acceptance of offer mailed or otherwise furnished to the successful offeror results in a binding contract. Therefore, the offeror should compute the time available for performance beginning with the actual date of award, rather than the date the written notice of award is received from the Contracting Officer through the ordinary mails.

Alternate II (Apr 1984). If the delivery schedule is expressed in terms of specific calendar dates or specific periods and is based on an assumed date the contractor will receive notice of award, the contracting officer may substitute the following paragraph (b) for paragraph (b) of the basic clause. The time may be expressed by substituting “within days after the date of receipt of a written notice of award” as the heading for the third column of paragraph (a) of the basic clause.

(b) The delivery dates or specific periods above are based on the assumption that the successful offeror will receive notice of award by _____ [*Contracting Officer insert date*]. Each delivery date in the delivery schedule above will be extended by the number of calendar days after the above date that the Contractor receives notice of award; provided, that the Contractor promptly acknowledges receipt of notice of award.

Alternate III (Apr 1984). If the delivery schedule is to be based on the actual date the contractor receives a written notice of award, the contracting officer may delete paragraph (b) of the basic clause. The time may be expressed by substituting “within days after the date of receipt of a written notice of award” as the heading for the third column of paragraph (a) of the basic clause.

52.211-9 Desired and Required Time of Delivery.

As prescribed in 11.404(a)(3), insert the following clause:

DESIRED AND REQUIRED TIME OF DELIVERY (JUNE 1997)

(a) The Government desires delivery to be made according to the following schedule:

DESIRED DELIVERY SCHEDULE		
[Contracting Officer insert specific details]		
ITEM NO.	QUANTITY	WITHIN DAYS AFTER DATE OF CONTRACT

If the offeror is unable to meet the desired delivery schedule, it may, without prejudicing evaluation of its offer, propose a delivery schedule below. However, the offeror’s proposed delivery schedule must not extend the delivery period beyond the time for delivery in the Government’s required delivery schedule as follows:

REQUIRED DELIVERY SCHEDULE		
[Contracting Officer insert specific details]		
ITEM NO.	QUANTITY	WITHIN DAYS AFTER DATE OF CONTRACT

Offers that propose delivery of a quantity under such terms or conditions that delivery will not clearly fall within the applicable required delivery period specified above, will be considered nonresponsive and rejected. If the offeror proposes no other delivery schedule, the desired delivery schedule above will apply.

OFFEROR’S PROPOSED DELIVERY SCHEDULE		
[Contracting Officer insert specific details]		
ITEM NO.	QUANTITY	WITHIN DAYS AFTER DATE OF CONTRACT

(b) Attention is directed to the Contract Award provision of the solicitation that provides that a written award or acceptance of offer mailed or otherwise furnished to the successful offeror results in a binding contract. The Government will mail or otherwise furnish to the offeror an award or notice of award not later than the day the award is dated. Therefore, the

offeror shall compute the time available for performance beginning with the actual date of award, rather than the date the written notice of award is received from the Contracting Officer through the ordinary mails. However, the Government will evaluate an offer that proposes delivery based on the Contractor's date of receipt of the contract or notice of award by adding (1) five calendar days for delivery of the award through the ordinary mails, or (2) one working day if the solicitation states that the contract or notice of award will be transmitted electronically. (The term "working day" excludes weekends and U.S. Federal holidays.) If, as so computed, the offered delivery date is later than the required delivery date, the offer will be considered nonresponsive and rejected.

(End of clause)

Alternate I (Apr 1984). If the delivery schedule is expressed in terms of specific calendar dates or specific periods and is based on an assumed date of award, the contracting officer may substitute the following paragraph (b) for paragraph (b) of the basic clause. The time may be expressed by substituting "on or before"; "during the months _____"; or "not sooner than _____, or later than _____" as headings for the third column of paragraph (a) of the basic clause.

(b) The delivery dates or specific periods above are based on the assumption that the Government will make award by _____ [*Contracting Officer insert date*]. Each delivery date in the delivery schedule above will be extended by the number of calendar days after the above date that the contract is in fact awarded. Attention is directed to the Contract Award provision of the solicitation that provides that a written award or acceptance of offer mailed or otherwise furnished to the successful offeror results in a binding contract. Therefore, the offeror shall compute the time available for performance beginning with the actual date of award, rather than the date the written notice of award is received from the Contracting Officer through the ordinary mails.

Alternate II (Apr 1984). If the delivery schedule is expressed in terms of specific calendar dates or specific periods and is based on an assumed date the contractor receives notice of award, the contracting officer may substitute the following paragraph (b) for paragraph (b) of the basic clause. The time may be expressed by substituting "within days after the date of receipt of a written notice of award" as the heading of the third column of paragraph (a) of the basic clause.

(b) The delivery dates or specific periods above are based on the assumption that the successful offeror will receive notice of award by _____ [*Contracting Officer insert date*]. Each delivery date in the delivery schedule above will be extended by the number of calendar days after the above date that the Contractor receives notice of award; provided, that the Contractor promptly acknowledges receipt of notice of award.

Alternate III (Apr 1984). If the delivery schedule is to be based on the actual date the contractor receives a written notice of award, the contracting officer may delete

paragraph (b) of the basic clause. The time may be expressed by substituting "within days after the date of receipt of a written notice of award" as the heading of the third column of paragraph (a) of the basic clause.

52.211-10 Commencement, Prosecution, and Completion of Work.

As prescribed in 11.404(b), insert the following clause in solicitations and contracts when a fixed-price construction contract is contemplated. The clause may be changed to accommodate the issuance of orders under indefinite-delivery contracts for construction.

COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984)

The Contractor shall be required to (a) commence work under this contract within _____ [*Contracting Officer insert number*] calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than _____.* The time stated for completion shall include final cleanup of the premises.

(End of clause)

* The Contracting Officer shall specify either a number of days after the date the contractor receives the notice to proceed, or a calendar date.

Alternate I (Apr 1984). If the completion date is expressed as a specific calendar date, computed on the basis of the contractor receiving the notice to proceed by a certain day, add the following paragraph to the basic clause:

The completion date is based on the assumption that the successful offeror will receive the notice to proceed by _____ [*Contracting Officer insert date*]. The completion date will be extended by the number of calendar days after the above date that the Contractor receives the notice to proceed, except to the extent that the delay in issuance of the notice to proceed results from the failure of the Contractor to execute the contract and give the required performance and payment bonds within the time specified in the offer.

52.211-11 Liquidated Damages—Supplies, Services, or Research and Development.

As prescribed in 11.503(a), insert the following clause in solicitations and contracts:

LIQUIDATED DAMAGES—SUPPLIES, SERVICES, OR RESEARCH AND DEVELOPMENT (SEPT 2000)

(a) If the Contractor fails to deliver the supplies or perform the services within the time specified in this contract, the Contractor shall, in place of actual damages, pay to the Government liquidated damages of \$_____ per calendar day of delay [*Contracting Officer insert amount*].

(b) If the Government terminates this contract in whole or in part under the Default—Fixed-Price Supply and Service clause, the Contractor is liable for liquidated damages accruing until the Government reasonably obtains delivery or performance of similar supplies or services. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

(c) The Contractor will not be charged with liquidated damages when the delay in delivery or performance is beyond the control and without the fault or negligence of the Contractor as defined in the Default—Fixed-Price Supply and Service clause in this contract.

(End of clause)

52.211-12 Liquidated Damages—Construction.

As prescribed in 11.503(b), insert the following clause in solicitations and contracts:

LIQUIDATED DAMAGES—CONSTRUCTION (SEPT 2000)

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of _____ [Contracting Officer insert amount] for each calendar day of delay until the work is completed or accepted.

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

(End of clause)

52.211-13 Time Extensions.

As prescribed in 11.503(c), insert the following clause:

TIME EXTENSIONS (SEPT 2000)

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

(End of clause)

52.211-14 Notice of Priority Rating for National Defense Use.

As prescribed in 11.604(a), insert the following provision:

NOTICE OF PRIORITY RATING FOR NATIONAL DEFENSE USE (SEPT 1990)

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

(End of provision)

52.211-15 Defense Priority and Allocation Requirements.

As prescribed in 11.604(b), insert the following clause:

DEFENSE PRIORITY AND ALLOCATION REQUIREMENT (SEPT 1990)

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

(End of clause)

52.211-16 Variation in Quantity.

As prescribed in 11.703(a), insert the following clause:

VARIATION IN QUANTITY (APR 1984)

(a) A variation in the quantity of any item called for by this contract will not be accepted unless the variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified in paragraph (b) of this clause.

(b) The permissible variation shall be limited to:

___ Percent increase [Contracting Officer insert percentage]

___ Percent decrease [Contracting Officer insert percentage]

This increase or decrease shall apply to _____.*

(End of clause)

* Contracting Officer shall insert in the blank the designation(s) to which the percentages apply, such as—

- (1) The total contract quantity;
- (2) Item 1 only;
- (3) Each quantity specified in the delivery schedule;
- (4) The total item quantity for each destination; or
- (5) The total quantity of each item without regard to destination.

(End of clause)

52.211-17 Delivery of Excess Quantities.

As prescribed in 11.703(b), insert the following clause:

DELIVERY OF EXCESS QUANTITIES (SEPT 1989)

The Contractor is responsible for the delivery of each item quantity within allowable variations, if any. If the Contractor

delivers and the Government receives quantities of any item in excess of the quantity called for (after considering any allowable variation in quantity), such excess quantities will be treated as being delivered for the convenience of the Contractor. The Government may retain such excess quantities up to \$250 in value without compensating the Contractor therefor, and the Contractor waives all right, title, or interests therein. Quantities in excess of \$250 will, at the option of the Government, either be returned at the Contractor's expense or retained and paid for by the Government at the contract unit price.

(End of clause)

52.211-18 Variation in Estimated Quantity.

As prescribed in 11.703(c), insert the following clause in solicitations and contracts when a fixed-price construction contract is contemplated that authorizes a variation in the estimated quantity of unit-priced items:

VARIATION IN ESTIMATED QUANTITY (APR 1984)

If the quantity of a unit-priced item in this contract is an estimated quantity and the actual quantity of the unit-priced item varies more than 15 percent above or below the estimated quantity, an equitable adjustment in the contract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 115 percent or below 85 percent of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Contractor may request, in writing, an extension of time, to be received by the Contracting Officer within 10 days from the beginning of the delay, or within such further period as may be granted by the Contracting Officer before the date of final settlement of the contract. Upon the receipt of a written request for an extension, the Contracting Officer shall ascertain the facts and make an adjustment for extending the completion date as, in the judgement of the Contracting Officer, is justified.

(End of clause)

52.212-1 Instructions to Offerors—Commercial Items.

As prescribed in 12.301(b)(1), insert the following provision:

INSTRUCTIONS TO OFFERORS—COMMERCIAL ITEMS
(JAN 2005)

(a) *North American Industry Classification System (NAICS) code and small business size standard.* The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.

(b) *Submission of offers.* Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show—

- (1) The solicitation number;
- (2) The time specified in the solicitation for receipt of offers;
- (3) The name, address, and telephone number of the offeror;
- (4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;
- (5) Terms of any express warranty;
- (6) Price and any discount terms;
- (7) “Remit to” address, if different than mailing address;
- (8) A completed copy of the representations and certifications at FAR 52.212-3 (see FAR 52.212-3(j) for those representations and certifications that the offeror shall complete electronically);
- (9) Acknowledgment of Solicitation Amendments;
- (10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and
- (11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

(c) *Period for acceptance of offers.* The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

(d) *Product samples.* When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender’s request and expense, unless they are destroyed during preaward testing.

(e) *Multiple offers.* Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

(f) *Late submissions, modifications, revisions, and withdrawals of offers.* (1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.

(2)(i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is “late” and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and—

(A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or

(B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government’s control prior to the time set for receipt of offers; or

(C) If this solicitation is a request for proposals, it was the only proposal received.

(ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation

on the first work day on which normal Government processes resume.

(5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

(g) *Contract award (not applicable to Invitation for Bids)*. The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.

(h) *Multiple awards*. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.

(i) *Availability of requirements documents cited in the solicitation*. (1)(i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to—

GSA Federal Supply Service Specifications Section
Suite 8100
470 East L'Enfant Plaza, SW
Washington, DC 20407

Telephone (202) 619-8925
Facsimile (202) 619-8978.

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

(2) The DoD Index of Specifications and Standards (DoDISS) and documents listed in it may be obtained from the—

Department of Defense Single Stock Point (DoDSSP)
Building 4, Section D
700 Robbins Avenue
Philadelphia, PA 19111-5094

Telephone (215) 697-2667/2179
Facsimile (215) 697-1462.

(i) Automatic distribution may be obtained on a subscription basis.

(ii) Order forms, pricing information, and customer support information may be obtained—

(A) By telephone at (215) 697-2667/2179; or

(B) Through the DoDSSP Internet site at <http://dodssp.daps.mil>.

(3) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

(j) *Data Universal Numbering System (DUNS) Number*. (Applies to all offers exceeding \$25,000, and offers of \$25,000 or less if the solicitation requires the Contractor to be registered in the Central Contractor Registration (CCR) database. 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. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see FAR Subpart 32.11) for the same parent concern. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. An offeror within the United States may contact Dun and Bradstreet by calling 1-866-705-5711 or via the internet at <http://www.dnb.com>. An offeror located outside the United States must contact the local Dun and Bradstreet office for a DUNS number.

(k) *Central Contractor Registration*. Unless exempted by an addendum to this solicitation, 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 resulting from this solicitation. 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. Offerors 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.

(l) *Debriefing*. If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

(1) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.

(2) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.

(3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.

(4) A summary of the rationale for award;

(5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

(End of provision)

52.212-2 Evaluation—Commercial Items.

As prescribed in 12.301(c), the Contracting Officer may insert a provision substantially as follows:

EVALUATION—COMMERCIAL ITEMS (JAN 1999)

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

[Contracting Officer shall insert the significant evaluation factors, such as (i) technical capability of the item offered to meet the Government requirement; (ii) price; (iii) past performance (see FAR 15.304); (iv) small disadvantaged business participation; and include them in the relative order of importance of the evaluation factors, such as in descending order of importance.]

Technical and past performance, when combined, are _____ [Contracting Officer state, in accordance with FAR 15.304, the relative importance of all other evaluation factors, when combined, when compared to price.]

(b) *Options*. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before

the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of provision)

52.212-3 Offeror Representations and Certifications—Commercial Items.

As prescribed in 12.301(b)(2), insert the following provision:

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (JAN 2005)

An offeror shall complete only paragraph (j) of this provision if the offeror has completed the annual representations and certifications electronically at <http://orca.bpn.gov>. If an offeror has not completed the annual representations and certifications electronically at the ORCA website, the offeror shall complete only paragraphs (b) through (i) of this provision.

(a) *Definitions*. As used in this provision:

“Emerging small business” means a small business concern whose size is no greater than 50 percent of the numerical size standard for the NAICS code designated.

“Forced or indentured child labor” means all work or service—

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

“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 concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

“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 business concern” means a concern which 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 its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

“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.

(b) *Taxpayer Identification Number (TIN)* (26 U.S.C. 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (b)(3) through (b)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror’s relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror’s TIN.

(3) *Taxpayer Identification Number (TIN)*.

- TIN: _____.
- TIN has been applied for.
- TIN is not required because:
- Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
- Offeror is an agency or instrumentality of a foreign government;
- Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization*.

- Sole proprietorship;
- Partnership;
- Corporate entity (not tax-exempt);
- Corporate entity (tax-exempt);
- Government entity (Federal, State, or local);
- Foreign government;
- International organization per 26 CFR 1.6049-4;
- Other _____.

(5) *Common parent*.

- Offeror is not owned or controlled by a common parent;
- Name and TIN of common parent:
Name _____.
TIN _____.

(c) Offerors must complete the following representations when the resulting contract will be performed in the United States or its outlying areas. Check all that apply.

(1) *Small business concern*. The offeror represents as part of its offer that it is, is not a small business concern.

(2) *Veteran-owned small business concern*. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that it is, is not a veteran-owned small business concern.

(3) *Service-disabled veteran-owned small business concern*. [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.] The offeror represents as part of its offer that it is, is not a service-disabled veteran-owned small business concern.

(4) *Small disadvantaged business concern*. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, for general statistical purposes, that it is, is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) *Women-owned small business concern*. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it is, is not a women-owned small business concern.

NOTE: Complete paragraphs (c)(6) and (c)(7) only if this solicitation is expected to exceed the simplified acquisition threshold.

(6) *Women-owned business concern (other than small business concern)*. [Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it is a women-owned business concern.

(7) *Tie bid priority for labor surplus area concerns.* If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price:

(8) Small Business Size for the Small Business Competitiveness Demonstration Program and for the Targeted Industry Categories under the Small Business Competitiveness Demonstration Program. *[Complete only if the offeror has represented itself to be a small business concern under the size standards for this solicitation.]*

(i) *[Complete only for solicitations indicated in an addendum as being set-aside for emerging small businesses in one of the four designated industry groups (DIGs).]* The offeror represents as part of its offer that it is, is not an emerging small business.

(ii) *[Complete only for solicitations indicated in an addendum as being for one of the targeted industry categories (TICs) or four designated industry groups (DIGs).]* Offeror represents as follows:

(A) Offeror’s number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or

(B) Offeror’s average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts).

(Check one of the following):

Number of Employees	Average Annual Gross Revenues
<input type="checkbox"/> 50 or fewer	<input type="checkbox"/> \$1 million or less
<input type="checkbox"/> 51–100	<input type="checkbox"/> \$1,000,001–\$2 million
<input type="checkbox"/> 101–250	<input type="checkbox"/> \$2,000,001–\$3.5 million
<input type="checkbox"/> 251–500	<input type="checkbox"/> \$3,500,001–\$5 million
<input type="checkbox"/> 501–750	<input type="checkbox"/> \$5,000,001–\$10 million
<input type="checkbox"/> 751–1,000	<input type="checkbox"/> \$10,000,001–\$17 million
<input type="checkbox"/> Over 1,000	<input type="checkbox"/> Over \$17 million

(9) *[Complete only if the solicitation contains the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, or FAR 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting, and the offeror desires a benefit based on its disadvantaged status.]*

(i) *General.* The offeror represents that either—

(A) It is, is not certified by the Small Business Administration as a small disadvantaged business concern and identified, on the date of this representation, as a certified small disadvantaged business concern in the data-

base maintained by the Small Business Administration (PRO-Net), and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, 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); or

(B) It has, has not submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(ii) *Joint Ventures under the Price Evaluation Adjustment for Small Disadvantaged Business Concerns.* The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(9)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. *[The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: _____.]*

(10) *HUBZone small business concern.* *[Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents, as part of its offer, that—

(i) It is, is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

(ii) It is, is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. *[The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.]* Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(d) *Representations required to implement provisions of Executive Order 11246—* (1) Previous contracts and compliance. The offeror represents that—

(i) It has, has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and

(ii) It has, has not filed all required compliance reports.

(2) *Affirmative Action Compliance.* The offeror represents that—

(i) It has developed and has on file, has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or

(ii) It has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) *Certification Regarding Payments to Influence Federal Transactions (31 U.S.C. 1352).* (Applies only if the contract is expected to exceed \$100,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract.

(f) *Buy American Act Certificate.* (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225-1, Buy American Act—Supplies, is included in this solicitation.)

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. The terms “component,” “domestic end product,” “end product,” “foreign end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act—Supplies.”

(2) Foreign End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(g)(1) *Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate.* (Applies only if the clause at FAR 52.225-3, Buy American Act—Free Trade Agreements—Israeli Trade Act, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that the offeror has considered components of unknown origin to have been mined,

produced, or manufactured outside the United States. The terms “component,” “domestic end product,” “end product,” “foreign end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act.”

(ii) The offeror certifies that the following supplies are end products of Australia, Canada, Chile, Mexico, or Singapore, or Israeli end products as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act”:

End Products of Australia, Canada, Chile, Mexico, or Singapore or Israeli End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act.” The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

Other Foreign End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(2) *Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, Alternate I (JAN 2004).* If Alternate I to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act”:

Canadian End Products:

Line Item No.

[List as necessary]

(3) *Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, Alternate II (JAN 2004)*. If Alternate II to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act”:

Canadian or Israeli End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(4) *Trade Agreements Certificate*. (Applies only if the clause at FAR 52.225-5, Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(4)(ii) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled “Trade Agreements.”

(ii) The offeror shall list as other end products those end products that are not U.S.-made or designated country end products.

Other End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25. For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American Act. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

(h) *Certification Regarding Debarment, Suspension or Ineligibility for Award (Executive Order 12549)*. (Applies only if the contract value is expected to exceed the simplified acquisition threshold.) The offeror certifies, to the best of its knowledge and belief, that the offeror and/or any of its principals—

(1) Are, are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency; and

(2) Have, have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(3) Are, are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

(i) Certification Regarding Knowledge of Child Labor for *Listed End Products (Executive Order 13126)*. [The Contracting Officer must list in paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at 22.1503(b).]

(1) *Listed end products.*

Listed End Product	Listed Countries of Origin
_____	_____
_____	_____

(2) *Certification*. [If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.]

[] (i) The offeror will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

[] (ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(j)(1) *Annual Representations and Certifications*. Any changes provided by the offeror in paragraph (j) of this provision do not automatically change the representations and certifications posted on the Online Representations and Certifications Application (ORCA) website.

(2) The offeror has completed the annual representations and certifications electronically via the ORCA website

at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications—Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs _____.

[Offeror to identify the applicable paragraphs at (b) through (i) of this provision that the offeror has completed for the purposes of this solicitation only, if any.]

These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

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

(End of provision)

Alternate I (Apr 2002). As prescribed in 12.301(b)(2), add the following paragraph (c)(11) to the basic provision:

(11) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) or (c)(9) of this provision.)

[The offeror shall check the category in which its ownership falls]:

___ Black American.

___ Hispanic American.

___ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

___ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

___ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

___ Individual/concern, other than one of the preceding.

Alternate II (Oct 2000). As prescribed in 12.301(b)(2), add the following paragraph (c)(9)(iii) to the basic provision:

(iii) *Address.* The offeror represents that its address is, is not in a region for which a small disadvantaged business procurement mechanism is authorized and its address has not

changed since its certification as a small disadvantaged business concern or submission of its application for certification. The list of authorized small disadvantaged business procurement mechanisms and regions is posted at <http://www.arnet.gov/References/sdbadjustments.htm>. The offeror shall use the list in effect on the date of this solicitation. "Address," as used in this provision, means the address of the offeror as listed on the Small Business Administration's register of small disadvantaged business concerns or the address on the completed application that the concern has submitted to the Small Business Administration or a Private Certifier in accordance with 13 CFR Part 124, subpart B. For joint ventures, "address" refers to the address of the small disadvantaged business concern that is participating in the joint venture.

52.212-4 Contract Terms and Conditions—Commercial Items.

As prescribed in 12.301(b)(3), insert the following clause:

CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (OCT 2003)

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its post-acceptance rights—

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (*e.g.*, use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes.* Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes.* This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this

contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions*. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable delays*. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice*. (1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include—

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, contract line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

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

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

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, 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.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR Part 1315.

(h) *Patent indemnity*. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) *Payment*.— (1) *Items accepted*. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment*. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR Part 1315.

(3) *Electronic Funds Transfer (EFT)*. If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) *Discount*. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *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.

(j) *Risk of loss*. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

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

(l) *Termination for the Government's convenience*. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its sup-

pliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title.* Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability.* Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances.* The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 327, *et seq.*, Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) *Order of precedence.* Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

- (1) The schedule of supplies/services.

- (2) The Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause.

- (3) The clause at 52.212-5.

- (4) Addenda to this solicitation or contract, including any license agreements for computer software.

- (5) Solicitation provisions if this is a solicitation.

- (6) Other paragraphs of this clause.

- (7) The Standard Form 1449.

- (8) Other documents, exhibits, and attachments.

- (9) The specification.

(t) *Central Contractor Registration (CCR).* (1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract 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.

(2)(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 FAR 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; 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 (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(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.

(3) 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 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.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

(End of clause)

**52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—
Commercial Items.**

As prescribed in 12.301(b)(4), insert the following clause:

CONTRACT TERMS AND CONDITIONS REQUIRED TO
IMPLEMENT STATUTES OR EXECUTIVE ORDERS—
COMMERCIAL ITEMS (JAN 2005)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(2) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78)

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

(1) 52.203-6, Restrictions on Subcontractor Sales to the Government (JUL 1995), with Alternate I (OCT 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

(2) 52.219-3, Notice of Total HUBZone Set-Aside (JAN 1999) (15 U.S.C. 657a).

(3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JAN 1999) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

(4)(i) 52.219-5, Very Small Business Set-Aside (JUNE 2003) (Pub. L. 103-403, section 304, Small Business Reauthorization and Amendments Act of 1994).

___ (ii) Alternate I (MAR 1999) of 52.219-5.

___ (iii) Alternate II (JUNE 2003) of 52.219-5.

(5)(i) 52.219-6, Notice of Total Small Business Set-Aside (JUNE 2003) (15 U.S.C. 644).

___ (ii) Alternate I (OCT 1995) of 52.219-6.

___ (iii) Alternate II (MAR 2004) of 52.219-6.

___ (6)(i) 52.219-7, Notice of Partial Small Business Set-Aside (JUNE 2003) (15 U.S.C. 644).

___ (ii) Alternate I (OCT 1995) of 52.219-7.

___ (iii) Alternate II (MAR 2004) of 52.219-7.

(7) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637(d)(2) and (3)).

(8)(i) 52.219-9, Small Business Subcontracting Plan (JAN 2002) (15 U.S.C. 637(d)(4)).

___ (ii) Alternate I (OCT 2001) of 52.219-9.

___ (iii) Alternate II (OCT 2001) of 52.219-9.

(9) 52.219-14, Limitations on Subcontracting (DEC 1996) (15 U.S.C. 637(a)(14)).

(10)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (JUNE 2003) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

___ (ii) Alternate I (JUNE 2003) of 52.219-23.

(11) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (OCT 1999) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

(12) 52.219-26, Small Disadvantaged Business Participation Program—Incentive Subcontracting (OCT 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

(13) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004).

(14) 52.222-3, Convict Labor (JUNE 2003) (E.O. 11755).

(15) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (JUNE 2004) (E.O. 13126).

(16) 52.222-21, Prohibition of Segregated Facilities (FEB 1999).

(17) 52.222-26, Equal Opportunity (APR 2002) (E.O. 11246).

(18) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212).

(19) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).

(20) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212).

(21) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201).

(22)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (AUG 2000) (42 U.S.C. 6962(c)(3)(A)(ii)).

___ (ii) Alternate I (AUG 2000) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).

(23) 52.225-1, Buy American Act—Supplies (JUNE 2003) (41 U.S.C. 10a-10d).

— (24)(i) 52.225-3, Buy American Act—Free Trade Agreements—Israeli Trade Act (JAN 2005) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, Pub. L. 108-77, 108-78, 108-286).

— (ii) Alternate I (JAN 2004) of 52.225-3.

— (iii) Alternate II (JAN 2004) of 52.225-3.

— (25) 52.225-5, Trade Agreements (JAN 2005) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

— (26) 52.225-13, Restrictions on Certain Foreign Purchases (DEC 2003) (E.o.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

— (27) 52.225-15, Sanctioned European Union Country End Products (FEB 2000) (E.O. 12849).

— (28) 52.225-16, Sanctioned European Union Country Services (FEB 2000) (E.O. 12849).

— (29) 52.232-29, Terms for Financing of Purchases of Commercial Items (FEB 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

— (30) 52.232-30, Installment Payments for Commercial Items (OCT 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

— (31) 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration (OCT 2003) (31 U.S.C. 3332).

— (32) 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration (MAY 1999) (31 U.S.C. 3332).

— (33) 52.232-36, Payment by Third Party (MAY 1999) (31 U.S.C. 3332).

— (34) 52.239-1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a).

— (35)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003) (46 U.S.C. App. 1241 and 10 U.S.C. 2631).

— (ii) Alternate I (Apr 2003) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: [*Contracting Officer check as appropriate.*]

— (1) 52.222-41, Service Contract Act of 1965, as Amended (MAY 1989) (41 U.S.C. 351, *et seq.*).

— (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 1989) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

— (3) 52.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) (MAY 1989) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

— (4) 52.222-44, Fair Labor Standards Act and Service Contract Act—Price Adjustment (FEB 2002) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

— (5) 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA) (MAY 1989) (41 U.S.C. 351, *et seq.*).

(d) *Comptroller General Examination of Record.* The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records—Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in paragraphs (i) through (vii) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (APR 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (JUNE 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).

(vi) 52.222-41, Service Contract Act of 1965, as Amended (MAY 1989), flow down required for all subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, *et seq.*).

(vii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003) (46 U.S.C. App. 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 include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

Alternate I (Feb 2000). As prescribed in 12.301(b)(4), delete paragraph (d) from the basic clause, redesignate paragraph (e) as paragraph (d), and revise the reference to “paragraphs (a), (b), (c), or (d) of this clause” in the redesignated paragraph (d) to read “paragraphs (a), (b), and (c) of this clause.”

52.213-1 Fast Payment Procedure.

As prescribed in 13.404, insert the following clause:

FAST PAYMENT PROCEDURE (FEB 1998)

(a) *General.* The Government will pay invoices based on the Contractor’s delivery to a post office or common carrier (or, if shipped by other means, to the point of first receipt by the Government).

(b) *Responsibility for supplies.* (1) Title to the supplies passes to the Government upon delivery to—

(i) A post office or common carrier for shipment to the specific destination; or

(ii) The point of first receipt by the Government, if shipment is by means other than Postal Service or common carrier.

(2) Notwithstanding any other provision of the contract, order, or blanket purchase agreement, the Contractor shall—

(i) Assume all responsibility and risk of loss for supplies not received at destination, damaged in transit, or not conforming to purchase requirements; and

(ii) Replace, repair, or correct those supplies promptly at the Contractor’s expense, if instructed to do so by the Contracting Officer within 180 days from the date title to the supplies vests in the Government.

(c) *Preparation of invoice.* (1) Upon delivery to a post office or common carrier (or, if shipped by other means, the point of first receipt by the Government), the Contractor shall—

(i) Prepare an invoice as provided in this contract, order, or blanket purchase agreement; and

(ii) Display prominently on the invoice “FAST PAY.”

(2) If the purchase price excludes the cost of transportation, the Contractor shall enter the prepaid shipping cost on the invoice as a separate item. The Contractor shall not include the cost of parcel post insurance. If transportation charges are stated separately on the invoice, the Contractor shall retain related paid freight bills or other transportation billings paid separately for a period of 3 years and shall furnish the bills to the Government upon request.

(3) If this contract, order, or blanket purchase agreement requires the preparation of a receiving report, the Contractor shall prepare the receiving report on the prescribed form or, alternatively, shall include the following information on the invoice, in addition to that required in paragraph (c)(1) of this clause:

(i) A statement in prominent letters “NO RECEIVING REPORT PREPARED.”

(ii) Shipment number.

(iii) Mode of shipment.

(iv) At line item level—

(A) National stock number and/or manufacturer’s part number;

(B) Unit of measure;

(C) Ship-To Point;

(D) Mark-For Point, if in the contract; and

(E) FEDSTRIP/MILSTRIP document number, if in the contract.

(4) If this contract, order, or blanket purchase agreement does not require preparation of a receiving report on a prescribed form, the Contractor shall include on the invoice the following information at the line item level, in addition to that required in paragraph (c)(1) of this clause:

(i) Ship-To Point.

(ii) Mark-For Point.

(iii) FEDSTRIP/MILSTRIP document number, if in the contract.

(5) Where a receiving report is not required, the Contractor shall include a copy of the invoice in each shipment.

(d) *Certification of invoice.* The Contractor certifies by submitting an invoice to the Government that the supplies being billed to the Government have been shipped or delivered in accordance with shipping instructions issued by the ordering officer, in the quantities shown on the invoice, and that the supplies are in the quantity and of the quality designated by the contract, order, or blanket purchase agreement.

(e) *Fast pay container identification.* The Contractor shall mark all outer shipping containers “FAST PAY.”

(End of clause)

52.213-2 Invoices.

As prescribed in 13.302-5(b), insert the following clause:

INVOICES (APR 1984)

The Contractor's invoices must be submitted before payment can be made. The Contractor will be paid on the basis of the invoice, which must state—

(a) The starting and ending dates of the subscription delivery; and

(b) Either that orders have been placed in effect for the addressees required, or that the orders will be placed in effect upon receipt of payment.

(End of clause)

52.213-3 Notice to Supplier.

As prescribed in 13.302-5(c), insert the following clause:

NOTICE TO SUPPLIER (APR 1984)

This is a firm order ONLY if your price does not exceed the maximum line item or total price in the Schedule. Submit invoices to the Contracting Officer. If you cannot perform in exact accordance with this order, WITHHOLD PERFORMANCE, and notify the Contracting Officer immediately, giving your quotation.

(End of clause)

52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

As prescribed in 13.302-5(d), insert the following clause:

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS
(OTHER THAN COMMERCIAL ITEMS) (JAN 2005)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses that are incorporated by reference:

(1) The clauses listed below implement provisions of law or Executive order:

(i) 52.222-3, Convict Labor (JUNE 2003) (E.O. 11755).

(ii) 52.222-21, Prohibition of Segregated Facilities (FEB 1999) (E.O. 11246).

(iii) 52.222-26, Equal Opportunity (APR 2002) (E.O. 11246).

(iv) 52.225-13, Restrictions on Certain Foreign Purchases (DEC 2003) (E.o.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

(v) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(vi) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(2) Listed below are additional clauses that apply:

(i) 52.232-1, Payments (APR 1984).

(ii) 52.232-8, Discounts for Prompt Payment (FEB 2002).

(iii) 52.232-11, Extras (APR 1984).

(iv) 52.232-25, Prompt Payment (OCT 2003).

(v) 52.233-1, Disputes (JULY 2002).

(vi) 52.244-6, Subcontracts for Commercial Items (DEC 2004).

(vii) 52.253-1, Computer Generated Forms (JAN 1991).

(b) The Contractor shall comply with the following FAR clauses, incorporated by reference, unless the circumstances do not apply:

(1) The clauses listed below implement provisions of law or Executive order:

(i) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (JUNE 2004) (E.O. 13126). (Applies to contracts for supplies exceeding the micro-purchase threshold.)

(ii) 52.222-20, Walsh-Healey Public Contracts Act (DEC 1996) (41 U.S.C. 35-45) (Applies to supply contracts over \$10,000 in the United States, Puerto Rico, or the U.S. Virgin Islands).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212) (Applies to contracts of \$25,000 or more).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (JUNE 1998) (29 U.S.C. 793). (Applies to contracts over \$10,000, unless the work is to be performed outside the United States by employees recruited outside the United States.) (For purposes of this clause, *United States* includes the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.)

(v) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212) (Applies to contracts of \$25,000 or more).

(vi) 52.222-41, Service Contract Act of 1965, As Amended (MAY 1989) (41 U.S.C. 351, *et seq.*) (Applies to service contracts over \$2,500 that are subject to the Service Contract Act and will be performed in the United States, District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, or the outer continental shelf lands).

(vii) 52.223-5, Pollution Prevention and Right-to-Know Information (AUG 2003) (E.O. 13148) (Applies to services performed on Federal facilities).

(viii) 52.225-1, Buy American Act—Supplies (JUNE 2003) (41 U.S.C. 10a-10d) (Applies to contracts for supplies, and to contracts for services involving the furnishing of supplies, for use in the United States or its outlying areas,

if the value of the supply contract or supply portion of a service contract exceeds the micro-purchase threshold and the acquisition—

(A) Is set aside for small business concerns; or

(B) Cannot be set aside for small business concerns (see 19.502-2), and does not exceed \$25,000).

(ix) 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration (OCT 2003). (Applies when the payment will be made by electronic funds transfer (EFT) and the payment office uses the Central Contractor Registration (CCR) database as its source of EFT information.)

(x) 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration (May 1999). (Applies when the payment will be made by EFT and the payment office does not use the CCR database as its source of EFT information.)

(xi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003) (46 U.S.C. App. 1241). (Applies to supplies transported by ocean vessels (except for the types of subcontracts listed at 47.504(d).)

(2) Listed below are additional clauses that may apply:

(i) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (JAN 2005) (Applies to contracts over \$25,000).

(ii) 52.211-17, Delivery of Excess Quantities (SEPT 1989) (Applies to fixed-price supplies).

(iii) 52.247-29, F.o.b. Origin (JUNE 1988) (Applies to supplies if delivery is f.o.b. origin).

(iv) 52.247-34, F.o.b. Destination (NOV 1991) (Applies to supplies if delivery is f.o.b. destination).

(c) *FAR 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):

[Insert one or more Internet addresses]

(d) *Inspection/Acceptance*. The Contractor shall tender for acceptance only those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its postacceptance rights—

(1) Within a reasonable period of time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(e) *Excusable delays*. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(f) *Termination for the Government's convenience*. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges that the Contractor can demonstrate to the satisfaction of the Government, using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

(g) *Termination for cause*. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(h) *Warranty*. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(End of clause)

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52.214-1 [Reserved]**52.214-2 [Reserved]****52.214-3 Amendments to Invitations for Bids.**

As prescribed in 14.201-6(b)(1), insert the following provision:

AMENDMENTS TO INVITATIONS FOR BIDS (DEC 1989)

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Bidders shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on the form for submitting a bid, (3) by letter or telegram, or (4) by facsimile, if facsimile bids are authorized in the solicitation. The Government must receive the acknowledgment by the time and at the place specified for receipt of bids.

(End of provision)

52.214-4 False Statements in Bids.

As prescribed in 14.201-6(b)(2), insert the following provision in all invitations for bids:

FALSE STATEMENTS IN BIDS (APR 1984)

Bidders must provide full, accurate, and complete information as required by this solicitation and its attachments. The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

(End of provision)

52.214-5 Submission of Bids.

As prescribed in 14.201-6(c)(1), insert the following provision:

SUBMISSION OF BIDS (MAR 1997)

(a) Bids and bid modifications shall be submitted in sealed envelopes or packages (unless submitted by electronic means)—

(1) Addressed to the office specified in the solicitation; and

(2) Showing the time and date specified for receipt, the solicitation number, and the name and address of the bidder.

(b) Bidders using commercial carrier services shall ensure that the bid is addressed and marked on the outermost envelope or wrapper as prescribed in paragraphs (a)(1) and (2) of this provision when delivered to the office specified in the solicitation.

(c) Telegraphic bids will not be considered unless authorized by the solicitation; however, bids may be modified or withdrawn by written or telegraphic notice.

(d) Facsimile bids, modifications, or withdrawals, will not be considered unless authorized by the solicitation.

(e) Bids submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.

(End of provision)

52.214-6 Explanation to Prospective Bidders.

As prescribed in 14.201-6(c)(2), insert the following provision:

EXPLANATION TO PROSPECTIVE BIDDERS (APR 1984)

Any prospective bidder desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing soon enough to allow a reply to reach all prospective bidders before the submission of their bids. Oral explanations or instructions given before the award of a contract will not be binding. Any information given a prospective bidder concerning a solicitation will be furnished promptly to all other prospective bidders as an amendment to the solicitation, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders.

(End of provision)

52.214-7 Late Submissions, Modifications, and Withdrawals of Bids.

As prescribed in 14.201-6(c)(3), insert the following provision:

LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS (NOV 1999)

(a) Bidders are responsible for submitting bids, and any modifications or withdrawals, so as to reach the Government office designated in the invitation for bids (IFB) by the time specified in the IFB. If no time is specified in the IFB, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that bids are due.

(b)(1) Any bid, modification, or withdrawal received at the Government office designated in the IFB after the exact time specified for receipt of bids is “late” and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late bid would not unduly delay the acquisition; and—

(i) If it was transmitted through an electronic commerce method authorized by the IFB, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of bids; or

(ii) There is acceptable evidence to establish that it was received at the Government installation designated for

receipt of bids and was under the Government's control prior to the time set for receipt of bids.

(2) However, a late modification of an otherwise successful bid that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(c) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the bid wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(d) If an emergency or unanticipated event interrupts normal Government processes so that bids cannot be received at the Government office designated for receipt of bids by the exact time specified in the IFB and urgent Government requirements preclude amendment of the IFB, the time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(e) Bids may be withdrawn by written notice received at any time before the exact time set for receipt of bids. If the IFB authorizes facsimile bids, bids may be withdrawn via facsimile received at any time before the exact time set for receipt of bids, subject to the conditions specified in the provision at 52.214-31, Facsimile Bids. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

(End of provision)

52.214-8 [Reserved]

52.214-9 [Reserved]

52.214-10 Contract Award—Sealed Bidding.

As prescribed in 14.201-6(e), insert the following provision:

CONTRACT AWARD—SEALED BIDDING (JULY 1990)

(a) The Government will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Government considering only price and the price-related factors specified elsewhere in the solicitation.

(b) The Government may—

- (1) Reject any or all bids;
- (2) Accept other than the lowest bid; and
- (3) Waive informalities or minor irregularities in bids received.

(c) The Government may accept any item or group of items of a bid, unless the bidder qualifies the bid by specific limita-

tions. Unless otherwise provided in the Schedule, bids may be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the bidder specifies otherwise in the bid.

(d) A written award or acceptance of a bid mailed or otherwise furnished to the successful bidder within the time for acceptance specified in the bid shall result in a binding contract without further action by either party.

(e) The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the Government even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

(End of provision)

52.214-11 [Reserved]

52.214-12 Preparation of Bids.

As prescribed in 14.201-6(f), insert the following provision:

PREPARATION OF BIDS (APR 1984)

(a) Bidders are expected to examine the drawings, specifications, Schedule, and all instructions. Failure to do so will be at the bidder's risk.

(b) Each bidder shall furnish the information required by the solicitation. The bidder shall sign the bid and print or type its name on the Schedule and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(c) For each item offered, bidders shall (1) show the unit price, including, unless otherwise specified, packaging, packing, and preservation and (2) enter the extended price for the quantity of each item offered in the "Amount" column of the Schedule. In case of discrepancy between a unit price and an extended price, the unit price will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.

(d) Bids for supplies or services other than those specified will not be considered unless authorized by the solicitation.

(e) Bidders must state a definite time for delivery of supplies or for performance of services, unless otherwise specified in the solicitation.

(f) Time, if stated as a number of days, will include Saturdays, Sundays, and holidays.

(End of provision)

52.214-13 Telegraphic Bids.

As prescribed in 14.201-6(g)(1), insert the following provision:

TELEGRAPHIC BIDS (APR 1984)

(a) Bidders may submit telegraphic bids as responses to this solicitation. These responses must arrive at the place, and by the time, specified in the solicitation.

(b) Telegraphic bids shall refer to this solicitation and include the items or subitems, quantities, unit prices, time and place of delivery, all representations and other information required by this solicitation, and a statement of agreement with all the terms, conditions, and provisions of the invitation for bids.

(c) Telegraphic bids that fail to furnish required representations or information, or that reject any of the terms, conditions, and provisions of the solicitation, may be excluded from consideration.

(d) Bidders must promptly sign and submit complete copies of the bids in confirmation of their telegraphic bids.

(e) The term “telegraphic bids,” as used in this provision, includes mailgrams.

(End of provision)

Alternate I (Nov 1988). As prescribed in 14.201-6(g)(2), substitute the following for paragraph (d) of the basic clause:

(d) Written confirmation of telegraphic bids is not required.

52.214-14 Place of Performance—Sealed Bidding.

As prescribed in 14.201-6(h), insert the following provision:

PLACE OF PERFORMANCE—SEALED BIDDING (APR 1985)

(a) The bidder, in the performance of any contract resulting from this solicitation, intends, does not intend [*check applicable box*] to use one or more plants or facilities located at a different address from the address of the bidder as indicated in this bid.

(b) If the bidder checks “intends” in paragraph (a) of this provision, it shall insert in the spaces provided below the required information:

PLACE OF PERFORMANCE (STREET ADDRESS, CITY, STATE, COUNTY, ZIP CODE)	NAME AND ADDRESS OF OWNER AND OPERATOR OF THE PLANT OR FACILITY IF OTHER THAN BIDDER
--	--

_____	_____
_____	_____

(End of provision)

52.214-15 Period for Acceptance of Bids.

As prescribed in 14.201-6(i), insert the following provision:

PERIOD FOR ACCEPTANCE OF BIDS (APR 1984)

In compliance with the solicitation, the bidder agrees, if this bid is accepted within _____ calendar days (60 calendar days unless a different period is inserted by the bidder) from the date specified in the solicitation for receipt of bids, to furnish any or all items upon which prices are bid at the price set opposite each item, delivered at the designated point(s), within the time specified in the Schedule.

(End of provision)

52.214-16 Minimum Bid Acceptance Period.

As prescribed in 14.201-6(j), insert the following provision in invitations for bids, except for construction, if the contracting officer determines that a minimum acceptance period must be specified:

MINIMUM BID ACCEPTANCE PERIOD (APR 1984)

(a) “Acceptance period,” as used in this provision, means the number of calendar days available to the Government for awarding a contract from the date specified in this solicitation for receipt of bids.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The Government requires a minimum acceptance period of _____ calendar days [*the Contracting Officer shall insert the number of days*].

(d) In the space provided immediately below, bidders may specify a longer acceptance period than the Government’s minimum requirement.

The bidder allows the following acceptance period:
_____ calendar days.

(e) A bid allowing less than the Government’s minimum acceptance period will be rejected.

(f) The bidder agrees to execute all that it has undertaken to do, in compliance with its bid, if that bid is accepted in writing within—

(1) The acceptance period stated in paragraph (c) of this clause; or

(2) Any longer acceptance period stated in paragraph (d) of this clause.

(End of provision)

52.214-17 [Reserved]

52.214-18 Preparation of Bids—Construction.

As prescribed in 14.201-6(l), insert the following provision:

PREPARATION OF BIDS—CONSTRUCTION (APR 1984)

(a) Bids must be—

(1) Submitted on the forms furnished by the Government or on copies of those forms, and

(2) *Manually signed*. The person signing a bid must initial each erasure or change appearing on any bid form.

(b) The bid form may require bidders to submit bid prices for one or more items on various bases, including—

(1) Lump sum bidding;

(2) Alternate prices;

(3) Units of construction; or

(4) Any combination of paragraphs (b)(1) through (b)(3) of this provision.

(c) If the solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words “no bid” in the space provided for any item on which no price is submitted.

(d) Alternate bids will not be considered unless this solicitation authorizes their submission.

(End of provision)

52.214-19 Contract Award—Sealed Bidding—

Construction.

As prescribed in 14.201-6(m), insert the following provision:

CONTRACT AWARD—SEALED BIDDING—CONSTRUCTION (AUG 1996)

(a) The Government will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Government, considering only price and the price-related factors specified elsewhere in the solicitation.

(b) The Government may reject any or all bids, and waive informalities or minor irregularities in bids received.

(c) The Government may accept any item or combination of items, unless doing so is precluded by a restrictive limitation in the solicitation or the bid.

(d) The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the Government even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

(End of provision)

52.214-20 Bid Samples.

As prescribed in 14.201-6(o)(1), insert the following provision:

BID SAMPLES (APR 2002)

(a) “Bid sample” means a product sample required to be submitted by a bidder to show those characteristics of the offered products that cannot adequately be described by specifications, purchase descriptions, or the invitation for bid (*e.g.*, balance, facility of use, or pattern).

(b) Bidders must furnish bid samples as part of the bid. The Government must receive the bid samples by the time specified in the invitation for bids. If the bidder fails to submit samples on time, the Government will reject the bid, except that the Contracting Officer will consider a late sample sent by mail under the Late Submissions, Modifications, and Withdrawals of Bids provision of this solicitation.

(c) The Government will test or evaluate bid samples to determine compliance with all the characteristics listed for examination in this solicitation. The Government will reject the bid when the sample fails to conform to the required characteristics. Products delivered under any resulting contract must conform to—

(1) The approved sample for the characteristics listed for test or evaluation; and

(2) The specifications for all other characteristics.

(d) Unless otherwise specified in the solicitation, bid samples shall be—

(1) Submitted at no expense to the Government; and

(2) Returned at the bidder’s request and expense, unless they are destroyed during preaward testing.

(End of provision)

Alternate I (May 2002). As prescribed in 14.201-6(o)(2)(i), insert the following Alternate I:

(e) At the discretion of the Contracting Officer, the requirement for furnishing bid samples may be waived for a bidder if—

(1) The bid states that the offered product is the same as a product offered by the bidder to the _____ [as

appropriate, the Contracting Officer shall designate the contracting office or an alternate activity or office]; and

(2) The Contracting Officer determines that the previously offered product was accepted or tested and found to comply with specification and other requirements for technical acceptability conforming in every material respect with those in this solicitation.

Alternate II (May 2002). As prescribed in 14.201-6(o)(2)(ii), insert the following Alternate II:

(e) At the discretion of the Contracting Officer, the requirements for furnishing bid samples may be waived for a bidder if—

(1) The bid states that the offered product is the same as a product offered by the bidder to the _____ [*as appropriate, the Contracting Officer shall designate the contracting office or an alternate activity or office*] on a previous acquisition;

(2) The Contracting Officer determines that the previously offered product was accepted or tested and found to comply with specification and other requirements for technical acceptability conforming in every material respect with those of this solicitation; and

(3) The product offered under this solicitation will be produced under a resulting contract at the same plant in which the previously acquired or tested product was produced.

52.214-21 Descriptive Literature.

As prescribed in 14.201-6(p)(1), insert the following provision:

DESCRIPTIVE LITERATURE (APR 2002)

(a) “Descriptive literature,” as used in this provision, means information furnished by a bidder, such as cuts, illustrations, drawings, and brochures, that shows a product’s characteristics or construction or explains its operation. The term includes only that information required to evaluate the acceptability of the product and excludes other information for operating or maintaining the product.

(b) Descriptive literature is required to establish, for the purpose of evaluation and award, details of the product offered that are specified elsewhere in the solicitation and pertain to significant elements such as—

- (1) Design;
- (2) Materials;
- (3) Components;
- (4) Performance characteristics; and
- (5) Methods of manufacture, assembly, construction, or operation.

(c) Descriptive literature, required elsewhere in this solicitation, shall be—

- (1) Identified to show the item(s) of the offer to which it applies; and
- (2) Received by the time specified in this solicitation.

(d) If the bidder fails to submit descriptive literature on time, the Government will reject the bid, except that late descriptive literature sent by mail may be considered under the Late Submissions, Modifications, and Withdrawals of Bids provision of this solicitation.

(e) If the descriptive literature fails to show that the product offered conforms to the requirements of the solicitation, the Government will reject the bid.

(End of provision)

Alternate I (Apr 2002). As prescribed in 14.201-6(p)(2), add the following paragraphs (f) and (g) to the basic provision:

(f) The Contracting Officer may waive the requirement for furnishing descriptive literature if the offeror has supplied a product that is the same as that required by this solicitation under a prior contract. A bidder that requests a waiver of this requirement shall provide the following information:

Prior contract number _____

Date of prior contract _____

Contract line item number of product supplied _____

Name and address of Government activity to which delivery was made _____

Date of final delivery of product supplied _____

(g) Bidders shall submit bids on the basis of required descriptive literature or on the basis of a previously supplied product under paragraph (f) of this provision. A bidder submitting a bid on one of these two bases may not elect to have its bid considered on the alternative basis after the time specified for receipt of bids. The Government will disregard a bidder’s request for a waiver under paragraph (f) if that bidder has submitted the descriptive literature requested under this solicitation.

52.214-22 Evaluation of Bids for Multiple Awards.

As prescribed in 14.201-6(q), insert the following provision:

EVALUATION OF BIDS FOR MULTIPLE AWARDS (MAR 1990)

In addition to other factors, bids will be evaluated on the basis of advantages and disadvantages to the Government that might result from making more than one award (multiple awards). It is assumed, for the purpose of evaluating bids, that \$500 would be the administrative cost to the Government for issuing and administering each contract awarded under this solicitation, and individual awards will be for the items or combinations of items that result in the lowest aggregate cost to the Government, including the assumed administrative costs.

(End of provision)

52.214-23 Late Submissions, Modifications, Revisions, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding.

As prescribed in 14.201-6(r), insert the following provision:

LATE SUBMISSIONS, MODIFICATIONS, REVISIONS, AND WITHDRAWALS OF TECHNICAL PROPOSALS UNDER TWO-STEP SEALED BIDDING (NOV 1999)

(a) Bidders are responsible for submitting technical proposals, and any modifications or revisions, so as to reach the Government office designated in the request for technical proposals by the time specified in the invitation for bids (IFB). If no time is specified in the IFB, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that bids or revisions are due.

(b)(1) Any technical proposal under step one of two-step sealed bidding, modification, revision, or withdrawal of such proposal received at the Government office designated in the request for technical proposals after the exact time specified for receipt will not be considered unless the Contracting Officer determines that accepting the late technical proposal would not unduly delay the acquisition; and—

(i) If it was transmitted through an electronic commerce method authorized by the request for technical proposals, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(ii) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt; or

(iii) It is the only proposal received and it is negotiated under Part 15 of the Federal Acquisition Regulation.

(2) However, a late modification of an otherwise successful proposal that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(c) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the technical proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(d) If an emergency or unanticipated event interrupts normal Government processes so that technical proposals cannot be received at the Government office designated for receipt of technical proposals by the exact time specified in the request for technical proposals, and urgent Government requirements preclude amendment of the request for technical proposals, the time specified for receipt of technical proposals will be deemed to be extended to the same time of day specified in the

request for technical proposals on the first work day on which normal Government processes resume.

(e) Technical proposals may be withdrawn by written notice received at any time before the exact time set for receipt of technical proposals. If the request for technical proposals authorizes facsimile technical proposals, they may be withdrawn via facsimile received at any time before the exact time set for receipt of proposals, subject to the conditions specified in the provision at 52.214-31, Facsimile Bids. A technical proposal may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of technical proposals, the identity of the person requesting withdrawal is established and the person signs a receipt for the technical proposal.

(End of provision)

52.214-24 Multiple Technical Proposals.

As prescribed in 14.201-6(s), insert the following provision:

MULTIPLE TECHNICAL PROPOSALS (APR 1984)

In the first step of this two-step acquisition, solicited sources are encouraged to submit multiple technical proposals presenting different basic approaches. Each technical proposal submitted will be separately evaluated and the submitter will be notified as to its acceptability.

(End of provision)

52.214-25 Step Two of Two-Step Sealed Bidding.

As prescribed in 14.201-6(t), insert the following provision:

STEP TWO OF TWO-STEP SEALED BIDDING (APR 1985)

(a) This invitation for bids is issued to initiate step two of two-step sealed bidding under Subpart 14.5 of the Federal Acquisition Regulation.

(b) The only bids that the Contracting Officer may consider for award of a contract are those received from bidders that have submitted acceptable technical proposals in step one of this acquisition under _____ [*the Contracting Officer shall insert the identification of the step-one request for technical proposals*].

(c) Any bidder that has submitted multiple technical proposals in step one of this acquisition may submit a separate bid on each technical proposal that was determined to be acceptable to the Government.

(End of provision)

52.214-26 Audit and Records—Sealed Bidding.

As prescribed in 14.201-7(a), insert the following clause:

AUDIT AND RECORDS—SEALED BIDDING (OCT 1997)

(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) *Cost or pricing data.* If the Contractor has been required to submit cost or pricing data in connection with the pricing of any modification 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 modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the modification; or
- (4) Performance of the modification.

(c) *Comptroller General.* In the case of pricing any modification, the Comptroller General of the United States, or an authorized representative, shall have the same rights as specified in paragraph (b) of this clause.

(d) *Availability.* The Contractor shall make available at its office at all reasonable times the materials described in paragraph (b) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract, or for any other period specified in Subpart 4.7 of the Federal Acquisition Regulation (FAR). FAR Subpart 4.7, Contractor Records Retention, in effect on the date of this contract, is incorporated by reference in its entirety and made a part of this contract.

(1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.

(2) Records pertaining to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to the performance of this contract shall be made available until disposition of such appeals, litigation, or claims.

(e) The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (e), in all subcontracts expected to exceed the threshold in FAR 15.403-4(a)(1) for submission of cost or pricing data.

(End of clause)

52.214-27 Price Reduction for Defective Cost or Pricing Data—Modifications—Sealed Bidding.

As prescribed in 14.201-7(b), insert the following clause:

PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA—MODIFICATIONS—SEALED BIDDING (OCT 1997)

(a) This clause shall become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for the submission of cost or pricing data at FAR 15.403-4(a)(1), except that this clause does not apply to a modification if an exception under FAR 15.403-1(b) applies.

(b) If any price, including profit, negotiated in connection with any modification under this clause, 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 shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause

(c) Any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

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

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

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

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

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

(2)(i) Except as prohibited by subdivision (d)(2)(ii) of this clause, an offset in an amount determined appropriate by

the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if—

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

(B) The Contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted before such date.

(ii) An offset shall not be allowed if—

(A) The understated data was known by the Contractor to be understated when the Certificate of Current Cost or Pricing Data was signed; 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 date of agreement on price.

(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 which were incomplete, inaccurate, or noncurrent.

(End of clause)

52.214-28 Subcontractor Cost or Pricing Data— Modifications—Sealed Bidding.

As prescribed in 14.201-7(c), insert the following clause in solicitations and contracts:

SUBCONTRACTOR COST OR PRICING DATA— MODIFICATIONS—SEALED BIDDING (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 aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1); 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(a)(1), on the date of agreement on price or the

date of award, whichever is later; or before pricing any subcontract modifications involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1), 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(b) applies.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR subsection 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, when entered into, exceeds the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1).

(End of clause)

52.214-29 Order of Precedence—Sealed Bidding.

As prescribed in 14.201-7(d), insert the following clause:

ORDER OF PRECEDENCE—SEALED BIDDING (JAN 1986)

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; and
- (e) The specifications.

(End of clause)

52.214-30 [Reserved]

52.214-31 Facsimile Bids.

As prescribed in 14.201-6(v), insert the following provision:

FACSIMILE BIDS (DEC 1989)

(a) *Definition.* "Facsimile bid," as used in this solicitation, means a bid, modification of a bid, or withdrawal of a bid that is transmitted to and received by the Government via electronic equipment that communicates and reproduces both printed and handwritten material.

(b) Bidders may submit facsimile bids as responses to this solicitation. These responses must arrive at the place and by the time, specified in the solicitation.

(c) Facsimile bids that fail to furnish required representations or information or that reject any of the terms, conditions,

and provisions of the solicitation may be excluded from consideration.

(d) Facsimile bids must contain the required signatures.

(e) The Government reserves the right to make award solely on the facsimile bid. However, if requested to do so by the Contracting Officer, the apparently successful bidder agrees to promptly submit the complete original signed bid.

(f) Facsimile receiving data and compatibility characteristics are as follows:

(1) Telephone number of receiving facsimile equipment: _____

(2) Compatibility characteristics of receiving facsimile equipment (*e.g.*, make and model number, receiving speed, communications protocol): _____

(g) If the bidder chooses to transmit a facsimile bid, the Government will not be responsible for any failure attributable to the transmission or receipt of the facsimile bid including, but not limited to, the following:

(1) Receipt of garbled or incomplete bid.

(2) Availability or condition of the receiving facsimile equipment.

(3) Incompatibility between the sending and receiving equipment.

(4) Delay in transmission or receipt of bid.

(5) Failure of the bidder to properly identify the bid.

(6) Illegibility of bid.

(7) Security of bid data.

(End of provision)

52.214-32 [Reserved]

52.214-33 [Reserved]

52.214-34 Submission of Offers in the English Language.

As prescribed in 14.201-6(w), insert the following provision:

SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE
(APR 1991)

Offers submitted in response to this solicitation shall be in the English language. Offers received in other than English shall be rejected.

(End of provision)

52.214-35 Submission of Offers in U.S. Currency.

As prescribed in 14.201-6(x), insert the following provision:

SUBMISSION OF OFFERS IN U.S. CURRENCY (APR 1991)

Offers submitted in response to this solicitation shall be in terms of U.S. dollars. Offers received in other than U.S. dollars shall be rejected.

(End of provision)

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52.215-1 Instructions to Offerors—Competitive Acquisition.

As prescribed in 15.209(a), insert the following provision:

INSTRUCTIONS TO OFFERORS—COMPETITIVE ACQUISITION (JAN 2004)

(a) *Definitions.* As used in this provision—

“Discussions” are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer’s discretion, result in the offeror being allowed to revise its proposal.

“In writing,” “writing,” or “written” means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

“Proposal modification” is a change made to a proposal before the solicitation’s closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

“Proposal revision” is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

“Time,” if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) *Amendments to solicitations.* If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) *Submission, modification, revision, and withdrawal of proposals.* (1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals and modifications to proposals shall be submitted in paper media in sealed envelopes or packages (i) addressed to the office specified in the solicitation, and (ii) showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror. Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

(2) The first page of the proposal must show—

- (i) The solicitation number;
- (ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);
- (iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;
- (iv) Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons autho-

rized to negotiate on the offeror’s behalf with the Government in connection with this solicitation; and

(v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent’s authority, unless that evidence has been previously furnished to the issuing office.

(3) *Submission, modification, revision, and withdrawal of proposals.* (i) Offerors are responsible for submitting proposals, and any modifications or revisions, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposal or revision is due.

(ii)(A) Any proposal, modification, or revision received at the Government office designated in the solicitation after the exact time specified for receipt of offers is “late” and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and—

(1) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(2) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government’s control prior to the time set for receipt of offers; or

(3) It is the only proposal received.

(B) However, a late modification of an otherwise successful proposal that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(iii) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(v) Proposals may be withdrawn by written notice received at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject

to the conditions specified in the provision at 52.215-5, Facsimile Proposals. Proposals may be withdrawn in person by an offeror or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

(4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.

(5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR 52.225-17, Evaluation of Foreign Currency Offers, is included in the solicitation.

(6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) *Offer expiration date.* Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet (unless a different period is proposed by the offeror).

(e) *Restriction on disclosure and use of data.* Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall—

(1) Mark the title page with the following legend:

This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed—in whole or in part—for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of—or in connection with—the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [*insert numbers or other identification of sheets*]; and

(2) Mark each sheet of data it wishes to restrict with the following legend:

Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(f) *Contract award.* (1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and sub-factors in the solicitation.

(2) The Government may reject any or all proposals if such action is in the Government's interest.

(3) The Government may waive informalities and minor irregularities in proposals received.

(4) The Government intends to evaluate proposals and award a contract without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

(5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.

(6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.

(7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.

(8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.

(9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.

(10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.

(11) If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

(i) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.

(ii) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.

(iii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.

(iv) A summary of the rationale for award.

(v) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(vi) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

(End of provision)

Alternate I (Oct 1997). As prescribed in 15.209(a)(1), substitute the following paragraph (f)(4) for paragraph (f)(4) of the basic provision:

(f)(4) The Government intends to evaluate proposals and award a contract after conducting discussions with offerors whose proposals have been determined to be within the competitive range. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. Therefore, the offeror's initial proposal should contain the offeror's best terms from a price and technical standpoint.

Alternate II (Oct 1997). As prescribed in 15.209(a)(2), add a paragraph (c)(9) substantially the same as the following to the basic clause:

(c)(9) Offerors may submit proposals that depart from stated requirements. Such proposals shall clearly identify why the acceptance of the proposal would be advantageous to the Government. Any deviations from the terms and conditions of the solicitation, as well as the comparative advantage to the Government, shall be clearly identified and explicitly defined. The Government reserves the right to amend the solicitation to allow all offerors an opportunity to submit revised proposals based on the revised requirements.

52.215-2 Audit and Records—Negotiation.

As prescribed in 15.209(b), insert the following clause:

AUDIT AND RECORDS—NEGOTIATION (JUNE 1999)

(a) As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) *Examination of costs.* If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient

to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract.

(c) *Cost or pricing data.* If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to—

(1) The proposal for the contract, subcontract, or modification;

(2) The discussions conducted on the proposal(s), including those related to negotiating;

(3) Pricing of the contract, subcontract, or modification;

or

(4) Performance of the contract, subcontract or modification.

(d) *Comptroller General*—(1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder.

(2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) *Reports.* If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating—

(1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and

(2) The data reported.

(f) *Availability.* The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition—

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and—

(1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;

(2) For which cost or pricing data are required; or

(3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

(End of clause)

Alternate I (Jan 1997). As prescribed in 15.209(b)(2), in facilities contracts, add the following sentence at the end of paragraph (b) of the basic clause:

The obligations and rights specified in this paragraph shall extend to the use of, and charges for the use of, the facilities under this contract.

Alternate II (Apr 1998). As prescribed in 15.209(b)(3), add the following paragraph (h) to the basic clause:

(h) The provisions of OMB Circular No. A-133, “Audits of States, Local Governments, and Nonprofit Organizations,” apply to this contract.

Alternate III (June 1999). As prescribed in 15.209(b)(4), delete paragraph (d) of the basic clause and redesignate the remaining paragraphs accordingly, and substitute the following paragraph (e) for the redesignated paragraph (e) of the basic clause:

(e) *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), and (d) 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.

52.215-3 Request for Information or Solicitation for Planning Purposes.

As prescribed in 15.209(c), insert the following provision:

REQUEST FOR INFORMATION OR SOLICITATION FOR PLANNING PURPOSES (OCT 1997)

(a) The Government does not intend to award a contract on the basis of this solicitation or to otherwise pay for the information solicited except as an allowable cost under other contracts as provided in subsection 31.205-18, Bid and proposal costs, of the Federal Acquisition Regulation.

(b) Although “proposal” and “offeror” are used in this Request for Information, your response will be treated as information only. It shall not be used as a proposal.

(c) This solicitation is issued for the purpose of: [*state purpose*].

(End of provision)

52.215-4 [Reserved]

52.215-5 Facsimile Proposals.

As prescribed in 15.209(e), insert the following provision:

FACSIMILE PROPOSALS (OCT 1997)

(a) *Definition.* “Facsimile proposal,” as used in this provision, means a proposal, revision or modification of a proposal, or withdrawal of a proposal that is transmitted to and received by the Government via facsimile machine.

(b) Offerors may submit facsimile proposals as responses to this solicitation. Facsimile proposals are subject to the same rules as paper proposals.

(c) The telephone number of receiving facsimile equipment is: [*insert telephone number*].

(d) If any portion of a facsimile proposal received by the Contracting Officer is unreadable to the degree that conformance to the essential requirements of the solicitation cannot be ascertained from the document—

(1) The Contracting Officer immediately shall notify the offeror and permit the offeror to resubmit the proposal;

(2) The method and time for resubmission shall be prescribed by the Contracting Officer after consultation with the offeror; and

(3) The resubmission shall be considered as if it were received at the date and time of the original unreadable submission for the purpose of determining timeliness, provided the offeror complies with the time and format requirements for resubmission prescribed by the Contracting Officer.

(e) The Government reserves the right to make award solely on the facsimile proposal. However, if requested to do so by the Contracting Officer, the apparently successful off-

eror promptly shall submit the complete original signed proposal.

(End of provision)

52.215-6 Place of Performance.

As prescribed in 15.209(f), insert the following provision:

PLACE OF PERFORMANCE (OCT 1997)

(a) The offeror or respondent, in the performance of any contract resulting from this solicitation, intends, does not intend [*check applicable block*] to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.

(b) If the offeror or respondent checks “intends” in paragraph (a) of this provision, it shall insert in the following spaces the required information:

PLACE OF PERFORMANCE (STREET ADDRESS, CITY, STATE, COUNTY, ZIP CODE)	NAME AND ADDRESS OF OWNER AND OPERATOR OF THE PLANT OR FACILITY IF OTHER THAN OFFEROR OR RESPONDENT
_____	_____
_____	_____

(End of provision)

52.215-7 [Reserved]

52.215-8 Order of Precedence—Uniform Contract Format.

As prescribed in 15.209(h), insert the following clause:

ORDER OF PRECEDENCE—UNIFORM CONTRACT FORMAT (OCT 1997)

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

- (a) The Schedule (excluding the specifications).
- (b) Representations and other instructions.
- (c) Contract clauses.
- (d) Other documents, exhibits, and attachments.
- (e) The specifications.

(End of clause)

52.215-9 Changes or Additions to Make-or-Buy Program.

As prescribed in 15.408(a), insert the following clause:

CHANGES OR ADDITIONS TO MAKE-OR-BUY PROGRAM (OCT 1997)

(a) The Contractor shall perform in accordance with the make-or-buy program incorporated in this contract. If the Contractor proposes to change the program, the Contractor shall, reasonably in advance of the proposed change,

(1) notify the Contracting Officer in writing, and (2) submit justification in sufficient detail to permit evaluation. Changes in the place of performance of any “make” items in the program are subject to this requirement.

(b) For items deferred at the time of negotiation of this contract for later addition to the program, the Contractor shall, at the earliest possible time—

(1) Notify the Contracting Officer of each proposed addition; and

(2) Provide justification in sufficient detail to permit evaluation.

(c) Modification of the make-or-buy program to incorporate proposed changes or additions shall be effective upon the Contractor’s receipt of the Contracting Officer’s written approval.

(End of clause)

Alternate I (Oct 1997). As prescribed in 15.408(a)(1) add the following paragraph (d) to the basic clause:

(d) If the Contractor desires to reverse the categorization of “make” or “buy” for any item or items designated in the contract as subject to this paragraph, it shall—

(1) Support its proposal with cost or pricing data when permitted and necessary to support evaluation; and

(2) After approval is granted, promptly negotiate with the Contracting Officer an equitable reduction in the contract price in accordance with paragraph (k) of the Incentive Price Revision—Firm Target clause or paragraph (m) of the Incentive Price Revision—Successive Targets clause of this contract.

Alternate II (Oct 1997). As prescribed in 15.408(a)(2), add the following paragraph (d) to the basic clause:

(d) If the Contractor desires to reverse the categorization of “make” or “buy” for any item or items designated in the contract as subject to this paragraph, it shall—

(1) Support its proposal with cost or pricing data to permit evaluation; and

(2) After approval is granted, promptly negotiate with the Contracting Officer an equitable reduction in the contract’s total estimated cost and fee in accordance with paragraph (e) of the Incentive Fee clause of this contract.

52.215-10 Price Reduction for Defective Cost or Pricing Data.

As prescribed in 15.408(b), insert the following clause:

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

(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because—

(1) The Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;

(2) A subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(3) Any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

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

(1) The actual subcontract; or

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

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

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

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

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

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

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

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

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

(ii) An offset shall not be allowed if—

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

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

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

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

(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.

(End of clause)

52.215-11 Price Reduction for Defective Cost or Pricing Data—Modifications.

As prescribed in 15.408(c), insert the following clause:

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.

(End of clause)

52.215-12 Subcontractor Cost or Pricing Data.

As prescribed in 15.408(d), insert the following clause:

SUBCONTRACTOR COST OR PRICING DATA (OCT 1997)

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

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

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

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

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

(End of clause)

52.215-13 Subcontractor Cost or Pricing Data—Modifications.

As prescribed in 15.408(e), insert the following clause:

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.

(End of clause)

52.215-14 Integrity of Unit Prices.

As prescribed in 15.408(f)(1), insert the following clause:

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.

(End of clause)

Alternate I (Oct 1997). As prescribed in 15.408(f)(2), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b) The Offeror/Contractor shall also identify those supplies that it will not manufacture or to which it will not contribute significant value.

52.215-15 Pension Adjustments and Asset Reversions.

As prescribed in 15.408(g), insert the following clause:

PENSION ADJUSTMENTS AND ASSET REVERSIONS (OCT 2004)

(a) The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate a defined-benefit pension plan or otherwise recapture such pension fund assets.

(b) For segment closings, pension plan terminations, or curtailment of benefits, the amount of the adjustment shall be—

(1) For contracts and subcontracts that are subject to full coverage under the Cost Accounting Standards (CAS) Board rules and regulations (48 CFR Chapter 99), the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12); and

(2) For contracts and subcontracts that are not subject to full coverage under the CAS, the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12), except the numerator of the fraction at 48 CFR 9904.413-50(c)(12)(vi) shall be the sum of the pension plan costs allocated to all non-CAS covered contracts and subcontracts that are subject to Federal Acquisition Regulation (FAR) Subpart 31.2 or for which cost or pricing data were submitted.

(c) For all other situations where assets revert to the Contractor, or such assets are constructively received by it for any reason, the Contractor shall, at the Government's option, make a refund or give a credit to the Government for its equitable share of the gross amount withdrawn. The Government's equitable share shall reflect the Government's participation in pension costs through those contracts for which cost or pricing data were submitted or that are subject to FAR Subpart 31.2.

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

(End of clause)

52.215-16 Facilities Capital Cost of Money.

As prescribed in 15.408(h), insert the following provision:

FACILITIES CAPITAL COST OF MONEY (JUNE 2003)

(a) Facilities capital cost of money will be an allowable cost under the contemplated contract, if the criteria for allowability in FAR 31.205-10(b) are met. One of the allowability criteria requires the prospective Contractor to propose facilities capital cost of money in its offer.

(b) If the prospective Contractor does not propose this cost, the resulting contract will include the clause Waiver of Facilities Capital Cost of Money.

(End of provision)

52.215-17 Waiver of Facilities Capital Cost of Money.

As prescribed in 15.408(i), insert the following clause:

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.

(End of clause)

52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions.

As prescribed in 15.408(j), insert the following clause:

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

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

(End of clause)

52.215-19 Notification of Ownership Changes.

As prescribed in 15.408(k), insert the following clause:

NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)

(a) The Contractor shall make the following notifications in writing:

(1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.

(2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.

(b) The Contractor shall—

(1) Maintain current, accurate, and complete inventory records of assets and their costs;

(2) Provide the ACO or designated representative ready access to the records upon request;

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

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

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

(End of clause)

52.215-20 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data.

As prescribed in 15.408(l), insert the following provision:

REQUIREMENTS FOR COST OR PRICING DATA OR
INFORMATION OTHER THAN COST OR PRICING DATA
(OCT 1997)

(a) *Exceptions from cost or pricing data.* (1) In lieu of submitting cost or pricing data, offerors may submit a written request for exception by submitting the information described in the following paragraphs. 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) *Commercial item exception.* For a commercial item exception, the offeror shall submit, at a minimum, information on prices at which the same item or similar items have previously been sold in the commercial market that is adequate for evaluating the reasonableness of the price for this acquisition. Such information may include—

(A) 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;

(B) 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;

(C) 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 offeror 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 provision, 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 offeror's determination of the prices to be offered in the catalog or marketplace.

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

(1) The offeror shall prepare and 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 contract award (except for unpriced actions such as letter contracts), the offeror shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

(End of provision)

Alternate I (Oct 1997). As prescribed in 15.408(l), substitute the following paragraph (b)(1) for paragraph (b)(1) of the basic provision:

(b)(1) The offeror shall submit cost or pricing data and supporting attachments in the following format:

Alternate II (Oct 1997). As prescribed in 15.408(l), add the following paragraph (c) to the basic provision:

(c) When the proposal is submitted, also submit one copy each to: (1) the Administrative Contracting Officer, and (2) the Contract Auditor.

Alternate III (Oct 1997). As prescribed in 15.408(l), add the following paragraph (c) to the basic provision (if Alternate II is also used, redesignate the following paragraph as paragraph (d)).

(c) Submit the cost portion of the proposal via the following electronic media: [*Insert media format, e.g., electronic spreadsheet format, electronic mail, etc.*]

Alternate IV (Oct 1997). As prescribed in 15.408(l), replace the text of the basic provision with the following:

(a) Submission of cost or pricing data is not required.

(b) Provide information described below: [*Insert description of the information and the format that are required, includ-*

ing access to records necessary to permit an adequate evaluation of the proposed price in accordance with 15.403-3.]

52.215-21 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data—Modifications.

As prescribed in 15.408(m), insert the following clause:

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 paragraphs. 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.

(End of clause)

Alternate I (Oct 1997). As prescribed in 15.408(m), substitute the following paragraph (b)(1) for paragraph (b)(1) of the basic clause.

(b)(1) The Contractor shall submit cost or pricing data and supporting attachments prepared in the following format:

Alternate II (Oct 1997). As prescribed in 15.408(m), add the following paragraph (c) to the basic clause:

(c) When the proposal is submitted, also submit one copy each to: (1) the Administrative Contracting Officer, and (2) the Contract Auditor.

Alternate III (Oct 1997). As prescribed in 15.408(m), add the following paragraph (c) to the basic clause (if Alternate II is also used, redesignate the following paragraph as paragraph (d)):

(c) Submit the cost portion of the proposal via the following electronic media: *[Insert media format]*

Alternate IV (Oct 1997). As prescribed in 15.408(m), replace the text of the basic clause with the following:

(a) Submission of cost or pricing data is not required.

(b) Provide information described below: *[Insert description of the information and the format that are required, including access to records necessary to permit an adequate evaluation of the proposed price in accordance with 15.403-3.]*

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52.216-1 Type of Contract.

As prescribed in 16.105, complete and insert the following provision:

TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a _____ [Contracting Officer insert specific type of contract] contract resulting from this solicitation.

(End of provision)

52.216-2 Economic Price Adjustment—Standard Supplies.

As prescribed in 16.203-4(a), insert the following clause. The clause may be modified by increasing the 10 percent limit on aggregate increases specified in paragraph (c)(1), upon approval by the chief of the contracting office.

ECONOMIC PRICE ADJUSTMENT—STANDARD SUPPLIES
(JAN 1997)

(a) The Contractor warrants that the unit price stated in the Schedule for _____ [offeror insert Schedule line item number] is not in excess of the Contractor's applicable established price in effect on the contract date for like quantities of the same item. The term "unit price" excludes any part of the price directly resulting from requirements for preservation, packaging, or packing beyond standard commercial practice. The term "established price" means a price that—

(1) Is an established catalog or market price for a commercial item sold in substantial quantities to the general public; and

(2) Is the net price after applying any standard trade discounts offered by the Contractor.

(b) The Contractor shall promptly notify the Contracting Officer of the amount and effective date of each decrease in any applicable established price. Each corresponding contract unit price shall be decreased by the same percentage that the established price is decreased. The decrease shall apply to those items delivered on and after the effective date of the decrease in the Contractor's established price, and this contract shall be modified accordingly.

(c) If the Contractor's applicable established price is increased after the contract date, the corresponding contract unit price shall be increased, upon the Contractor's written request to the Contracting Officer, by the same percentage that the established price is increased, and the contract shall be modified accordingly, subject to the following limitations:

(1) The aggregate of the increases in any contract unit price under this clause shall not exceed 10 percent of the original contract unit price.

(2) The increased contract unit price shall be effective—

(i) On the effective date of the increase in the applicable established price if the Contracting Officer receives the Contractor's written request within 10 days thereafter; or

(ii) If the written request is received later, on the date the Contracting Officer receives the request.

(3) The increased contract unit price shall not apply to quantities scheduled under the contract for delivery before the effective date of the increased contract unit price, unless failure to deliver before that date results from causes beyond the control and without the fault or negligence of the Contractor, within the meaning of the Default clause.

(4) No modification increasing a contract unit price shall be executed under this paragraph (c) until the Contracting Officer verifies the increase in the applicable established price.

(5) Within 30 days after receipt of the Contractor's written request, the Contracting Officer may cancel, without liability to either party, any undelivered portion of the contract items affected by the requested increase.

(d) During the time allowed for the cancellation provided for in paragraph (c)(5) of this clause, and thereafter if there is no cancellation, the Contractor shall continue deliveries according to the contract delivery schedule, and the Government shall pay for such deliveries at the contract unit price, increased to the extent provided by paragraph (c) of this clause.

(End of clause)

52.216-3 Economic Price Adjustment—Semistandard Supplies.

As prescribed in 16.203-4(b), insert the following clause. The clause may be modified by increasing the 10 percent limit on aggregate increases specified in paragraph (c)(1), upon approval by the chief of the contracting office.

ECONOMIC PRICE ADJUSTMENT—SEMISTANDARD
SUPPLIES (JAN 1997)

(a) The Contractor warrants that the supplies identified as line items _____ [offeror insert Schedule line item number] in the Schedule are, except for modifications required by the contract specifications, supplies for which it has an established price. The term "established price" means a price that (1) is an established catalog or market price for a commercial item sold in substantial quantities to the general public, and (2) is the net price after applying any standard trade discounts offered by the Contractor. The Contractor further warrants that, as of the date of this contract, any difference between the unit prices stated in the contract for these line items and the Contractor's established prices for like quantities of the nearest commercial equivalents are due to compliance with contract specifications and with any contract requirements for preservation, packaging, and packing beyond standard commercial practice.

(b) The Contractor shall promptly notify the Contracting Officer of the amount and effective date of each decrease in any applicable established price. Each corresponding contract

unit price (exclusive of any part of the unit price that reflects modifications resulting from compliance with specifications or with requirements for preservation, packaging, and packing beyond standard commercial practice) shall be decreased by the same percentage that the established price is decreased. The decrease shall apply to those items delivered on and after the effective date of the decrease in the Contractor's established price, and this contract shall be modified accordingly.

(c) If the Contractor's applicable established price is increased after the contract date, the corresponding contract unit price (exclusive of any part of the unit price resulting from compliance with specifications or with requirements for preservation, packaging, and packing beyond standard commercial practice) shall be increased, upon the Contractor's written request to the Contracting Officer, by the same percentage that the established price is increased, and the contract shall be modified accordingly, subject to the following limitations:

(1) The aggregate of the increases in any contract unit price under this clause shall not exceed 10 percent of the original contract unit price.

(2) The increased contract unit price shall be effective—

(i) On the effective date of the increase in the applicable established price if the Contracting Officer receives the Contractor's written request within 10 days thereafter; or

(ii) If the written request is received later, on the date the Contracting Officer receives the request.

(3) The increased contract unit price shall not apply to quantities scheduled under the contract for delivery before the effective date of the increased contract unit price, unless failure to deliver before that date results from causes beyond the control and without the fault or negligence of the Contractor, within the meaning of the Default clause.

(4) No modification increasing a contract unit price shall be executed under this paragraph (c) until the Contracting Officer verifies the increase in the applicable established price.

(5) Within 30 days after receipt of the Contractor's written request, the Contracting Officer may cancel, without liability to either party, any undelivered portion of the contract items affected by the requested increase.

(d) During the time allowed for the cancellation provided for in paragraph (c)(5) of this clause, and thereafter if there is no cancellation, the Contractor shall continue deliveries according to the contract delivery schedule, and the Government shall pay for such deliveries at the contract unit price, increased to the extent provided by paragraph (c) of this clause.

(End of clause)

52.216-4 Economic Price Adjustment—Labor and Material.

As prescribed in 16.203-4(c), when contracting by negotiation, insert a clause that is substantially the same as the following clause in solicitations and contracts when the conditions specified in 16.203-4(c)(1)(i) through (iv) apply (but see 16.203-4(c)(2)). The clause may be modified by increasing the 10-percent limit on aggregate increases specified in paragraph (c)(4), upon approval by the chief of the contracting office.

ECONOMIC PRICE ADJUSTMENT—LABOR AND MATERIAL (JAN 1997)

(a) The Contractor shall notify the Contracting Officer if, at any time during contract performance, the rate of pay for labor (including fringe benefits) or the unit prices for material shown in the Schedule either increase or decrease. The Contractor shall furnish this notice within 60 days after the increase or decrease, or within any additional period that the Contracting Officer may approve in writing, but not later than the date of final payment under this contract. The notice shall include the Contractor's proposal for an adjustment in the contract unit prices to be negotiated under paragraph (b) of this clause, and shall include, in the form required by the Contracting Officer, supporting data explaining the cause, effective date, and amount of the increase or decrease and the amount of the Contractor's adjustment proposal.

(b) Promptly after the Contracting Officer receives the notice and data under paragraph (a) of this clause, the Contracting Officer and the Contractor shall negotiate a price adjustment in the contract unit prices and its effective date. However, the Contracting Officer may postpone the negotiations until an accumulation of increases and decreases in the labor rates (including fringe benefits) and unit prices of material shown in the Schedule results in an adjustment allowable under paragraph (c)(3) of this clause. The Contracting Officer shall modify this contract (1) to include the price adjustment and its effective date and (2) to revise the labor rates (including fringe benefits) or unit prices of material as shown in the Schedule to reflect the increases or decreases resulting from the adjustment. The Contractor shall continue performance pending agreement on, or determination of, any adjustment and its effective date.

(c) Any price adjustment under this clause is subject to the following limitations:

(1) Any adjustment shall be limited to the effect on unit prices of the increases or decreases in the rates of pay for labor (including fringe benefits) or unit prices for material shown in the Schedule. There shall be no adjustment for—

(i) Supplies or services for which the production cost is not affected by such changes;

(ii) Changes in rates or unit prices other than those shown in the Schedule; or

(iii) Changes in the quantities of labor or material used from those shown in the Schedule for each item.

(2) No upward adjustment shall apply to supplies or services that are required to be delivered or performed before the effective date of the adjustment, unless the Contractor's failure to deliver or perform according to the delivery schedule results from causes beyond the Contractor's control and without its fault or negligence, within the meaning of the Default clause.

(3) There shall be no adjustment for any change in rates of pay for labor (including fringe benefits) or unit prices for material which would not result in a net change of at least 3 percent of the then-current total contract price. This limitation shall not apply, however, if, after final delivery of all contract line items, either party requests an adjustment under paragraph (b) of this clause.

(4) The aggregate of the increases in any contract unit price made under this clause shall not exceed 10 percent of the original unit price. There is no percentage limitation on the amount of decreases that may be made under this clause.

(d) The Contracting Officer may examine the Contractor's books, records, and other supporting data relevant to the cost of labor (including fringe benefits) and material during all reasonable times until the end of 3 years after the date of final payment under this contract or the time periods specified in Subpart 4.7 of the Federal Acquisition Regulation (FAR), whichever is earlier.

(End of clause)

52.216-5 Price Redetermination—Prospective.

As prescribed in 16.205-4, insert the following clause:

PRICE REDETERMINATION—PROSPECTIVE (OCT 1997)

(a) *General.* The unit prices and the total price stated in this contract shall be periodically redetermined in accordance with this clause, except that—

(1) The prices for supplies delivered and services performed before the first effective date of price redetermination (see paragraph (c) of this clause) shall remain fixed; and

(2) In no event shall the total amount paid under this contract exceed any ceiling price included in the contract.

(b) *Definition.* "Costs," as used in this clause, means allowable costs in accordance with Part 31 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract.

(c) *Price redetermination periods.* For the purpose of price redetermination, performance of this contract is divided into successive periods. The first period shall extend from the date of the contract to _____, (see Note (1)) and the second and each succeeding period shall extend for _____ [insert appropriate number] months from the end of the last preceding period, except that the parties may agree to vary the length of the final period. The first day of the second and each suc-

ceeding period shall be the effective date of price redetermination for that period.

(d) *Data submission.* (1) Not more than _____ nor less than _____ (see Note (2)) days before the end of each redetermination period, except the last, the Contractor shall submit—

(i) Proposed prices for supplies that may be delivered or services that may be performed in the next succeeding period, and—

(A) An estimate and breakdown of the costs of these supplies or services in the format of Table 15-2, FAR 15.408, or in any other form on which the parties may agree;

(B) Sufficient data to support the accuracy and reliability of this estimate; and

(C) An explanation of the differences between this estimate and the original (or last preceding) estimate for the same supplies or services; and

(ii) A statement of all costs incurred in performing this contract through the end of the _____ month (see Note (3)) before the submission of proposed prices in the format of Table 15-2, FAR 15.408 (or in any other form on which the parties may agree), with sufficient supporting data to disclose unit costs and cost trends for—

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary).

(2) The Contractor shall also submit, to the extent that it becomes available before negotiations on redetermined prices are concluded—

(i) Supplemental statements of costs incurred after the date stated in subdivision (d)(1)(ii) of this section for—

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary); and

(ii) Any other relevant data that the Contracting Officer may reasonably require.

(3) If the Contractor fails to submit the data required by paragraphs (d)(1) and (2) of this section, within the time specified, the Contracting Officer may suspend payments under this contract until the data are furnished. If it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the data submittal period, the amount of the excess shall bear interest, computed from the date the data were due to the date of repayment, at the rate established in accordance with the Interest clause.

(e) *Price redetermination.* Upon the Contracting Officer's receipt of the data required by paragraph (d) of this section, the Contracting Officer and the Contractor shall promptly negotiate to redetermine fair and reasonable prices for supplies that may be delivered or services that may be performed in the period following the effective date of price redetermination.

(f) *Contract modifications.* Each negotiated redetermination of prices shall be evidenced by a modification to this contract, signed by the Contractor and the Contracting Officer, stating the redetermined prices that apply during the redetermination period.

(g) *Adjusting billing prices.* Pending execution of the contract modification (see paragraph (f) of this section), the Contractor shall submit invoices or vouchers in accordance with the billing prices stated in this contract. If at any time it appears that the then-current billing prices will be substantially greater than the estimated final prices, or if the Contractor submits data showing that the redetermined price will be substantially greater than the current billing prices, the parties shall negotiate an appropriate decrease or increase in billing prices. Any billing price adjustment shall be reflected in a contract modification and shall not affect the redetermination of prices under this clause. After the contract modification for price redetermination is executed, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the agreed-upon prices, and any requested additional payments, refunds, or credits shall be made promptly.

(h) *Quarterly limitation on payments statement.* This paragraph (h) applies only during periods for which firm prices have not been established.

(1) Within 45 days after the end of the quarter of the Contractor's fiscal year in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and for each quarter thereafter, the Contractor shall submit to the contract administration office (with a copy to the contracting office and the cognizant contract auditor) a statement, cumulative from the beginning of the contract, showing—

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government and for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for, and properly allocable solely to, the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established;

(iii) The portion of the total interim profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (h)) that is in direct proportion to the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments).

(2) The statement required by paragraph (h)(1) of this section need not be submitted for any quarter for which either no costs are to be reported under subdivision (h)(1)(ii) of this section, or revised billing prices have been established in accordance with paragraph (g) of this section, and do not exceed the existing contract price, the Contractor's price-redetermination proposal, or a price based on the most recent quarterly statement, whichever is least.

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount under subdivision (h)(1)(iv) of this section exceeds the sum due the Contractor, as computed in accordance with subdivisions (h)(1)(i), (ii), and (iii) of this section, the Contractor shall immediately refund or credit to the Government the amount of this excess. The Contractor may, when appropriate, reduce this refund or credit by the amount of any applicable tax credits due the Contractor under 26 U.S.C. 1481 and by the amount of previous refunds or credits affected under this clause. If any portion of the excess has been applied to the liquidation of progress payments, then that portion may, instead of being refunded, be added to the unliquidated progress payment account, consistent with the Progress Payments clause. The Contractor shall provide complete details to support any claimed reductions in refunds.

(4) If the Contractor fails to submit the quarterly statement within 45 days after the end of each quarter and it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the statement submittal period, the amount of the excess shall bear interest, computed from the date the quarterly statement was due to the date of repayment, at the rate established in accordance with the Interest clause.

(i) *Subcontracts.* No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

(j) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon redetermined prices for any price redetermination period within 60 days (or within such other period as the parties agree) after the date on which the data required by paragraph (d) of this section are to be submitted, the Contracting Officer shall promptly issue a decision in accordance with the Disputes clause. For the purpose of paragraphs (f), (g), and (h) of this section, and pending final settlement of the disagreement on appeal, by failure to appeal, or by agreement, this decision shall be treated as an executed contract modification. Pending final settlement, price redetermination for subsequent periods, if any, shall continue to be negotiated as provided in this clause.

(k) *Termination.* If this contract is terminated, prices shall continue to be established in accordance with this clause for (1) completed supplies and services accepted by the Government and (2) those supplies and services not terminated under a partial termination. All other elements of the termination shall be resolved in accordance with other applicable clauses of this contract.

(End of clause)

NOTES:

- (1) Express in terms of units delivered, or as a date; but in either case the period should end on the last day of a month.
- (2) Insert the number of days chosen so that the Contractor's submission will be late enough to reflect recent cost experience (taking into account the Contractor's accounting system), but early enough to permit review, audit (if necessary), and negotiation before the start of the prospective period.
- (3) Insert "first," except that "second" may be inserted if necessary to achieve compatibility with the Contractor's accounting system.

52.216-6 Price Redetermination—Retroactive.

As prescribed in 16.206-4, insert the following clause:

PRICE REDETERMINATION—RETROACTIVE (OCT 1997)

(a) *General.* The unit price and the total price stated in this contract shall be redetermined in accordance with this clause, but in no event shall the total amount paid under this contract exceed _____ [*insert dollar amount of ceiling price*].

(b) *Definition.* "Costs," as used in this clause, means allowable costs in accordance with Part 31 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract.

(c) *Data submission.* (1) Within _____ [*Contracting Officer insert number of days*] days after delivery of all supplies to be delivered and completion of all services to be performed under this contract, the Contractor shall submit—

- (i) Proposed prices;
- (ii) A statement in the format of Table 15-2, FAR 15.408, or in any other form on which the parties may agree, of all costs incurred in performing the contract; and
- (iii) Any other relevant data that the Contracting Officer may reasonably require.

(2) If the Contractor fails to submit the data required by paragraph (c)(1) of this section within the time specified, the Contracting Officer may suspend payments under this contract until the data are furnished. If it is later determined that the Government has overpaid the Contractor, the excess shall be repaid to the Government immediately. Unless repaid within 30 days after the end of the data submittal period, the amount of the excess shall bear interest, computed from the date the data were due to the date of repayment, at the rate established in accordance with the Interest clause.

(d) *Price determination.* Upon the Contracting Officer's receipt of the data required by paragraph (c) of this section, the Contracting Officer and the Contractor shall promptly negotiate to redetermine fair and reasonable prices for supplies delivered and services performed by the Contractor under this contract.

(e) *Contract modification.* The negotiated redetermination of price shall be evidenced by a modification to this contract, signed by the Contractor and the Contracting Officer.

(f) *Adjusting billing prices.* Pending execution of the contract modification (see paragraph (e) of this section), the Contractor shall submit invoices or vouchers in accordance with billing prices stated in this contract. If at any time it appears that the then-current billing prices will be substantially greater than the estimated final prices, or if the Contractor submits data showing that the redetermined prices will be substantially greater than the current billing prices, the parties shall negotiate an appropriate decrease or increase in billing prices. Any billing price adjustment shall be reflected in a contract modification and shall not affect the redetermination of prices under this clause. After the contract modification for price redetermination is executed, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the agreed-upon prices, and any resulting additional payments, refunds, or credits shall be made promptly.

(g) *Quarterly limitation on payments statement.* This paragraph (g) shall apply until final price redetermination under this contract has been completed.

(1) Within 45 days after the end of the quarter of the Contractor's fiscal year in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and for each quarter thereafter, the Contractor shall submit to the contract administration office (with a copy to the contracting office and the cognizant contract auditor), a statement, cumulative from the beginning of the contract, showing—

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government and for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for, and properly allocable solely to, the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established;

(iii) The portion of the total interim profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (g)) that is in direct proportion to the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by

the Government (including amounts applied or to be applied to liquidate progress payments).

(2) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount under subdivision (g)(1)(iv) of this section exceeds the sum due the Contractor, as computed in accordance with subdivisions (g)(1)(i), (ii), and (iii) of this section, the Contractor shall immediately refund or credit to the Government the amount of this excess. The Contractor may, when appropriate, reduce this refund or credit by the amount of any applicable tax credits due the contractor under 26 U.S.C. 1481 and by the amount of previous refunds or credits effected under this clause. If any portion of the excess has been applied to the liquidation of progress payments, then that portion may, instead of being refunded, be added to the unliquidated progress payment account, consistent with the Progress Payments clause. The Contractor shall provide complete details to support any claimed reduction in refunds.

(3) If the Contractor fails to submit the quarterly statement within 45 days after the end of each quarter and it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the statement submittal period, the amount of the excess shall bear interest, computed from the date the quarterly statement was due to the date of repayment, at the rate established in accordance with the Interest clause.

(h) *Subcontracts.* No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

(i) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon redetermined prices within 60 days (or within such other period as the parties agree) after the date on which the data required by paragraph (c) of this section are to be submitted, the Contracting Officer shall promptly issue a decision in accordance with the Disputes clause. For the purpose of paragraphs (e), (f), and (g) of this section, and pending final settlement of the disagreement on appeal, by failure to appeal, or by agreement, this decision shall be treated as an executed contract modification.

(j) *Termination.* If this contract is terminated before price redetermination, prices shall be established in accordance with this clause for completed supplies and services not terminated. All other elements of the termination shall be resolved in accordance with other applicable clauses of this contract.

(End of clause)

52.216-7 Allowable Cost and Payment.

As prescribed in 16.307(a), insert the following clause:

ALLOWABLE COST AND PAYMENT (DEC 2002)

(a) *Invoicing.* (1) The Government will make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with Federal Acquisition Regulation (FAR) Subpart 31.2 in effect on the date of this contract and the terms of this contract. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

(2) Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act. Interim payments made prior to the final payment under the contract are contract financing payments, except interim payments if this contract contains Alternate I to the clause at 52.232-25.

(3) The designated payment office will make interim payments for contract financing on the _____ [*Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "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.

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

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

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

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

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

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

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

(C) Direct labor;

(D) Direct travel;

(E) Other direct in-house costs; and

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

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

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

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

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

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

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

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

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

(2)(i) The Contractor shall submit an adequate final indirect cost rate proposal to the Contracting Officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. Reasonable extensions, for exceptional circumstances only, may be requested in writing by the Contractor and granted in writing by the Contracting Officer. The Contractor shall support its proposal with adequate supporting data.

(ii) The proposed rates shall be based on the Contractor's actual cost experience for that period. The appropriate Government representative and the Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

(3) The Contractor and the appropriate Government representative shall execute a written understanding setting forth the final indirect cost rates. The understanding shall specify (i) the agreed-upon final annual indirect cost rates, (ii) the bases to which the rates apply, (iii) the periods for which the rates apply, (iv) any specific indirect cost items

treated as direct costs in the settlement, and (v) the affected contract and/or subcontract, identifying any with advance agreements or special terms and the applicable rates. The understanding shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. The understanding is incorporated into this contract upon execution.

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

(5) Within 120 days (or longer period if approved in writing by the Contracting Officer) after settlement of the final annual indirect cost rates for all years of a physically complete contract, the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates.

(6)(i) If the Contractor fails to submit a completion invoice or voucher within the time specified in paragraph (d)(5) of this clause, the Contracting Officer may—

(A) Determine the amounts due to the Contractor under the contract; and

(B) Record this determination in a unilateral modification to the contract.

(ii) This determination constitutes the final decision of the Contracting Officer in accordance with the Disputes clause.

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

(1) Shall be the anticipated final rates; and

(2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.

(f) *Quick-closeout procedures.* Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

(g) *Audit.* At any time or times before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be—

(1) Reduced by amounts found by the Contracting Officer not to constitute allowable costs; or

(2) Adjusted for prior overpayments or underpayments.

(h) *Final payment.* (1) Upon approval of a completion invoice or voucher submitted by the Contractor in accordance with paragraph (d)(5) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.

(2) The Contractor shall pay to the Government any refunds, rebates, credits, or other amounts (including interest,

if any) accruing to or received by the Contractor or any assignee under this contract, to the extent that those amounts are properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses incurred by the Contractor for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Contracting Officer. Before final payment under this contract, the Contractor and each assignee whose assignment is in effect at the time of final payment shall execute and deliver—

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, except—

(A) Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;

(B) Claims (including reasonable incidental expenses) based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided, that the claims are not known to the Contractor on the date of the execution of the release, and that the Contractor gives notice of the claims in writing to the Contracting Officer within 6 years following the release date or notice of final payment date, whichever is earlier; and

(C) Claims for reimbursement of costs, including reasonable incidental expenses, incurred by the Contractor under the patent clauses of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

(End of clause)

Alternate I (Feb 1997). As prescribed in 16.307(a)(2), substitute the following paragraph (b)(1)(iii) for paragraph (b)(1)(iii) of the basic clause:

(iii) The amount of progress and other payments to the Contractor's subcontractors that either have been paid, or that the Contractor is required to pay pursuant to the clause of this contract entitled "Prompt Payment for Construction Contracts." Payments shall be made by cash, check, or other form of payment to the Contractor's subcontractors under similar cost standards.

52.216-8 Fixed Fee.

As prescribed in 16.307(b), insert the following clause:

FIXED FEE (MAR 1997)

(a) The Government shall pay the Contractor for performing this contract the fixed fee specified in the Schedule.

(b) Payment of the fixed fee shall be made as specified in the Schedule; provided that after payment of 85 percent of the

fixed fee, the Contracting Officer may withhold further payment of fee until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed 15 percent of the total fixed fee or \$100,000, whichever is less. The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withholds under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.

(End of clause)

52.216-9 Fixed Fee—Construction.

As prescribed in 16.307(c), insert the following clause:

FIXED FEE—CONSTRUCTION (MAR 1997)

(a) The Government shall pay to the Contractor for performing this contract the fixed fee specified in the Schedule.

(b) Payment of the fixed fee shall be made in installments based upon the percentage of completion of the work as determined from estimates submitted to and approved by the Contracting Officer, but subject to the withholding provisions of paragraph (c) of this section.

(c) After the payment of 85 percent of the fixed fee, the Contracting Officer may withhold further payment of fee until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed 15 percent of the total fixed fee or \$100,000, whichever is less. The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withholds under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.

(End of clause)

52.216-10 Incentive Fee.

As prescribed in 16.307(d), insert the following clause:

INCENTIVE FEE (MAR 1997)

(a) *General.* The Government shall pay the Contractor for performing this contract a fee determined as provided in this contract.

(b) *Target cost and target fee.* The target cost and target fee specified in the Schedule are subject to adjustment if the contract is modified in accordance with paragraph (d) of this clause.

(1) “Target cost,” as used in this contract, means the estimated cost of this contract as initially negotiated, adjusted in accordance with paragraph (d) of this clause.

(2) “Target fee,” as used in this contract, means the fee initially negotiated on the assumption that this contract would be performed for a cost equal to the estimated cost initially negotiated, adjusted in accordance with paragraph (d) of this clause.

(c) *Withholding of payment.* Normally, the Government shall pay the fee to the Contractor as specified in the Schedule. However, when the Contracting Officer considers that performance or cost indicates that the Contractor will not achieve target, the Government shall pay on the basis of an appropriate lesser fee. When the Contractor demonstrates that performance or cost clearly indicates that the Contractor will earn a fee significantly above the target fee, the Government may, at the sole discretion of the Contracting Officer, pay on the basis of an appropriate higher fee. After payment of 85 percent of the applicable fee, the Contracting Officer may withhold further payment of fee until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government’s interest. This reserve shall not exceed 15 percent of the applicable fee or \$100,000, whichever is less. The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years’ settlements. The Contracting Officer may release up to 90 percent of the fee withholds under this contract based on the Contractor’s past performance related to the submission and settlement of final indirect cost rate proposals.

(d) *Equitable adjustments.* When the work under this contract is increased or decreased by a modification to this contract or when any equitable adjustment in the target cost is authorized under any other clause, equitable adjustments in the target cost, target fee, minimum fee, and maximum fee, as appropriate, shall be stated in a supplemental agreement to this contract.

(e) *Fee payable.* (1) The fee payable under this contract shall be the target fee increased by _____ [*Contracting Officer insert Contractor’s participation*] cents for every dollar that the total allowable cost is less than the target cost or decreased by _____ [*Contracting Officer insert Contractor’s partici-*

pation] cents for every dollar that the total allowable cost exceeds the target cost. In no event shall the fee be greater than _____ [*Contracting Officer insert percentage*] percent or less than _____ [*Contracting Officer insert percentage*] percent of the target cost.

(2) The fee shall be subject to adjustment, to the extent provided in paragraph (d) of this clause, and within the minimum and maximum fee limitations in paragraph (e)(1) of this clause, when the total allowable cost is increased or decreased as a consequence of—

(i) Payments made under assignments; or

(ii) Claims excepted from the release as required by paragraph (h)(2) of the Allowable Cost and Payment clause.

(3) If this contract is terminated in its entirety, the portion of the target fee payable shall not be subject to an increase or decrease as provided in this paragraph. The termination shall be accomplished in accordance with other applicable clauses of this contract.

(4) For the purpose of fee adjustment, “total allowable cost” shall not include allowable costs arising out of—

(i) Any of the causes covered by the Excusable Delays clause to the extent that they are beyond the control and without the fault or negligence of the Contractor or any subcontractor;

(ii) The taking effect, after negotiating the target cost, of a statute, court decision, written ruling, or regulation that results in the Contractor’s being required to pay or bear the burden of any tax or duty or rate increase in a tax or duty;

(iii) Any direct cost attributed to the Contractor’s involvement in litigation as required by the Contracting Officer pursuant to a clause of this contract, including furnishing evidence and information requested pursuant to the Notice and Assistance Regarding Patent and Copyright Infringement clause;

(iv) The purchase and maintenance of additional insurance not in the target cost and required by the Contracting Officer, or claims for reimbursement for liabilities to third persons pursuant to the Insurance Liability to Third Persons clause;

(v) Any claim, loss, or damage resulting from a risk for which the Contractor has been relieved of liability by the Government Property clause; or

(vi) Any claim, loss, or damage resulting from a risk defined in the contract as unusually hazardous or as a nuclear risk and against which the Government has expressly agreed to indemnify the Contractor.

(5) All other allowable costs are included in “total allowable cost” for fee adjustment in accordance with this paragraph (e), unless otherwise specifically provided in this contract.

(f) *Contract modification.* The total allowable cost and the adjusted fee determined as provided in this clause shall be evi-

denced by a modification to this contract signed by the Contractor and Contracting Officer.

(g) *Inconsistencies*. In the event of any language inconsistencies between this clause and provisioning documents or Government options under this contract, compensation for spare parts or other supplies and services ordered under such documents shall be determined in accordance with this clause.

(End of clause)

52.216-11 Cost Contract—No Fee.

As prescribed in 16.307(e), insert the clause in solicitations and contracts when a cost-reimbursement contract is contemplated that provides no fee and is not a cost-sharing contract or a facilities contract. This clause may be modified by substituting "\$10,000" in lieu of "\$100,000" as the maximum reserve in paragraph (b) if the Contractor is a nonprofit organization.

COST CONTRACT—NO FEE (APR 1984)

(a) The Government shall not pay the Contractor a fee for performing this contract.

(b) After payment of 80 percent of the total estimated cost shown in the Schedule, the Contracting Officer may withhold further payment of allowable cost until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed one percent of the total estimated cost shown in the Schedule or \$100,000, whichever is less.

(End of clause)

Alternate I (Apr 1984). In a contract for research and development with an educational institution or a nonprofit organization, for which the Contracting Officer has determined that withholding of a portion of allowable costs is not required, delete paragraph (b) of the basic clause.

52.216-12 Cost-Sharing Contract—No Fee.

As prescribed in 16.307(f), insert the following clause in solicitations and contracts when a cost-sharing contract (other than a facilities contract) is contemplated. This clause may be modified by substituting "\$10,000" in lieu of "\$100,000" as the maximum reserve in paragraph (b) if the contract is with a nonprofit organization.

COST SHARING CONTRACT—NO FEE (APR 1984)

(a) The Government shall not pay to the Contractor a fee for performing this contract.

(b) After paying 80 percent of the Government's share of the total estimated cost of performance shown in the Schedule, the Contracting Officer may withhold further payment of allowable cost until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed one percent

of the Government's share of the total estimated cost shown in the Schedule or \$100,000, whichever is less.

(End of clause)

Alternate I (Apr 1984). In a contract for research and development with an educational institution, for which the contracting officer has determined that withholding of a portion of allowable cost is not required, delete paragraph (b) of the basic clause.

52.216-13 Allowable Cost and Payment—Facilities.

As prescribed in 16.307(g), insert the following clause:

ALLOWABLE COST AND PAYMENT—FACILITIES (FEB 2002)

(a) *General*. (1) For the performance of any work, duty, or obligation specified in this contract to be at Government expense, the Government shall pay the Contractor all allowable costs as determined by the Contracting Officer in accordance with the contract terms and section 31.106 of the Federal Acquisition Regulation (FAR) in effect on the contract date.

(2) Except as otherwise specifically provided in this contract, the failure of this contract to provide for reimbursement does not preclude the Contractor from including, as part of the price or cost under any other Government contract or subcontract, an allocable portion of the costs incurred for any work, duty, or obligation performed under this contract, but not reimbursable under it.

(b) *Invoicing*. (1) The Government will make payments to the Contractor when requested once each month. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for the performance of this contract.

(2) Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act. Interim payments made prior to the final payment under the contract are contract financing payments, except interim payments if this contract contains Alternate I to the clause at 52.232-25.

(3) The designated payment office will make interim payments for contract financing on the _____ [*Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "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.

(c) *Negotiated indirect costs*. Notwithstanding the audit and adjustment of invoices or vouchers under paragraph (f) of

this clause, allowable indirect costs under this contract shall be obtained by applying final indirect cost rates established as follows:

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

(2)(i) The Contractor shall submit an adequate final indirect cost rate proposal to the Contracting Officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. Reasonable extensions, for exceptional circumstances only, may be requested in writing by the Contractor and granted in writing by the Contracting Officer. The Contractor shall support its proposal with adequate supporting data.

(ii) The proposed rates shall be based on the Contractor's actual cost experience for that period. The appropriate Government representative and the Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

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

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

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

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

(1) Shall be the anticipated final rates; and

(2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.

(e) *Quick-closeout procedures.* Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

(f) *Audit.* At any time or times before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be—

(1) Reduced by amounts found by the Contracting Officer not to constitute allowable costs; or

(2) Adjusted for prior overpayments or underpayments.

(g) *Assignments and releases.* The Contractor shall pay to the Government any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Contractor or any assignee under this contract to the extent that those amounts are properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses incurred by the Contractor for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Contracting Officer. Before final payment under this contract, the Contractor and each assignee shall execute and deliver—

(1) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits or other amounts (including interest, if any) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(2) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, except—

(i) Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;

(ii) Claims (including reasonable incidental expenses) based upon liabilities of the Contractor to third parties arising out of performance of this contract; *provided* that the claims are not known to the Contractor on the date of the execution of the release, and that the Contractor gives notice of the claims in writing to the Contracting Officer within 6 years following the release date or notice of final payment date, whichever is earlier; and

(iii) Claims for reimbursement of costs, including related expenses, incurred by the Contractor under the patent clauses of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

(End of clause)

Alternate I (Mar 1997). If the contract is for facilities acquisition, and the Contracting Officer considers it appropriate, add the following paragraphs (g) and (h) to the basic clause, and redesignate paragraph (g) of the basic clause as paragraph (i):

(g) *Withholding.* After payment of 80 percent of the total estimated cost shown in the Schedule, the Contracting Officer

may withhold payment of allowable costs until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed one percent of the total estimated cost shown in the Schedule or \$100,000, whichever is less.

(h) *Final payment.* Upon approval of a completion invoice or voucher submitted by the Contractor in accordance with paragraph (c)(4) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs not previously paid.

52.216-14 Allowable Cost and Payment—Facilities Use.

As prescribed in 16.307(h), insert the following clause in solicitations and contracts when a facilities use contract is contemplated:

ALLOWABLE COST AND PAYMENT—FACILITIES USE (APR 1984)

(a) For the performance of any work, duty, or obligations specified in this contract to be at Government expense, the Government shall pay the Contractor all allowable costs as determined by the Contracting Officer in accordance with the contract terms and section 31.106 of the Federal Acquisition Regulation (FAR) in effect on the contract date.

(b) Except as otherwise specifically provided in this contract, the failure of this contract to provide for reimbursement does not preclude the Contractor from including, as part of the price or cost under any other Government contract or subcontract, an allocable portion of the costs incurred for any work, duty, or obligation performed under this contract, but not reimbursed under it.

(End of clause)

52.216-15 Predetermined Indirect Cost Rates.

As prescribed in 16.307(i), insert the following clause:

PREDETERMINED INDIRECT COST RATES (APR 1998)

(a) Notwithstanding the Allowable Cost and Payment clause of this contract, the allowable indirect costs under this contract shall be obtained by applying predetermined indirect cost rates to bases agreed upon by the parties, as specified below.

(b)(1) The Contractor shall submit an adequate final indirect cost rate proposal to the Contracting Officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. Reasonable extensions, for exceptional circumstances only, may be requested in writing by the Contractor and granted in writing by the Contracting Officer. The Contractor shall support its proposal with adequate supporting data.

(2) The proposed rates shall be based on the Contractor's actual cost experience for that period. The appropriate

Government representative and the Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with FAR Subpart 31.3 in effect on the date of this contract.

(d) Predetermined rate agreements in effect on the date of this contract shall be incorporated into the contract Schedule. The Contracting Officer (or cognizant Federal agency official) and Contractor shall negotiate rates for subsequent periods and execute a written indirect cost rate agreement setting forth the results. The agreement shall specify (1) the agreed-upon predetermined indirect cost rates, (2) the bases to which the rates apply, (3) the period for which the rates apply, and (4) the specific items treated as direct costs or any changes in the items previously agreed to be direct costs. The indirect cost rate agreement shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. The agreement is incorporated into this contract upon execution.

(e) Pending establishment of predetermined indirect cost rates for any fiscal year (or other period agreed to by the parties), the Contractor shall be reimbursed either at the rates fixed for the previous fiscal year (or other period) or at billing rates acceptable to the Contracting Officer (or cognizant Federal agency official), subject to appropriate adjustment when the final rates for that period are established.

(f) Any failure by the parties to agree on any predetermined indirect cost rates under this clause shall not be considered a dispute within the meaning of the Disputes clause. If for any fiscal year (or other period specified in the Schedule) the parties fail to agree to predetermined indirect cost rates, the allowable indirect costs shall be obtained by applying final indirect cost rates established in accordance with the Allowable Cost and Payment clause.

(g) Allowable indirect costs for the period from the beginning of performance until the end of the Contractor's fiscal year (or other period specified in the Schedule) shall be obtained using the predetermined indirect cost rates and the bases shown in the Schedule.

(End of clause)

52.216-16 Incentive Price Revision—Firm Target.

As prescribed in 16.406(a), insert the following clause:

INCENTIVE PRICE REVISION—FIRM TARGET (OCT 1997)

(a) *General.* The supplies or services identified in the Schedule as Items _____ [*Contracting Officer insert Schedule line item numbers*] are subject to price revision in accordance with this clause; provided, that in no event shall the total final price of these items exceed the ceiling price of _____ dollars (\$_____). Any supplies or services that are to be (1) ordered separately under, or otherwise added to, this

contract and (2) subject to price revision in accordance with the terms of this clause shall be identified as such in a modification to this contract.

(b) *Definition.* “Costs,” as used in this clause, means allowable costs in accordance with Part 31 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract.

(c) *Data submission.* (1) Within _____ [Contracting Officer insert number of days] days after the end of the month in which the Contractor has delivered the last unit of supplies and completed the services specified by item number in paragraph (a) of this clause, the Contractor shall submit in the format of Table 15-2, FAR 15.408, or in any other form on which the parties agree—

(i) A detailed statement of all costs incurred up to the end of that month in performing all work under the items;

(ii) An estimate of costs of further performance, if any, that may be necessary to complete performance of all work under the items;

(iii) A list of all residual inventory and an estimate of its value; and

(iv) Any other relevant data that the Contracting Officer may reasonably require.

(2) If the Contractor fails to submit the data required by paragraph (c)(1) of this clause within the time specified and it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the data submittal period, the amount of the excess shall bear interest, computed from the date the data were due to the date of repayment, at the rate established in accordance with the Interest clause.

(d) *Price revision.* Upon the Contracting Officer’s receipt of the data required by paragraph (c) of this clause, the Contracting Officer and the Contractor shall promptly establish the total final price of the items specified in (a) of this clause by applying to final negotiated cost an adjustment for profit or loss, as follows:

(1) On the basis of the information required by paragraph (c) of this clause, together with any other pertinent information, the parties shall negotiate the total final cost incurred or to be incurred for supplies delivered (or services performed) and accepted by the Government and which are subject to price revision under this clause.

(2) The total final price shall be established by applying to the total final negotiated cost an adjustment for profit or loss, as follows:

(i) If the total final negotiated cost is equal to the total target cost, the adjustment is the total target profit.

(ii) If the total final negotiated cost is greater than the total target cost, the adjustment is the total target profit, less _____ [Contracting Officer insert percent] percent of the amount by which the total final negotiated cost exceeds the total target cost.

(iii) If the final negotiated cost is less than the total target cost, the adjustment is the total target profit plus _____ [Contracting Officer insert percent] percent of the amount by which the total final negotiated cost is less than the total target cost.

(e) *Contract modification.* The total final price of the items specified in paragraph (a) of this clause shall be evidenced by a modification to this contract, signed by the Contractor and the Contracting Officer. This price shall not be subject to revision, notwithstanding any changes in the cost of performing the contract, except to the extent that—

(1) The parties may agree in writing, before the determination of total final price, to exclude specific elements of cost from this price and to a procedure for subsequent disposition of those elements; and

(2) Adjustments or credits are explicitly permitted or required by this or any other clause in this contract.

(f) *Adjusting billing prices.* (1) Pending execution of the contract modification (see paragraph (e) of this clause), the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the target prices shown in this contract.

(2) If at any time it appears from information provided by the contractor under paragraph (g)(2) of this clause that the then-current billing prices will be substantially greater than the estimated final prices, the parties shall negotiate a reduction in the billing prices. Similarly, the parties may negotiate an increase in billing prices by any or all of the difference between the target prices and the ceiling price, upon the Contractor’s submission of factual data showing that final cost under this contract will be substantially greater than the target cost.

(3) Any billing price adjustment shall be reflected in a contract modification and shall not affect the determination of the total final price under paragraph (d) of this clause. After the contract modification establishing the total final price is executed, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the total final price, and any resulting additional payments, refunds, or credits shall be made promptly.

(g) *Quarterly limitation on payments statement.* This paragraph (g) shall apply until final price revision under this contract has been completed.

(1) Within 45 days after the end of each quarter of the Contractor’s fiscal year in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and for each quarter thereafter, the Contractor shall submit to the contract administration office (with a copy to the contracting office and the cognizant contract auditor) a statement, cumulative from the beginning of the contract, showing—

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government and for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for, and properly allocable solely to, the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established;

(iii) The portion of the total target profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (g)) that is in direct proportion to the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established—increased or decreased in accordance with paragraph (d)(2) of this clause, when the amount stated under subdivision (g)(1)(ii) of this clause differs from the aggregate target costs of the supplies or services; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments).

(2) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount under subdivision (g)(1)(iv) of this clause exceeds the sum due the Contractor, as computed in accordance with subdivisions (g)(1)(i), (ii), and (iii) of this clause, the Contractor shall immediately refund or credit to the Government the amount of this excess. The Contractor may, when appropriate, reduce this refund or credit by the amount of any applicable tax credits due the Contractor under 26 U.S.C. 1481 and by the amount of previous refunds or credits effected under this clause. If any portion of the excess has been applied to the liquidation of progress payments, then that portion may, instead of being refunded, be added to the unliquidated progress payment account consistent with the Progress Payments clause. The Contractor shall provide complete details to support any claimed reductions in refunds.

(3) If the Contractor fails to submit the quarterly statement within 45 days after the end of each quarter and it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the statement submittal period, the amount of the excess shall bear interest, computed from the date the quarterly statement was due to the date of repayment, at the rate established in accordance with the Interest clause.

(h) *Subcontracts*. No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

(i) *Disagreements*. If the Contractor and the Contracting Officer fail to agree upon the total final price within 60 days (or within such other period as the Contracting Officer may specify) after the date on which the data required by

paragraph (c) of this clause are to be submitted, the Contracting Officer shall promptly issue a decision in accordance with the Disputes clause.

(j) *Termination*. If this contract is terminated before the total final price is established, prices of supplies or services subject to price revision shall be established in accordance with this clause for (1) completed supplies and services accepted by the Government and (2) those supplies and services not terminated under a partial termination. All other elements of the termination shall be resolved in accordance with other applicable clauses of this contract.

(k) *Equitable adjustment under other clauses*. If an equitable adjustment in the contract price is made under any other clause of this contract before the total final price is established, the adjustment shall be made in the total target cost and may be made in the maximum dollar limit on the total final price, the total target profit, or both. If the adjustment is made after the total final price is established, only the total final price shall be adjusted.

(l) *Exclusion from target price and total final price*. If any clause of this contract provides that the contract price does not or will not include an amount for a specific purpose, then neither any target price nor the total final price includes or will include any amount for that purpose.

(m) *Separate reimbursement*. If any clause of this contract expressly provides that the cost of performance of an obligation shall be at Government expense, that expense shall not be included in any target price or in the total final price, but shall be reimbursed separately.

(n) *Taxes*. As used in the Federal, State, and Local Taxes clause or in any other clause that provides for certain taxes or duties to be included in, or excluded from, the contract price, the term “contract price” includes the total target price or, if it has been established, the total final price. When any of these clauses requires that the contract price be increased or decreased as a result of changes in the obligation of the Contractor to pay or bear the burden of certain taxes or duties, the increase or decrease shall be made in the total target price or, if it has been established, in the total final price, so that it will not affect the Contractor’s profit or loss on this contract.

(End of clause)

Alternate I (Apr 1984). As prescribed in 16.406(a), add the following paragraph (o) to the basic clause:

(o) *Provisioning and options*. Parts, other supplies, or services that are to be furnished under this contract on the basis of a provisioning document or Government option shall be subject to price revision in accordance with this clause. Any prices established for these parts, other supplies, or services under a provisioning document or Government option shall be treated as target prices. Target cost and profit covering these parts, other supplies, or services may be established separately, in the aggregate, or in any combination, as the parties may agree.

52.216-17 Incentive Price Revision—Successive Targets.

As prescribed in 16.406(b), insert the following clause:

INCENTIVE PRICE REVISION—SUCCESSIVE TARGETS
(OCT 1997)

(a) *General.* The supplies or services identified in the Schedule as Items _____ [*Contracting Officer insert line item numbers*] are subject to price revision in accordance with this clause; provided, that in no event shall the total final price of these items exceed the ceiling price of _____ dollars (\$_____). The prices of these items shown in the Schedule are the initial target prices, which include an initial target profit of _____ [*Contracting Officer insert percent*] percent of the initial target cost. Any supplies or services that are to be—

(1) Ordered separately under, or otherwise added to, this contract; and

(2) Subject to price revision in accordance with this clause shall be identified as such in a modification to this contract.

(b) *Definition.* “Costs,” as used in this clause, means allowable costs in accordance with Part 31 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract.

(c) *Submitting data for establishing the firm fixed price or a final profit adjustment formula.* (1) Within _____ [*Contracting Officer insert number of days*] days after the end of the month in which the Contractor has completed _____ (see Note 1), the Contractor shall submit the following data:

(i) A proposed firm fixed price or total firm target price for supplies delivered and to be delivered and services performed and to be performed.

(ii) A detailed statement of all costs incurred in the performance of this contract through the end of the month specified above, in the format of Table 15-2, FAR 15.408 (or in any other form on which the parties may agree), with sufficient supporting data to disclose unit costs and cost trends for—

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary).

(iii) An estimate of costs of all supplies delivered and to be delivered and all services performed and to be performed under this contract, using the statement of costs incurred plus an estimate of costs to complete performance, in the format of Table 15-2, FAR 15.408 (or in any other form on which the parties may agree), together with—

(A) Sufficient data to support the accuracy and reliability of the estimate; and

(B) An explanation of the differences between this estimate and the original estimate used to establish the initial target prices.

(2) The Contractor shall also submit, to the extent that it becomes available before negotiations establishing the total firm price are concluded—

(i) Supplemental statements of costs incurred after the end of the month specified in paragraph (1) of this section for—

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary); and

(ii) Any other relevant data that the Contracting Officer may reasonably require.

(3) If the Contractor fails to submit the data required by paragraphs (c)(1) and (2) of this section within the time specified and it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the data submittal period, the amount of the excess shall bear interest, computed from the date the data were due to the date of repayment, at the rate established in accordance with the Interest clause.

(d) *Establishing firm fixed price or final profit adjustment formula.* Upon the Contracting Officer’s receipt of the data required by paragraph (c) of this section, the Contracting Officer and the Contractor shall promptly establish either a firm fixed price or a profit adjustment formula for determining final profit, as follows:

(1) The parties shall negotiate a total firm target cost, based upon the data submitted under paragraph (c) of this section.

(2) If the total firm target cost is more than the total initial target cost, the total initial target profit shall be decreased. If the total firm target cost is less than the total initial target cost, the total initial target profit shall be increased. The initial target profit shall be increased or decreased by _____ percent (see Note 2) of the difference between the total initial target cost and the total firm target cost. The resulting amount shall be the total firm target profit; *provided*, that in no event shall the total firm target profit be less than _____ percent or more than _____ percent [*Contracting Officer insert percents*] of the total initial cost.

(3) If the total firm target cost plus the total firm target profit represent a reasonable price for performing that part of the contract subject to price revision under this clause, the parties may agree on a firm fixed price, which shall be evidenced by a contract modification signed by the Contractor and the Contracting Officer.

(4) Failure of the parties to agree to a firm fixed price shall not constitute a dispute under the Disputes clause. If

agreement is not reached, or if establishment of a firm fixed price is inappropriate, the Contractor and the Contracting Officer shall establish a profit adjustment formula under which the total final price shall be established by applying to the total final negotiated cost an adjustment for profit or loss, determined as follows:

(i) If the total final negotiated cost is equal to the total firm target cost, the adjustment is the total firm target profit.

(ii) If the total final negotiated cost is greater than the total firm target cost, the adjustment is the total firm target profit, less _____ percent of the amount by which the total final negotiated cost exceeds the total firm target cost.

(iii) If the total final negotiated cost is less than the total firm target cost, the adjustment is the total firm target profit, plus _____ percent of the amount by which the total final negotiated cost is less than the total firm target cost.

(iv) The total firm target cost, total firm target profit, and the profit adjustment formula for determining final profit shall be evidenced by a modification to this contract signed by the Contractor and the Contracting Officer.

(e) *Submitting data for final price revision.* Unless a firm fixed price has been established in accordance with paragraph (d) of this section within _____ [*Contracting Officer insert number of days*] days after the end of the month in which the Contractor has delivered the last unit of supplies and completed the services specified by item number in paragraph (a) of this section, the Contractor shall submit in the format of Table 15-2, FAR 15.408 (or in any other form on which the parties agree)—

(1) A detailed statement of all costs incurred up to the end of that month in performing all work under the items;

(2) An estimate of costs of further performance, if any, that may be necessary to complete performance of all work under the items;

(3) A list of all residual inventory and an estimate of its value; and

(4) Any other relevant data that the Contracting Officer may reasonably require.

(f) *Final price revision.* Unless a firm fixed price has been agreed to in accordance with paragraph (d) of this section, the Contractor and the Contracting Officer shall, promptly after submission of the data required by paragraph (e) of this section, establish the total final price, as follows:

(1) On the basis of the information required by paragraph (e) of this section, together with any other pertinent information, the parties shall negotiate the total final cost incurred or to be incurred for the supplies delivered (or services performed) and accepted by the Government and which are subject to price revision under this clause.

(2) The total final price shall be established by applying to the total final negotiated cost an adjustment for final profit or loss determined as agreed upon under paragraph (d)(4) of this section.

(g) *Contract modification.* The total final price of the items specified in paragraph (a) of this section shall be evidenced by a modification to this contract, signed by the Contractor and the Contracting Officer. This price shall not be subject to revision, notwithstanding any changes in the cost of performing the contract, except to the extent that—

(1) The parties may agree in writing, before the determination of total final price, to exclude specific elements of cost from this price and to a procedure for subsequent disposition of these elements; and

(2) Adjustments or credits are explicitly permitted or required by this or any other clause in this contract.

(h) *Adjustment of billing prices.* (1) Pending execution of the contract modification (see paragraph (e) of this section), the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the initial target prices shown in this contract until firm target prices are established under paragraph (d) of this section. When established, the firm target prices shall be used as the billing prices.

(2) If at any time it appears from information provided by the contractor under paragraph (i)(1) of this section that the then-current billing prices will be substantially greater than the estimated final prices, the parties shall negotiate a reduction in the billing prices. Similarly, the parties may negotiate an increase in billing prices by any or all of the difference between the target prices and the ceiling price, upon the Contractor's submission of factual data showing that the final cost under this contract will be substantially greater than the target cost.

(3) Any adjustment of billing prices shall be reflected in a contract modification and shall not affect the determination of any price under paragraph (d) or (f) of this section. After the contract modification establishing the total final price is executed, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the total final price, and any resulting additional payments, refunds, or credits shall be made promptly.

(i) *Quarterly limitation on payments statement.* This paragraph (i) shall apply until a firm fixed price or a total final price is established under paragraph (d)(3) or (f)(2).

(1) Within 45 days after the end of each quarter of the Contractor's fiscal year in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and for each quarter thereafter, the Contractor shall submit to the contract administration office (with a copy to the contracting office and the cognizant contract auditor) a statement, cumulative from the beginning of the contract, showing—

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government and for which final prices have been established;

(ii) The total cost (estimated to the extent necessary) reasonably incurred for, and properly allocable solely to, the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established;

(iii) The portion of the total interim profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (i)) that is in direct proportion to the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established—increased or decreased in accordance with paragraph (d)(4) of this section when the amount stated under subdivision (ii) of this section, differs from the aggregate firm target costs of the supplies or services; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments).

(2) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount under subdivision (i)(1)(iv) of this section exceeds the sum due the Contractor, as computed in accordance with subdivisions (i)(1)(i), (ii), and (iii) of this section, the Contractor shall immediately refund or credit to the Government the amount of this excess. The Contractor may, when appropriate, reduce this refund or credit by the amount of any applicable tax credits due the Contractor under 26 U.S.C. 1481 and by the amount of previous refunds or credits effected under this clause. If any portion of the excess has been applied to the liquidation of progress payments, then that portion may, instead of being refunded, be added to the unliquidated progress payment account consistent with the Progress Payments clause. The Contractor shall provide complete details to support any claimed reductions in refunds.

(3) If the Contractor fails to submit the quarterly statement within 45 days after the end of each quarter and it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the statement submittal period, the amount of the excess shall bear interest, computed from the date the quarterly statement was due to the date of repayment, at the rate established in accordance with the Interest clause.

(j) *Subcontracts*. No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

(k) *Disagreements*. If the Contractor and the Contracting Officer fail to agree upon (1) a total firm target cost and a final profit adjustment formula or (2) a total final price, within 60 days (or within such other period as the Contracting Officer may specify) after the date on which the data required in paragraphs (c) and (e) of this section are to be submitted,

the Contracting Officer shall promptly issue a decision in accordance with the Disputes clause.

(l) *Termination*. If this contract is terminated before the total final price is established, prices of supplies or services subject to price revision shall be established in accordance with this clause for (1) completed supplies and services accepted by the Government and (2) those supplies or services not terminated under a partial termination. All other elements of the termination shall be resolved in accordance with other applicable clauses of this contract.

(m) *Equitable adjustments under other clauses*. If an equitable adjustment in the contract price is made under any other clause of this contract before the total final price is established, the adjustment shall be made in the total target cost and may be made in the maximum dollar limit on the total final price, the total target profit, or both. If the adjustment is made after the total final price is established, only the total final price shall be adjusted.

(n) *Exclusion from target price and total final price*. If any clause of this contract provides that the contract price does not or will not include an amount for a specific purpose, then neither any target price nor the total final price includes or will include any amount for that purpose.

(o) *Separate reimbursement*. If any clause of this contract expressly provides that the cost of performance of an obligation shall be at Government expense, that expense shall not be included in any target price or in the total final price, but shall be reimbursed separately.

(p) *Taxes*. As used in the Federal, State, and Local Taxes clause or in any other clause that provides for certain taxes or duties to be included in, or excluded from, the contract price, the term “contract price” includes the total target price or, if it has been established, the total final price. When any of these clauses requires that the contract price be increased or decreased as a result of changes in the obligation of the Contractor to pay or bear the burden of certain taxes or duties, the increase or decrease shall be made in the total target price or, if it has been established, in the total final price, so that it will not affect the Contractor’s profit or loss on this contract.

(End of clause)

NOTES:

- (1) The degree of completion may be based on a percentage of contract performance or any other reasonable basis.
- (2) The language may be changed to describe a negotiated adjustment pattern under which the extent of adjustment is not the same for all levels of cost variation.

Alternate I (Apr 1984). As prescribed in 16.406(b), add the following paragraph (q) to the basic clause:

(q) *Provisioning and options*. Parts, other supplies, or services that are to be furnished under this contract on the basis of a provisioning document or Government option shall be subject to price revision in accordance with this clause. Any prices established for these parts, other supplies, or services under a

provisioning document or Government option shall be treated as initial target prices, or target prices as agreed upon and stipulated in the pricing document supporting the provisioning or added items. Initial or firm target costs and profits and final prices covering these parts, other supplies, or services may be established separately, in the aggregate, or in any combination, as the parties may agree.

52.216-18 Ordering.

As prescribed in 16.506(a), insert the following clause:

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 _____ through _____ [insert dates].

(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.

(End of clause)

52.216-19 Order Limitations.

As prescribed in 16.506(b), insert a clause substantially the same as follows:

ORDER LIMITATIONS (OCT 1995)

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than _____ [insert dollar figure or quantity], 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 _____ [insert dollar figure or quantity];

(2) Any order for a combination of items in excess of _____ [insert dollar figure or quantity]; or

(3) A series of orders from the same ordering office within _____ days that together call for quantities exceeding the limitation in paragraph (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 Con-

tractor 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 _____ 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.

(End of clause)

52.216-20 Definite Quantity.

As prescribed in 16.506(c), insert the following clause:

DEFINITE QUANTITY (OCT 1995)

(a) This is a definite-quantity, indefinite-delivery contract for the supplies or services specified, and effective for the period stated, in the Schedule.

(b) The Government shall order the quantity of supplies or services specified in the Schedule, and the Contractor shall furnish them when ordered. Delivery or performance shall be at locations designated in orders issued in accordance with the Ordering clause and the Schedule.

(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 time 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 _____ [insert date].

(End of clause)

52.216-21 Requirements.

As prescribed in 16.506(d), insert the following clause:

REQUIREMENTS (OCT 1995)

(a) This is a requirements contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government’s requirements do not result in orders in the quantities described as “estimated” or “maximum” in the

Schedule, that fact shall not constitute the basis for an equitable price adjustment.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. Subject to any limitations in the Order Limitations clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the Ordering clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(c) Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.

(d) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.

(e) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services from another source.

(f) 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 _____ [insert date].

(End of clause)

Alternate I (Apr 1984). If the requirements contract is for nonpersonal services and related supplies and covers estimated requirements that exceed a specific Government activity's internal capability to produce or perform, substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) The estimated quantities are not the total requirements of the Government activity specified in the Schedule, but are estimates of requirements in excess of the quantities that the activity may itself furnish within its own capabilities. Except as this contract otherwise provides, the Government shall order from the Contractor all of that activity's requirements for supplies and services specified in the Schedule that exceed the quantities that the activity may furnish within its own capabilities.

Alternate II (Apr 1984). If the requirements contract includes subsistence for both Government use and resale in the same Schedule, and similar products may be acquired on

a brand-name basis, add the following paragraph (g) to the basic clause:

(g) The requirements referred to in this contract are for items to be manufactured according to Government specifications. Notwithstanding anything to the contrary stated in the contract, the Government may acquire similar products by brand name from other sources for resale.

Alternate III (Oct 1995). If the requirements contract involves a partial small business set-aside, substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) The Government's requirements for each item or sub-item of supplies or services described in the Schedule are being purchased through one non-set-aside contract and one set-aside contract. Therefore, the Government shall order from each Contractor approximately one-half of the total supplies or services specified in the Schedule that are required to be purchased by the specified Government activity or activities. The Government may choose between the set-aside Contractor and the non-set-aside Contractor in placing any particular order. However, the Government shall allocate successive orders, in accordance with its delivery requirements, to maintain as close a ratio as is reasonably practicable between the total quantities ordered from the two Contractors.

Alternate IV (Oct 1995). If the contract includes subsistence for both Government use and resale in the same Schedule and similar products may be acquired on a brand-name basis and the contract also involves a partial small business set-aside, substitute the following paragraph (c) for paragraph (c) of the basic clause and add the following paragraph (g) to the basic clause:

(c) The Government's requirements for each item or sub-item of supplies or services described in the Schedule are being purchased through one non-set-aside contract and one set-aside contract. Therefore, the Government shall order from each Contractor approximately one-half of the total supplies or services specified in the Schedule that are required to be purchased by the specified Government activity or activities. The Government may choose between the set-aside Contractor and the non-set-aside Contractor in placing any particular order. However, the Government shall allocate successive orders, in accordance with its delivery requirements, to maintain as close a ratio as is reasonably practicable between the total quantities ordered from the two Contractors.

(g) The requirements referred to in this contract are for items to be manufactured according to the Government specifications. Notwithstanding anything to the contrary stated in the contract, the Government may acquire similar products by brand name from other sources for resale.

52.216-22 Indefinite Quantity.

As prescribed in 16.506(e), insert the following clause:

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 _____ [*insert date*].

(End of clause)

52.216-23 Execution and Commencement of Work.

As prescribed in 16.603-4(b)(1), insert the following clause in solicitations and contracts when a letter contract is contemplated, except that it may be omitted from letter contracts awarded on SF 26:

EXECUTION AND COMMENCEMENT OF WORK (APR 1984)

The Contractor shall indicate acceptance of this letter contract by signing three copies of the contract and returning them to the Contracting Officer not later than _____ [*insert date*]. Upon acceptance by both parties, the Contractor shall proceed with performance of the work, including purchase of necessary materials.

(End of clause)

52.216-24 Limitation of Government Liability.

As prescribed in 16.603-4(b)(2), insert the following clause in solicitations and contracts when a letter contract is contemplated:

LIMITATION OF GOVERNMENT LIABILITY (APR 1984)

(a) In performing this contract, the Contractor is not authorized to make expenditures or incur obligations exceeding _____ dollars.

(b) The maximum amount for which the Government shall be liable if this contract is terminated is _____ dollars.

(End of clause)

52.216-25 Contract Definition.

As prescribed in 16.603-4(b)(3), insert the following clause:

CONTRACT DEFINITIZATION (OCT 1997)

(a) A _____ [*insert specific type of contract*] definitive contract is contemplated. The Contractor agrees to begin promptly negotiating with the Contracting Officer the terms of a definitive contract that will include (1) all clauses required by the Federal Acquisition Regulation (FAR) on the date of execution of the letter contract, (2) all clauses required by law on the date of execution of the definitive contract, and (3) any other mutually agreeable clauses, terms, and conditions. The Contractor agrees to submit a _____ [*insert specific type of proposal; e.g., fixed-price or cost-and-fee*] proposal and cost or pricing data supporting its proposal.

(b) The schedule for definitizing this contract is [*insert target date for definitization of the contract and dates for submission of proposal, beginning of negotiations, and, if appropriate, submission of make-or-buy and subcontracting plans and cost or pricing data*]:

(c) If agreement on a definitive contract to supersede this letter contract is not reached by the target date in paragraph (b) of this section, or within any extension of it granted by the Contracting Officer, the Contracting Officer may, with the approval of the head of the contracting activity, determine a reasonable price or fee in accordance with Subpart 15.4 and Part 31 of the FAR, subject to Contractor appeal as provided in the Disputes clause. In any event, the Contractor shall proceed with completion of the contract, subject only to the Limitation of Government Liability clause.

(1) After the Contracting Officer’s determination of price or fee, the contract shall be governed by—

(i) All clauses required by the FAR on the date of execution of this letter contract for either fixed-price or cost-reimbursement contracts, as determined by the Contracting Officer under this paragraph (c);

(ii) All clauses required by law as of the date of the Contracting Officer’s determination; and

(iii) Any other clauses, terms, and conditions mutually agreed upon.

(2) To the extent consistent with paragraph (c)(1) of this section, all clauses, terms, and conditions included in this let-

ter contract shall continue in effect, except those that by their nature apply only to a letter contract.

(End of clause)

Alternate I (Apr 1984). In letter contracts awarded on the basis of price competition, add the following paragraph (d) to the basic clause:

(d) The definitive contract resulting from this letter contract will include a negotiated _____ [insert “price ceiling” or “firm fixed price”] in no event to exceed _____ [insert the proposed price upon which the award was based].

52.216-26 Payments of Allowable Costs Before Definitization.

As prescribed in 16.603-4(c), insert the following clause:

PAYMENTS OF ALLOWABLE COSTS BEFORE DEFINITIZATION (DEC 2002)

(a) *Reimbursement rate.* Pending the placing of the definitive contract referred to in this letter contract, the Government will promptly reimburse the Contractor for all allowable costs under this contract at the following rates:

(1) One hundred percent of approved costs representing financing payments to subcontractors under fixed-price subcontracts, provided that the Government’s payments to the Contractor will not exceed 80 percent of the allowable costs of those subcontractors.

(2) One hundred percent of approved costs representing cost-reimbursement subcontracts; *provided*, that the Government’s payments to the Contractor shall not exceed 85 percent of the allowable costs of those subcontractors.

(3) Eighty-five percent of all other approved costs.

(b) *Limitation of reimbursement.* To determine the amounts payable to the Contractor under this letter contract, the Contracting Officer shall determine allowable costs in accordance with the applicable cost principles in Part 31 of the Federal Acquisition Regulation (FAR). The total reimbursement made under this paragraph shall not exceed 85 percent of the maximum amount of the Government’s liability, as stated in this contract.

(c) *Invoicing.* Payments shall be made promptly to the Contractor when requested as work progresses, but (except for small business concerns) not more often than every 2 weeks, in amounts approved by the Contracting Officer. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost incurred by the Contractor in the performance of this contract.

(d) *Allowable costs.* For the purpose of determining allowable costs, the term “costs” includes—

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

(2) When the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for—

(i) Supplies and services purchased directly for the contract and associated financing payments to subcontractors, provided payments determined due will be made—

(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;

(ii) Materials issued from the Contractor’s stores inventory and placed in the production process for use on the contract;

(iii) Direct labor;

(iv) Direct travel;

(v) Other direct in-house costs; and

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

(3) The amount of financing payments that the Contractor has paid by cash, check, or other forms of payment to subcontractors.

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

(f) *Audit.* At any time before final payment, the Contracting Officer may have the Contractor’s invoices or vouchers and statements of costs audited. Any payment may be—

(1) Reduced by any amounts found by the Contracting Officer not to constitute allowable costs; or

(2) Adjusted for overpayments or underpayments made on preceding invoices or vouchers.

(End of clause)

52.216-27 Single or Multiple Awards.

As prescribed in 16.506(f), insert the following provision:

SINGLE OR MULTIPLE AWARDS (OCT 1995)

The Government may elect to award a single delivery order contract or task order contract or to award multiple delivery order contracts or task order contracts for the same or similar supplies or services to two or more sources under this solicitation.

(End of provision)

52.216-28 Multiple Awards for Advisory and Assistance Services.

As prescribed in 16.506(g), insert the following provision:

MULTIPLE AWARDS FOR ADVISORY AND ASSISTANCE
SERVICES (OCT 1995)

The Government intends to award multiple contracts for the same or similar advisory and assistance services to two or more sources under this solicitation unless the Government

determines, after evaluation of offers, that only one offeror is capable of providing the services at the level of quality required.

(End of provision)

52.217-1 [Reserved]**52.217-2 Cancellation Under Multi-year Contracts.**

As prescribed in 17.109(a), insert the following clause:

CANCELLATION UNDER MULTI-YEAR CONTRACTS
(OCT 1997)

(a) “Cancellation,” as used in this clause, means that the Government is canceling its requirements for all supplies or services in program years subsequent to that in which notice of cancellation is provided. Cancellation shall occur by the date or within the time period specified in the Schedule, unless a later date is agreed to, if the Contracting Officer—

(1) Notifies the Contractor that funds are not available for contract performance for any subsequent program year; or

(2) Fails to notify the Contractor that funds are available for performance of the succeeding program year requirement.

(b) Except for cancellation under this clause or termination under the Default clause, any reduction by the Contracting Officer in the requirements of this contract shall be considered a termination under the Termination for Convenience of the Government clause.

(c) If cancellation under this clause occurs, the Contractor will be paid a cancellation charge not over the cancellation ceiling specified in the Schedule as applicable at the time of cancellation.

(d) The cancellation charge will cover only—

(1) Costs—

(i) Incurred by the Contractor and/or subcontractor;

(ii) Reasonably necessary for performance of the contract; and

(iii) That would have been equitably amortized over the entire multi-year contract period but, because of the cancellation, are not so amortized; and

(2) A reasonable profit or fee on the costs.

(e) The cancellation charge shall be computed and the claim made for it as if the claim were being made under the Termination for Convenience of the Government clause of this contract. The Contractor shall submit the claim promptly but no later than 1 year from the date—

(1) Of notification of the nonavailability of funds; or

(2) Specified in the Schedule by which notification of the availability of additional funds for the next succeeding program year is required to be issued, whichever is earlier, unless extensions in writing are granted by the Contracting Officer.

(f) The Contractor’s claim may include—

(1) Reasonable nonrecurring costs (see Subpart 15.4 of the Federal Acquisition Regulation) which are applicable to and normally would have been amortized in all supplies or services which are multi-year requirements;

(2) Allocable portions of the costs of facilities acquired or established for the conduct of the work, to the extent that it is impracticable for the Contractor to use the facilities in its commercial work, and if the costs are not charged to the contract through overhead or otherwise depreciated;

(3) Costs incurred for the assembly, training, and transportation to and from the job site of a specialized work force; and

(4) Costs not amortized solely because the cancellation had precluded anticipated benefits of Contractor or subcontractor learning.

(g) The claim shall not include—

(1) Labor, material, or other expenses incurred by the Contractor or subcontractors for performance of the canceled work;

(2) Any cost already paid to the Contractor;

(3) Anticipated profit or unearned fee on the canceled work; or

(4) For service contracts, the remaining useful commercial life of facilities. “Useful commercial life” means the commercial utility of the facilities rather than their physical life with due consideration given to such factors as location of facilities, their specialized nature, and obsolescence.

(h) This contract may include an Option clause with the period for exercising the option limited to the date in the contract for notification that funds are available for the next succeeding program year. If so, the Contractor agrees not to include in option quantities any costs of a startup or nonrecurring nature that have been fully set forth in the contract. The Contractor further agrees that the option quantities will reflect only those recurring costs and a reasonable profit or fee necessary to furnish the additional option quantities.

(i) Quantities added to the original contract through the Option clause of this contract shall be included in the quantity canceled for the purpose of computing allowable cancellation charges.

(End of clause)

52.217-3 Evaluation Exclusive of Options.

As prescribed in 17.208(a), insert a provision substantially the same as in the following in solicitations when the solicitation includes an option clause and does not include one of the provisions prescribed in 17.208(b) or (c):

EVALUATION EXCLUSIVE OF OPTIONS (APR 1984)

The Government will evaluate offers for award purposes by including only the price for the basic requirement; *i.e.*, options will not be included in the evaluation for award purposes.

(End of provision)

52.217-4 Evaluation of Options Exercised at Time of Contract Award.

As prescribed in 17.208(b), insert a provision substantially the same as the following:

EVALUATION OF OPTIONS EXERCISED AT TIME OF CONTRACT AWARD (JUNE 1988)

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate the total price for the basic requirement together with any option(s) exercised at the time of award.

(End of provision)

52.217-5 Evaluation of Options.

As prescribed in 17.208(c), insert a provision substantially the same as the following:

EVALUATION OF OPTIONS (JULY 1990)

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(End of provision)

52.217-6 Option for Increased Quantity.

As prescribed in 17.208(d), insert a clause substantially the same as the following:

OPTION FOR INCREASED QUANTITY (MAR 1989)

The Government may increase the quantity of supplies called for in the Schedule at the unit price specified. The Contracting Officer may exercise the option by written notice to the Contractor within *[insert in the clause the period of time in which the Contracting Officer has to exercise the option]*. Delivery of the added items shall continue at the same rate as the like items called for under the contract, unless the parties otherwise agree.

(End of clause)

52.217-7 Option for Increased Quantity—Separately Priced Line Item.

As prescribed in 17.208(e), insert a clause substantially the same as the following:

OPTION FOR INCREASED QUANTITY—SEPARATELY PRICED LINE ITEM (MAR 1989)

The Government may require the delivery of the numbered line item, identified in the Schedule as an option item, in the quantity and at the price stated in the Schedule. The Contract-

ing Officer may exercise the option by written notice to the Contractor within *[insert in the clause the period of time in which the Contracting Officer has to exercise the option]*. Delivery of added items shall continue at the same rate that like items are called for under the contract, unless the parties otherwise agree.

(End of clause)

52.217-8 Option to Extend Services.

As prescribed in 17.208(f), insert a clause substantially the same as the following:

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 _____ *[insert the period of time within which the Contracting Officer may exercise the option]*.

(End of clause)

52.217-9 Option to Extend the Term of the Contract.

As prescribed in 17.208(g), insert a clause substantially the same as the following:

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 _____ *[insert the period of time within which the Contracting Officer may exercise the option]*; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least _____ days *[60 days unless a different number of days is inserted]* 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 _____ (months) (years).

(End of clause)

52.218 [Reserved]**52.219-1 Small Business Program Representations.**

As prescribed in 19.308(a)(1), insert the following provision:

SMALL BUSINESS PROGRAM REPRESENTATIONS
(MAY 2004)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is _____ [insert NAICS code].

(2) The small business size standard is _____ [insert size standard].

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) *Representations.* (1) The offeror represents as part of its offer that it is, is not a small business concern.

(2) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, for general statistical purposes, that it is, is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents as part of its offer that it is, is not a women-owned small business concern.

(4) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents as part of its offer that it is, is not a veteran-owned small business concern.

(5) [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.] The offeror represents as part of its offer that it is, is not a service-disabled veteran-owned small business concern.

(6) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, as part of its offer, that—

(i) It is, is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

(ii) It is, is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(c) *Definitions.* As used in this provision—

“Service-disabled veteran-owned small business concern”—

(1) Means a small business concern—

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

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a 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 concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

“Veteran-owned small business concern” means a small business concern—

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

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

“Women-owned small business concern” means a small business concern—

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

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

(d) *Notice.* (1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm’s status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall—

(i) Be punished by imposition of fine, imprisonment, or both;

(ii) Be subject to administrative remedies, including suspension and debarment; and

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

(End of provision)

Alternate I (Apr 2002). As prescribed in 19.308(a)(2), add the following paragraph (b)(7) to the basic provision:

(7) [Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision.] The offeror shall check the category in which its ownership falls:

_____ Black American.

_____ Hispanic American.

_____ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

_____ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

_____ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

_____ Individual/concern, other than one of the preceding.

52.219-2 Equal Low Bids.

As prescribed in 19.308(c), insert the following provision:

EQUAL LOW BIDS (OCT 1995)

(a) This provision applies to small business concerns only.

(b) The bidder's status as a labor surplus area (LSA) concern may affect entitlement to award in case of tie bids. If the bidder wishes to be considered for this priority, the bidder must identify, in the following space, the LSA in which the costs to be incurred on account of manufacturing or production (by the bidder or the first-tier subcontractors) amount to more than 50 percent of the contract price.

(c) Failure to identify the labor surplus areas as specified in paragraph (b) of this provision will preclude the bidder from receiving priority consideration. If the bidder is awarded a contract as a result of receiving priority consideration under this provision and would not have otherwise received award, the bidder shall perform the contract or cause the contract to be performed in accordance with the obligations of an LSA concern.

(End of provision)

52.219-3 Notice of Total HUBZone Set-Aside.

As prescribed in 19.1308(a), insert the following clause:

NOTICE OF TOTAL HUBZONE SET-ASIDE (JAN 1999)

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

(b) *General.* (1) Offers are solicited only from HUBZone small business concerns. Offers received from concerns that are not HUBZone small business concerns shall not be considered.

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

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

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

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

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

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

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

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

(End of clause)

52.219-4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns.

As prescribed in 19.1308(b), insert the following clause:

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

(a) *Definition.* "HUBZone small business concern," as used in this clause, means a small business concern that

appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

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

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

(ii) Otherwise successful offers from small business concerns;

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

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

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

(3) A concern that is both a HUBZone small business concern and a small disadvantaged business concern will receive the benefit of both the HUBZone small business price evaluation preference and the small disadvantaged business price evaluation adjustment (see FAR clause 52.219-23). Each applicable price evaluation preference or adjustment shall be calculated independently against an offeror's base offer. These individual preference amounts shall be added together to arrive at the total evaluated price for that offer.

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

☐ Offeror elects to waive the evaluation preference.

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

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

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

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

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

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

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

(End of clause)

52.219-5 Very Small Business Set-Aside.

As prescribed in 19.905, insert the following clause:

VERY SMALL BUSINESS SET-ASIDE (JUNE 2003)

(a) *Definition.* "Very Small Business Concern," as used in this clause, means a concern whose headquarters is located within the geographical area served by a designated SBA district (see 13 CFR 125.7(b)); which, together with its affiliates, has no more than 15 employees and has average annual receipts that do not exceed \$1 million.

(b) *Eligibility.* (1) Only those firms headquartered in the _____ Small Business Administration (SBA) district [*Contracting Officer shall insert the applicable SBA designated district. If the geographic area is served by the SBA Los Angeles or Santa Ana District offices, list both*] are eligible for this acquisition.

(2) Offers or quotations under this acquisition are solicited from very small business concerns only. Offers that are from other than an eligible very small business concern shall not be considered and shall be rejected. The offeror represents that it is an eligible very small business concern by submission of an offer or quotation.

(c) *Agreement.* A very small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas.

(End of clause)

Alternate I (Mar 1999). As prescribed in 19.905(a), delete paragraph (c) of the basic clause.

Alternate II (June 2003). As prescribed in 19.905(b), substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) *Agreement.* A very small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by domestic firms in the United States or its outlying areas.

52.219-6 Notice of Total Small Business Set-Aside.

As prescribed in 19.508(c), insert the following clause:

NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE
(JUNE 2003)

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

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

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

(c) *Agreement.* A small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply to construction or service contracts.

(End of clause)

Alternate I (Oct 1995). When the acquisition is for a product in a class for which the Small Business Administration has determined that there are no small business manufacturers or processors in the Federal market in accordance with 19.502-2(c), delete paragraph (c).

Alternate II (Mar 2004). As prescribed in 19.508(c), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b) *General.* (1) Offers are solicited only from small business concerns and Federal Prison Industries, Inc. (FPI). Offers received from concerns that are not small business concerns or FPI shall be considered nonresponsive and will be rejected.

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

52.219-7 Notice of Partial Small Business Set-Aside.

As prescribed in 19.508(d), insert the following clause:

NOTICE OF PARTIAL SMALL BUSINESS SET-ASIDE
(JUNE 2003)

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

(b) *General.* (1) A portion of this requirement, identified elsewhere in this solicitation, has been set aside for award to one or more small business concerns.

(2) Offers on the non-set-aside portion will be evaluated first and award will be made on that portion in accordance with the provisions of this solicitation.

(3) The set-aside portion will be awarded at the highest unit price(s) in the contract(s) for the non-set-aside portion, adjusted to reflect transportation and other costs appropriate for the selected contractor(s).

(4) The contractor(s) for the set-aside portion will be selected from among the small business concerns that submitted responsive offers on the non-set-aside portion. Negotiations will be conducted with the concern that submitted the lowest responsive offer on the non-set-aside portion. If the negotiations are not successful or if only part of the set-aside portion is awarded to that concern, negotiations will be conducted with the concern that submitted the second-lowest responsive offer on the non-set-aside portion. This process will continue until a contract or contracts are awarded for the entire set-aside portion.

(5) The Government reserves the right to not consider token offers or offers designed to secure an unfair advantage over other offerors eligible for the set-aside portion.

(c) *Agreement.* For the set-aside portion of the acquisition, a small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply to construction or service contracts.

(End of clause)

Alternate I (Oct 1995). When the acquisition is for a product in a class for which the Small Business Administration has determined that there are no small business manufacturers or processors in the Federal market in accordance with 19.502-2(c), delete paragraph (c).

Alternate II (Mar 2004). As prescribed in 19.508(d), add the following paragraph (d) to the basic clause:

(d) Notwithstanding paragraph (b) of this clause, offers from Federal Prison Industries, Inc., will be solicited and considered for both the set-aside and non-set-aside portion of this requirement.

52.219-8 Utilization of Small Business Concerns.

As prescribed in 19.708(a), insert the following clause:

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.

(End of clause)

52.219-9 Small Business Subcontracting Plan.

As prescribed in 19.708(b), insert the following clause:

SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2002)

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

(b) *Definitions.* As used in this clause—

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

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

“Individual contract plan” means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the spe-

cific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

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

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

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

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

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

(2) A statement of—

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

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

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

(iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

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

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

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

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

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns; and

(vi) Women-owned small business concerns.

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

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

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

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns; and

(vi) Women-owned small business concerns.

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

(8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small

business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

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

(10) Assurances that the offeror will—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Records of any outreach efforts to contact—

(A) Trade associations;

(B) Business development organizations;

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

(D) Veterans service organizations.

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

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

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

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

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

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

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and

women-owned small business concerns in all “make-or-buy” decisions.

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

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

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided—

(1) The master plan has been approved;

(2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

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

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

(i) The failure of the Contractor or subcontractor to comply in good faith with—

(1) The clause of this contract entitled “Utilization Of Small Business Concerns;” or

(2) An approved plan required by this clause, shall be a material breach of the contract.

(j) The Contractor shall submit the following reports:

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

(2) *Standard Form 295, Summary Subcontract Report*.

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

(End of clause)

Alternate I (Oct 2001). When contracting by sealed bidding rather than by negotiation, substitute the following paragraph (c) for paragraph (c) of the basic clause:

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

Alternate II (Oct 2001). As prescribed in 19.708(b)(1), substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) Proposals submitted in response to this solicitation shall include a subcontracting plan that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the

time specified by the Contracting Officer. Failure to submit and negotiate a subcontracting plan shall make the offeror ineligible for award of a contract.

52.219-10 Incentive Subcontracting Program.

As prescribed in 19.708(c)(1), insert the following clause:

INCENTIVE SUBCONTRACTING PROGRAM (OCT 2001)

(a) Of the total dollars it plans to spend under subcontracts, the Contractor has committed itself in its subcontracting plan to try to award certain percentages to small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, respectively.

(b) If the Contractor exceeds its subcontracting goals for small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, and women-owned small business concerns in performing this contract, it will receive _____ [*Contracting Officer to insert the appropriate number between 0 and 10*] percent of the dollars in excess of each goal in the plan, unless the Contracting Officer determines that the excess was not due to the Contractor's efforts (e.g., a subcontractor cost overrun caused the actual subcontract amount to exceed that estimated in the subcontracting plan, or the award of subcontracts that had been planned but had not been disclosed in the subcontracting plan during contract negotiations). Determinations made under this paragraph are unilateral decisions made solely at the discretion of the Government.

(c) If this is a cost-plus-fixed-fee contract, the sum of the fixed fee and the incentive fee earned under this contract may not exceed the limitations in 15.404-4 of the Federal Acquisition Regulation.

(End of clause)

52.219-11 Special 8(a) Contract Conditions.

As prescribed in 19.811-3(a), insert the following clause:

SPECIAL 8(A) CONTRACT CONDITIONS (FEB 1990)

The Small Business Administration (SBA) agrees to the following:

(a) To furnish the supplies or services set forth in this contract according to the specifications and the terms and conditions hereof by subcontracting with an eligible concern pursuant to the provisions of section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)).

(b) That in the event SBA does not award a subcontract for all or a part of the work hereunder, this contract may be terminated either in whole or in part without cost to either party.

(c) Except for novation agreements and advance payments, delegate to the _____ [*insert name of contracting agency*] the responsibility for administering the subcontract to

be awarded hereunder with complete authority to take any action on behalf of the Government under the terms and conditions of the subcontract; provided, however, that the _____ [*insert name of contracting agency*] shall give advance notice to the SBA before it issues a final notice terminating the right of a subcontractor to proceed with further performance, either in whole or in part, under the subcontract for default or for the convenience of the Government.

(d) That payments to be made under any subcontract awarded under this contract will be made directly to the subcontractor by the _____ [*insert name of contracting agency*].

(e) That the subcontractor awarded a subcontract hereunder shall have the right of appeal from decisions of the Contracting Officer cognizable under the "Disputes" clause of said subcontract.

(f) To notify the _____ [*insert name of contracting agency*] Contracting Officer immediately upon notification by the subcontractor that the owner or owners upon whom 8(a) eligibility was based plan to relinquish ownership or control of the concern.

(End of clause)

52.219-12 Special 8(a) Subcontract Conditions.

As prescribed in 19.811-3(b), insert the following clause:

SPECIAL 8(A) SUBCONTRACT CONDITIONS (FEB 1990)

(a) The Small Business Administration (SBA) has entered into Contract No. _____ [*insert number of contract*] with the _____ [*insert name of contracting agency*] to furnish the supplies or services as described therein. A copy of the contract is attached hereto and made a part hereof.

(b) The _____ [*insert name of subcontractor*], hereafter referred to as the subcontractor, agrees and acknowledges as follows:

(1) That it will, for and on behalf of the SBA, fulfill and perform all of the requirements of Contract No. _____ [*insert number of contract*] for the consideration stated therein and that it has read and is familiar with each and every part of the contract.

(2) That the SBA has delegated responsibility, except for novation agreements and advance payments, for the administration of this subcontract to the _____ [*insert name of contracting agency*] with complete authority to take any action on behalf of the Government under the terms and conditions of this subcontract.

(3) That it will not subcontract the performance of any of the requirements of this subcontract to any lower tier subcontractor without the prior written approval of the SBA and the designated Contracting Officer of the _____ [*insert name of contracting agency*].

(4) That it will notify the _____ [*insert name of contracting agency*] Contracting Officer in writing immedi-

ately upon entering an agreement (either oral or written) to transfer all or part of its stock or other ownership interest to any other party.

(c) Payments, including any progress payments under this subcontract, will be made directly to the subcontractor by the _____ [*insert name of contracting agency*].

(End of clause)

52.219-13 [Reserved]

52.219-14 Limitations on Subcontracting.

As prescribed in 19.508(e) or 19.811-3(e), insert the following clause:

LIMITATIONS ON SUBCONTRACTING (DEC 1996)

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

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

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

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

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

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

(End of clause)

52.219-15 [Reserved]

52.219-16 Liquidated Damages—Subcontracting Plan.

As prescribed in 19.708(b)(2), insert the following clause:

LIQUIDATED DAMAGES—SUBCONTRACTING PLAN (JAN 1999)

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

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts

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

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

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

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

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

(End of clause)

52.219-17 Section 8(a) Award.

As prescribed in 19.811-3(c), insert the following clause:

SECTION 8(A) AWARD (DEC 1996)

(a) By execution of a contract, the Small Business Administration (SBA) agrees to the following:

(1) To furnish the supplies or services set forth in the contract according to the specifications and the terms and conditions by subcontracting with the Offeror who has been determined an eligible concern pursuant to the provisions of section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)).

(2) Except for novation agreements and advance payments, delegates to the _____ [*insert name of contracting activity*] the responsibility for administering the contract with complete authority to take any action on behalf of the Gov-

ernment under the terms and conditions of the contract; *provided*, however that the contracting agency shall give advance notice to the SBA before it issues a final notice terminating the right of the subcontractor to proceed with further performance, either in whole or in part, under the contract.

(3) That payments to be made under the contract will be made directly to the subcontractor by the contracting activity.

(4) To notify the _____ [*insert name of contracting agency*] Contracting Officer immediately upon notification by the subcontractor that the owner or owners upon whom 8(a) eligibility was based plan to relinquish ownership or control of the concern.

(5) That the subcontractor awarded a subcontract hereunder shall have the right of appeal from decisions of the cognizant Contracting Officer under the “Disputes” clause of the subcontract.

(b) The offeror/subcontractor agrees and acknowledges that it will, for and on behalf of the SBA, fulfill and perform all of the requirements of the contract.

(c) The offeror/subcontractor agrees that it will not subcontract the performance of any of the requirements of this subcontract to any lower tier subcontractor without the prior written approval of the SBA and the cognizant Contracting Officer of the _____ [*insert name of contracting agency*].

(End of clause)

52.219-18 Notification of Competition Limited to Eligible 8(a) Concerns.

As prescribed in 19.811-3(d), insert the following clause:

NOTIFICATION OF COMPETITION LIMITED TO ELIGIBLE 8(A) CONCERNS (JUNE 2003)

(a) Offers are solicited only from small business concerns expressly certified by the Small Business Administration (SBA) for participation in the SBA’s 8(a) Program and which meet the following criteria at the time of submission of offer—

(1) The Offeror is in conformance with the 8(a) support limitation set forth in its approved business plan; and

(2) The Offeror is in conformance with the Business Activity Targets set forth in its approved business plan or any remedial action directed by the SBA.

(b) By submission of its offer, the Offeror represents that it meets all of the criteria set forth in paragraph (a) of this clause.

(c) Any award resulting from this solicitation will be made to the Small Business Administration, which will subcontract performance to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

(d)(1) *Agreement*. A small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business

concerns in the United States or its outlying areas. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply to construction or service contracts.

(2) The _____ [*insert name of SBA's contractor*] will notify the _____ [*insert name of contracting agency*] Contracting Officer in writing immediately upon entering an agreement (either oral or written) to transfer all or part of its stock or other ownership interest to any other party.

(End of clause)

Alternate I (Nov 1989). If the competition is to be limited to 8(a) concerns within one or more specific SBA regions or districts, add the following paragraph (a)(4) to paragraph (a) of the clause:

(4) The offeror's approved business plan is on the file and serviced by _____ [*Contracting Officer completes by inserting the appropriate SBA District and/or Regional Office(s) as identified by the SBA*].

Alternate II (Dec 1996). When the acquisition is for a product in a class for which the Small Business Administration has determined that there are no small business manufacturers or processors in the Federal market in accordance with 19.502-2(c), delete paragraph (d)(1).

52.219-19 Small Business Concern Representation for the Small Business Competitiveness Demonstration Program.

As prescribed in 19.1008(a), insert the following provision:

SMALL BUSINESS CONCERN REPRESENTATION FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (OCT 2000)

(a) *Definition*. “Emerging small business” as used in this solicitation, means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the North American Industry Classification System (NAICS) code assigned to a contracting opportunity.

(b) [*Complete only if the Offeror has represented itself under the provision at 52.219-1 as a small business concern under the size standards of this solicitation.*] The Offeror is, is not an emerging small business.

(c) [*Complete only if the Offeror is a small business or an emerging small business, indicating its size range.*] Offeror’s number of employees for the past 12 months [*check this column if size standard stated in solicitation is expressed in terms of number of employees*] or Offeror’s average annual gross revenue for the last 3 fiscal years [*check this column if size standard stated in solicitation is expressed in terms of annual receipts*]. [*Check one of the following.*]

NO. OF EMPLOYEES	AVG. ANNUAL GROSS REVENUES
___ 50 or fewer	___ \$1 million or less
___ 51–100	___ \$1,000,001–\$2 million
___ 101–250	___ \$2,000,001–\$3.5 million
___ 251–500	___ \$3,500,001–\$5 million
___ 501–750	___ \$5,000,001–\$10 million
___ 751–1,000	___ \$10,000,001–\$17 million
___ Over 1,000	___ Over \$17 million

(End of provision)

52.219-20 Notice of Emerging Small Business Set-Aside.

As prescribed in 19.1008(b), insert the following provision:

NOTICE OF EMERGING SMALL BUSINESS SET-ASIDE
(JAN 1991)

Offers or quotations under this acquisition are solicited from emerging small business concerns only. Offers that are not from an emerging small business shall not be considered and shall be rejected.

(End of provision)

52.219-21 Small Business Size Representation for Targeted Industry Categories under the Small Business Competitiveness Demonstration Program.

As prescribed in 19.1008(c), insert the following provision:

SMALL BUSINESS SIZE REPRESENTATION FOR TARGETED
INDUSTRY CATEGORIES UNDER THE SMALL BUSINESS
COMPETITIVENESS DEMONSTRATION PROGRAM
(MAY 1999)

[Complete only if the Offeror has represented itself under the provision at 52.219-1 as a small business concern under the size standards of this solicitation.]

Offeror's number of employees for the past 12 months [check this column if size standard stated in solicitation is expressed in terms of number of employees] or Offeror's average annual gross revenue for the last 3 fiscal years [check this column if size standard stated in solicitation is expressed in terms of annual receipts]. [Check one of the following.]

NO. OF EMPLOYEES	AVG. ANNUAL GROSS REVENUES
___ 50 or fewer	___ \$1 million or less
___ 51–100	___ \$1,000,001–\$2 million
___ 101–250	___ \$2,000,001–\$3.5 million
___ 251–500	___ \$3,500,001–\$5 million
___ 501–750	___ \$5,000,001–\$10 million
___ 751–1,000	___ \$10,000,001–\$17 million
___ Over 1,000	___ Over \$17 million

(End of provision)

52.219-22 Small Disadvantaged Business Status.

As prescribed in 19.308(b), insert the following provision:

SMALL DISADVANTAGED BUSINESS STATUS (OCT 1999)

(a) *General.* This provision is used to assess an offeror's small disadvantaged business status for the purpose of obtaining a benefit on this solicitation. Status as a small business and status as a small disadvantaged business for general statistical purposes is covered by the provision at FAR 52.219-1, Small Business Program Representation.

(b) *Representations.* (1) *General.* The offeror represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either—

[] (i) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

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

(B) Where the concern is owned by one or more disadvantaged 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

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

[] (ii) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(2) *For Joint Ventures.* The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements at 13 CFR 124.1002(f) and that the representation in paragraph (b)(1) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: _____.]

(c) *Penalties and Remedies.* Anyone who misrepresents any aspects of the disadvantaged status of a concern for the purposes of securing a contract or subcontract shall—

(1) Be punished by imposition of a fine, imprisonment, or both;

(2) Be subject to administrative remedies, including suspension and debarment; and

(3) Be ineligible for participation in programs conducted under the authority of the Small Business Act.

(End of provision)

Alternate I (Oct 1998). As prescribed in 19.308(b), add the following paragraph (b)(3) to the basic provision:

(3) *Address.* The offeror represents that its address is, is not in a region for which a small disadvantaged business procurement mechanism is authorized and its address has not changed since its certification as a small disadvantaged business concern or submission of its application for certification. The list of authorized small disadvantaged business procurement mechanisms and regions is posted at <http://www.arnet.gov/References/sbadjustments.htm>. The offeror shall use the list in effect on the date of this solicitation. “Address,” as used in this provision, means the address of the offeror as listed on the Small Business Administration’s register of small disadvantaged business concerns or the address on the completed application that the concern has submitted to the Small Business Administration or a Private Certifier in accordance with 13 CFR Part 124, subpart B. For joint ventures, “address” refers to the address of the small disadvantaged business concern that is participating in the joint venture.

52.219-23 Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.

As prescribed in 19.1104, insert the following clause:

NOTICE OF PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS (JUNE 2003)

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

“Small disadvantaged business concern” means an offeror that represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either—

(1) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR Part 124, subpart B; and

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

(ii) Where the concern is owned by one or more disadvantaged 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

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

(2) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR Part 124, subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted. In this case, in order to receive the benefit of a price evaluation adjustment, an offeror must receive certification as

a small disadvantaged business concern by the Small Business Administration prior to contract award; or

(3) Is a joint venture as defined in 13 CFR 124.1002(f).

“Historically black college or university” means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense (DoD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

“Minority institution” means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k, including a Hispanic-serving institution of higher education, as defined in Section 316(b)(1) of the Act (20 U.S.C. 1101a)).

(b) *Evaluation adjustment.* (1) The Contracting Officer will evaluate offers by adding a factor of ____ [*Contracting Officer insert the percentage*] percent to the price of all offers, except—

(i) Offers from small disadvantaged business concerns that have not waived the adjustment;

(ii) An otherwise successful offer of eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is equaled or exceeded (see section 25.402 of the Federal Acquisition Regulation (FAR));

(iii) An otherwise successful offer where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government;

(iv) For DoD, NASA, and Coast Guard acquisitions, an otherwise successful offer from a historically black college or university or minority institution; and

(v) For DoD acquisitions, an otherwise successful offer of qualifying country end products (see sections 225.000-70 and 252.225-7001 of the Defense FAR Supplement).

(2) The Contracting Officer will apply the factor to a line item or a group of line items on which award may be made. The Contracting Officer will apply other evaluation factors described in the solicitation before application of the factor. The factor may not be applied if using the adjustment would cause the contract award to be made at a price that exceeds the fair market price by more than the factor in paragraph (b)(1) of this clause.

(c) *Waiver of evaluation adjustment.* A small disadvantaged business concern may elect to waive the adjustment, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of this clause do not apply to offers that waive the adjustment.

____ Offeror elects to waive the adjustment.

(d) *Agreements.* (1) A small disadvantaged business concern, that did not waive the adjustment, agrees that in performance of the contract, in the case of a contract for—

(i) Services, except construction, at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern;

(ii) Supplies (other than procurement from a non-manufacturer of such supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern;

(iii) General construction, at least 15 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern; or

(iv) Construction by special trade contractors, at least 25 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.

(2) A small disadvantaged business concern submitting an offer in its own name shall furnish in performing this contract only end items manufactured or produced by small disadvantaged business concerns in the United States or its outlying areas. This paragraph does not apply to construction or service contracts.

(End of clause)

Alternate I (June 2003). As prescribed in 19.1104, substitute the following paragraph (d)(2) for paragraph (d)(2) of the basic clause:

(2) A small disadvantaged business concern submitting an offer in its own name shall furnish in performing this contract only end items manufactured or produced by small business concerns in the United States or its outlying areas. This paragraph does not apply to construction or service contracts.

Alternate II (Oct 1998) As prescribed in 19.1104, substitute the following paragraph (b)(1)(i) for paragraph (b)(1)(i) of the basic clause:

(i) Offers from small disadvantaged business concerns, that have not waived the adjustment, whose address is in a region for which an evaluation adjustment is authorized;

52.219-24 Small Disadvantaged Business Participation Program—Targets.

As prescribed in 19.1204(a), insert a provision substantially the same as the following:

SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM—TARGETS (OCT 2000)

(a) This solicitation contains a source selection factor or subfactor related to the participation of small disadvantaged business (SDB) concerns in the contract. Credit under that evaluation factor or subfactor is not available to an SDB concern that qualifies for a price evaluation adjustment under the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, unless the SDB concern specifically waives the price evaluation adjustment.

(b) In order to receive credit under the source selection factor or subfactor, the offeror must provide, with its offer, targets, expressed as dollars and percentages of total contract value, for SDB participation in any of the North American Industry Classification System (NAICS) Industry Subsectors as determined by the Department of Commerce. The targets may provide for participation by a prime contractor, joint venture partner, teaming arrangement member, or subcontractor; however, the targets for subcontractors must be listed separately.

(End of provision)

52.219-25 Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting.

As prescribed in 19.1204(b), insert the following clause:

SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM—DISADVANTAGED STATUS AND REPORTING (OCT 1999)

(a) *Disadvantaged status for joint venture partners, team members, and subcontractors.* This clause addresses disadvantaged status for joint venture partners, teaming arrangement members, and subcontractors and is applicable if this contract contains small disadvantaged business (SDB) participation targets. The Contractor shall obtain representations of small disadvantaged status from joint venture partners, teaming arrangement members, and subcontractors through use of a provision substantially the same as paragraph (b)(1)(i) of the provision at FAR 52.219-22, Small Disadvantaged Business Status. The Contractor shall confirm that a joint venture partner, team member, or subcontractor representing itself as a small disadvantaged business concern, is identified as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net) or by contacting the SBA's Office of Small Disadvantaged Business Certification and Eligibility.

(b) *Reporting requirement.* If this contract contains SDB participation targets, the Contractor shall report on the participation of SDB concerns at contract completion, or as otherwise provided in this contract. Reporting may be on Optional Form 312, Small Disadvantaged Business Participation Report, or in the Contractor's own format providing the same information. This report is required for each contract containing SDB participation targets. If this contract contains an individual Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, reports may be submitted with the final Subcontracting Report for Individual Contracts (Standard Form 294) at the completion of the contract.

(End of clause)

52.219-26 Small Disadvantaged Business Participation Program—Incentive Subcontracting.

As prescribed in 19.1204(c), insert a clause substantially the same as the following:

SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM—INCENTIVE SUBCONTRACTING (OCT 2000)

(a) Of the total dollars it plans to spend under subcontracts, the Contractor has committed itself in its offer to try to award a certain amount to small disadvantaged business concerns in the North American Industry Classification System (NAICS) Industry Subsectors as determined by the Department of Commerce.

(b) If the Contractor exceeds its total monetary target for subcontracting to small disadvantaged business concerns in the authorized, NAICS Industry Subsectors, it will receive _____ [*Contracting Officer to insert the appropriate number between 0 and 10*] percent of the dollars in excess of the monetary target, unless the Contracting Officer determines that the excess was not due to the Contractor's efforts (*e.g.*, a subcontractor cost overrun caused the actual subcontract amount to exceed that estimated in the offer, or the excess was caused by the award of subcontracts that had been planned but had not been disclosed in the offer during contract negotiations). Determinations made under this paragraph are unilateral decisions made solely at the discretion of the Government.

(c) If this is a cost-plus-fixed-fee contract, the sum of the fixed fee and the incentive fee earned under this contract may not exceed the limitations in subsection 15.404-4 of the Federal Acquisition Regulation.

(End of clause)

52.219-27 Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside.

As prescribed in 19.1407, insert the following clause:

NOTICE OF TOTAL SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS SET-ASIDE (MAY 2004)

(a) *Definition.* "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).

(b) *General.* (1) Offers are solicited only from service-disabled veteran-owned small business concerns. Offers received from concerns that are not service-disabled veteran-owned small business concerns shall not be considered.

(2) Any award resulting from this solicitation will be made to a service-disabled veteran-owned small business concern.

(c) *Agreement.* A service-disabled veteran-owned small business concern agrees that in the performance of the contract, in the case of a contract for—

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

(2) Supplies (other than acquisition from a nonmanufacturer of the supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other service-disabled veteran-owned small business concerns;

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

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

(d) A joint venture may be considered a service-disabled veteran owned small business concern if—

(1) At least one member of the joint venture is a service-disabled veteran-owned small business concern, and makes the following representations: That it is a service-disabled veteran-owned small business concern, and that it is a small business concern under the North American Industry Classification Systems (NAICS) code assigned to the procurement;

(2) Each other concern is small under the size standard corresponding to the NAICS code assigned to the procurement; and

(3) The joint venture meets the requirements of paragraph 7 of the explanation of Affiliates in 19.101 of the Federal Acquisition Regulation.

(4) The joint venture meets the requirements of 13 CFR 125.15(b)

(e) Any service-disabled veteran-owned small business concern (nonmanufacturer) must meet the requirements in

19.102(f) of the Federal Acquisition Regulation to receive a benefit under this program.

52.220 [Reserved]

(End of clause)

52.221 [Reserved]

52.222-1 Notice to the Government of Labor Disputes.

As prescribed in 22.103-5(a), insert the following clause:

NOTICE TO THE GOVERNMENT OF LABOR DISPUTES
(FEB 1997)

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

(End of clause)

52.222-2 Payment for Overtime Premiums.

As prescribed in 22.103-5(b), insert the following clause:

PAYMENT FOR OVERTIME PREMIUMS (JULY 1990)

(a) The use of overtime is authorized under this contract if the overtime premium does not exceed * _____ or the overtime premium is paid for work—

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

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

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

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

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

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

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

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

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

* Insert either “zero” or the dollar amount agreed to during negotiations. The inserted figure does not apply to the exceptions in paragraph (a)(1) through (a)(4) of the clause.

(End of clause)

52.222-3 Convict Labor.

As prescribed in 22.202, insert the following clause:

CONVICT LABOR (JUNE 2003)

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

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

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

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

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

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

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

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

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

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

(End of clause)

52.222-4 Contract Work Hours and Safety Standards Act—Overtime Compensation.

As prescribed in 22.305, insert the following clause:

CONTRACT WORK HOURS AND SAFETY STANDARDS
ACT—OVERTIME COMPENSATION (SEPT 2000)

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

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

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

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

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

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

contractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

(End of clause)

52.222-5 [Reserved]

52.222-6 Davis-Bacon Act.

As prescribed in 22.407(a), insert the following clause:

DAVIS-BACON ACT (FEB 1995)

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

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

cation and wage rate and fringe benefits therefor only when all the following criteria have been met:

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

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

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

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the:

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
Washington, DC 20210

The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

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

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

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

(d) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of

the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(End of clause)

52.222-7 Withholding of Funds.

As prescribed in 22.407(a), insert the following clause:

WITHHOLDING OF FUNDS (FEB 1988)

The Contracting Officer shall, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(End of clause)

52.222-8 Payrolls and Basic Records.

As prescribed in 22.407(a), insert the following clause:

PAYROLLS AND BASIC RECORDS (FEB 1988)

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Davis-Bacon Act, that the wages of any laborer or

mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the—

Superintendent of Documents
U.S. Government Printing Office
Washington, DC 20402

The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

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

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

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

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

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

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

(End of clause)

52.222-9 Apprentices and Trainees.

As prescribed in 22.407(a), insert the following clause:

APPRENTICES AND TRAINEES (FEB 1988)

(a) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman’s

hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) *Trainees.* Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

(End of clause)

52.222-10 Compliance with Copeland Act Requirements.

As prescribed in 22.407(a), insert the following clause:

COMPLIANCE WITH COPELAND ACT REQUIREMENTS
(FEB 1988)

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

(End of clause)

52.222-11 Subcontracts (Labor Standards).

As prescribed in 22.407(a), insert the following clause:

SUBCONTRACTS (LABOR STANDARDS) (FEB 1988)

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

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

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

(End of clause)

52.222-12 Contract Termination—Debarment.

As prescribed in 22.407(a), insert the following clause:

CONTRACT TERMINATION—DEBARMENT (FEB 1988)

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

(End of clause)

52.222-13 Compliance with Davis-Bacon and Related Act Regulations.

As prescribed in 22.407(a), insert the following clause:

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

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

(End of clause)

52.222-14 Disputes Concerning Labor Standards.

As prescribed in 22.407(a), insert the following clause:

DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)

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

(End of clause)

52.222-15 Certification of Eligibility.

As prescribed in 22.407(a), insert the following clause:

CERTIFICATION OF ELIGIBILITY (FEB 1988)

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

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

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

(End of clause)

52.222-16 Approval of Wage Rates.

As prescribed in 22.407(b), insert the following clause:

APPROVAL OF WAGE RATES (FEB 1988)

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

(End of clause)

52.222-17 Labor Standards for Construction Work—Facilities Contracts.

As prescribed in 22.407(d), insert the following clause:

LABOR STANDARDS FOR CONSTRUCTION WORK—FACILITIES CONTRACTS (FEB 1988)

(a) In the event that construction, alteration, or repair (including painting and decorating) of public buildings or public works is to be performed hereunder, the Contractor shall comply with the following listed clauses of the Federal Acquisition Regulation in performance of such work:

- (1) Contract Work Hours and Safety Standards Act—Overtime Compensation at 52.222-4.
- (2) Davis-Bacon Act at 52.222-6.
- (3) Withholding of Funds at 52.222-7.
- (4) Payrolls and Basic Records at 52.222-8.
- (5) Apprentices and Trainees at 52.222-9.
- (6) Compliance with Copeland Act Requirements at 52.222-10.
- (7) Subcontracts (Labor Standards) at 52.222-11.
- (8) Contract Termination—Debarment at 52.222-12.
- (9) Compliance with Davis-Bacon and Related Act Regulations at 52.222-13.
- (10) Disputes Concerning Labor Standards at 52.222-14.
- (11) Certification of Eligibility at 52.222-15.

(b) Upon determination by the Contracting Officer that the Davis-Bacon Act is applicable to any item of work to be per-

formed hereunder, a determination of the prevailing wage rates shall be incorporated into the contract by modification.

(c) No construction, alteration, or repair (including painting and decorating) of public buildings or public works shall be performed under this contract without incorporation of the wage determination unless the Contracting Officer authorizes the start of work because of unusual or emergency situations, in which case the wage determination shall be incorporated as soon as possible and made retroactive to the start of the work.

(End of clause)

52.222-18 Certification Regarding Knowledge of Child Labor for Listed End Products.

As prescribed in 22.1505(a), insert the following provision:

CERTIFICATION REGARDING KNOWLEDGE OF CHILD LABOR FOR LISTED END PRODUCTS (FEB 2001)

(a) *Definition.*

“Forced or indentured child labor” means all work or service—

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

(b) *Listed end products.* The following end product(s) being acquired under this solicitation is (are) included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, identified by their country of origin. There is a reasonable basis to believe that listed end products from the listed countries of origin may have been mined, produced, or manufactured by forced or indentured child labor.

Listed End Product	Listed Countries of Origin
_____	_____
_____	_____

(c) *Certification.* The Government will not make award to an offeror unless the offeror, by checking the appropriate block, certifies to either paragraph (c)(1) or paragraph (c)(2) of this provision.

(1) The offeror will not supply any end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in a corresponding country as listed for that end product.

(2) The offeror may supply an end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor

was used to mine, produce, or manufacture such end product. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(End of provision)

52.222-19 Child Labor—Cooperation with Authorities and Remedies.

As prescribed in 22.1505(b), insert the following clause:

CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES (JUNE 2004)

(a) *Applicability.* This clause does not apply to the extent that the Contractor is supplying end products mined, produced, or manufactured in—

(1) Canada, and the anticipated value of the acquisition is \$25,000 or more;

(2) Israel, and the anticipated value of the acquisition is \$50,000 or more;

(3) Mexico, and the anticipated value of the acquisition is \$58,550 or more; or

(4) Aruba, Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or the United Kingdom and the anticipated value of the acquisition is \$175,000 or more.

(b) *Cooperation with Authorities.* To enforce the laws prohibiting the manufacture or importation of products mined, produced, or manufactured by forced or indentured child labor, authorized officials may need to conduct investigations to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under this contract. If the solicitation includes the provision 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products, or the equivalent at 52.212-3(i), the Contractor agrees to cooperate fully with authorized officials of the contracting agency, the Department of the Treasury, or the Department of Justice by providing reasonable access to records, documents, persons, or premises upon reasonable request by the authorized officials.

(c) *Violations.* The Government may impose remedies set forth in paragraph (d) for the following violations:

(1) The Contractor has submitted a false certification regarding knowledge of the use of forced or indentured child labor for listed end products.

(2) The Contractor has failed to cooperate, if required, in accordance with paragraph (b) of this clause, with an investigation of the use of forced or indentured child labor by an Inspector General, Attorney General, or the Secretary of the Treasury.

(3) The Contractor uses forced or indentured child labor in its mining, production, or manufacturing processes.

(4) The Contractor has furnished under the contract end products or components that have been mined, produced, or manufactured wholly or in part by forced or indentured child labor. (The Government will not pursue remedies at paragraph (d)(2) or paragraph (d)(3) of this clause unless sufficient evidence indicates that the Contractor knew of the violation.)

(d) *Remedies.* (1) The Contracting Officer may terminate the contract.

(2) The suspending official may suspend the Contractor in accordance with procedures in FAR Subpart 9.4.

(3) The debarring official may debar the Contractor for a period not to exceed 3 years in accordance with the procedures in FAR Subpart 9.4.

(End of clause)

52.222-20 Walsh-Healey Public Contracts Act.

As prescribed in 22.610, insert the following clause in solicitations and contracts covered by the Act:

WALSH-HEALEY PUBLIC CONTRACTS ACT (DEC 1996)

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed \$10,000, and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), the following terms and conditions apply:

(a) All stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.

(b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and handicapped workers may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (41 U.S.C. 40).

(End of clause)

52.222-21 Prohibition of Segregated Facilities.

As prescribed in 22.810(a)(1), insert the following clause:

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 sub-contract and purchase order that is subject to the Equal Opportunity clause of this contract.

(End of clause)

52.222-22 Previous Contracts and Compliance Reports.

As prescribed in 22.810(a)(2), insert the following provision:

PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

The offeror represents that—

(a) It has, has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) It has, has not filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(End of provision)

52.222-23 Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction.

As prescribed in 22.810(b), insert the following provision:

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

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

(b) The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate

workforce in each trade on all construction work in the covered area, are as follows:

**Goals for Minority
Participation for
Each Trade**

[Contracting Officer shall
insert goals]

**Goals for Female
Participation for
Each Trade**

[Contracting Officer shall
insert goals]

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the *Federal Register* in notice form, and these notices may be obtained from any Office of Federal Contract Compliance Programs office.

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

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

- (1) Name, address, and telephone number of the subcontractor;
- (2) Employer's identification number of the subcontractor;
- (3) Estimated dollar amount of the subcontract;
- (4) Estimated starting and completion dates of the subcontract; and
- (5) Geographical area in which the subcontract is to be performed.

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

[Contracting Officer shall insert description of the geographical areas where the contract is to be performed, giving the state, county, and city].

(End of provision)

**52.222-24 Preaward On-Site Equal Opportunity
Compliance Evaluation.**

As prescribed in 22.810(c), insert the following provision:

PREAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE
EVALUATION (FEB 1999)

If a contract in the amount of \$10 million or more will result from this solicitation, the prospective Contractor and its known first-tier subcontractors with anticipated subcontracts of \$10 million or more shall be subject to a preaward compliance evaluation by the Office of Federal Contract Compliance Programs (OFCCP), unless, within the preceding 24 months, OFCCP has conducted an evaluation and found the prospective Contractor and subcontractors to be in compliance with Executive Order 11246.

(End of provision)

52.222-25 Affirmative Action Compliance.

As prescribed in 22.810(d), insert the following provision:

AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

The offeror represents that—

- (a) It has developed and has on file, has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2); or
- (b) It has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(End of provision)

52.222-26 Equal Opportunity.

As prescribed in 22.810(e), insert the following clause:

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

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

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

(End of clause)

Alternate I (Feb 1999). As prescribed in 22.810(e), add the following as a preamble to the clause:

NOTICE: The following terms of this clause are waived for this contract: _____ [*Contracting Officer shall list terms*].

52.222-27 Affirmative Action Compliance Requirements for Construction.

As prescribed in 22.810(f), insert the following clause:

AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR
CONSTRUCTION (FEB 1999)

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

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

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

“Minority,” as used in this clause, means—

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

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

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

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

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

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

(d) The Contractor shall implement the affirmative action procedures in paragraphs (g)(1) through (16) of this clause. The goals stated in the solicitation for this contract are expressed as percentages of the total hours of employment and training of minority and female utilization that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. If the Con-

tractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for the geographical area where that work is actually performed. The Contractor is expected to make substantially uniform progress toward its goals in each craft.

(e) Neither the terms and conditions of any collective bargaining agreement, nor the failure by a union with which the Contractor has a collective bargaining agreement, to refer minorities or women shall excuse the Contractor’s obligations under this clause, Executive Order 11246, as amended, or the regulations thereunder.

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

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

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

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

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

(4) Immediately notify the Deputy Assistant Secretary when the union or unions with which the Contractor has a col-

lective bargaining agreement has not referred back to the Contractor a minority or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

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

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

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

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

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

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

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

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

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

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

describing the openings, screening procedures, and tests to be used in the selection process.

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

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

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

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

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

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

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

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

(1) Actively participates in the group;

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

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

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

(5) Can provide access to documentation that demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply is the Contractor's, and

failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

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

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

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

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

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

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

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

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

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

(o) Nothing contained herein shall be construed as a limitation upon the application of other laws that establish differ-

ent standards of compliance or upon the requirements for the hiring of local or other area residents (*e.g.*, those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(End of clause)

52.222-28 [Reserved]

52.222-29 Notification of Visa Denial.

As prescribed in 22.810(g), insert the following clause:

NOTIFICATION OF VISA DENIAL (JUNE 2003)

It is a violation of Executive Order 11246 for a Contractor to refuse to employ any applicant or not to assign any person hired in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, or Wake Island, on the basis that the individual's race, color, religion, sex, or national origin is not compatible with the policies of the country where or for whom the work will be performed (41 CFR 60-1.10). The Contractor shall notify the U.S. Department of State, Assistant Secretary, Bureau of Political-Military Affairs (PM), 2201 C Street NW, Room 6212, Washington, DC 20520, and the U.S. Department of Labor, Deputy Assistant Secretary for Federal Contract Compliance, when it has knowledge of any employee or potential employee being denied an entry visa to a country where this contract will be performed, and it believes the denial is attributable to the race, color, religion, sex, or national origin of the employee or potential employee.

(End of clause)

52.222-30 Davis-Bacon Act—Price Adjustment (None or Separately Specified Method).

As prescribed in 22.407(e), insert the following clause:

DAVIS-BACON ACT—PRICE ADJUSTMENT (NONE OR SEPARATELY SPECIFIED METHOD) (DEC 2001)

(a) The wage determination issued under the Davis-Bacon Act by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, that is effective for an option to extend the term of the contract, will apply to that option period.

(b) The Contracting Officer will make no adjustment in contract price, other than provided for elsewhere in this contract, to cover any increases or decreases in wages and benefits as a result of—

(1) Incorporation of the Department of Labor's wage determination applicable at the exercise of the option to extend the term of the contract;

(2) Incorporation of a wage determination otherwise applied to the contract by operation of law; or

(3) An increase in wages and benefits resulting from any other requirement applicable to workers subject to the Davis-Bacon Act.

(End of clause)

52.222-31 Davis-Bacon Act—Price Adjustment (Percentage Method).

As prescribed in 22.407(f), insert the following clause:

DAVIS-BACON ACT—PRICE ADJUSTMENT (PERCENTAGE METHOD) (DEC 2001)

(a) The wage determination issued under the Davis-Bacon Act by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, that is effective for an option to extend the term of the contract, will apply to that option period.

(b) The Contracting Officer will adjust the portion of the contract price or contract unit price(s) containing the labor costs subject to the Davis-Bacon Act to provide for an increase in wages and fringe benefits at the exercise of each option to extend the term of the contract in accordance with the following procedures:

(1) The Contracting Officer has determined that the portion of the contract price or contract unit price(s) containing labor costs subject to the Davis-Bacon Act is _____ [*Contracting Officer insert percentage rate*] percent.

(2) The Contracting Officer will increase the portion of the contract price or contract unit price(s) containing the labor costs subject to the Davis-Bacon Act by the percentage rate published in _____ [*Contracting Officer insert publication*].

(c) The Contracting Officer will make the price adjustment at the exercise of each option to extend the term of the contract. This adjustment is the only adjustment that the Contracting Officer will make to cover any increases in wages and benefits as a result of—

(1) Incorporation of the Department of Labor's wage determination applicable at the exercise of the option to extend the term of the contract;

(2) Incorporation of a wage determination otherwise applied to the contract by operation of law; or

(3) An increase in wages and benefits resulting from any other requirement applicable to workers subject to the Davis-Bacon Act.

(End of clause)

52.222-32 Davis-Bacon Act—Price Adjustment (Actual Method).

As prescribed in 22.407(g), insert the following clause:

DAVIS-BACON ACT—PRICE ADJUSTMENT (ACTUAL METHOD) (DEC 2001)

(a) The wage determination issued under the Davis-Bacon Act by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, that is effective for an option to extend the term of the contract, will apply to that option period.

(b)(1) The Contractor states that if the prices in this contract contain an allowance for wage or benefit increases, such allowance will not be included in any request for contract price adjustment submitted under this clause.

(2) The Contractor shall provide with each request for contract price adjustment under this clause a statement that the prices in the contract do not include any allowance for any increased cost for which adjustment is being requested.

(c) The Contracting Officer will adjust the contract price or contract unit price labor rates to reflect the Contractor's actual increase or decrease in 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) Incorporation of the Department of Labor's Davis-Bacon Act wage determination applicable at the exercise of an option to extend the term of the contract; or

(2) Incorporation of a Davis-Bacon Act wage determination otherwise applied to the contract by operation of law.

(d) 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 will not otherwise include any amount for general and administrative costs, overhead, or profit.

(e) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after receiving a revised wage determination unless this notification period is extended in writing by the Contracting Officer. The Contractor shall notify the Contracting Officer promptly of any decrease under this clause, but nothing in this clause precludes 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 Contracting Officer will modify the contract price or contract unit price in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.

(f) Contract price adjustment computations shall be computed as follows:

(1) *Computation for contract unit price per single craft hour for schedule of indefinite-quantity work.* For each labor classification, the difference between the actual wage and benefit rates (combined) paid and the wage and benefit rates (combined) required by the new wage determination shall be added to the original contract unit price if the difference

results in a combined increase. If the difference computed results in a combined decrease, the contract unit price shall be decreased by that amount if the Contractor provides notification as provided in paragraph (e) of this clause.

(2) *Computation for contract unit price containing multiple craft hours for schedule of indefinite-quantity work.* For each labor classification, the difference between the actual wage and benefit rates (combined) paid and the wage and benefit rates (combined) required by the new wage determination shall be multiplied by the actual number of hours expended for each craft involved in accomplishing the unit-priced work

item. The product of this computation will then be divided by the actual number of units ordered in the preceding contract period. The total of these computations for each craft will be added to the current contract unit price to obtain the new contract unit price. The extended amount for the contract line item will be obtained by multiplying the new unit price by the estimated quantity. If actual hours are not available from the preceding contract period for computation of the adjustment for a specific contract unit of work, the Contractor, in agreement with the Contracting Officer, shall estimate the total hours per craft per contract unit of work.

EXAMPLE: ASPHALT PAVING—CURRENT PRICE \$3.38 PER SQUARE YARD									
DBA Craft	New WD		Hourly rate paid		Diff.		Actual Hrs	Actual units (sq. yard)	Increase/sq yard
Equip. Opr.	\$18.50	–	\$18.00	=	\$.50	×	600 hrs./	3,000 sq. yrd.	= \$.10
Truck Driver	\$19.00	–	\$18.25	=	\$.75	×	525 hrs./	3,000 sq. yrd.	= \$.13
Laborer	\$11.50	–	\$11.25	=	\$.25	×	750 hrs./	3,000 sq. yrd.	= \$.06
Total increase per square yard =									\$.29*
* Note: Adjustment for labor rate increases or decreases may be accompanied by social security and unemployment taxes and workers' compensation insurance.									
Current unit price	=	\$3.38	per square yard						
Add DBA price adj.		+ .29							
New unit price		\$3.67	per square yard						

(End of clause)

52.222-33 [Reserved]

52.222-34 [Reserved]

52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans.

As prescribed in 22.1310(a)(1), insert the following clause:

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

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

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

“Executive and top management” means any employee—

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

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

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

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

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

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

“Positions that will be filled from within the Contractor’s organization” means employment openings for which the Contractor will give no consideration to persons outside the Contractor’s organization (including any affiliates, subsidiaries, and parent companies) and includes any openings the Contractor proposes to fill from regularly established “recall”

lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

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

“Special disabled veteran” means—

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

(i) Rated at 30 percent or more; or

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

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

“Veteran of the Vietnam era” means a person who—

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

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

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

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

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

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

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

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

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

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

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

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

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

(vii) Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

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

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

(2) The Contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued under the Vietnam Era Veterans’ Readjustment Assistance Act of 1972 (the Act), as amended (38 U.S.C. 4211 and 4212).

(c) *Listing openings.* (1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract, and including those occurring at an establishment of the Contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local public employment service office of the State wherein the opening occurs. Listing employment openings with the U.S. Department of Labor’s America’s Job Bank shall satisfy the requirement to list jobs with the local employment service office.

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

(3) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State public employment agency in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually

bound to these terms and has so advised the State agency, it need not advise the State agency of subsequent contracts. The Contractor may advise the State agency when it is no longer bound by this contract clause.

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

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

(2) The employment notices shall—

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

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

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

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

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

(g) *Subcontracts.* The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of \$25,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Deputy Assistant Secretary of Labor to enforce the terms, including action for noncompliance.

(End of clause)

Alternate I (Dec 2001). As prescribed in 22.1310(a)(2), add the following as a preamble to the clause:

NOTICE: The following term(s) of this clause are waived for this contract: _____ [List term(s)].

52.222-36 Affirmative Action for Workers with Disabilities.

As prescribed in 22.1408(a), insert the following clause:

AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUNE 1998)

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The rights of applicants and employees.

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

Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.

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

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

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

(End of clause)

Alternate I (June 1998). As prescribed in 22.1408(b), add the following as a preamble to the clause:

NOTICE: The following term(s) of this clause are waived for this contract: _____ [*List term(s)*].

52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans.

As prescribed in 22.1310(b), insert the following clause:

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 VETS-100, entitled “Federal Contractor Veterans’ Employment Report (VETS-100 Report).”

(c) The Contractor shall submit VETS-100 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 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date—

(1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or

(2) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The 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.

(End of clause)

52.222-38 Compliance with Veterans’ Employment Reporting Requirements.

As prescribed in 22.1310(c), insert the following provision:

COMPLIANCE WITH VETERANS’ EMPLOYMENT REPORTING REQUIREMENTS (DEC 2001)

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212(d) (*i.e.*, if it has any contract containing Federal Acquisition Regulation clause 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans), it has submitted the most recent VETS-100 Report required by that clause.

(End of provision)

52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees.

As prescribed in 22.1605, insert the following clause:

NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING
PAYMENT OF UNION DUES OR FEES (DEC 2004)

(a) *Definition.* As used in this clause—

“United States” 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) Except as provided in paragraph (e) of this clause, during the term of this contract, the Contractor shall post a notice, in the form of a poster, informing employees of their rights concerning union membership and payment of union dues and fees, in conspicuous places in and about all its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the information pertaining to National Labor Relations Board shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151-188)).

Notice to Employees

Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address or toll free number:

National Labor Relations Board
Division of Information
1099 14th Street, N.W.
Washington, DC 20570
1-866-667-6572
1-866-316-6572 (TTY)

To locate the nearest NLRB office, see NLRB's website at <http://www.nlr.gov>.

(c) The Contractor shall comply with all provisions of Executive Order 13201 of February 17, 2001, and related implementing regulations at 29 CFR Part 470, and orders of the Secretary of Labor.

(d) In the event that the Contractor does not comply with any of the requirements set forth in paragraphs (b), (c), or (g), the Secretary may direct that this contract be cancelled, terminated, or suspended in whole or in part, and declare the Contractor ineligible for further Government contracts in accordance with procedures at 29 CFR Part 470, Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures. Such other sanctions or remedies may be imposed as are provided by 29 CFR Part 470, which implements Executive Order 13201, or as are otherwise provided by law.

(e) The requirement to post the employee notice in paragraph (b) does not apply to—

(1) Contractors and subcontractors that employ fewer than 15 persons;

(2) Contractor establishments or construction work sites where no union has been formally recognized by the Contractor or certified as the exclusive bargaining representative of the Contractor's employees;

(3) Contractor establishments or construction work sites located in a jurisdiction named in the definition of the United States in which the law of that jurisdiction forbids enforcement of union-security agreements;

(4) Contractor facilities where upon the written request of the Contractor, the Department of Labor Deputy Assistant Secretary for Labor-Management Programs has waived the posting requirements with respect to any of the Contractor's facilities if the Deputy Assistant Secretary finds that the Contractor has demonstrated that—

(i) The facility is in all respects separate and distinct from activities of the Contractor related to the performance of a contract; and

(ii) Such a waiver will not interfere with or impede the effectuation of the Executive order; or

(5) Work outside the United States that does not involve the recruitment or employment of workers within the United States.

(f) The Department of Labor publishes the official employee notice in two variations; one for contractors covered by the Railway Labor Act and a second for all other contractors. The Contractor shall—

(1) Obtain the required employee notice poster from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5605, Washington, DC 20210, or from any field office of the Department's Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

(2) Download a copy of the poster from the Office of Labor-Management Standards website at <http://www.olms.dol.gov>; or

(3) Reproduce and use exact duplicate copies of the Department of Labor's official poster.

(g) The Contractor shall include the substance of this clause in every subcontract or purchase order that exceeds the simplified acquisition threshold, entered into in connection with this contract, unless exempted by the Department of Labor Deputy Assistant Secretary for Labor-Management Programs on account of special circumstances in the national interest under authority of 29 CFR 470.3(c). For indefinite quantity subcontracts, the Contractor shall include the substance of this clause if the value of orders in any calendar year of the subcontract is expected to exceed the simplified acquisition threshold. Pursuant to 29 CFR Part 470, Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures, the Secretary of Labor may direct the Contractor to take such action in the enforcement of these regulations, including the imposition of sanctions for non-compliance with respect to any such subcontract or purchase order. If the Contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

(End of clause)

52.222-40 [Reserved]

52.222-41 Service Contract Act of 1965, as Amended.

As prescribed in 22.1006(a), insert the following clause:

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

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

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

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

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

tively 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 var-

ious 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 paragraph (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 paragraph (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 paragraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

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

(f) *Successor contracts.* If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result

of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

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

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

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

(i) For each employee subject to the Act—

(A) Name and address and social security number;

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

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

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

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

required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

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

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

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

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

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

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

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

(m) *Collective bargaining agreements applicable to service employees.* If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or

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

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

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

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

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

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

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

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the

minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR parts 520, 521, 524, and 525).

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

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

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

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

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(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.

(End of clause)

52.222-42 Statement of Equivalent Rates for Federal Hires.

As prescribed in 22.1006(b), insert the following clause:

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
_____	_____
_____	_____
_____	_____
_____	_____

(End of clause)

52.222-43 Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts).

As prescribed in 22.1006(c)(1), insert the following clause:

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.

(End of clause)

52.222-44 Fair Labor Standards Act and Service Contract Act—Price Adjustment.

As prescribed in 22.1006(c)(2), insert the following clause:

FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT—PRICE ADJUSTMENT (FEB 2002)

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to Contractor 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 contract price or contract unit price labor rates will be adjusted to reflect increases or decreases by the Contractor in wages and fringe benefits to the extent that these increases or decreases are made to comply with—

(1) An increased or decreased wage determination applied to this contract by operation of law; or

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

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

(e) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after the effective date of the wage change, unless this period is extended by the Contracting Officer in writing. 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 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.

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

(End of clause)

52.222-45 [Reserved]

52.222-46 Evaluation of Compensation for Professional Employees.

As prescribed in 22.1103, insert the following provision:

EVALUATION OF COMPENSATION FOR PROFESSIONAL EMPLOYEES (FEB 1993)

(a) Recompetition of service contracts may in some cases result in lowering the compensation (salaries and fringe benefits) paid or furnished professional employees. This lowering can be detrimental in obtaining the quality of professional services needed for adequate contract performance. It is therefore in the Government's best interest that professional employees, as defined in 29 CFR 541, be properly and fairly compensated. As part of their proposals, offerors will submit a total compensation plan setting forth salaries and fringe benefits proposed for the professional employees who will work under the contract. The Government will evaluate the plan to assure that it reflects a sound management approach and understanding of the contract requirements. This evaluation will include an assessment of the offeror's ability to provide uninterrupted high-quality work. The professional compensation proposed will be considered in terms of its impact upon recruiting and retention, its realism, and its consistency with a total plan for compensation. Supporting information will include data, such as recognized national and regional compensation surveys and studies of professional, public and private organizations, used in establishing the total compensation structure.

(b) The compensation levels proposed should reflect a clear understanding of work to be performed and should indicate the capability of the proposed compensation structure to obtain and keep suitably qualified personnel to meet mission objectives. The salary rates or ranges must take into account differences in skills, the complexity of various disciplines, and professional job difficulty. Additionally, proposals envi-

sioning compensation levels lower than those of predecessor contractors for the same work will be evaluated on the basis of maintaining program continuity, uninterrupted high-quality work, and availability of required competent professional service employees. Offerors are cautioned that lowered compensation for essentially the same professional work may indicate lack of sound management judgment and lack of understanding of the requirement.

(c) The Government is concerned with the quality and stability of the work force to be employed on this contract. Professional compensation that is unrealistically low or not in reasonable relationship to the various job categories, since it may impair the Contractor's ability to attract and retain competent professional service employees, may be viewed as evidence of failure to comprehend the complexity of the contract requirements.

(d) Failure to comply with these provisions may constitute sufficient cause to justify rejection of a proposal.

(End of provision)

**52.222-47 SCA Minimum Wages and Fringe Benefits
Applicable to Successor Contract Pursuant to
Predecessor Contractor Collective Bargaining
Agreements (CBA).**

As prescribed in 22.1006(d) and 22.1012-3(d)(1), insert the following clause:

**SERVICE CONTRACT ACT (SCA) MINIMUM WAGES AND
FRINGE BENEFITS (MAY 1989)**

An SCA wage determination applicable to this work has been requested from the U.S. Department of Labor. If an SCA wage determination is not incorporated herein, the bidders/offerors shall consider the economic terms of the collective bargaining agreement (CBA) between the incumbent Contractor _____ and the _____ (union). If the economic terms of the collective bargaining agreement or the collective bargaining agreement itself is not attached to the solicitation, copies can be obtained from the Contracting Officer. Pursuant to Department of Labor Regulation, 29 CFR 4.1b and paragraph (g) of the clause at 52.222-41, Service Contract Act of 1965, as amended, the economic terms of that agreement will apply to the contract resulting from this solicitation, notwithstanding the absence of a wage determination reflecting such terms, unless it is determined that the agreement was not the result of arm's length negotiations or that after a hearing pursuant to section 4(c) of the Act, the economic terms of the agreement are substantially at variance with the wages prevailing in the area.

(End of clause)

**52.222-48 Exemption from Application of Service
Contract Act Provisions for Contracts for**

**Maintenance, Calibration, and/or Repair of Certain
Information Technology, Scientific and Medical and/or
Office and Business Equipment—Contractor
Certification.**

As prescribed in 22.1006(e)(1), insert the following clause:

**EXEMPTION FROM APPLICATION OF SERVICE CONTRACT
ACT PROVISIONS FOR CONTRACTS FOR MAINTENANCE,
CALIBRATION, AND/OR REPAIR OF CERTAIN
INFORMATION TECHNOLOGY, SCIENTIFIC AND MEDICAL
AND/OR OFFICE AND BUSINESS EQUIPMENT—
CONTRACTOR CERTIFICATION (AUG 1996)**

(a) The following certification shall be checked:

CERTIFICATION

The offeror certifies does not certify that—

(1) The items of equipment to be serviced under this contract are commercial items which are used regularly for other than Government purposes, and are sold or traded by the Contractor in substantial quantities to the general public in the course of normal business operations;

(2) The contract services are furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, and/or repair of certain information technology, scientific and medical and/or office and business equipment. An "established catalog price" is a price (including discount price) recorded in a catalog, price list, schedule, or other verifiable and established record that is regularly maintained by the manufacturer or the Contractor and is either published or otherwise available for inspection by customers. An "established market price" is a current price, established in the course of ordinary and usual trade between buyers and sellers free to bargain, which can be substantiated by data from sources independent of the manufacturer or Contractor; and

(3) The Contractor utilizes the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract as the Contractor uses for equivalent employees servicing the same equipment of commercial customers.

(b) If a negative certification is made and a Service Contract Act wage determination is not attached to the solicitation, the Contractor shall notify the Contracting Officer as soon as possible.

(c) Failure to execute the certification in paragraph (a) of this clause or to contact the Contracting Officer as required in paragraph (b) of this clause may render the bid or offer nonresponsive.

(End of clause)

**52.222-49 Service Contract Act—Place of Performance
Unknown.**

As prescribed in 22.1006(f) and 22.1009-4(c), insert the following clause:

SERVICE CONTRACT ACT—PLACE OF PERFORMANCE
UNKNOWN (MAY 1989)

(a) This contract is subject to the Service Contract Act, and the place of performance was unknown when the solicitation was issued. In addition to places or areas identified in wage determinations, if any, attached to the solicitation, wage determinations have also been requested for the following: _____ [*insert places or areas*]. The Contracting Officer will request wage determinations for additional places or areas of performance if asked to do so in writing by _____ [*insert time and date*].

(b) Offerors who intend to perform in a place or area of performance for which a wage determination has not been attached or requested may nevertheless submit bids or proposals. However, a wage determination shall be requested and incorporated in the resultant contract retroactive to the date of contract award, and there shall be no adjustment in the contract price.

(End of clause)

52.222-50 [Reserved]

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52.223-1 [Reserved]

52.223-2 [Reserved]

52.223-3 Hazardous Material Identification and Material Safety Data.

As prescribed in 23.303, insert the following clause:

HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997)

(a) “Hazardous material,” as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

Material (If none, insert “None”)	Identification No.
_____	_____
_____	_____
_____	_____

(c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.

(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the

obtaining of licenses and permits) in connection with hazardous material.

(h) The Government’s rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to—

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with paragraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

(End of clause)

Alternate I (July 1995). If the contract is awarded by an agency other than the Department of Defense, add the following paragraph (i) to the basic clause:

(i) Except as provided in paragraph (i)(2), the Contractor shall prepare and submit a sufficient number of Material Safety Data Sheets (MSDS's), meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous materials identified in paragraph (b) of this clause.

(1) For items shipped to consignees, the Contractor shall include a copy of the MSDS's with the packing list or other suitable shipping document which accompanies each shipment. Alternatively, the Contractor is permitted to transmit MSDS's to consignees in advance of receipt of shipments by consignees, if authorized in writing by the Contracting Officer.

(2) For items shipped to consignees identified by mailing address as agency depots, distribution centers or customer supply centers, the Contractor shall provide one copy of the MSDS's in or on each shipping container. If affixed to the outside of each container, the MSDS's must be placed in a weather resistant envelope.

52.223-4 Recovered Material Certification.

As prescribed in 23.406(a), insert the following provision:

RECOVERED MATERIAL CERTIFICATION (OCT 1997)

As required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962(c)(3)(A)(i)), the offeror certifies, by signing this offer, that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by the applicable contract specifications.

(End of provision)

52.223-5 Pollution Prevention and Right-to-Know Information.

As prescribed in 23.1005, insert the following clause:

POLLUTION PREVENTION AND RIGHT-TO-KNOW
INFORMATION (AUG 2003)

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

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

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

(b) Executive Order 13148 requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109).

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

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

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

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

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

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

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

(End of clause)

Alternate I (Aug 2003). As prescribed in 23.1005(b), add the following paragraph (c)(7) to the basic clause:

(c)(7) The environmental management system as described in Section 401 of E.O. 13148.

Alternate II (Aug 2003). As prescribed in 23.1005(c), add the following paragraph (c)(7) to the basic clause. If Alternate I is also prescribed, renumber paragraph (c)(7) as paragraph (c)(8).

(c)(7) The facility compliance audits as described in Section 402 of E.O. 13148.

52.223-6 Drug-Free Workplace.

As prescribed in 23.505, insert the following clause:

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 paragraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by paragraph (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 paragraphs (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.

(End of clause)

52.223-7 Notice of Radioactive Materials.

As prescribed in 23.602, insert the following clause:

NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

(a) The Contractor shall notify the Contracting Officer or designee, in writing, _____* days prior to the delivery of, or prior to completion of any servicing required by this contract of, items containing either (1) radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, as set forth in Title 10 of the *Code of Federal Regulations*, in effect on the date of this contract, or (2) other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries. Such notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials,

the name and activity of the isotope, the manufacturer of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved (OMB No. 9000-0107).

* The Contracting Officer shall insert the number of days required in advance of delivery of the item or completion of the servicing to assure that required licenses are obtained and appropriate personnel are notified to institute any necessary safety and health precautions. See FAR 23.601(d).

(b) If there has been no change affecting the quantity of activity, or the characteristics and composition of the radioactive material from deliveries under this contract or prior contracts, the Contractor may request that the Contracting Officer or designee waive the notice requirement in paragraph (a) of this clause. Any such request shall—

(1) Be submitted in writing;

(2) State that the quantity of activity, characteristics, and composition of the radioactive material have not changed; and

(3) Cite the contract number on which the prior notification was submitted and the contracting office to which it was submitted.

(c) All items, parts, or subassemblies which contain radioactive materials in which the specific activity is greater than 0.002 microcuries per gram or activity per item equals or exceeds 0.01 microcuries, and all containers in which such items, parts or subassemblies are delivered to the Government shall be clearly marked and labeled as required by the latest revision of MIL-STD 129 in effect on the date of the contract.

(d) This clause, including this paragraph (d), shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause.

(End of clause)

52.223-8 [Reserved]

52.223-9 Estimate of Percentage of Recovered Material Content for EPA-Designated Products.

As prescribed in 23.406(b), insert the following clause:

ESTIMATE OF PERCENTAGE OF RECOVERED MATERIAL CONTENT FOR EPA-DESIGNATED PRODUCTS (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.”

“Recovered material” means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(b) The Contractor, on completion of this contract, shall—

(1) Estimate the percentage of the total recovered material used in contract performance, including, if applicable, the percentage of postconsumer material content; and

(2) Submit this estimate to _____
[Contracting Officer complete in accordance with agency procedures].

(End of clause)

Alternate I (Aug 2000). As prescribed in 23.406(b), redesignate paragraph (b) of the basic clause as paragraph (c) and add the following paragraph (b) to the basic clause:

(b) The Contractor shall execute the following certification required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962(i)(2)(C)):

CERTIFICATION

I, _____ (name of certifier), am an officer or employee responsible for the performance of this contract and hereby certify that the percentage of recovered material content for EPA-designated products met the applicable contract specifications.

[Signature of the Officer or Employee]

[Typed Name of the Officer or Employee]

[Title]

[Name of Company, Firm, or Organization]

[Date]

(End of certification)

52.223-10 Waste Reduction Program.

As prescribed in 23.705, insert the following clause:

WASTE REDUCTION PROGRAM (AUG 2000)

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

“Recycling” means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of products other than fuel for producing heat or power by combustion.

“Waste prevention” means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

“Waste reduction” means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) Consistent with the requirements of Section 701 of Executive Order 13101, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor’s programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, *et seq.*) and implementing regulations (40 CFR Part 247).

(End of clause)

52.223-11 Ozone-Depleting Substances.

As prescribed in 23.804(a), insert the following clause:

OZONE-DEPLETING SUBSTANCES (MAY 2001)

(a) *Definition.* “Ozone-depleting substance,” as used in this clause, means any substance the Environmental Protection Agency designates in 40 CFR Part 82 as—

(1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or

(2) Class II, including, but not limited to, hydrochlorofluorocarbons.

(b) The Contractor shall label products which contain or are manufactured with ozone-depleting substances in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR Part 82, Subpart E, as follows:

WARNING

Contains (or manufactured with, if applicable) * _____, a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere.

* The Contractor shall insert the name of the substance(s).

(End of clause)

52.223-12 Refrigeration Equipment and Air Conditioners.

As prescribed in 23.804(b), insert the following clause:

REFRIGERATION EQUIPMENT AND AIR CONDITIONERS
(MAY 1995)

The Contractor shall comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to this contract.

(End of clause)

52.223-13 Certification of Toxic Chemical Release Reporting.

As prescribed in 23.906(a), insert the following provision:

CERTIFICATION OF TOXIC CHEMICAL RELEASE
REPORTING (AUG 2003)

(a) Executive Order 13148, of April 21, 2000, Greening the Government through Leadership in Environmental Management, requires submission of this certification as a prerequisite for contract award.

(b) By signing this offer, the offeror certifies that—

(1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: [*Check each block that is applicable.*]

[] (i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;

[] (ii) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

[] (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

[] (iv) The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:

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

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

(C) Major group codes 20 through 39.

(D) 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).

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

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

(End of provision)

52.223-14 Toxic Chemical Release Reporting.

As prescribed in 23.906(b), insert the following clause:

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.*), or 5169, or 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

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

(c) If the Contractor has certified to an exemption in accordance with one or more of the criteria in paragraph (b) of this clause, and after award of the contract circumstances change

so that any of its owned or operated facilities used in the performance of this contract is no longer exempt—

(1) The Contractor shall notify the Contracting Officer; and

(2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall—

(i) Submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible; and

(ii) Continue to file the annual Form R for the life of the contract for such facility.

(d) The Contracting Officer may terminate this contract or take other action as appropriate, if the Contractor fails to comply accurately and fully with the EPCRA and PPA toxic chemical release filing and reporting requirements.

(e) Except for acquisitions of commercial items as defined in FAR Part 2, the Contractor shall—

(1) For competitive subcontracts expected to exceed \$100,000 (including all options), include a solicitation provision substantially the same as the provision at FAR 52.223-13, Certification of Toxic Chemical Release Reporting; and

(2) Include in any resultant subcontract exceeding \$100,000 (including all options), the substance of this clause, except this paragraph (e).

(End of clause)

52.224-1 Privacy Act Notification.

As prescribed in 24.104, insert the following clause in solicitations and contracts, when the design, development, or operation of a system of records on individuals is required to accomplish an agency function:

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.

(End of clause)

52.224-2 Privacy Act.

As prescribed in 24.104, insert the following clause in solicitations and contracts, when the design, development, or operation of a system of records on individuals is required to accomplish an agency function:

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 paragraph (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.

(End of clause)

52.225-1 Buy American Act—Supplies.

As prescribed in 25.1101(a)(1), insert the following clause:

BUY AMERICAN ACT—SUPPLIES (JUNE 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.”

(End of clause)

52.225-2 Buy American Act Certificate.

As prescribed in 25.1101(a)(2), insert the following provision:

BUY AMERICAN ACT CERTIFICATE (JUNE 2003)

(a) The offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a domestic end product and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign

end products those end products manufactured in the United States that do not qualify as domestic end products. The terms “component,” “domestic end product,” “end product,” “foreign end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act—Supplies.”

(b) Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

(c) The Government will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation.

(End of provision)

52.225-3 Buy American Act—Free Trade Agreements—Israeli Trade Act.

As prescribed in 25.1101(b)(1)(i), insert the following clause:

BUY AMERICAN ACT—FREE TRADE AGREEMENTS—ISRAELI TRADE ACT (JAN 2005)

(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 pre-

pared 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.

“End product of Australia, Canada, Chile, Mexico, or Singapore” means an article that—

(1) Is wholly the growth, product, or manufacture of Australia, Canada, Chile, Mexico, or Singapore; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Australia, Canada, Chile, Mexico, or Singapore into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“Foreign end product” means an end product other than a domestic end product.

“Israeli end product” means an article that—

(1) Is wholly the growth, product, or manufacture of Israel; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Israel into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

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

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

(c) *Delivery of end products.* The Contracting Officer has determined that FTAs (except the Morocco FTA) and the Israeli Trade Act apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only domestic end products except to the extent that, in its offer, it specified delivery of foreign end products in the provision entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate.” If the Contractor specified in its offer that the Contractor would supply an end product of Australia, Canada, Chile, Mexico, or Singapore or an Israeli end product, then the Contractor shall supply an end product of Australia, Canada, Chile, Mexico, or Singapore, an Israeli end product or, at the Contractor’s option, a domestic end product.

(End of clause)

Alternate I (Jan 2004). As prescribed in 25.1101(b)(1)(ii), add the following definition to paragraph (a) of the basic

clause, and substitute the following paragraph (c) for paragraph (c) of the basic clause:

“Canadian end product” means an article that—

(1) Is wholly the growth, product, or manufacture of Canada; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Canada into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(c) *Delivery of end products.* The Contracting Officer has determined that NAFTA applies to this acquisition. Unless otherwise specified, NAFTA applies to all items in the Schedule. The Contractor shall deliver under this contract only domestic end products except to the extent that, in its offer, it specified delivery of foreign end products in the provision entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate.” If the Contractor specified in its offer that the Contractor would supply a Canadian end product, then the Contractor shall supply a Canadian end product or, at the Contractor’s option, a domestic end product.

Alternate II (Jan 2004). As prescribed in 25.1101(b)(1)(iii), add the following definition to paragraph (a) of the basic clause, and substitute the following paragraph (c) for paragraph (c) of the basic clause:

“Canadian end product” means an article that—

(1) Is wholly the growth, product, or manufacture of Canada; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Canada into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(c) *Delivery of end products.* The Contracting Officer has determined that NAFTA and the Israeli Trade Act apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only domestic end products except to the extent that, in its offer, it specified delivery of foreign end products in the provision entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate.” If the Contractor specified in its offer that the Contractor would supply a Canadian end product or an Israeli end product, then the Contractor

shall supply a Canadian end product, an Israeli end product or, at the Contractor's option, a domestic end product.

52.225-4 Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate.

As prescribed in 25.1101(b)(2)(i), insert the following provision:

BUY AMERICAN ACT—FREE TRADE AGREEMENTS—ISRAELI TRADE ACT CERTIFICATE (JAN 2005)

(a) The offeror certifies that each end product, except those listed in paragraph (b) or (c) of this provision, is a domestic end product and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms “component,” “domestic end product,” “end product,” “end product of Australia, Canada, Chile, Mexico, or Singapore,” “foreign end product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act.”

(b) The offeror certifies that the following supplies are end products of Australia, Canada, Chile, Mexico, or Singapore or Israeli end products as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act”:

End Products of Australia, Canada, Chile, Mexico, or Singapore or Israeli End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

(c) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (b) of this provision) as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act.” The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

Other Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

(d) The Government will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation.

(End of provision)

Alternate I (Jan 2004). As prescribed in 25.1101(b)(2)(ii), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act”:

Canadian End Products:

LINE ITEM NO.

[List as necessary]

Alternate II (Jan 2004). As prescribed in 25.1101(b)(2)(iii), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act”:

CANADIAN OR ISRAELI END PRODUCTS:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

52.225-5 Trade Agreements.

As prescribed in 25.1101(c)(1), insert the following clause:

TRADE AGREEMENTS (JAN 2005)

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

“Caribbean Basin country end product”—

(1) Means an article that—

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

(B) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed; and

(ii) Is not excluded from duty-free treatment for Caribbean countries under 19 U.S.C. 2703(b).

(A) For this reason, the following articles are not Caribbean Basin country end products:

(1) Tuna, prepared or preserved in any manner in airtight containers;

(2) Petroleum, or any product derived from petroleum;

(3) Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Harmonized Tariff Schedule of the United States (HTSUS) column 2 rates of duty apply (*i.e.*, Afghanistan, Cuba, Laos, North Korea, and Vietnam); and

(4) Certain of the following: textiles and apparel articles; footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel; or handloomed, handmade, and folklore articles;

(B) Access to the HTSUS to determine duty-free status of articles of these types is available at <http://www.customs.ustras.gov/impexpo/impexpo.htm>. In particular, see the following:

(1) General Note 3(c), Products Eligible for Special Tariff treatment.

(2) General Note 17, Products of Countries Designated as Beneficiary Countries under the United States-Caribbean Basin Trade Partnership Act of 2000.

(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).

(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits under the United States-Caribbean Basin Trade Partnership Act; and

(2) Refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the acquisition, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“Designated country” means any of the following countries:

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

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

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

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

“Designated country end product” means a WTO GPA country end product, an FTA country end product, a least developed country end product, or a Caribbean Basin country end product.

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

“Free Trade Agreement country end product” means an article that—

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“Least developed country end product” means an article that—

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

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

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

“U.S.-made end product” means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

“WTO GPA country end product” means an article that—

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

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(b) *Delivery of end products.* The Contracting Officer has determined that the WTO GPA and FTAs apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only U.S.-made or designated country end products except to the extent that, in its offer, it specified delivery of other end products in the provision entitled “Trade Agreements Certificate.”

(End of clause)

52.225-6 Trade Agreements Certificate.

As prescribed in 25.1101(c)(2), insert the following provision:

TRADE AGREEMENTS CERTIFICATE (JAN 2005)

(a) The offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled “Trade Agreements.”

(b) The offeror shall list as other end products those supplies that are not U.S.-made or designated country end products.

Other End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

(c) The Government will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation. For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American Act. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for those products are insufficient to fulfill the requirements of this solicitation.

(End of provision)

52.225-7 Waiver of Buy American Act for Civil Aircraft and Related Articles.

As prescribed in 25.1101(d), insert the following provision:

WAIVER OF BUY AMERICAN ACT FOR CIVIL AIRCRAFT AND RELATED ARTICLES (FEB 2000)

(a) *Definition.* “Civil aircraft and related articles,” as used in this provision, means—

(1) All aircraft other than aircraft to be purchased for use by the Department of Defense or the U.S. Coast Guard;

(2) The engines (and parts and components for incorporation into the engines) of these aircraft;

(3) Any other parts, components, and subassemblies for incorporation into the aircraft; and

(4) Any ground flight simulators, and parts and components of these simulators, for use with respect to the aircraft, whether to be used as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification, or conversion of the aircraft, and without regard to whether the aircraft or articles receive duty-free treatment under section 601(a)(2) of the Trade Agreements Act.

(b) The U.S. Trade Representative has waived the Buy American Act for acquisitions of civil aircraft and related articles from countries that are parties to the Agreement on Trade in Civil Aircraft. Those countries are Austria, Belgium, Bulgaria, Canada, Denmark, Egypt, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, Macao, the Netherlands, Norway, Portugal, Romania, Spain, Sweden, Switzerland, and the United Kingdom.

(c) For the purpose of this waiver, an article is a product of a country only if—

(1) It is wholly the growth, product, or manufacture of that country; or

(2) In the case of an article that consists in whole or in part of materials from another country, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

(d) The waiver is subject to modification or withdrawal by the U.S. Trade Representative.

(End of provision)

52.225-8 Duty-Free Entry.

As prescribed in 25.1101(e), insert the following clause:

DUTY-FREE ENTRY (FEB 2000)

(a) *Definition.* “Customs territory of the United States” means the States, the District of Columbia, and Puerto Rico.

(b) Except as otherwise approved by the Contracting Officer, the Contractor shall not include in the contract price any amount for duties on supplies specifically identified in the Schedule to be accorded duty-free entry.

(c) Except as provided in paragraph (d) of this clause or elsewhere in this contract, the following procedures apply to supplies not identified in the Schedule to be accorded duty-free entry:

(1) The Contractor shall notify the Contracting Officer in writing of any purchase of foreign supplies (including, without limitation, raw materials, components, and intermediate assemblies) in excess of \$10,000 that are to be imported into the customs territory of the United States for delivery to the Government under this contract, either as end products or for incorporation into end products. The Contractor shall furnish the notice to the Contracting Officer at least 20 calendar days before the importation. The notice shall identify the—

- (i) Foreign supplies;
- (ii) Estimated amount of duty; and
- (iii) Country of origin.

(2) The Contracting Officer will determine whether any of these supplies should be accorded duty-free entry and will notify the Contractor within 10 calendar days after receipt of the Contractor’s notification.

(3) Except as otherwise approved by the Contracting Officer, the contract price shall be reduced by (or the allowable cost shall not include) the amount of duty that would be payable if the supplies were not entered duty-free.

(d) The Contractor is not required to provide the notification under paragraph (c) of this clause for purchases of foreign supplies if—

(1) The supplies are identical in nature to items purchased by the Contractor or any subcontractor in connection with its commercial business; and

(2) Segregation of these supplies to ensure use only on Government contracts containing duty-free entry provisions is not economical or feasible.

(e) The Contractor shall claim duty-free entry only for supplies to be delivered to the Government under this contract, either as end products or incorporated into end products, and shall pay duty on supplies, or any portion of them, other than scrap, salvage, or competitive sale authorized by the Contracting Officer, diverted to nongovernmental use.

(f) The Government will execute any required duty-free entry certificates for supplies to be accorded duty-free entry and will assist the Contractor in obtaining duty-free entry for these supplies.

(g) Shipping documents for supplies to be accorded duty-free entry shall consign the shipments to the contracting agency in care of the Contractor and shall include the—

(1) Delivery address of the Contractor (or contracting agency, if appropriate);

(2) Government prime contract number;

(3) Identification of carrier;

(4) Notation “UNITED STATES GOVERNMENT, _____ [agency] _____, Duty-free entry to be claimed pursuant to Item No(s) _____ [from Tariff Schedules] _____, Harmonized Tariff Schedules of the United States. Upon arrival of shipment at port of entry, District Director of Customs, please release shipment under 19 CFR Part 142 and notify [cognizant contract administration office] for execution of Customs Forms 7501 and 7501-A and any required duty-free entry certificates.”;

(5) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight); and

(6) Estimated value in United States dollars.

(h) The Contractor shall instruct the foreign supplier to—

(1) Consign the shipment as specified in paragraph (g) of this clause;

(2) Mark all packages with the words “UNITED STATES GOVERNMENT” and the title of the contracting agency; and

(3) Include with the shipment at least two copies of the bill of lading (or other shipping document) for use by the District Director of Customs at the port of entry.

(i) The Contractor shall provide written notice to the cognizant contract administration office immediately after notification by the Contracting Officer that duty-free entry will be accorded foreign supplies or, for duty-free supplies identified in the Schedule, upon award by the Contractor to the overseas supplier. The notice shall identify the—

(1) Foreign supplies;

(2) Country of origin;

(3) Contract number; and

(4) Scheduled delivery date(s).

(j) The Contractor shall include the substance of this clause in any subcontract if—

(1) Supplies identified in the Schedule to be accorded duty-free entry will be imported into the customs territory of the United States; or

(2) Other foreign supplies in excess of \$10,000 may be imported into the customs territory of the United States.

(End of clause)

52.225-9 Buy American Act—Construction Materials.

As prescribed in 25.1102(a), insert the following clause:

BUY AMERICAN ACT—CONSTRUCTION MATERIALS
(JAN 2005)

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

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

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

“Cost of components” means—

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

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

“Domestic construction material” means—

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

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

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

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

(b) *Domestic preference.* (1) This clause implements the Buy American Act (41 U.S.C. 10a - 10d) by providing a preference for domestic construction material. The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

(2) This requirement does not apply to the construction material or components listed by the Government as follows:

[*Contracting Officer to list applicable excepted materials or indicate “none”*]

(3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that—

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

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

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

(c) *Request for determination of inapplicability of the Buy American Act.* (1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including—

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier;

and

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

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

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

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

(2) If the Government determines after contract award that an exception to the Buy American Act applies and the

Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3)(i) of this clause.

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

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

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON			
<u>Construction Material Description</u>	<u>Unit of Measure</u>	<u>Quantity</u>	<u>Price (Dollars)*</u>
<i>Item 1:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____
<i>Item 2:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

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

[Include other applicable supporting information.]

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

52.225-10 Notice of Buy American Act Requirement— Construction Materials.

As prescribed in 25.1102(b)(1), insert the following provision:

NOTICE OF BUY AMERICAN ACT REQUIREMENT— CONSTRUCTION MATERIALS (MAY 2002)

(a) *Definitions*. “Construction material,” “domestic construction material,” and “foreign construction material,” as used in this provision, are defined in the clause of this solicitation entitled “Buy American Act—Construction Materials” (Federal Acquisition Regulation (FAR) clause 52.225-9).

(b) *Requests for determinations of inapplicability*. An offeror requesting a determination regarding the inapplicability of the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR 52.225-9 in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) *Evaluation of offers*. (1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act, based on claimed unreasonable cost of domestic construction material, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(3)(i) of the clause at FAR 52.225-9.

(2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material

based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on unreasonable cost.

(d) *Alternate offers*. (1) When an offer includes foreign construction material not listed by the Government in this solicitation in paragraph (b)(2) of the clause at FAR 52.225-9, the offeror also may submit an alternate offer based on use of equivalent domestic construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of the clause at FAR 52.225-9 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of the clause at FAR 52.225-9 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested—

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

(End of provision)

Alternate I (May 2002). As prescribed in 25.1102(b)(2), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American Act shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR 52.225-9.

52.225-11 Buy American Act—Construction Materials under Trade Agreements.

As prescribed in 25.1102(c), insert the following clause:

BUY AMERICAN ACT—CONSTRUCTION MATERIALS
UNDER TRADE AGREEMENTS (JAN 2005)

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

“Caribbean Basin country construction material” means a construction material that—

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

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

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

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

“Cost of components” means—

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

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

“Designated country” means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Canada,

Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or United Kingdom);

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

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

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

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

“Domestic construction material” means—

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

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

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

“Free Trade Agreement country construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

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

“Least developed country construction material” means a construction material that—

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

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

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

“WTO GPA country construction material” means a construction material that—

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

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

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

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

(3) The requirement in paragraph (b)(2) of this clause does not apply to the construction materials or components listed by the Government as follows:

[Contracting Officer to list applicable excepted materials or indicate “none”]

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

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

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

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

(c) *Request for determination of inapplicability of the Buy American Act.* (1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of

this clause shall include adequate information for Government evaluation of the request, including—

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier;

and

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

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

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

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

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

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

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

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON

Construction Material Description	Unit of Measure	Quantity	Price (Dollars)*
<i>Item 1:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

Item 2:

Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

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

[Include other applicable supporting information.]

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

(End of clause)

Alternate I (Jan 2005). As prescribed in 25.1102(c)(3), delete the definition of “designated country construction material” from the definitions in paragraph (a) of the basic clause, add the following definition of “Australian, Chilean, or Moroccan construction material” to paragraph (a) of the basic clause, and substitute the following paragraphs (b)(1) and (b)(2) for paragraphs (b)(1) and (b)(2) of the basic clause:

“Australian, Chilean, or Moroccan construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of Australia, Chile, or Morocco; or

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

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

(2) The Contractor shall use only domestic, WTO GPA country, Australian, Chilean, or Moroccan, least developed country, or Caribbean Basin country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

**52.225-12 Notice of Buy American Act Requirement—
Construction Materials under Trade Agreements.**

As prescribed in 25.1102(d)(1), insert the following provision:

NOTICE OF BUY AMERICAN ACT REQUIREMENT—
CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS
(JAN 2005)

(a) *Definitions.* “Construction material,” “designated country construction material,” “domestic construction material,” and “foreign construction material,” as used in this pro-

vision, are defined in the clause of this solicitation entitled “Buy American Act—Construction Materials Under Trade Agreements” (Federal Acquisition Regulation (FAR) clause 52.225-11).

(b) *Requests for determination of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-11 in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

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

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

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

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

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or designated country construction material, and the offeror shall be required to furnish such domestic or designated country construction material. An offer based on use of the foreign construction material for which an exception was requested—

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

(End of provision)

Alternate I (May 2002). As prescribed in 25.1102(d)(2), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) *Requests for determination of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American Act shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-11.

Alternate II (Jan 2005). As prescribed in 25.1102(d)(3), substitute the following paragraphs (a) and (d) for paragraphs (a) and (d) of the basic provision:

(a) *Definitions.* “Australian, Chilean, or Moroccan construction material,” “Caribbean Basin country construction material,” “construction material,” “domestic construction material,” “foreign construction material,” “least developed country construction material,” and “WTO GPA country construction material,” as used in this provision, are defined in the clause of this solicitation entitled “Buy American Act—Construction Materials Under Trade Agreements” (Federal Acquisition Regulation (FAR) clause 52.225-11).

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

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

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic, WTO GPA country, Australian, Chilean, or Moroccan, least developed country, or Caribbean Basin country construction material, and the offeror shall be required to furnish such domestic, WTO GPA country, Australian, Chilean, or Moroccan, least developed country, or Caribbean Basin country construction material. An offer based on use of the foreign construction material for which an exception was requested—

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

52.225-13 Restrictions on Certain Foreign Purchases.

As prescribed in 25.1103(a), insert the following clause:

RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (DEC 2003)

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

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

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

(End of clause)

52.225-14 Inconsistency between English Version and Translation of Contract.

As prescribed at 25.1103(b), insert the following clause:

INCONSISTENCY BETWEEN ENGLISH VERSION AND TRANSLATION OF CONTRACT (FEB 2000)

In the event of inconsistency between any terms of this contract and any translation into another language, the English language meaning shall control.

(End of clause)

52.225-15 Sanctioned European Union Country End Products.

As prescribed in 25.1103(c), insert the following clause:

SANCTIONED EUROPEAN UNION COUNTRY END PRODUCTS (FEB 2000)

(a) *Definitions.* As used in this clause—
“Sanctioned European Union country end product” means an article that—

(1) Is wholly the growth, product, or manufacture of a sanctioned European Union (EU) member state; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a sanctioned EU member state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase

under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“Sanctioned European Union member state” means Austria, Belgium, Denmark, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Sweden, or the United Kingdom.

(b) The Contractor shall not deliver any sanctioned European Union country end products under this contract.

(End of clause)

52.225-16 Sanctioned European Union Country Services.

As prescribed in 25.1103(c), insert the following clause:

SANCTIONED EUROPEAN UNION COUNTRY SERVICES (FEB 2000)

(a) *Definition.* “Sanctioned European Union member state,” as used in this clause, means Austria, Belgium, Denmark, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Sweden, or the United Kingdom.

(b) The Contractor shall not perform services under this contract in a sanctioned European Union member state. This prohibition does not apply to subcontracts.

(End of clause)

52.225-17 Evaluation of Foreign Currency Offers.

As prescribed in 25.1103(d), insert the following provision:

EVALUATION OF FOREIGN CURRENCY OFFERS (FEB 2000)

If the Government receives offers in more than one currency, the Government will evaluate offers by converting the foreign currency to United States currency using [*Contracting Officer to insert source of rate*] in effect as follows:

(a) For acquisitions conducted using sealed bidding procedures, on the date of bid opening.

(b) For acquisitions conducted using negotiation procedures—

(1) On the date specified for receipt of offers, if award is based on initial offers; otherwise

(2) On the date specified for receipt of proposal revisions.

(End of provision)

52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.

As prescribed in 26.104, insert the following clause:

UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (JUNE 2000)

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

“Indian” means any person who is a member of any Indian tribe, band, group, pueblo, or community that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c) and any “Native” as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

“Indian organization” means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C., Chapter 17.

“Indian-owned economic enterprise” means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership constitutes not less than 51 percent of the enterprise.

“Indian tribe” means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, that is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1452(c).

“Interested party” means a prime contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

(b) The Contractor shall use its best efforts to give Indian organizations and Indian-owned economic enterprises (25 U.S.C. 1544) the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of its contract.

(1) The Contracting Officer and the Contractor, acting in good faith, may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status. In the event of a challenge to the representation of a subcontractor, the Contracting Officer will refer the matter to the—

U.S. Department of the Interior
Bureau of Indian Affairs (BIA)
Attn: Chief, Division of Contracting and Grants
Administration
1849 C Street, NW,
MS-2626-MIB
Washington, DC 20240-4000.

The BIA will determine the eligibility and notify the Contracting Officer. No incentive payment will be made within 50 working days of subcontract award or while a challenge is pending. If a subcontractor is determined to be an ineligible participant, no incentive payment will be made under the Indian Incentive Program.

(2) The Contractor may request an adjustment under the Indian Incentive Program to the following:

- (i) The estimated cost of a cost-type contract.
- (ii) The target cost of a cost-plus-incentive-fee prime contract.
- (iii) The target cost and ceiling price of a fixed-price incentive prime contract.
- (iv) The price of a firm-fixed-price prime contract.

(3) The amount of the adjustment to the prime contract is 5 percent of the estimated cost, target cost, or firm-fixed-price included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

(4) The Contractor has the burden of proving the amount claimed and must assert its request for an adjustment prior to completion of contract performance.

(c) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the amount paid to the subcontractor. The Contracting Officer will seek funding in accordance with agency procedures.

(End of clause)

52.226-2 Historically Black College or University and Minority Institution Representation.

As prescribed in 26.304, insert the following provision:

HISTORICALLY BLACK COLLEGE OR UNIVERSITY AND MINORITY INSTITUTION REPRESENTATION (MAY 2001)

(a) *Definitions.* As used in this provision—

“Historically black college or university” means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense, the National Aeronautics and Space Administration, and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

“Minority institution” means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k, including a Hispanic-serving institution of higher education, as defined in Section 316(b)(1) of the Act (20 U.S.C. 1101a)).

(b) *Representation.* The offeror represents that it—

- is is not a historically black college or university;
- is is not a minority institution.

(End of provision)

52.227-1 Authorization and Consent.

As prescribed at 27.201-2(a), insert the following clause:

AUTHORIZATION AND CONSENT (JULY 1995)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent (1) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or (2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed the simplified acquisition threshold); however, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

(End of clause)

Alternate I (Apr 1984). The following is substituted for paragraph (a) of the clause:

(a) The Government authorizes and consents to all use and manufacture of any invention described in and covered by a United States patent in the performance of this contract or any subcontract at any tier.

Alternate II (Apr 1984). The following is substituted for paragraph (a) of the clause:

(a) The Government authorizes and consents to all use and manufacture in the performance of any order at any tier or subcontract at any tier placed under this contract for communication services and facilities for which rates, charges, and tariffs are *not* established by a government regulatory body, 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 specifications or written provisions forming a part

of this contract or with specific written instructions given by the Contracting Officer directing the manner of performance.

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement.

As prescribed at 27.202-2, insert the following clause:

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.

(End of clause)

52.227-3 Patent Indemnity.

Insert the following clause as prescribed at 27.203-1(b), 27.203-2(a), or 27.203-4(a)(2) as applicable:

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.

(End of clause)

Alternate I (Apr 1984). The following paragraph (c) is added to the clause:

(c) This patent indemnification shall not apply to the following items:

[*Contracting Officer list and/or identify the items to be excluded from this indemnity.*]

Alternate II (Apr 1984). The following paragraph (c) is added to the clause:

(c) This patent indemnification shall cover the following items:

[*List and/or identify the items to be included under this indemnity.*]

Alternate III (July 1995). The following paragraph is added to the clause:

() As to subcontracts at any tier for communication service, this clause shall apply only to individual communication service authorizations over the simplified acquisition threshold issued under this contract and covering those communications services and facilities—

(1) That are or have been sold or offered for sale by the Contractor to the public,

(2) That can be provided over commercially available equipment, or

(3) That involve relatively minor modifications.

52.227-4 Patent Indemnity—Construction Contracts.

As prescribed at 27.203-5, insert the following clause:

PATENT INDEMNITY—CONSTRUCTION CONTRACTS
(APR 1984)

Except as otherwise provided, the Contractor agrees to indemnify the Government and its officers, agents, and employees against liability, including costs and expenses, for infringement upon any United States patent (except a patent issued upon an application that is now or may hereafter be

withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of performing this contract or out of the use or disposal by or for the account of the Government of supplies furnished or work performed under this contract.

(End of clause)

Alternate I (Apr 1984). Designate the first paragraph as paragraph (a) and add the following to the basic clause as paragraph (b):

(b) This patent indemnification shall not apply to the following items:

[*Contracting Officer specifically identify the item to be excluded.*]

NOTE: Exclusion from indemnity of specified, identified patents, as distinguished from items, is the exclusive prerogative of the agency head or designee (see 27.203-6).

52.227-5 Waiver of Indemnity.

As prescribed at 27.203-6, insert the following clause:

WAIVER OF INDEMNITY (APR 1984)

Any provision or clause of this contract to the contrary notwithstanding, the Government hereby authorizes and consents to the use and manufacture, solely in performing this contract, of any invention covered by the United States patents identified below and waives indemnification by the Contractor with respect to such patents:

[*Contracting Officer identify the patents by number or by other means if more appropriate.*]

(End of clause)

52.227-6 Royalty Information.

As prescribed at 27.204-2, insert the following provision:

ROYALTY INFORMATION (APR 1984)

(a) *Cost or charges for royalties.* When the response to this solicitation contains costs or charges for royalties totaling more than \$250, the following information shall be included in the response relating to each separate item of royalty or license fee:

(1) Name and address of licensor.

(2) Date of license agreement.

(3) Patent numbers, patent application serial numbers, or other basis on which the royalty is payable.

(4) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable.

(5) Percentage or dollar rate of royalty per unit.

- (6) Unit price of contract item.
- (7) Number of units.
- (8) Total dollar amount of royalties.

(b) *Copies of current licenses.* In addition, if specifically requested by the Contracting Officer before execution of the contract, the offeror shall furnish a copy of the current license agreement and an identification of applicable claims of specific patents.

(End of provision)

Alternate I (Apr 1984). Substitute the following for the introductory portion of paragraph (a) of the basic clause:

When the response to this solicitation covers charges for special construction or special assembly that contain costs or charges for royalties totaling more than \$250, the following information shall be included in the response relating to each separate item of royalty or license fee:

52.227-7 Patents—Notice of Government Licensee.

As prescribed at 27.204-3(c), insert the following provision:

PATENTS—NOTICE OF GOVERNMENT LICENSEE
(APR 1984)

The Government is obligated to pay a royalty applicable to the proposed acquisition because of a license agreement between the Government and the patent owner. The patent number is ____ [*Contracting Officer fill in*], and the royalty rate is ____ [*Contracting Officer fill in*]. If the offeror is the owner of, or a licensee under, the patent, indicate below:

Owner Licensee

If an offeror does not indicate that it is the owner or a licensee of the patent, its offer will be evaluated by adding thereto an amount equal to the royalty.

(End of provision)

52.227-8 [Reserved]

52.227-9 Refund of Royalties.

As prescribed at 27.206-2, insert the following clause. In solicitations and contracts with an incentive fee arrangement, change “price” to “target cost and target profit” wherever it appears:

REFUND OF ROYALTIES (APR 1984)

(a) The contract price includes certain amounts for royalties payable by the Contractor or subcontractors or both, which amounts have been reported to the Contracting Officer.

(b) The term “royalties” as used in this clause refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use of or for

rights in patents and patent applications in connection with performing this contract or any subcontract hereunder.

(c) The Contractor shall furnish to the Contracting Officer, before final payment under this contract, a statement of royalties paid or required to be paid in connection with performing this contract and subcontracts hereunder together with the reasons.

(d) The Contractor will be compensated for royalties reported under paragraph (c) of this clause, only to the extent that such royalties were included in the contract price and are determined by the Contracting Officer to be properly chargeable to the Government and allocable to the contract. To the extent that any royalties that are included in the contract price are not in fact paid by the Contractor or are determined by the Contracting Officer not to be properly chargeable to the Government and allocable to the contract, the contract price shall be reduced. Repayment or credit to the Government shall be made as the Contracting Officer directs.

(e) If, at any time within 3 years after final payment under this contract, the Contractor for any reason is relieved in whole or in part from the payment of the royalties included in the final contract price as adjusted pursuant to paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer of that fact and shall reimburse the Government in a corresponding amount.

(f) The substance of this clause, including this paragraph (f), shall be included in any subcontract in which the amount of royalties reported during negotiation of the subcontract exceeds \$250.

(End of clause)

52.227-10 Filing of Patent Applications—Classified Subject Matter.

As prescribed at 27.207-2, insert the following clause:

FILING OF PATENT APPLICATIONS—CLASSIFIED SUBJECT MATTER (APR 1984)

(a) Before filing or causing to be filed a patent application in the United States disclosing any subject matter of this contract classified “Secret” or higher, the Contractor shall, citing the 30-day provision below, transmit the proposed application to the Contracting Officer. The Government shall determine whether, for reasons of national security, the application should be placed under an order of secrecy, sealed in accordance with the provision of 35 U.S.C. 181-188, or the issuance of a patent otherwise delayed under pertinent United States statutes or regulations. The Contractor shall observe any instructions of the Contracting Officer regarding the manner of delivery of the patent application to the United States Patent Office, but the Contractor shall not be denied the right to file the application. If the Contracting Officer shall not have given any such instructions within 30 days from the date of

mailing or other transmittal of the proposed application, the Contractor may file the application.

(b) Before filing a patent application in the United States disclosing any subject matter of this contract classified “Confidential,” the Contractor shall furnish to the Contracting Officer a copy of the application for Government determination whether, for reasons of national security, the application should be placed under an order of secrecy or the issuance of a patent should be otherwise delayed under pertinent United States statutes or regulations.

(c) Where the subject matter of this contract is classified for reasons of security, the Contractor shall not file, or cause to be filed, in any country other than in the United States as provided in paragraphs (a) and (b) of this clause, an application or registration for a patent containing any of the subject matter of this contract without first obtaining written approval of the Contracting Officer.

(d) When filing any patent application coming within the scope of this clause, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter and shall promptly furnish to the Contracting Officer the serial number, filing date, and name of the country of any such application. When transmitting the application to the United States Patent Office, the Contractor shall by separate letter identify by agency and number the contract or contracts that require security classification markings to be placed on the application.

(e) The Contractor agrees to include, and require the inclusion of, this clause in all subcontracts at any tier that cover or are likely to cover classified subject matter.

(End of clause)

52.227-11 Patent Rights—Retention by the Contractor (Short Form).

As prescribed in 27.303(a), insert the following clause:

PATENT RIGHTS—RETENTION BY THE CONTRACTOR (SHORT FORM) (JUNE 1997)

(a) *Definitions.* (1) “Invention” means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321, *et seq.*)

(2) “Made” when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(3) “Nonprofit organization” means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational

organization qualified under a state nonprofit organization statute.

(4) “Practical application” means to manufacture, in the case of a composition of product; to practice, in the case of a process or method, or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(5) “Small business firm” means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) “Subject invention” means any invention of the contractor conceived or first actually reduced to practice in the performance of work under this contract, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of contract performance.

(b) *Allocation of principal rights.* The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) *Invention disclosure, election of title, and filing of patent application by Contractor.* (1) The Contractor will disclose each subject invention to the Federal agency within 2 months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Contractor will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.

(2) The Contractor will elect in writing whether or not to retain title to any such invention by notifying the Federal agency within 2 years of disclosure to the Federal agency. However, in any case where publication, on sale or public use has initiated the 1-year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor will file its initial patent application on a subject invention to which it elects to retain title within 1 year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries or international patent offices within either 10 months of the corresponding initial patent application or 6 months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure election, and filing under paragraphs (c)(1), (2), and (3) of this clause may, at the discretion of the agency, be granted.

(d) *Conditions when the Government may obtain title.* The Contractor will convey to the Federal agency, upon written request, title to any subject invention—

(1) If the Contractor fails to disclose or elect title to the subject invention within the times specified in paragraph (c) of this clause, or elects not to retain title; provided, that the agency may only request title within 60 days after learning of the failure of the Contractor to disclose or elect within the specified times.

(2) In those countries in which the Contractor fails to file patent applications within the times specified in paragraph (c) of this clause; *provided, however*, that if the Contractor has filed a patent application in a country after the times specified in paragraph (c) of this clause, but prior to its receipt of the written request of the Federal agency, the Contractor shall continue to retain title in that country.

(3) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) *Minimum rights to Contractor and protection of the Contractor right to file.* (1) The Contractor will retain a non-exclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Contractor fails to disclose the invention within the times specified in paragraph (c) of this clause. The Contractor's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant subli-

censes of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Federal agency, except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the funding Federal agency to the extent necessary to achieve expeditious practical application of subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR Part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the funding Federal agency to the extent the Contractor, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the funding Federal agency will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed 30 days (or such other time as may be authorized by the funding Federal agency for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in 37 CFR Part 404 and agency regulations, if any, concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) *Contractor action to protect the Government's interest.* (1) The Contractor agrees to execute or to have executed and promptly deliver to the Federal agency all instruments necessary to—

(i) Establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title; and

(ii) Convey title to the Federal agency when requested under paragraph (d) of this clause and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) of this clause, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format

should require, as a minimum, the information required by paragraph (c)(1) of this clause. The Contractor shall instruct such employees, through employee agreements or other suitable educational programs, on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor will notify the Federal agency of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office.

(4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by (identify the Federal agency). The Government has certain rights in the invention."

(g) *Subcontracts.* (1) The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provided for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The Contractor will include in all other subcontracts, regardless of tier, for experimental, developmental, or research work the patent rights clause required by Subpart 27.3.

(3) In the case of subcontracts, at any tier, the agency, subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to the matters covered by the clause; *provided, however*, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (j) of this clause.

(h) *Reporting on utilization of subject inventions.* The Contractor agrees to submit, on request, periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the agency may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceeding undertaken by the agency in accordance with paragraph (j) of this clause. As required by 35 U.S.C. 202(c)(5), the agency

agrees it will not disclose such information to persons outside the Government without permission of the Contractor.

(i) *Preference for United States industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any product embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in rights.* The Contractor agrees that, with respect to any subject invention in which it has acquired title, the Federal agency has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request the Federal agency has the right to grant such a license itself if the Federal agency determines that—

(1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) *Special provisions for contracts with nonprofit organizations.* If the Contractor is a nonprofit organization, it agrees that—

(1) Rights to a subject invention in the United States may not be assigned without the approval of the Federal agency, except where such assignment is made to an organization which has as one of its primary functions the manage-

ment of inventions; *provided*, that such assignee will be subject to the same provisions as the Contractor;

(2) The Contractor will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms, and that it will give a preference to a small business firm when licensing a subject invention if the Contractor determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; *provided*, that the Contractor is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the contractor. However, the Contractor agrees that the Secretary of Commerce may review the Contractor's licensing program and decisions regarding small business applicants, and the Contractor will negotiate changes to its licensing policies, procedures, or practices with the Secretary of Commerce when the Secretary's review discloses that the Contractor could take reasonable steps to more effectively implement the requirements of this paragraph (k)(4).

(l) *Communications*. [Complete according to agency instructions.]

(End of clause)

Alternate I (June 1989). As prescribed in 27.303(a)(3), add the following sentence at the end of paragraph (b) of the basic clause:

The license shall include the right of the Government to sublicense foreign governments, their nationals and international organizations pursuant to the following treaties or international agreements: _____*

[*Contracting Officer complete with the names of applicable existing treaties or international agreements. The above language is not intended to apply to treaties or agreements that are in effect on the date of the award but are not listed.]

Alternate II (June 1989). As prescribed in 27.303(a)(3), add the following sentence at the end of paragraph (b) of the basic clause:

The agency reserves the right to unilaterally amend this contract to identify specific treaties or international agreements entered into or to be entered into by the Government after the effective date of the contract and effectuate those license or other rights which are necessary for the Government to meet its obligations to foreign governments, their nationals and international organizations under such treaties or international agreements with respect to subject inventions made after the date of the amendment.

Alternate III (June 1989). As prescribed in 27.303(a)(4), substitute the following in place of paragraph (k)(3) of the basic clause:

(3) After payment of patenting costs, licensing costs, payments to inventors, and other expenses incidental to the administration of subject inventions, the balance of any royalties or income earned and retained by the Contractor during any fiscal year on subject inventions under this or any successor contract containing the same requirement, up to any amount equal to 5 percent of the budget of the facility for that fiscal year, shall be used by the Contractor for the scientific research, development, and education consistent with the research and development mission and objectives of the facility, including activities that increase the licensing potential of other inventions of the facility. If the balance exceeds 5 percent, 75 percent of the excess above 5 percent shall be paid by the Contractor to the Treasury of the United States and the remaining 25 percent shall be used by the Contractor only for the same purposes as described above. To the extent it provides the most effective technology transfer, the licensing of subject inventions shall be administered by Contractor employees on location at the facility.

Alternate IV (June 1989). As prescribed in 27.303(a)(5), include the following paragraph in paragraph (f) of the basic clause:

(5) The Contractor shall establish and maintain active and effective procedures to ensure that subject inventions are promptly identified and timely disclosed, and shall submit a description of the procedures to the Contracting Officer so that the Contracting Officer may evaluate and determine their effectiveness.

52.227-12 Patent Rights—Retention by the Contractor (Long Form).

As prescribed at 27.303(b), insert the following clause:

PATENT RIGHTS—RETENTION BY THE CONTRACTOR (LONG FORM) (JAN 1997)

(a) *Definitions*. “Invention” means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, *et seq.*).

“Made” when used in relation to any invention means the conception or first actual reduction to practice of such invention.

“Nonprofit organization” means a domestic university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

“Practical application” means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

“Small business firm” means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

“Subject invention” means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract; *provided*, that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of contract performance.

(b) *Allocation of principal rights.* The Contractor may elect to retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor elects to retain title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) *Invention disclosure, election of title, and filing of patent applications by Contractor.* (1) The Contractor shall disclose each subject invention to the Contracting Officer within 2 months after the inventor discloses it in writing to Contractor personnel responsible for patent matters or within 6 months after the Contractor becomes aware that a subject invention has been made, whichever is earlier. The disclosure to the Contracting Officer shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale, or public use of the invention

and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the Contracting Officer, the Contractor shall promptly notify the Contracting Officer of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.

(2) The Contractor shall elect in writing whether or not to retain title to any such invention by notifying the Federal agency at the time of disclosure or within 8 months of disclosure, as to those countries (including the United States) in which the Contractor will retain title; *provided*, that in any case where publication, on sale, or public use has initiated the 1-year statutory period wherein valid patent protection can still be obtained in the United States, the period of election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor shall file its initial patent application on an elected invention within 1 year after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor shall file patent applications in additional countries (including the European Patent Office and under the Patent Cooperation Treaty) within either 10 months of the corresponding initial patent application or 6 months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to the Contracting Officer, election, and filing may, at the discretion of the funding Federal agency, be granted, and will normally be granted unless the Contracting Officer has reason to believe that a particular extension would prejudice the Government’s interest.

(d) *Conditions when the Government may obtain title.* The Contractor shall convey to the Federal agency, upon written request, title to any subject invention—

(1) If the Contractor elects not to retain title to a subject invention;

(2) If the Contractor fails to disclose or elect the subject invention within the times specified in paragraph (c) of this clause (the agency may only request title within 60 days after learning of the Contractor’s failure to report or elect within the specified times);

(3) In those countries in which the Contractor fails to file patent applications within the time specified in paragraph (c) of this clause; *provided*, however, that if the Contractor has filed a patent application in a country after the times specified in paragraph (c) of this clause, but prior to its receipt of the written request of the Federal agency, the Contractor shall continue to retain title in that country; or

(4) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) *Minimum rights to Contractor.* (1) The Contractor shall retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the Contractor fails to disclose the subject invention within the times specified in paragraph (c) of this clause. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the funding Federal agency except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the funding Federal agency to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations and agency licensing regulations (if any). This license shall not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the funding Federal agency to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the funding Federal agency shall furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor shall be allowed 30 days (or such other time as may be authorized by the funding Federal agency for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable agency licensing regulations and 37 CFR 404 concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

(f) *Contractor action to protect the Government's interest.*

(1) The Contractor agrees to execute or to have executed and promptly deliver to the Federal agency all instruments necessary to—

(i) Establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title; and

(ii) Convey title to the Federal agency when requested under paragraph (d) of this clause and

paragraph (n)(2) of this clause, and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) of this clause, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by paragraph (c)(1) of this clause. The Contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor shall notify the Federal agency of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office.

(4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement: "This invention was made with Government support under (identify the contract) awarded by (identify the Federal agency). The Government has certain rights in this invention."

(5) The Contractor shall establish and maintain active and effective procedures to assure that subject inventions are promptly identified and disclosed to Contractor personnel responsible for patent matters within 6 months of conception and/or first actual reduction to practice, whichever occurs first in performance of work under this contract. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of subject inventions, and records that show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(6) The Contractor agrees, when licensing a subject invention, to arrange to avoid royalty charges on acquisitions involving Government funds, including funds derived through Military Assistance Program of the Government or otherwise derived through the Government, to refund any amounts received as royalty charges on the subject invention in acquisitions for, or on behalf of, the Government, and to

provide for such refund in any instrument transferring rights in the invention to any party.

(7) The Contractor shall furnish the Contracting Officer the following:

(i) Interim reports every 12 months (or such longer period as may be specified by the Contracting Officer) from the date of the contract, listing subject inventions during that period and stating that all subject inventions have been disclosed or that there are no such inventions.

(ii) A final report, within 3 months after completion of the contracted work, listing all subject inventions or stating that there were no such inventions, and listing all subcontracts at any tier containing a patent rights clause or stating that there were no such subcontracts.

(8) The Contractor shall promptly notify the Contracting Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of such subcontract, and no more frequently than annually, a listing of the subcontracts that have been awarded.

(9) In the event of a refusal by a prospective subcontractor to accept one of the clauses in paragraph (g)(1) or (2) of this clause, the Contractor—

(i) Shall promptly submit a written notice to the Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontracting without the written authorization of the Contracting Officer.

(10) The Contractor shall provide, upon request, the filing date, serial number and title, a copy of the patent application (including an English-language version if filed in a language other than English), and patent number and issue date for any subject invention for which the Contractor has retained title.

(11) Upon request, the Contractor shall furnish the Government an irrevocable power to inspect and make copies of the patent application file.

(g) *Subcontracts.* (1) The Contractor shall include the clause at 52.227-11 of the Federal Acquisition Regulation (FAR), suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or nonprofit organization. The subcontractor shall retain all rights provided for the Contractor in this clause, and the Contractor shall not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The Contractor shall include this clause (FAR 52.227-12) in all other subcontracts, regardless of tier, for experimental, developmental, or research work.

(3) In the case of subcontracts, at any tier, when the prime award with the Federal agency was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to those matters covered by this clause.

(h) *Reporting utilization of subject inventions.* The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the agency may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceedings undertaken by the agency in accordance with paragraph (j) of this clause. To the extent data or information supplied under this paragraph is considered by the Contractor, its licensee or assignee to be privileged and confidential and is so marked, the agency agrees that, to the extent permitted by law, it shall not disclose such information to persons outside the Government.

(i) *Preference for United States industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in rights.* The Contractor agrees that with respect to any subject invention in which it has acquired title, the Federal agency has the right in accordance with the procedures in FAR 27.304-1(g) to require the Contractor, an assignee, or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, the Federal agency has the right to grant such a license itself if the Federal agency determines that—

(1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) *Special provisions for contracts with nonprofit organizations.* [Reserved]

(l) *Communications.* [Complete according to agency instructions.]

(m) *Other inventions.* Nothing contained in this clause shall be deemed to grant to the Government any rights with respect to any invention other than a subject invention.

(n) *Examination of records relating to inventions.* (1) The Contracting Officer or any authorized representative shall, until 3 years after final payment under this contract, have the right to examine any books (including laboratory notebooks), records, and documents of the Contractor relating to the conception or first reduction to practice of inventions in the same field of technology as the work under this contract to determine whether—

(i) Any such inventions are subject inventions;

(ii) The Contractor has established and maintains the procedures required by paragraphs (f)(2) and (f)(3) of this clause; and

(iii) The Contractor and its inventors have complied with the procedures.

(2) If the Contracting Officer determines that an inventor has not disclosed a subject invention to the Contractor in accordance with the procedures required by paragraph (f)(5) of this clause, the Contracting Officer may, within 60 days after the determination, request title in accordance with paragraphs (d)(2) and (d)(3) of this clause. However, if the Contractor establishes that the failure to disclose did not result from the Contractor's fault or negligence, the Contracting Officer shall not request title.

(3) If the Contracting Officer learns of an unreported Contractor invention which the Contracting Officer believes may be a subject invention, the Contractor may be required to disclose the invention to the agency for a determination of ownership rights.

(4) Any examination of records under this paragraph shall be subject to appropriate conditions to protect the confidentiality of the information involved.

(o) *Withholding of payment (this paragraph does not apply to subcontracts).* (1) Any time before final payment under this contract, the Contracting Officer may, in the Government's interest, withhold payment until a reserve not exceeding \$50,000 or 5 percent of the amount of the contract, whichever is less, shall have been set aside if, in the Contracting Officer's opinion, the Contractor fails to—

(i) Establish, maintain, and follow effective procedures for identifying and disclosing subject inventions pursuant to paragraph (f)(5) of this clause;

(ii) Disclose any subject invention pursuant to paragraph (c)(1) of this clause;

(iii) Deliver acceptable interim reports pursuant to subdivision (f)(7)(i) of this clause; or

(iv) Provide the information regarding subcontracts pursuant to paragraph (f)(8) of this clause.

(2) Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(3) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of subject inventions required by paragraph (c)(1) of this clause, an acceptable final report pursuant to subdivision (f)(7)(ii) of this clause, and all past due confirmatory instruments.

(4) The Contracting Officer may decrease or increase the sums withheld up to the maximum authorized above. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government right.

(End of clause)

Alternate I (June 1989). As prescribed in 27.303(b)(2), add the following sentence at the end of paragraph (b) of the basic clause:

The license shall include the right of the Government to sublicense foreign governments, their nationals, and international organizations pursuant to the following treaties or international agreements: _____*

[*Contracting Officer complete with the names of applicable existing treaties or international agreements. The above language is not intended to apply to treaties or agreements that are in effect on the date of the award but are not listed.]

Alternate II (June 1989). As prescribed in 27.303(b)(2), add the following sentence at the end of paragraph (b) of the basic clause:

The agency reserves the right to unilaterally amend this contract to identify specific treaties or international agreements entered into or to be entered into by the Government after the effective date of this contract and effectuate those license or other rights which are necessary for the Government to meet its obligations to foreign governments, their nationals, and international organizations under such treaties or international agreement with respect to subject inventions made after the date of the amendment.

52.227-13 Patent Rights—Acquisition by the Government.

As prescribed at 27.303(c), insert the following clause:

PATENT RIGHTS—ACQUISITION BY THE GOVERNMENT (JAN 1997)

(a) *Definitions.* “Invention,” as used in this clause, means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, *et seq.*).

“Practical application,” as used in this clause, means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

“Subject invention,” as used in this clause, means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract; *provided*, that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of contract performance.

(b) *Allocations of principal rights—(1) Assignment to the Government.* The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each subject invention, except to the extent that rights are retained by the Contractor under paragraph (b)(2) and paragraph (d) of this clause.

(2) *Greater rights determinations.* (i) The Contractor, or an employee-inventor after consultation with the Contractor, may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause, in accordance with the procedures of paragraph 27.304-1(a) of the Federal Acquisition Regulation (FAR). A request for a determination of whether the Contractor or the employee-inventor is entitled to

retain such greater rights must be submitted to the Head of the Contracting Agency or designee at the time of the first disclosure of the invention pursuant to paragraph (e)(2) of this clause, or not later than 8 months thereafter, unless a longer period is authorized in writing by the Contracting Officer for good cause shown in writing by the Contractor. Each determination of greater rights under this contract normally shall be subject to paragraph (c) of this clause, and to the reservations and conditions deemed to be appropriate by the Head of the Contracting Agency or designee.

(ii) Upon request, the Contractor shall provide the filing date, serial number and title, a copy of the patent application (including an English-language version if filed in a language other than English), and patent number and issue date for any subject invention in any country for which the Contractor has retained title.

(iii) Upon request, the Contractor shall furnish the Government an irrevocable power to inspect and make copies of the patent application file.

(c) *Minimum rights acquired by the Government.* (1) With respect to each subject invention to which the Contractor retains principal or exclusive rights, the Contractor agrees as follows:

(i) The Contractor hereby grants to the Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced each subject invention throughout the world by or on behalf of the Government of the United States (including any Government agency).

(ii) The Contractor agrees that with respect to any subject invention in which it has acquired title, the Federal agency has the right in accordance with the procedures in FAR 27.304-1(g) to require the Contractor, an assignee, or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, the Federal agency has the right to grant such a license itself if the Federal agency determines that—

(A) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(B) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(C) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(D) Such action is necessary because the agreement required by paragraph (i) of this clause has neither been obtained nor waived or because a licensee of the exclusive

right to use or sell any subject invention in the United States is in breach of such agreement.

(iii) The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the agency may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceedings undertaken by the agency in accordance with subdivision (c)(1)(ii) of this clause. To the extent data or information supplied under this section is considered by the Contractor, its licensee, or assignee to be privileged and confidential and is so marked, the agency agrees that, to the extent permitted by law, it will not disclose such information to persons outside the Government.

(iv) The Contractor agrees, when licensing a subject invention, to arrange to avoid royalty charges on acquisitions involving Government funds, including funds derived through a Military Assistance Program of the Government or otherwise derived through the Government, to refund any amounts received as royalty charges on a subject invention in acquisitions for, or on behalf of, the Government, and to provide for such refund in any instrument transferring rights in the invention to any party.

(v) The Contractor agrees to provide for the Government's paid-up license pursuant to subdivision (i) of this clause in any instrument transferring rights in a subject invention and to provide for the granting of licenses as required by subdivision (ii) of this clause, and for the reporting of utilization information as required by subdivision (iii) of this clause, whenever the instrument transfers principal or exclusive rights in a subject invention.

(2) Nothing contained in this paragraph (c) shall be deemed to grant to the Government any rights with respect to any invention other than a subject invention.

(d) *Minimum rights to the Contractor:* (1) The Contractor is hereby granted a revocable nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government obtains title, unless the Contractor fails to disclose the subject invention within the times specified in paragraph (e)(2) of this clause. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the funding Federal agency except

when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the funding Federal agency to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in 37 CFR Part 404 and agency licensing regulations. This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical applications and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the funding Federal agency to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the funding Federal agency will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed 30 days (or such other time as may be authorized by the funding Federal agency for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable agency licensing regulations and 37 CFR 404 concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

(4) When the Government has the right to receive title, and does not elect to secure a patent in a foreign country, the Contractor may elect to retain such rights in any foreign country in which the Government elects not to secure a patent, subject to the Government's rights in paragraph (c)(1) of this clause.

(e) *Invention identification, disclosures, and reports.* (1) The Contractor shall establish and maintain active and effective procedures to assure that subject inventions are promptly identified and disclosed to Contractor personnel responsible for patent matters within 6 months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this contract. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of subject inventions, and records that show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(2) The Contractor shall disclose each subject invention to the Contracting Officer within 2 months after the inventor discloses it in writing to Contractor personnel responsible for patent matters or, if earlier, within 6 months after the Contracting

tor becomes aware that a subject invention has been made, but in any event before any on sale, public use, or publication of such invention known to the Contractor. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale, or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Contractor shall promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.

(3) The Contractor shall furnish the Contracting Officer the following:

(i) Interim reports every 12 months (or such longer period as may be specified by the Contracting Officer) from the date of the contract, listing subject inventions during that period, and stating that all subject inventions have been disclosed (or that there are not such inventions) and that the procedures required by paragraph (e)(1) of this section have been followed.

(ii) A final report, within 3 months after completion of the contracted work, listing all subject inventions or stating that there were no such inventions, and listing all subcontracts at any tier containing a patent rights clause or stating that there were no such subcontracts.

(4) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) of this clause, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by paragraph (2) of this clause.

(5) The Contractor agrees subject to FAR 27.302(i) that the Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) *Examination of records relating to inventions.* (1) The Contracting Officer or any authorized representative shall, until 3 years after final payment under this contract, have the right to examine any books (including laboratory notebooks), records, and documents of the Contractor relating to the con-

ception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether—

(i) Any such inventions are subject inventions;

(ii) The Contractor has established and maintains the procedures required by paragraphs (e)(1) and (4) of this clause; and

(iii) The Contractor and its inventors have complied with the procedures.

(2) If the Contracting Officer learns of an unreported Contractor invention which the Contracting Officer believes may be a subject invention, the Contractor may be required to disclose the invention to the agency for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate conditions to protect the confidentiality of the information involved.

(g) *Withholding of payment (this paragraph does not apply to subcontracts).* (1) Any time before final payment under this contract, the Contracting Officer may, in the Government's interest, withhold payment until a reserve not exceeding \$50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if, in the Contracting Officer's opinion, the Contractor fails to—

(i) Establish, maintain, and follow effective procedures for identifying and disclosing subject inventions pursuant to paragraph (e)(1) of this paragraph;

(ii) Disclose any subject invention pursuant to paragraph (e)(2) of this clause;

(iii) Deliver acceptable interim reports pursuant to subdivision (e)(3)(i) of this clause; or

(iv) Provide the information regarding subcontracts pursuant to paragraph (h)(4) of this clause.

(2) Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(3) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of subject inventions required by paragraph (e)(2) of this clause, and acceptable final report pursuant to subdivision (e)(3)(ii) of this clause, and all past due confirmatory instruments.

(4) The Contracting Officer may decrease or increase the sums withheld up to the maximum authorized above. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government rights.

(h) *Subcontracts.* (1) The Contractor shall include this clause (suitably modified to identify the parties) in all subcon-

tracts, regardless of tier, for experimental, developmental, or research work. The subcontractor shall retain all rights provided for the Contractor in this clause, and the Contractor shall not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Contractor—

(i) Shall promptly submit a written notice to the Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Contracting Officer.

(3) In the case of subcontracts at any tier, the agency, subcontractor, and Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to those matters covered by this clause.

(4) The Contractor shall promptly notify the Contracting Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(i) *Preference for United States industry.* Unless provided otherwise, no Contractor that receives title to any subject invention and no assignee of any such Contractor shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement may be waived by the Government upon a showing by the Contractor or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(End of clause)

Alternate I (June 1989). As prescribed in 27.303(c)(3), add the following sentence at the end of subdivision (c)(1)(i) of the basic clause:

The license will include the right of the Government to sublicense foreign governments, their nationals, and international organizations pursuant to the following treaties or international agreements: _____*

[*Contracting Officer complete with the names of applicable existing treaties or international agreements. The above lan-

guage is not intended to apply to treaties or agreements that are in effect on the date of the award but are not listed.]

Alternate II (June 1989). As prescribed in 27.303(c)(3), add the following sentence at the end of subdivision (c)(1)(i) of the basic clause:

The agency reserves the right to unilaterally amend this contract to identify specific treaties or international agreements entered into or to be entered into by the Government after the effective date of this contract, and effectuate those license or other rights which are necessary for the Government to meet its obligations to foreign governments, their nationals, and international organizations under such treaties or international agreements with respect to subject inventions made after the date of the amendment.

52.227-14 Rights in Data—General.

As prescribed in 27.409(a), insert the following clause with any appropriate alternates:

RIGHTS IN DATA—GENERAL (JUNE 1987)

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

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

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

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

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

“Restricted computer software,” as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and is confidential or privileged; or is published copyrighted computer

software, including minor modifications of such computer software.

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

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

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

(b) *Allocation of rights.* (1) Except as provided in paragraph (c) of this clause regarding copyright, the Government shall have unlimited rights in—

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

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

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

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

(2) The Contractor shall have the right to—

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

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

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

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

(c) *Copyright*—(1) *Data first produced in the performance of this contract.* Unless provided otherwise in paragraph (d) of this clause, the Contractor may establish, without prior approval of the Contracting Officer, claim to

copyright subsisting in scientific and technical articles based on or containing data first produced in the performance of this contract and published in academic, technical or professional journals, symposia proceedings or similar works. The prior, express written permission of the Contracting Officer is required to establish claim to copyright subsisting in all other data first produced in the performance of this contract. When claim to copyright is made, the Contractor shall affix the applicable copyright notices of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. For data other than computer software the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government. For computer software, the Contractor grants to the Government and others acting in its behalf, a paid-up nonexclusive, irrevocable worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly by or on behalf of the Government.

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

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

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

(2) The Contractor agrees that to the extent it receives or is given access to data necessary for the performance of this contract which contain restrictive markings, the Contractor

shall treat the data in accordance with such markings unless otherwise specifically authorized in writing by the Contracting Officer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the Government are to be treated as limited rights data and not restricted computer software.

(2) [Reserved]

(3) [Reserved]

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

(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.

(End of clause)

Alternate I (June 1987). As prescribed in 27.409(b), substitute the following definition for "Limited Rights Data" in paragraph (a) of the clause:

"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.

Alternate II (June 1987). As prescribed in 27.409(c), insert the following paragraph (g)(2) in the clause:

(g)(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.

(End of notice)

Alternate III (June 1987). As prescribed in 27.409(d), insert the following paragraph (g)(3)(i) in the clause:

(g)(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.”

Alternate IV (June 1987). As prescribed in 27.409(e), substitute the following paragraph (c)(1) in the clause:

(c) *Copyright—(1) Data first produced in the performance of the contract.* Except as otherwise specifically provided in this contract, the Contractor may establish claim to copyright subsisting in any data first produced in the performance of this contract. When claim to copyright is made, the Contractor shall affix the applicable copyright notice 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 for all such data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government. For computer software, the Contractor grants to the Government and others acting on its behalf, a paid up, nonexclusive, irrevocable worldwide license for all such computer software to reproduce, prepare derivative works, and perform publicly and display publicly, by or on behalf of the Government.

Alternate V (June 1987). As prescribed in 27.409(f), add the following paragraph (j) to the clause:

(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 Contracting Officer shall designate an alternate inspector.

52.227-15 Representation of Limited Rights Data and Restricted Computer Software.

As prescribed in 27.409(g), insert the following provision:

REPRESENTATION OF LIMITED RIGHTS DATA AND RESTRICTED COMPUTER SOFTWARE (MAY 1999)

(a) This solicitation sets forth the work to be performed if a contract award results, and the Government’s known delivery requirements for data (as defined in FAR 27.401). Any resulting contract may also provide the Government the option to order additional data under the Additional Data Requirements clause at 52.227-16 of the FAR, if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Data—General clause at 52.227-14 that is to be included in this contract. Under the latter clause, a Contractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data in lieu thereof. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of Alternate V with this latter clause provides the Government the right to inspect such data at the Contractor’s facility.

(b) As an aid in determining the Government’s need to include Alternate II or Alternate III in the clause at 52.227-14, Rights in Data—General, the offeror shall complete paragraph (c) of this provision to either state that none of the data qualify as limited rights data or restricted computer software, or identify, to the extent feasible, which of the data qualifies as limited rights data or restricted computer software. Any identification of limited rights data or restricted computer software in the offeror’s response is not determinative of the status of such data should a contract be awarded to the offeror.

(c) The offeror has reviewed the requirements for the delivery of data or software and states [*offeror check appropriate block*]—

None of the data proposed for fulfilling such requirements qualifies as limited rights data or restricted computer software.

Data proposed for fulfilling such requirements qualify as limited rights data or restricted computer software and are identified as follows:

NOTE: “Limited rights data” and “Restricted computer software” are defined in the contract clause entitled “Rights in Data—General.”

(End of provision)

52.227-16 Additional Data Requirements.

As prescribed in 27.409(h), insert the following clause:

ADDITIONAL DATA REQUIREMENTS (JUNE 1987)

(a) In addition to the data (as defined in the clause at 52.227-14, Rights in Data—General clause or other equivalent included in this contract) specified elsewhere in this contract to be delivered, the Contracting Officer may, at any time during contract performance or within a period of 3 years after acceptance of all items to be delivered under this contract, order any data first produced or specifically used in the performance of this contract.

(b) The Rights in Data—General clause or other equivalent included in this contract is applicable to all data ordered under this Additional Data Requirements clause. Nothing contained in this clause shall require the Contractor to deliver any data the withholding of which is authorized by the Rights in Data—General or other equivalent clause of this contract, or data which are specifically identified in this contract as not subject to this clause.

(c) When data are to be delivered under this clause, the Contractor will be compensated for converting the data into the prescribed form, for reproduction, and for delivery.

(d) The Contracting Officer may release the Contractor from the requirements of this clause for specifically identified data items at any time during the 3-year period set forth in paragraph (a) of this clause.

52.227-17 Rights in Data—Special Works.

As prescribed in 27.409(i), insert the following clause:

RIGHTS IN DATA—SPECIAL WORKS (JUNE 1987)

(a) Definitions.

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

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

(b) *Allocation of Rights.* (1) The Government shall have—

(i) Unlimited rights in all data delivered under this contract, and in all data first produced in the performance of this contract, except as provided in paragraph (c) of this clause for copyright.

(ii) The right to limit exercise of claim to copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in such data, in accordance with paragraph (c)(1) of this clause.

(iii) The right to limit the release and use of certain data in accordance with paragraph (d) of this clause.

(2) The Contractor shall have, to the extent permission is granted in accordance with paragraph (c)(1) of this clause,

the right to establish claim to copyright subsisting in data first produced in the performance of this contract.

(c) *Copyright.* (1) *Data first produced in the performance of this contract.* (i) The Contractor agrees not to assert, establish, or authorize others to assert or establish, any claim to copyright subsisting in any data first produced in the performance of this contract without prior written permission of the Contracting Officer. When claim to copyright is made, the Contractor shall affix the appropriate copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) to such data when 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. The Contractor grants to the Government, and others acting on its behalf, a paid-up nonexclusive, irrevocable, worldwide license for all such data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government.

(ii) If the Government desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in subdivision (c)(1)(i) of this clause, the Contracting Officer may direct the Contractor to establish, or authorize the establishment of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(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 contain 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 paragraph (c)(1) of this clause.

(d) *Release and use restrictions.* Except as otherwise specifically provided for in this contract, the Contractor shall not use for purposes other than the performance of this contract, nor shall the Contractor release, reproduce, distribute, or publish any data first produced in the performance of this contract, nor authorize others to do so, without written permission of the Contracting Officer.

(e) *Indemnity.* The Contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication, or use of any data furnished under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor as soon as practicable of any claim or suit,

affords the Contractor an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the Contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; nor do these provisions apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

(End of clause)

52.227-18 Rights in Data—Existing Works.

As prescribed in 27.409(j), insert the following clause:

RIGHTS IN DATA—EXISTING WORKS (JUNE 1987)

(a) Except as otherwise provided in this contract, the Contractor grants to the Government, and others acting on its behalf, a paid-up nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, and perform publicly and display publicly, by or on behalf of the Government, for all the material or subject matter called for under this contract, or for which this clause is specifically made applicable.

(b) The Contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of (1) the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication or use of any data furnished under this contract; or (2) any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the Contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; and do not apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

(End of clause)

52.227-19 Commercial Computer Software—Restricted Rights.

As prescribed in 27.409(k), insert the following clause:

COMMERCIAL COMPUTER SOFTWARE—RESTRICTED RIGHTS (JUNE 1987)

(a) As used in this clause, "restricted computer software" means any computer program, computer data base, or documentation thereof, that has been developed at private expense and either is a trade secret, is commercial or financial and confidential or privileged, or is published and copyrighted.

(b) Notwithstanding any provisions to the contrary contained in any Contractor's standard commercial license or lease agreement pertaining to any restricted computer software delivered under this purchase order/contract, and irrespective of whether any such agreement has been proposed prior to or after issuance of this purchase order/contract or of the fact that such agreement may be affixed to or accompany the restricted computer software upon delivery, vendor agrees that the Government shall have the rights that are set forth in paragraph (c) of this clause to use, duplicate or disclose any restricted computer software delivered under this purchase order/contract. The terms and provisions of this contract, including any commercial lease or license agreement, shall be subject to paragraph (c) of this clause and shall comply with Federal laws and the Federal Acquisition Regulation.

(c)(1) The restricted computer software delivered under this contract may not be used, reproduced or disclosed by the Government except as provided in paragraph (c)(2) of this clause or as expressly stated otherwise in this contract.

(2) The restricted computer software may be—

(i) 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;

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

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

(iv) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to same restrictions set forth in this purchase order/contract;

(v) Disclosed to and reproduced for use by support service Contractors or their subcontractors, subject to the same restrictions set forth in this purchase order/contract; and

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

(3) If the restricted computer software delivered under this purchase order/contract is published and copyrighted, it is licensed to the Government, without disclosure prohibitions, with the rights set forth in paragraph (c)(2) of this clause unless expressly stated otherwise in this purchase order/contract.

(4) To the extent feasible the Contractor shall affix a Notice substantially as follows to any restricted computer software delivered under this purchase order/contract; or, if the vendor does not, the Government has the right to do so:

NOTICE—Notwithstanding any other lease or license agreement that may pertain to, or accompany the delivery of, this computer software, the rights of the Government regarding its use, reproduction and disclosure are as set forth in Government Contract (or Purchase Order) No. _____.

(d) If any restricted computer software is delivered under this contract with the copyright notice of 17 U.S.C. 401, it will be presumed to be published and copyrighted and licensed to the Government in accordance with paragraph (c)(3) of this clause, unless a statement substantially as follows accompanies such copyright notice:

Unpublished—rights reserved under the copyright laws of the United States.

(End of clause)

52.227-20 Rights in Data—SBIR Program.

As prescribed in 27.409(l), insert the following clause:

RIGHTS IN DATA—SBIR PROGRAM (MAR 1994)

(a) Definitions.

“Computer software,” as used in this clause, means computer programs, computer data bases, and documentation thereof.

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

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

“Limited rights 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.

“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 confidential or privileged; or is published copyrighted computer software; including modifications of such computer software.

“SBIR data,” as used in this clause, means data first produced by a Contractor that is a small business firm in performance of a small business innovation research contract issued under the authority of 15 U.S.C. 638 (Pub. L. 97-219, Small Business Innovation Development Act of 1982), which data are not generally known, and which data without obligation as to its confidentiality have not been made available to others by the Contractor or are not already available to the Government.

“SBIR rights,” as used in this clause, mean the rights in SBIR data set forth in the SBIR Rights Notice of paragraph (d) of this clause.

“Technical data,” as used in this clause, means that data which are of a scientific or technical nature.

“Unlimited rights,” as used in this clause, means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose 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 specifically identified in this contract as data to be delivered without restriction;

(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 SBIR data in accordance with paragraph (d) of this clause or for limited rights data or restricted computer software in accordance with paragraph (f) of this clause.

(2) The Contractor shall have the right to—

(i) Protect SBIR rights in SBIR data delivered under this contract in the manner and to the extent provided in paragraph (d) of this clause;

(ii) Withhold from delivery 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 SBIR rights or copyrights notices and to take other appropriate action, in accordance with paragraph (e) 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 paragraph (c)(1) of this clause.

(c) *Copyright—* (1) *Data first produced in the performance of this contract.* Except as otherwise specifically provided in this contract, the Contractor may establish claim to copyright subsisting in any data first produced in the performance of this contract. If claim to copyright is made, the Contractor shall affix the applicable copyright notice 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 to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, for all such data. For computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable worldwide license for all such 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 that are not first produced in the performance of this contract and that contain 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 paragraph (c)(1) of this clause.

(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) *Rights to SBIR data.* (1) The Contractor is authorized to affix the following “SBIR Rights Notice” to SBIR data delivered under this contract 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:

SBIR RIGHTS NOTICE (MAR 1994)

These SBIR data are furnished with SBIR rights under Contract No. _____ (and subcontract _____, if appropriate). For a period of 4 years after acceptance of all items to be delivered under this contract, the Government agrees to use these data for Government purposes only, and they shall not be disclosed outside the Government (including disclosure for procurement purposes) during such period without permission of the Contractor, except that, subject to the foregoing use and disclosure prohibitions, such data may be disclosed for use by support Contractors. After the aforesaid 4-year period the Government has a royalty-free license to use, and to authorize others to use on its behalf, these data for Government purposes, but is relieved of all disclosure prohibitions and assumes no liability for unauthorized use of these data by third parties. This Notice shall be affixed to any reproductions of these data, in whole or in part.

(End of notice)

(2) The Government’s sole obligation with respect to any SBIR data shall be as set forth in this paragraph (d).

(e) *Omitted or incorrect markings.* (1) Data delivered to the Government without any notice authorized by paragraph (d) of this clause, and without a copyright notice, 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 have not been disclosed without restriction outside the Government, the Contractor may request, within six months (or a longer time approved by the Contracting Officer for good cause shown) after delivery of such data, permission to have notices placed on qualifying data at the Contractor’s expense, and the Contracting Officer may agree to do so if the Contractor—

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

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

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

(iv) Acknowledges that the Government has no liability with respect to the disclosure or use 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.

(f) *Protection of limited rights data.* 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 such data qualify as either limited rights data or restricted computer software, the Contractor, if the Contractor desires to continue protection of such data, shall withhold such data and not furnish them to the Government under this contract. As a condition to this withholding the Contractor shall identify the data being withheld and furnish form, fit, and function data in lieu thereof.

(g) *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.

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

(End of clause)

52.227-21 Technical Data Declaration, Revision, and Withholding of Payment—Major Systems.

As prescribed in 27.409(q), insert the following clause:

TECHNICAL DATA DECLARATION, REVISION, AND
WITHHOLDING OF PAYMENT—MAJOR SYSTEMS
(JAN 1997)

(a) *Scope of clause.* This clause shall apply to all technical data (as defined in the Rights in Data—General clause included in this contract) that have been specified in this contract as being subject to this clause. It shall apply to all such data delivered, or required to be delivered, at any time during contract performance or within 3 years after acceptance of all items (other than technical data) delivered under this contract unless a different period is set forth herein. The Contracting Officer may release the Contractor from all or part of the requirements of this clause for specifically identified technical data items at any time during the period covered by this clause.

(b) *Technical data declaration.* (1) All technical data that are subject to this clause shall be accompanied by the following declaration upon delivery:

TECHNICAL DATA DECLARATION (JAN 1997)

The Contractor, _____, hereby declares that, to the best of its knowledge and belief, the technical data delivered herewith under Government contract No. _____ (and subcontract _____, if appropriate) are complete, accurate, and comply with the requirements of the contract concerning such technical data.

(End of declaration)

(2) The Government shall rely on the declarations set out in paragraph (b)(1) of this clause in accepting delivery of the technical data, and in consideration thereof may, at any time during the period covered by this clause, request correction of any deficiencies which are not in compliance with contract requirements. Such corrections shall be made at the expense of the Contractor. Unauthorized markings on data shall not be considered a deficiency for the purpose of this clause, but will be treated in accordance with paragraph (e) of the Rights in Data—General clause included in this contract.

(c) *Technical data revision.* The Contractor also agrees, at the request of the Contracting Officer, to revise technical data that are subject to this clause to reflect engineering design changes made during the performance of this contract and affecting the form, fit, and function of any item (other than technical data) delivered under this contract. The Contractor may submit a request for an equitable adjustment to the terms and conditions of this contract for any revisions to technical data made pursuant to this paragraph.

(d) *Withholding of payment.* (1) At any time before final payment under this contract the Contracting Officer may, in the Government's interest, withhold payment until a reserve not exceeding \$100,000 or 5 percent of the amount of this contract, whichever is less, if in the Contracting Officer's

opinion respecting any technical data that are subject to this clause, the Contractor fails to—

(i) Make timely delivery of such technical data as required by this contract;

(ii) Provide the declaration required by paragraph (b)(1) of this clause;

(iii) Make the corrections required by paragraph (b)(2) of this clause; or

(iv) Make revisions requested under paragraph (c) of this clause.

(2) Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has delivered the data and/or has made the required corrections or revisions. Withholding shall not be made if the failure to make timely delivery, and/or the deficiencies relating to delivered data, arose out of causes beyond the control of the Contractor and without the fault or negligence of the Contractor.

(3) The Contracting Officer may decrease or increase the sums withheld up to the sums authorized in paragraph (d)(1) of this clause. The withholding of any amount under this paragraph, or the subsequent payment thereof, shall not be construed as a waiver of any Government rights.

(End of clause)

52.227-22 Major System—Minimum Rights.

As prescribed in 27.409(r), insert the following clause:

MAJOR SYSTEM—MINIMUM RIGHTS (JUNE 1987)

Notwithstanding any other provision of this contract, the Government shall have unlimited rights in any technical data, other than computer software, developed in the performance of this contract and relating to a major system or supplies for a major system procured or to be procured by the Government, to the extent that delivery of such technical data is required as an element of performance under this contract. The rights of the Government under this clause are in addition to and not in lieu of its rights under the other provisions of this contract.

(End of clause)

52.227-23 Rights to Proposal Data (Technical).

As prescribed in 27.409(s), insert the following clause:

RIGHTS TO PROPOSAL DATA (TECHNICAL) (JUNE 1987)

Except for data contained on pages _____, it is agreed that as a condition of award of this contract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the "Rights in Data—General" clause contained in this contract) in and to

the technical data contained in the proposal dated
_____, upon which this contract is based.

(End of clause)

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52.228-1 Bid Guarantee.

As prescribed in 28.101-2, insert a provision or clause substantially as follows:

BID GUARANTEE (SEPT 1996)

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

(b) The bidder shall furnish a bid guarantee in the form of a firm commitment, *e.g.*, bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds—

(1) To unsuccessful bidders as soon as practicable after the opening of bids; and

(2) To the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.

(c) The amount of the bid guarantee shall be _____ percent of the bid price or \$_____, whichever is less.

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

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

(End of provision)

52.228-2 Additional Bond Security.

As prescribed in 28.106-4(a), insert the following clause:

ADDITIONAL BOND SECURITY (OCT 1997)

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

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

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

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

(d) An irrevocable letter of credit (ILC) used as security will expire before the end of the period of required security. If the Contractor does not furnish an acceptable extension or replacement ILC, or other acceptable substitute, at least

30 days before an ILC's scheduled expiration, the Contracting officer has the right to immediately draw on the ILC.

(End of clause)

52.228-3 Workers' Compensation Insurance (Defense Base Act).

As prescribed in 28.309(a), insert the following clause:

WORKERS' COMPENSATION INSURANCE
(DEFENSE BASE ACT) (APR 1984)

The Contractor shall (a) provide, before commencing performance under this contract, such workers' compensation insurance or security as the Defense Base Act (42 U.S.C. 1651, *et seq.*) requires and (b) continue to maintain it until performance is completed. The Contractor shall insert, in all subcontracts under this contract to which the Defense Base Act applies, a clause similar to this clause (including this sentence) imposing upon those subcontractors this requirement to comply with the Defense Base Act.

(End of clause)

52.228-4 Workers' Compensation and War-Hazard Insurance Overseas.

As prescribed in 28.309(b), insert the following clause:

WORKERS' COMPENSATION AND WAR-HAZARD
INSURANCE OVERSEAS (APR 1984)

(a) This paragraph applies if the Contractor employs any person who, but for a waiver granted by the Secretary of Labor, would be subject to workers' compensation insurance under the Defense Base Act (42 U.S.C. 1651, *et seq.*). On behalf of employees for whom the applicability of the Defense Base Act has been waived, the Contractor shall (1) provide, before commencing performance under this contract, at least that workers' compensation insurance or the equivalent as the laws of the country of which these employees are nationals may require, and (2) continue to maintain it until performance is completed. The Contractor shall insert, in all subcontracts under this contract to which the Defense Base Act would apply but for the waiver, a clause similar to this paragraph (a) (including this sentence) imposing upon those subcontractors this requirement to provide such workers' compensation insurance coverage.

(b) This paragraph applies if the Contractor or any subcontractor under this contract employs any person who, but for a waiver granted by the Secretary of Labor, would be subject to the War Hazards Compensation Act (42 U.S.C. 1701, *et seq.*). On behalf of employees for whom the applicability of the Defense Base Act (and hence that of the War Hazards Compensation Act) has been waived, the Contractor shall, subject to reimbursement as provided elsewhere in this contract, afford the same protection as that provided in the War Hazards

Compensation Act, except that the level of benefits shall conform to any law or international agreement controlling the benefits to which the employees may be entitled. In all other respects, the standards of the War Hazards Compensation Act shall apply; *e.g.*, the definition of war-hazard risks (injury, death, capture, or detention as the result of a war hazard as defined in the Act), proof of loss, and exclusion of benefits otherwise covered by workers' compensation insurance or the equivalent. Unless the Contractor elects to assume directly the liability to subcontractor employees created by this clause, the Contractor shall insert, in all subcontracts under this contract to which the War Hazards Compensation Act would apply but for the waiver, a clause similar to this paragraph (b) (including this sentence) imposing upon those subcontractors this requirement to provide war-hazard benefits.

(End of clause)

52.228-5 Insurance—Work on a Government Installation.

As prescribed in 28.310, insert the following clause:

INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective—

(1) For such period as the laws of the State in which this contract is to be performed prescribe; or

(2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

(End of clause)

52.228-6 [Reserved]

52.228-7 Insurance—Liability to Third Persons.

As prescribed in 28.311-1, insert the following clause:

INSURANCE—LIABILITY TO THIRD PERSONS (MAR 1996)

(a)(1) Except as provided in paragraph (a)(2) of this clause, the Contractor shall provide and maintain workers' compensation, employer's liability, comprehensive general liability (bodily injury), comprehensive automobile liability (bodily injury and property damage) insurance, and such other insurance as the Contracting Officer may require under this contract.

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

(3) All insurance required by this paragraph shall be in a form and amount and for those periods as the Contracting Officer may require or approve and with insurers approved by the Contracting Officer.

(b) The Contractor agrees to submit for the Contracting Officer's approval, to the extent and in the manner required by the Contracting Officer, any other insurance that is maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement.

(c) The Contractor shall be reimbursed—

(1) For that portion—

(i) Of the reasonable cost of insurance allocable to this contract; and

(ii) Required or approved under this clause; and

(2) For certain liabilities (and expenses incidental to such liabilities) to third persons not compensated by insurance or otherwise without regard to and as an exception to the limitation of cost or the limitation of funds clause of this contract. These liabilities must arise out of the performance of this contract, whether or not caused by the negligence of the Contractor or of the Contractor's agents, servants, or employees, and must be represented by final judgments or settlements approved in writing by the Government. These liabilities are for—

(i) Loss of or damage to property (other than property owned, occupied, or used by the Contractor, rented to the Contractor, or in the care, custody, or control of the Contractor); or

(ii) Death or bodily injury.

(d) The Government's liability under paragraph (c) of this clause is subject to the availability of appropriated funds at the time a contingency occurs. Nothing in this contract shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

(e) The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities)—

(1) For which the Contractor is otherwise responsible under the express terms of any clause specified in the Schedule or elsewhere in the contract;

(2) For which the Contractor has failed to insure or to maintain insurance as required by the Contracting Officer; or

(3) That result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of—

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

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

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(f) The provisions of paragraph (e) of this clause shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of this contract, other than insurance required in accordance with this clause; *provided*, that such cost is allowable under the Allowable Cost and Payment clause of this contract.

(g) If any suit or action is filed or any claim is made against the Contractor, the cost and expense of which may be reimbursable to the Contractor under this contract, and the risk of which is then uninsured or is insured for less than the amount claimed, the Contractor shall—

(1) Immediately notify the Contracting Officer and promptly furnish copies of all pertinent papers received;

(2) Authorize Government representatives to collaborate with counsel for the insurance carrier in settling or defending the claim when the amount of the liability claimed exceeds the amount of coverage; and

(3) Authorize Government representatives to settle or defend the claim and to represent the Contractor in or to take charge of any litigation, if required by the Government, when the liability is not insured or covered by bond. The Contractor may, at its own expense, be associated with the Government representatives in any such claim or litigation.

(End of clause)

52.228-8 Liability and Insurance—Leased Motor Vehicles.

As prescribed in 28.312, insert the following clause:

LIABILITY AND INSURANCE—LEASED MOTOR VEHICLES (MAY 1999)

(a) The Government shall be responsible for loss of or damage to—

(1) Leased vehicles, except for—

(i) Normal wear and tear; and

(ii) Loss or damage caused by the negligence of the Contractor, its agents, or employees; and

(2) Property of third persons, or the injury or death of third persons, if the Government is liable for such loss, damage, injury, or death under the Federal Tort Claims Act (28 U.S.C. 2671-2680).

(b) The Contractor shall be liable for, and shall indemnify and hold harmless the Government against, all actions or claims for loss of or damage to property or the injury or death of persons, resulting from the fault, negligence, or wrongful act or omission of the Contractor, its agents, or employees.

(c) The Contractor shall provide and maintain insurance covering its liabilities under paragraph (b) of this clause, in amounts of at least \$200,000 per person and \$500,000 per occurrence for death or bodily injury and \$20,000 per occurrence for property damage or loss.

(d) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the interests of the Government shall not be effective (1) for such period as the laws of the State in which this contract is to be performed prescribe or (2) until 30 days after written notice to the Contracting Officer, whichever period is longer. The policies shall exclude any claim by the insurer for subrogation against the Government by reason of any payment under the policies.

(e) The contract price shall not include any costs for insurance or contingency to cover losses, damage, injury, or death for which the Government is responsible under paragraph (a) of this clause.

(End of clause)

52.228-9 Cargo Insurance.

As prescribed in 28.313(a), insert the following clause:

CARGO INSURANCE (MAY 1999)

(a) The Contractor, at the Contractor's expense, shall provide and maintain, during the continuance of this contract, cargo insurance of \$_____ per vehicle to cover the value of property on each vehicle and of \$_____ to cover the total value of the property in the shipment.

(b) All insurance shall be written on companies acceptable to _____ [*insert name of contracting agency*], and policies shall include such terms and conditions as required by _____ [*insert name of contracting agency*]. The Contractor shall provide evidence of acceptable cargo insurance to _____ [*insert name of contracting agency*] before commencing operations under this contract.

(c) Each cargo insurance policy shall include the following statement:

“It is a condition of this policy that the Company shall furnish—

(1) Written notice to _____ [*insert name and address of contracting agency*], 30 days in advance of the effective date of any reduction in, or cancellation of, this policy; and

(2) Evidence of any renewal policy to the address specified in paragraph (1) of this statement, not less than 15 days prior to the expiration of any current policy on file with _____ [insert name of contracting agency].”

(End of clause)

52.228-10 Vehicular and General Public Liability

Insurance.

As prescribed in 28.313(b), insert a clause substantially the same as the following in solicitations and contracts for transportation or for transportation-related services when the contracting officer determines that vehicular liability or general public liability insurance required by law is not sufficient:

VEHICULAR AND GENERAL PUBLIC LIABILITY INSURANCE (APR 1984)

(a) The Contractor, at the Contractor's expense, agrees to maintain, during the continuance of this contract, vehicular liability and general public liability insurance with limits of liability for—

(1) Bodily injury of not less than \$ _____ for each person and \$ _____ for each occurrence; and

(2) Property damage of not less than \$ _____ for each accident and \$ _____ in the aggregate.

(b) The Contractor also agrees to maintain workers' compensation and other legally required insurance with respect to the Contractor's own employees and agents.

(End of clause)

52.228-11 Pledges of Assets.

As prescribed in 28.203-6, insert the following clause:

PLEDGES OF ASSETS (FEB 1992)

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

(1) Pledge of assets; and

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

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

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

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

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

the lien filed in favor of the Government as required by FAR 28.203-3(d);

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

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

(End of clause)

52.228-12 Prospective Subcontractor Requests for

Bonds.

As prescribed in 28.106-4(b), use the following clause:

PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS (OCT 1995)

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

(End of clause)

52.228-13 Alternative Payment Protections.

As prescribed in 28.102-3(b), insert the following clause:

ALTERNATIVE PAYMENT PROTECTIONS (JULY 2000)

(a) The Contractor shall submit one of the following payment protections:

(b) The amount of the payment protection shall be 100 percent of the contract price.

(c) The submission of the payment protection is required within _____ days of contract award.

(d) The payment protection shall provide protection for the full contract performance period plus a one-year period.

(e) Except for escrow agreements and payment bonds, which provide their own protection procedures, the Contracting Officer is authorized to access funds under the payment protection when it has been alleged in writing by a supplier of labor or material that a nonpayment has occurred, and to withhold such funds pending resolution by administrative or judicial proceedings or mutual agreement of the parties.

(f) When a tripartite escrow agreement is used, the Contractor shall utilize only suppliers of labor and material that signed the escrow agreement.

(End of clause)

52.228-14 Irrevocable Letter of Credit.

As prescribed in 28.204-4, insert the following clause:

IRREVOCABLE LETTER OF CREDIT (DEC 1999)

(a) “Irrevocable letter of credit” (ILC), as used in this clause, means a written commitment by a federally insured financial institution to pay all or part of a stated amount of money, until the expiration date of the letter, upon presentation by the Government (the beneficiary) of a written demand therefor. Neither the financial institution nor the offeror/Contractor can revoke or condition the letter of credit.

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

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

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

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

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

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

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

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

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

(A) 90 days following final payment; or

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

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

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

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

Issue Date _____

Irrevocable Letter of Credit No. _____

Account party's name _____

Account party's address _____

For Solicitation No. _____ (for reference only)

To: [U.S. Government agency]

[U.S. Government agency's address]

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

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

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

4. This Letter of Credit is transferable. Transfers and assignments of proceeds are to be effected without charge to

either the beneficiary or the transferee/assignee of proceeds. Such transfer or assignment shall be only at the written direction of the Government (the beneficiary) in a form satisfactory to the issuing financial institution and the confirming financial institution, if any.

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

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

Sincerely,

[Issuing financial institution]

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

[Confirming Financial Institution's Letterhead or Name and Address]
(Date) _____
Our Letter of Credit Advice Number _____
Beneficiary: _____ [U.S. Government agency]
Issuing Financial Institution: _____
Issuing Financial Institution's LC No.: _____

Gentlemen:

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

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

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

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

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

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

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

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

Sincerely,

[Confirming financial institution]

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

SIGHT DRAFT

[City, State]
(Date) _____
[Name and address of financial institution]
Pay to the order of _____ [Beneficiary Agency]
_____ the sum of United States \$ _____. This draft is drawn under Irrevocable Letter of Credit No. _____.

[Beneficiary Agency]

[By]

(End of clause)

52.228-15 Performance and Payment Bonds—Construction.

As prescribed in 28.102-3(a), insert a clause substantially as follows:

PERFORMANCE AND PAYMENT BONDS—CONSTRUCTION (JULY 2000)

(a) *Definitions.* As used in this clause—
“Original contract price” means the award price of the contract; or, for requirements contracts, the price payable for the estimated total quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

(b) *Amount of required bonds.* Unless the resulting contract price is \$100,000 or less, the successful offeror shall furnish

performance and payment bonds to the Contracting Officer as follows:

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

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

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

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

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

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

U.S. Department of Treasury
Financial Management Service
Surety Bond Branch
401 14th Street, NW, 2nd Floor, West Wing
Washington, DC 20227.

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

(End of clause)

52.228-16 Performance and Payment Bonds—Other Than Construction.

As prescribed in 28.103-4, insert a clause substantially as follows:

PERFORMANCE AND PAYMENT BONDS—OTHER THAN
CONSTRUCTION (JULY 2000)

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

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

(b) The Contractor shall furnish a performance bond (Standard Form 1418) for the protection of the Government in an amount equal to _____ percent of the original contract price and a payment bond (Standard Form 1416) in an amount equal to _____ percent of the original contract price.

(c) The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within _____ days, but in any event, before starting work.

(d) The Government may require additional performance and payment bond protection if the contract price is increased. The Government may secure the additional protection by directing the Contractor to increase the penal amount of the existing bonds or to obtain additional bonds.

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

U.S. Department of Treasury
Financial Management Service
Surety Bond Branch
401 14th Street, NW, 2nd Floor, West Wing
Washington, DC 20227

(End of clause)

Alternate I (July 2000). As prescribed in 28.103-4, substitute the following paragraphs (b) and (d) for paragraphs (b) and (d) of the basic clause:

(b) The Contractor shall furnish a performance bond (Standard Form 1418) for the protection of the Government in an amount equal to _____ percent of the original contract price.

(d) The Government may require additional performance bond protection if the contract price is increased. The Government may secure the additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

52.229-1 State and Local Taxes.

As prescribed in 29.401-1, insert the following clause:

STATE AND LOCAL TAXES (APR 1984)

Notwithstanding the terms of the Federal, State, and Local Taxes clause, the contract price excludes all State and local taxes levied on or measured by the contract or sales price of the services or completed supplies furnished under this contract. The Contractor shall state separately on its invoices taxes excluded from the contract price, and the Government agrees either to pay the amount of the taxes to the Contractor or provide evidence necessary to sustain an exemption.

(End of clause)

52.229-2 North Carolina State and Local Sales and Use Tax.

As prescribed in 29.401-2, insert the following clause in solicitations and contracts for construction to be performed in North Carolina:

NORTH CAROLINA STATE AND LOCAL SALES AND USE TAX (APR 1984)

(a) "Materials," as used in this clause, means building materials, supplies, fixtures, and equipment that become a part of or are annexed to any building or structure erected, altered, or repaired under this contract.

(b) If this is a fixed-price contract, the contract price includes North Carolina State and local sales and use taxes to be paid on materials, notwithstanding any other provision of this contract. If this is a cost-reimbursement contract, any North Carolina State and local sales and use taxes paid by the Contractor on materials shall constitute an allowable cost under this contract.

(c) At the time specified in paragraph (d) of this section, the Contractor shall furnish the Contracting Officer certified statements setting forth the cost of the materials purchased from each vendor and the amount of North Carolina State and local sales and use taxes paid. In the event the Contractor makes several purchases from the same vendor, the certified statement shall indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, and the North Carolina State and local sales and use taxes paid. The statement shall also include the cost of any tangible personal property withdrawn from the Contractor's warehouse stock and the amount of North Carolina State and local sales or use tax paid on this property by the Contractor. Any local sales or use taxes included in the Contractor's statements must be shown separately from the State sales or use taxes. The Contractor shall furnish any additional information the Commissioner of Revenue of the State of North Carolina may require to substantiate a refund claim for sales or use taxes. The Contractor shall also obtain and furnish to the Contracting Officer similar certified statements by its subcontractors.

(d) If this contract is completed before the next October 1, the certified statements to be furnished pursuant to paragraph (c) of this clause shall be submitted within 60 days after completion. If this contract is not completed before the

next October 1, the certified statements shall be submitted on or before November 30 of each year and shall cover taxes paid during the 12-month period that ended the preceding September 30.

(e) The certified statements to be furnished pursuant to paragraph (c) of this clause shall be in the following form:

I hereby certify that during the period _____ to _____ [insert dates], _____ [insert name of Contractor or subcontractor] paid North Carolina State and local sales and use taxes aggregating \$_____ (State) and \$_____ (local), with respect to building materials, supplies, fixtures, and equipment that have become a part of or annexed to a building or structure erected, altered, or repaired by _____ [insert name of Contractor or subcontractor] for the United States of America, and that the vendors from whom the property was purchased, the dates and numbers of the invoices covering the purchases, the total amount of the invoices of each vendor, the North Carolina State and local sales and use taxes paid on the property (shown separately), and the cost of property withdrawn from warehouse stock and North Carolina State and local sales or use taxes paid on this property are as set forth in the attachments.

(End of clause)

Alternate I (Apr 1984). If the requirement is for vessel repair to be performed in North Carolina, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(a) "Materials," as used in this clause, means materials, supplies, fixtures, and equipment that become a part of or are annexed to any vessel altered or repaired under this contract.

52.229-3 Federal, State, and Local Taxes.

As prescribed in 29.401-3, insert the following clause:

FEDERAL, STATE, AND LOCAL TAXES (APR 2003)

(a) As used in this clause—

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

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

"All applicable Federal, State, and local taxes and duties" means all taxes and duties, in effect on the contract date, that

the taxing authority is imposing and collecting on the transactions or property covered by this contract.

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

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

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

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

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

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

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

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

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

(End of clause)

52.229-4 Federal, State, and Local Taxes (State and Local Adjustments).

As prescribed in 29.401-3, insert the following clause:

FEDERAL, STATE, AND LOCAL TAXES (STATE AND LOCAL ADJUSTMENTS (APR 2003))

(a) As used in this clause—

“After-imposed tax” means any new or increased Federal, State, or local tax or duty, or tax that was excluded on the contract date but whose exclusion was later revoked or amount of exemption reduced during the contract period, other than an excepted tax, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date.

“After-relieved tax” means any amount of Federal, State, or local tax or duty, other than an excepted tax, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

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

“Contract date” means the effective date of this contract and, for any modification to this contract, the effective date of the modification.

“Excepted tax” means social security or other employment taxes, net income and franchise taxes, excess profits taxes, capital stock taxes, transportation taxes, unemployment compensation taxes, and property taxes. “Excepted tax” does not include gross income taxes levied on or measured by sales or receipts from sales, property taxes assessed on completed supplies covered by this contract, or any tax assessed on the Contractor’s possession of, interest in, or use of property, title to which is in the Government.

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

(b) Unless otherwise provided in this contract, the contract price includes all applicable Federal, State, and local taxes and duties.

(c) The contract price shall be increased by the amount of any after-imposed tax, or of any tax or duty specifically excluded from the contract price by a term or condition of this contract that the Contractor is required to pay or bear, including any interest or penalty, if the Contractor states in writing that the contract price does not include any contingency for such tax and if liability for such tax, interest, or penalty was not incurred through the Contractor’s fault, negligence, or failure to follow instructions of the Contracting Officer.

(d) The contract price shall be decreased by the amount of any after-relieved tax. The Government shall be entitled to interest received by the Contractor incident to a refund of taxes to the extent that such interest was earned after the Contractor was paid by the Government for such taxes. The Government shall be entitled to repayment of any penalty refunded to the Contractor to the extent that the penalty was paid by the Government.

(e) The contract price shall be decreased by the amount of any Federal, State, or local tax, other than an excepted tax, that was included in the contract price and that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor’s fault, negligence, or failure to follow instructions of the Contracting Officer.

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

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to Federal, State, and local taxes and duties that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs. The contract price shall be equitably adjusted to cover the costs of action taken by the Contractor at the direction of the Contracting Officer, including any interest, penalty, and reasonable attorneys' fees.

(h) The Government shall furnish evidence appropriate to establish exemption from any Federal, State, or local tax when—

(1) The Contractor requests such exemption and states in writing that it applies to a tax excluded from the contract price; and

(2) A reasonable basis exists to sustain the exemption.

(End of clause)

52.229-5 [Reserved]

52.229-6 Taxes—Foreign Fixed-Price Contracts.

As prescribed in 29.402-1(a), insert the following clause:

TAXES—FOREIGN FIXED-PRICE CONTRACTS (JUNE 2003)

(a) To the extent that this contract provides for furnishing supplies or performing services outside the United States and its outlying areas, this clause applies in lieu of any Federal, State, and local taxes clause of the contract.

(b) *Definitions.* As used in this clause—

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

“Country concerned” means any country, other than the United States and its outlying areas, in which expenditures under this contract are made.

“Tax” and “taxes” include fees and charges for doing business that are levied by the government of the country concerned or by its political subdivisions.

“All applicable taxes and duties” means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract, pursuant to written ruling or regulation in effect on the contract date.

“After-imposed tax” means any new or increased tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, other than excepted tax, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date.

“After-relieved tax” means any amount of tax or duty, other than an excepted tax, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund, as the result of legislative, judicial, or administrative action taking effect after the contract date.

“Excepted tax” means social security or other employment taxes, net income and franchise taxes, excess profits taxes, capital stock taxes, transportation taxes, unemployment compensation taxes, and property taxes. “Excepted tax” does not include gross income taxes levied on or measured by sales or receipts from sales, property taxes assessed on completed supplies covered by this contract, or any tax assessed on the Contractor's possession of, interest in, or use of property, title to which is in the U.S. Government.

(c) Unless otherwise provided in this contract, the contract price includes all applicable taxes and duties, except taxes and duties that the Government of the United States and the government of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.

(d) The contract price shall be increased by the amount of any after-imposed tax or of any tax or duty specifically excluded from the contract price by a provision of this contract that the Contractor is required to pay or bear, including any interest or penalty, if the Contractor states in writing that the contract price does not include any contingency for such tax and if liability for such tax, interest, or penalty was not incurred through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the provisions of paragraph (i) of this clause.

(e) The contract price shall be decreased by the amount of any after-relieved tax, including any interest or penalty. The Government of the United States shall be entitled to interest received by the Contractor incident to a refund of taxes to the extent that such interest was earned after the Contractor was paid by the Government of the United States for such taxes. The Government of the United States shall be entitled to repayment of any penalty refunded to the Contractor to the extent that the penalty was paid by the Government.

(f) The contract price shall be decreased by the amount of any tax or duty, other than an excepted tax, that was included in the contract and that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the provisions of paragraph (i) of this clause.

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

(h) If the Contractor obtains a reduction in tax liability under the United States Internal Revenue Code (Title 26, U.S. Code) because of the payment of any tax or duty that either

was included in the contract price or was the basis of an increase in the contract price, the amount of the reduction shall be paid or credited to the Government of the United States as the Contracting Officer directs.

(i) The Contractor shall take all reasonable action to obtain exemption from or refund of any taxes or duties, including interest or penalty, from which the United States Government, the Contractor, any subcontractor, or the transactions or property covered by this contract are exempt under the laws of the country concerned or its political subdivisions or which the governments of the United States and of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.

(j) The Contractor shall promptly notify the Contracting Officer of all matters relating to taxes or duties that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs. The contract price shall be equitably adjusted to cover the costs of action taken by the Contractor at the direction of the Contracting Officer, including any interest, penalty, and reasonable attorneys' fees.

(End of clause)

52.229-7 Taxes—Fixed-Price Contracts with Foreign Governments.

As prescribed in 29.402-1(b), insert the following clause:

TAXES—FIXED-PRICE CONTRACTS WITH FOREIGN GOVERNMENTS (JAN 1991)

(a) "Contract date," as used in this clause, means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

(b) The contract price, including the prices in any subcontracts under this contract, does not include any tax or duty that the Government of the United States and the Government of _____ [*insert name of the foreign government*] have agreed shall not apply to expenditures made by the United States in _____ [*insert name of country*], or any tax or duty not applicable to this contract or any subcontracts under this contract, pursuant to the laws of _____ [*insert name of country*]. If any such tax or duty has been included in the contract price, through error or otherwise, the contract price shall be correspondingly reduced.

(c) If, after the contract date, the Government of the United States and the Government of _____ [*insert name of the foreign government*] agree that any tax or duty included in the contract price shall not apply to expenditures by the United States in _____ [*insert name of country*], the contract price shall be reduced accordingly.

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

(End of clause)

52.229-8 Taxes—Foreign Cost-Reimbursement Contracts.

As prescribed in 29.402-2(a), insert the following clause:

TAXES—FOREIGN COST-REIMBURSEMENT CONTRACTS (MAR 1990)

(a) Any tax or duty from which the United States Government is exempt by agreement with the Government of _____ [*insert name of the foreign government*], or from which the Contractor or any subcontractor under this contract is exempt under the laws of _____ [*insert name of country*], shall not constitute an allowable cost under this contract.

(b) If the Contractor or subcontractor under this contract obtains a foreign tax credit that reduces its Federal income tax liability under the United States Internal Revenue Code (Title 26, U.S. Code) because of the payment of any tax or duty that was reimbursed under this contract, the amount of the reduction shall be paid or credited at the time of such offset to the Government of the United States as the Contracting Officer directs.

(End of clause)

52.229-9 Taxes—Cost-Reimbursement Contracts with Foreign Governments.

As prescribed in 29.402-2(b), insert the following clause:

TAXES—COST-REIMBURSEMENT CONTRACTS WITH FOREIGN GOVERNMENTS (MAR 1990)

(a) Any tax or duty from which the United States Government is exempt by agreement with the Government of _____ [*insert name of the foreign government*], or from which any subcontractor under this contract is exempt under the laws of _____ [*insert name of country*], shall not constitute an allowable cost under this contract.

(b) If any subcontractor obtains a foreign tax credit that reduces its Federal income tax liability under the United States Internal Revenue Code (Title 26, U.S. Code) because of the payment of any tax or duty that was reimbursed under this contract, the amount of the reduction shall be paid (not credited to the contract) to the Treasurer of the United States at the time the Federal income tax return is filed.

(End of clause)

52.229-10 State of New Mexico Gross Receipts and Compensating Tax.

As prescribed in 29.401-4(b), insert the following clause:

STATE OF NEW MEXICO GROSS RECEIPTS AND COMPENSATING TAX (APR 2003)

(a) Within thirty (30) days after award of this contract, the Contractor shall advise the State of New Mexico of this contract by registering with the State of New Mexico, Taxation

and Revenue Department, Revenue Division, pursuant to the Tax Administration Act of the State of New Mexico and shall identify the contract number.

(b) The Contractor shall pay the New Mexico gross receipts taxes, pursuant to the Gross Receipts and Compensating Tax Act of New Mexico, assessed against the contract fee and costs paid for performance of this contract, or of any part or portion thereof, within the State of New Mexico. The allowability of any gross receipts taxes or local option taxes lawfully paid to the State of New Mexico by the Contractor or its subcontractors will be determined in accordance with the Allowable Cost and Payment clause of this contract except as provided in paragraph (d) of this clause.

(c) The Contractor shall submit applications for Nontaxable Transaction Certificates, Form CSR-3C, to the:

State of New Mexico Taxation and Revenue Dept.
Revenue Division
PO Box 630
Santa Fe, New Mexico 87509

When the Type 15 Nontaxable Transaction Certificate is issued by the Revenue Division, the Contractor shall use these certificates strictly in accordance with this contract, and the agreement between the (* _____) and the New Mexico Taxation and Revenue Department.

(d) The Contractor shall provide Type 15 Nontaxable Transaction Certificates to each vendor in New Mexico selling tangible personal property to the Contractor for use in the performance of this contract. Failure to provide a Type 15 Nontaxable Transaction Certificate to vendors will result in the vendor's liability for the gross receipt taxes and those taxes, which are then passed on to the Contractor, shall not be reimbursable as an allowable cost by the Government.

(e) The Contractor shall pay the New Mexico compensating user tax for any tangible personal property which is purchased pursuant to a Nontaxable Transaction Certificate if such property is not used for Federal purposes.

(f) Out-of-state purchase of tangible personal property by the Contractor which would be otherwise subject to compensation tax shall be governed by the principles of this clause. Accordingly, compensating tax shall be due from the contractor only if such property is not used for Federal purposes.

(g) The (* _____) may receive information regarding the Contractor from the Revenue Division of the New Mexico Taxation and Revenue Department and, at the discretion of the (* _____), may participate in any matters or proceedings pertaining to this clause or the above-mentioned Agreement. This shall not preclude the Contractor from having its own representative nor does it obligate the (* _____) to represent its Contractor.

(h) The Contractor agrees to insert the substance of this clause, including this paragraph (h), in each subcontract

which meets the criteria in 29.401-4(b)(1) through (3) of the Federal Acquisition Regulation, 48 CFR Part 29.

(i) Paragraphs (a) through (h) of this clause shall be null and void should the Agreement referred to in paragraph (c) of this clause be terminated; provided, however, that such termination shall not nullify obligations already incurred prior to the date of termination.

[*Insert appropriate agency name in blanks.]

(End of clause)

52.230-1 Cost Accounting Standards Notices and Certification.

As prescribed in 30.201-3, insert the following provision:

COST ACCOUNTING STANDARDS NOTICES AND CERTIFICATION (JUNE 2000)

Note: This notice does not apply to small businesses or foreign governments. This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

I. DISCLOSURE STATEMENT—COST ACCOUNTING PRACTICES AND CERTIFICATION

(a) Any contract in excess of \$500,000 resulting from this solicitation will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those contracts which are exempt as specified in 48 CFR 9903.201-1.

(b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

CAUTION: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

(c) Check the appropriate box below:

(1) *Certificate of Concurrent Submission of Disclosure Statement.* The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows:

(i) Original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable; and

(ii) One copy to the cognizant Federal auditor.

(Disclosure must be on Form No. CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or Federal official and/or from the loose-leaf version of the Federal Acquisition Regulation.)

Date of Disclosure Statement: _____
Name and Address of Cognizant ACO or Federal Official
Where Filed: _____

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

(2) *Certificate of Previously Submitted Disclosure Statement.* The offeror hereby certifies that the required Disclosure Statement was filed as follows:

Date of Disclosure Statement: _____
Name and Address of Cognizant ACO or Federal Official
Where Filed: _____

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

(3) *Certificate of Monetary Exemption.* The offeror hereby certifies that the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling \$50 million or more in the cost accounting period immediately preceding the period in which this proposal was submitted. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

(4) *Certificate of Interim Exemption.* The offeror hereby certifies that (i) the offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and (ii) in accordance with 48 CFR 9903.202-1, the offeror is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the offeror will immediately submit a revised certificate to the Contracting Officer, in the form specified under paragraph (c)(1) or (c)(2)

of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

CAUTION: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$50 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

II. COST ACCOUNTING STANDARDS—ELIGIBILITY FOR MODIFIED CONTRACT COVERAGE

If the offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

The offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the offeror is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because during the cost accounting period immediately preceding the period in which this proposal was submitted, the offeror received less than \$50 million in awards of CAS-covered prime contracts and subcontracts. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

CAUTION: An offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$50 million or more or if, during its current cost accounting period, the offeror has been awarded a single CAS-covered prime contract or subcontract of \$50 million or more.

III. ADDITIONAL COST ACCOUNTING STANDARDS APPLICABLE TO EXISTING CONTRACTS

The offeror shall indicate below whether award of the contemplated contract would, in accordance with paragraph (a)(3) of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

yes no

(End of provision)

Alternate I (Apr 1996). As prescribed in 30.201-3(b), add the following paragraph (c)(5) to Part I of the basic provision:

(5) *Certificate of Disclosure Statement Due Date by Educational Institution.* If the offeror is an educational institution that, under the transition provisions of 48 CFR 9903.202-1(f), is or will be required to submit a Disclosure

Statement after receipt of this award, the offeror hereby certifies that (check one and complete):

(i) A Disclosure Statement Filing Due Date of _____ has been established with the cognizant Federal agency.

(ii) The Disclosure Statement will be submitted within the 6-month period ending _____ months after receipt of this award.

Name and Address of Cognizant ACO or Federal Official Where Disclosure Statement is to be Filed:

52.230-2 Cost Accounting Standards.

As prescribed in 30.201-4(a), insert the following clause:

COST ACCOUNTING STANDARDS (APR 1998)

(a) Unless the contract is exempt under 48 CFR 9903.201-1 and 9903.201-2, the provisions of 48 CFR Part 9903 are incorporated herein by reference and the Contractor, in connection with this contract, shall—

(1) (*CAS-covered Contracts Only*) By submission of a Disclosure Statement, disclose in writing the Contractor's cost accounting practices as required by 48 CFR 9903.202-1 through 9903.202-5, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the Contractor and which contain a Cost Accounting Standards (CAS) clause. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(2) Follow consistently the Contractor's cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in cost accounting practices is made for the purposes of any contract or subcontract subject to CAS requirements, the change must be applied prospectively to this contract and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with paragraph (a)(4) or (a)(5) of this clause, as appropriate.

(3) Comply with all CAS, including any modifications and interpretations indicated thereto contained in 48 CFR Part 9904, in effect on the date of award of this contract or, if the Contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the Contractor's signed certificate of current cost or pricing data. The Contractor

shall also comply with any CAS (or modifications to CAS) which hereafter become applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)(i) (Agree to an equitable adjustment as provided in the Changes clause of this contract if the contract cost is affected by a change which, pursuant to paragraph (a)(3) of this clause, the Contractor is required to make to the Contractor's established cost accounting practices.

(ii) Negotiate with the Contracting Officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of paragraph (a)(4) of this clause; provided that no agreement may be made under this provision that will increase costs paid by the United States.

(iii) When the parties agree to a change to a cost accounting practice, other than a change under subdivision (a)(4)(i) of this clause, negotiate an equitable adjustment as provided in the Changes clause of this contract.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with an applicable Cost Accounting Standard, or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States, together with interest thereon computed at the annual rate established under section 6621 of the Internal Revenue Code of 1986 (26 U.S.C. 6621) for such period, from the time the payment by the United States was made to the time the adjustment is effected. In no case shall the Government recover costs greater than the increased cost to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the Contractor made a change in its cost accounting practices of which it was aware or should have been aware at the time of price negotiations and which it failed to disclose to the Government.

(b) If the parties fail to agree whether the Contractor or a subcontractor has complied with an applicable CAS in 48 CFR 9904 or a CAS rule or regulation in 48 CFR 9903 and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the obligation to comply with all CAS in effect on the subcontractor's award

date or if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data. If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in subsection 30.201-4 of the Federal Acquisition Regulation shall be inserted. This requirement shall apply only to negotiated subcontracts in excess of \$500,000, except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1.

(End of clause)

52.230-3 Disclosure and Consistency of Cost Accounting Practices.

As prescribed in 30.201-4(b)(1), insert the following clause:

DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (APR 1998)

(a) The Contractor, in connection with this contract, shall—

(1) Comply with the requirements of 48 CFR 9904.401, Consistency in Estimating, Accumulating, and Reporting Costs; 48 CFR 9904.402, Consistency in Allocating Costs Incurred for the Same Purpose; 48 CFR 9904.405, Accounting for Unallowable Costs; and 48 CFR 9904.406, Cost Accounting Standard—Cost Accounting Period, in effect on the date of award of this contract as indicated in 48 CFR Part 9904.

(2) (*CAS-covered Contracts Only*) If it is a business unit of a company required to submit a Disclosure Statement, disclose in writing its cost accounting practices as required by 48 CFR 9903.202-1 through 9903.202-5. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(3)(i) Follow consistently the Contractor's cost accounting practices. A change to such practices may be proposed, however, by either the Government or the Contractor, and the Contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract, and the Disclosure Statement, if affected, must be amended accordingly.

(ii) The Contractor shall, when the parties agree to a change to a cost accounting practice and the Contracting Officer has made the finding required in 48 CFR 9903.201-6(b), that the change is desirable and not detrimental

to the interests of the Government, negotiate an equitable adjustment as provided in the Changes clause of this contract. In the absence of the required finding, no agreement may be made under this contract clause that will increase costs paid by the United States.

(4) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with the applicable CAS or to follow any cost accounting practice, and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the annual rate of interest established under the Internal Revenue Code of 1986 (26 U.S.C. 6621), from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the Contractor has complied with an applicable CAS, rule, or regulation as specified in 48 CFR 9903 and 9904 and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, and records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts, which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts of any tier, except that—

(1) If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in subsection 30.201-4 of the Federal Acquisition Regulation shall be inserted.

(2) This requirement shall apply only to negotiated subcontracts in excess of \$500,000.

(3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1.

(End of clause)

52.230-4 Consistency in Cost Accounting Practices.

As prescribed in 30.201-4(c), insert the following clause:

CONSISTENCY IN COST ACCOUNTING PRACTICES (AUG 1992)

The Contractor agrees that it will consistently follow the cost accounting practices disclosed on Form CASB DS-1 in estimating, accumulating and reporting costs under this contract. In the event the Contractor fails to follow such practices, it agrees that the contract price shall be adjusted, together with interest, if such failure results in increased cost paid by the U.S. Government. Interest shall be computed at the annual

rate of interest established under section 6621 of the Internal Revenue Code of 1986 (26 U.S.C. 6621) from the time payment by the Government was made to the time adjustment is effected. The Contractor agrees that the Disclosure Statement filed with the U.K. Ministry of Defence shall be available for inspection and use by authorized representatives of the United States Government.

(End of clause)

52.230-5 Cost Accounting Standards—Educational Institution.

As prescribed in 30.201-4(e), insert the following clause:

COST ACCOUNTING STANDARDS—EDUCATIONAL INSTITUTION (APR 1998)

(a) Unless the contract is exempt under 48 CFR 9903.201-1 and 9903.201-2, the provisions of 48 CFR 9903 are incorporated herein by reference and the Contractor, in connection with this contract, shall—

(1) (*CAS-covered Contracts Only*). If a business unit of an educational institution required to submit a Disclosure Statement, disclose in writing the Contractor's cost accounting practices as required by 48 CFR 9903.202-1 through 9903.202-5, including methods of distinguishing direct costs from indirect costs and the basis used for accumulating and allocating indirect costs. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the Contractor and which contain a Cost Accounting Standards (CAS) clause. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets, and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(2) Follow consistently the Contractor's cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in cost accounting practices is made for the purposes of any contract or subcontract subject to CAS requirements, the change must be applied prospectively to this contract and the Disclosure Statement, if required, must be amended accordingly. If an accounting principle change mandated under Office of Management and Budget (OMB) Circular A-21, Cost Principles for Educational Institutions, requires that a change in the Contractor's cost accounting practices be made after the date of this contract award, the change must be applied prospectively to this contract and the Disclosure Statement, if required, must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with paragraph (a)(4) or (a)(5) of this clause, as appropriate.

(3) Comply with all CAS, including any modifications and interpretations indicated thereto contained in 48 CFR 9905 in effect on the date of award of this contract or, if the Contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the Contractor's signed certificate of current cost or pricing data. The Contractor shall also comply with any CAS (or modifications to CAS) which hereafter become applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)(i) Agree to an equitable adjustment as provided in the Changes clause of this contract if the contract cost is affected by a change which, pursuant to paragraph (a)(3) of this clause, the Contractor is required to make to the Contractor's established cost accounting practices.

(ii) Negotiate with the Contracting Officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of paragraph (a)(4) of this clause; provided that no agreement may be made under this provision that will increase costs paid by the United States.

(iii) When the parties agree to a change to a cost accounting practice, other than a change under subdivision (a)(4)(i) or (a)(4)(iv) of this clause, negotiate an equitable adjustment as provided in the Changes clause of this contract.

(iv) Agree to an equitable adjustment as provided in the Changes clause of this contract, if the contract cost is materially affected by an OMB Circular A-21 accounting principle amendment which, on becoming effective after the date of contract award, requires the Contractor to make a change to the Contractor's established cost accounting practices.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with an applicable Cost Accounting Standard, or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States, together with interest thereon computed at the annual rate established under section 6621 of the Internal Revenue Code of 1986 (26 U.S.C. 6621) for such period, from the time the payment by the United States was made to the time the adjustment is effected. In no case shall the Government recover costs greater than the increased cost to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the Contractor made a change in its cost accounting practices of which it was aware or should have been aware at the time of price negotiations and which it failed to disclose to the Government.

(b) If the parties fail to agree whether the Contractor or a subcontractor has complied with an applicable CAS or a CAS rule or regulation in 48 CFR 9903 and as to any cost adjust-

ment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the obligation to comply with all applicable CAS in effect on the subcontractor's award date or, if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data, except that—

(1) If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in 48 CFR 9903.201-4 shall be inserted;

(2) This requirement shall apply only to negotiated subcontracts in excess of \$500,000; and

(3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1.

(End of clause)

52.230-6 Administration of Cost Accounting Standards.

As prescribed in 30.201-4(d)(1), insert the following clause:

ADMINISTRATION OF COST ACCOUNTING STANDARDS (NOV 1999)

For the purpose of administering the Cost Accounting Standards (CAS) requirements under this contract, the Contractor shall take the steps outlined in paragraphs (a) through (g) of this clause:

(a) Submit to the Contracting Officer a description of any cost accounting practice change, the total potential impact of the change on contracts containing a CAS clause, and a general dollar magnitude of the change which identifies the potential shift of costs between CAS-covered contracts by contract type (*i.e.*, firm-fixed-price, incentive, cost-plus-fixed fee, etc.) and other contractor business activity. As related to CAS-covered contracts, the analysis should identify the potential impact on funds of the various Agencies/Departments (*i.e.*, Department of Energy, National Aeronautics and Space Administration, Army, Navy, Air Force, other Department of Defense, other Government) as follows:

(1) For any change in cost accounting practices required in accordance with paragraph (a)(3) and subdivision (a)(4)(i) of the clause at FAR 52.230-2, Cost Accounting Standards; or paragraph (a)(3) and subdivisions (a)(4)(i) or (a)(4)(iv) of the

clause at FAR 52.230-5, Cost Accounting Standards—Educational Institution; within 60 days (or such other date as may be mutually agreed to) after award of a contract requiring this change.

(2) For any change in cost accounting practices proposed in accordance with subdivision (a)(4)(ii) or (iii) of the clauses at FAR 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards—Educational Institution; or with paragraph (a)(3) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, not less than 60 days (or such other date as may be mutually agreed to) before the effective date of the proposed change.

(3) For any failure to comply with an applicable CAS or to follow a disclosed practice (as contemplated by paragraph (a)(5) at FAR 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards—Educational Institution; or by paragraph (a)(4) at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices):

(i) Within 60 days (or such other date as may be mutually agreed to) after the date of agreement with the initial finding of noncompliance, or

(ii) In the event of Contractor disagreement with the initial finding of noncompliance, within 60 days of the date the Contractor is notified by the Contracting Officer of the determination of noncompliance.

(b) After an ACO, or cognizant Federal agency official, determination of materiality, submit a cost impact proposal in the form and manner specified by the Contracting Officer within 60 days (or such other date as may be mutually agreed to) after the date of determination of the adequacy and compliance of a change submitted pursuant to paragraph (a) of this clause. The cost impact proposal shall be in sufficient detail to permit evaluation, determination, and negotiation of the cost impact upon each separate CAS-covered contract and subcontract.

(1) Cost impact proposals submitted for changes in cost accounting practices required in accordance with paragraph (a)(3) and subdivision (a)(4)(i) of the clause at FAR 52.230-2, Cost Accounting Standards; or paragraph (a)(3) and subdivisions (a)(4)(i) or (a)(4)(iv) of the clause at FAR 52.230-5, Cost Accounting Standards—Educational Institution; shall identify the applicable standard or cost principle and all contracts and subcontracts containing the clauses entitled Cost Accounting Standards or Cost Accounting Standards—Educational Institution, which have an award date before the effective date of that standard or cost principle.

(2) Cost impact proposals submitted for any change in cost accounting practices proposed in accordance with subdivisions (a)(4)(ii) or (iii) of the clauses at FAR 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards—Educational Institution; or with paragraph (a)(3) of the clause at FAR 52.230-3, Disclosure

and Consistency of Cost Accounting Practices; shall identify all contracts and subcontracts containing the clauses at FAR 52.230-2, Cost Accounting Standards, FAR 52.230-5, Cost Accounting Standards—Educational Institution, and FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices.

(3) Cost impact proposals submitted for failure to comply with an applicable CAS or to follow a disclosed practice as contemplated by paragraph (a)(5) of the clauses at FAR 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards—Educational Institution; or by paragraph (a)(4) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, shall identify the cost impact on each separate CAS covered contract from the date of failure to comply until the noncompliance is corrected.

(c) If the submissions required by paragraphs (a) and (b) of this clause are not submitted within the specified time, or any extension granted by the Contracting Officer, an amount not to exceed 10 percent of each subsequent amount determined payable related to the Contractor's CAS-covered prime contracts, up to the estimated general dollar magnitude of the cost impact, may be withheld until such time as the required submission has been provided in the form and manner specified by the Contracting Officer.

(d) Agree to appropriate contract and subcontract amendments to reflect adjustments established in accordance with paragraphs (a)(4) and (a)(5) of the clauses at FAR 52.230-2 and 52.230-5; or with paragraphs (a)(3) or (a)(4) of the Disclosure and Consistency of Cost Accounting Practices clause at FAR 52.230-3.

(e) For all subcontracts subject to the clauses at FAR 52.230-2, 52.230-3, or 52.230-5—

(1) So state in the body of the subcontract, in the letter of award, or in both (self-deleting clauses shall not be used);

(2) Include the substance of this clause in all negotiated subcontracts; and

(3) Within 30 days after award of the subcontract, submit the following information to the Contractor's cognizant contract administration office for transmittal to the contract administration office cognizant of the subcontractor's facility:

(i) Subcontractor's name and subcontract number.

(ii) Dollar amount and date of award.

(iii) Name of Contractor making the award.

(f) Notify the Contracting Officer in writing of any adjustments required to subcontracts under this contract and agree to an adjustment, based on them, to this contract price or estimated cost and fee. This notice is due within 30 days after proposed subcontract adjustments are received and shall include a proposal for adjusting the higher tier subcontract or the prime contract appropriately.

(g) For subcontracts containing the clauses at FAR 52.230-2 or 52.230-5, require the subcontractor to comply with all Standards in effect on the date of award or of final agreement on price, as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data, whichever is earlier.

(End of clause)

52.231 [Reserved]

52.232-1 Payments.

As prescribed in 32.111(a)(1), insert the following clause, appropriately modified with respect to payment due date in accordance with agency regulations, in solicitations and contracts when a fixed-price supply contract, a fixed-price service contract, or a contract for nonregulated communication services is contemplated:

PAYMENTS (APR 1984)

The Government shall pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payment shall be made on partial deliveries accepted by the Government if—

- (a) The amount due on the deliveries warrants it; or
- (b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

(End of clause)

52.232-2 Payments under Fixed-Price Research and Development Contracts.

As prescribed in 32.111(a)(2), insert the following clause, as appropriately modified with respect to payment due dates in accordance with agency regulations, in solicitations and contracts when a fixed-price research and development contract is contemplated:

PAYMENTS UNDER FIXED-PRICE RESEARCH AND DEVELOPMENT CONTRACTS (APR 1984)

The Government shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for work delivered or rendered and accepted, less any deductions provided in this contract. Unless otherwise specified, payment shall be made upon acceptance of any portion of the work delivered or rendered for which a price is separately stated in the contract.

(End of clause)

52.232-3 Payments under Personal Services Contracts.

As prescribed in 32.111(a)(3), insert the following clause, appropriately modified with respect to payment due dates in accordance with agency regulations, in solicitations and contracts for personal services:

PAYMENTS UNDER PERSONAL SERVICES CONTRACTS (APR 1984)

The Government shall pay the Contractor for the services performed by the Contractor, as set forth in the Schedule of this contract, at the rates prescribed, upon the submission by

the Contractor of proper invoices or time statements to the office or officer designated and at the time provided for in this contract. The Government shall also pay the Contractor—

(a) A per diem rate in lieu of subsistence for each day the Contractor is in a travel status away from home or regular place of employment in accordance with Federal Travel Regulations (41 CFR 101-7) as authorized in appropriate Travel Orders; and

(b) Any other transportation expenses if provided for in the Schedule.

(End of clause)

52.232-4 Payments under Transportation Contracts and Transportation-Related Services Contracts.

As prescribed in 32.111(a)(4), insert the following clause, appropriately modified with respect to payment due dates in accordance with agency regulations, in solicitations and contracts for transportation or transportation-related services:

PAYMENTS UNDER TRANSPORTATION CONTRACTS AND TRANSPORTATION-RELATED SERVICES CONTRACTS (APR 1984)

The Government shall pay the Contractor upon the submission of properly certified invoices or vouchers, the amount due for services rendered and accepted, less deductions, if any, as herein provided.

(End of clause)

52.232-5 Payments under Fixed-Price Construction Contracts.

As prescribed in 32.111(a)(5), insert the following clause:

PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (SEPT 2002)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Name)

(Title)

(Date)

(d) *Refund of unearned amounts.* If the Contractor, after making a certified request for progress payments, discovers that a portion or all of such request constitutes a payment for performance by the Contractor that fails to conform to the specifications, terms, and conditions of this contract (hereinafter referred to as the "unearned amount"), the Contractor shall—

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

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

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

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

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

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

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

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

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

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

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to

amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 15).

(i) *Limitation because of undefinitized work.* Notwithstanding any provision of this contract, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A “contract action” is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

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

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

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

(End of clause)

52.232-6 Payment under Communication Service

Contracts with Common Carriers.

As prescribed in 32.111(a)(6), insert the following clause, appropriately modified with respect to payment due dates in accordance with agency regulations, in solicitations and contracts for regulated communication services by common carriers:

PAYMENT UNDER COMMUNICATION SERVICE CONTRACTS WITH COMMON CARRIERS (APR 1984)

The Government shall pay the Contractor, in arrears, upon submission of invoices for services and facilities furnished in accordance with the terms of CSAs issued under this contract, the rates and charges for the services and facilities as set forth in the clause entitled “Rates, Charges and Services.”

(End of clause)

52.232-7 Payments under Time-and-Materials and Labor-Hour Contracts.

As prescribed in 32.111(b), insert the following clause:

PAYMENTS UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS (DEC 2002)

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 shall withhold 5 percent of the amounts due under this paragraph (a), but the total amount withheld shall not exceed \$50,000. The amounts withheld shall be retained until the execution and delivery of a release by the Contractor as provided in paragraph (f) of this section.

(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 _____ [*Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "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.

(End of clause)

Alternate I (Mar 2000). If the nature of the work to be performed requires the Contractor to furnish material that the Contractor regularly sells to the general public in the normal course of business, and the price is under the limitations prescribed in 16.601(b)(3), add the following paragraph (6) to paragraph (b) of the basic clause:

(b)(6) If the nature of the work to be performed requires the Contractor to furnish material that the Contractor regularly sells

to the general public in the normal course of business, the price to be paid for such material, notwithstanding the other requirements of this paragraph (b), shall be on the basis of an established catalog or list price, in effect when the material is furnished, less all applicable discounts to the Government, provided that in no event shall such price be in excess of the Contractor's sales price to its most favored customer for the same item in like quantity, or the current market price, whichever is lower.

Alternate II (Feb 2002). If a labor-hour contract is contemplated, and if no specific reimbursement for materials furnished is intended, the Contracting Officer may add the following paragraph (i) to the basic clause:

(i) The terms of this clause that govern reimbursement for materials furnished are considered to have been deleted.

52.232-8 Discounts for Prompt Payment.

As prescribed in 32.111(c)(1), insert the following clause:

DISCOUNTS FOR PROMPT PAYMENT (FEB 2002)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

(End of clause)

52.232-9 Limitation on Withholding of Payments.

As prescribed in 32.111(c)(2), insert a clause substantially as follows, appropriately modified with respect to payment due dates in accordance with agency regulations, in solicitations and contracts when a supply contract, service contract, time-and-materials contract, labor-hour contract, or research and development contract is contemplated that includes two or more terms authorizing the temporary withholding of amounts otherwise payable to the contractor for supplies delivered or services performed:

LIMITATION ON WITHHOLDING OF PAYMENTS (APR 1984)

If more than one clause or Schedule term of this contract authorizes the temporary withholding of amounts otherwise payable to the Contractor for supplies delivered or services performed, the total of the amounts withheld at any one time shall not exceed the greatest amount that may be withheld under any one clause or Schedule term at that time; *provided*, that this limitation shall not apply to—

(a) Withholdings pursuant to any clause relating to wages or hours of employees;

(b) Withholdings not specifically provided for by this contract;

(c) The recovery of overpayments; and

(d) Any other withholding for which the Contracting Officer determines that this limitation is inappropriate.

(End of clause)

52.232-10 Payments under Fixed-Price Architect-Engineer Contracts.

As prescribed in 32.111(d)(1), insert the following clause:

PAYMENTS UNDER FIXED-PRICE ARCHITECT-ENGINEER CONTRACTS (AUG 1987)

(a) Estimates shall be made monthly of the amount and value of the work and services performed by the Contractor under this contract which meet the standards of quality established under this contract. The estimates shall be prepared by the Contractor and accompanied by any supporting data required by the Contracting Officer.

(b) Upon approval of the estimate by the Contracting Officer, payment upon properly executed vouchers shall be made to the Contractor, as soon as practicable, of 90 percent of the approved amount, less all previous payments; *provided*, that payment may be made in full during any months in which the Contracting Officer determines that performance has been satisfactory. Also, whenever the Contracting Officer determines that the work is substantially complete and that the amount retained is in excess of the amount adequate for the protection of the Government, the Contracting Officer may release the excess amount to the Contractor.

(c) Upon satisfactory completion by the Contractor and acceptance by the Contracting Officer of the work done by the Contractor under the "Statement of Architect-Engineer Services," the Contractor will be paid the unpaid balance of any money due for work under the statement, including retained percentages relating to this portion of the work. Upon satisfactory completion and final acceptance of the construction work, the Contractor shall be paid any unpaid balance of money due under this contract.

(d) Before final payment under the contract, or before settlement upon termination of the contract, and as a condition precedent thereto, the Contractor shall execute and deliver to

the Contracting Officer a release of all claims against the Government arising under or by virtue of this contract, other than any claims that are specifically excepted by the Contractor from the operation of the release in amounts stated in the release.

(e) Notwithstanding any other provision in this contract, and specifically paragraph (b) of this clause, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(End of clause)

52.232-11 Extras.

As prescribed in 32.111(d)(2), insert the following clause, appropriately modified with respect to payment due dates in accordance with agency regulations, in solicitations and contracts when a fixed-price supply contract, fixed-price service contract, or transportation contract is contemplated:

EXTRAS (APR 1984)

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefor have been authorized in writing by the Contracting Officer.

(End of clause)

52.232-12 Advance Payments.

As prescribed in 32.412(a), insert the following clause:

ADVANCE PAYMENTS (MAY 2001)

(a) *Requirements for payment.* Advance payments will be made under this contract (1) upon submission of properly certified invoices or vouchers by the Contractor, and approval by the administering office, _____ [*insert the name of the office designated under agency procedures*], or (2) under a letter of credit. The amount of the invoice or voucher submitted plus all advance payments previously approved shall not exceed \$_____. If a letter of credit is used, the Contractor shall withdraw cash only when needed for disbursements acceptable under this contract and report cash disbursements and balances as required by the administering office. The Contractor shall apply terms similar to this clause to any advance payments to subcontractors.

(b) *Special account.* Until (1) the Contractor has liquidated all advance payments made under the contract and related interest charges and (2) the administering office has approved in writing the release of any funds due and payable to the Contractor, all advance payments and other payments under this

contract shall be made by check payable to the Contractor marked for deposit only in the Contractor's special account with the _____ [*insert the name of the financial institution*]. None of the funds in the special account shall be mingled with other funds of the Contractor. Withdrawals from the special account may be made only by check of the Contractor countersigned by the Contracting Officer or a Government countersigning agent designated in writing by the Contracting Officer.

(c) *Use of funds.* The Contractor may withdraw funds from the special account only to pay for properly allocable, allowable, and reasonable costs for direct materials, direct labor, and indirect costs. Other withdrawals require approval in writing by the administering office. Determinations of whether costs are properly allocable, allowable, and reasonable shall be in accordance with generally accepted accounting principles, subject to any applicable subparts of Part 31 of the Federal Acquisition Regulation.

(d) *Repayment to the Government.* At any time, the Contractor may repay all or any part of the funds advanced by the Government. Whenever requested in writing to do so by the administering office, the Contractor shall repay to the Government any part of unliquidated advance payments considered by the administering office to exceed the Contractor's current requirements or the amount specified in paragraph (a) of this clause. If the Contractor fails to repay the amount requested by the administering office, all or any part of the unliquidated advance payments may be withdrawn from the special account by check signed by only the countersigning agent and applied to reduction of the unliquidated advance payments under this contract.

(e) *Maximum payment.* When the sum of all unliquidated advance payments, unpaid interest charges, and other payments exceed _____ percent of the contract price, the Government shall withhold further payments to the Contractor. On completion or termination of the contract, the Government shall deduct from the amount due to the Contractor all unliquidated advance payments and all interest charges payable. If previous payments to the Contractor exceed the amount due, the excess amount shall be paid to the Government on demand. For purposes of this paragraph, the contract price shall be considered to be the stated contract price of \$ _____, less any subsequent price reductions under the contract, plus (1) any price increases resulting from any terms of this contract for price redetermination or escalation, and (2) any other price increases that do not, in the aggregate, exceed \$ _____ [*insert an amount not higher than 10 percent of the stated contract amount inserted in this paragraph*]. Any payments withheld under this paragraph shall be applied to reduce the unliquidated advance payments. If full liquidation has been made, payments under the contract shall resume.

(f) *Interest.* (1) The Contractor shall pay interest to the Government on the daily unliquidated advance payments at

the daily rate specified in paragraph (f)(3) of this clause. Interest shall be computed at the end of each calendar month for the actual number of days involved. For the purpose of computing the interest charge—

(i) Advance payments shall be considered as increasing the unliquidated balance as of the date of the advance payment check;

(ii) Repayments by Contractor check shall be considered as decreasing the unliquidated balance as of the date on which the check is received by the Government authority designated by the Contracting Officer; and

(iii) Liquidations by deductions from Government payments to the Contractor shall be considered as decreasing the unliquidated balance as of the date of the check for the reduced payment.

(2) Interest charges resulting from the monthly computation shall be deducted from payments, other than advance payments, due the Contractor. If the accrued interest exceeds the payment due, any excess interest shall be carried forward and deducted from subsequent payments. Interest carried forward shall not be compounded. Interest on advance payments shall cease to accrue upon satisfactory completion or termination of the contract for the convenience of the Government. The Contractor shall charge interest on advance payments to subcontractors in the manner described above and credit the interest to the Government. Interest need not be charged on advance payments to nonprofit educational or research subcontractors for experimental, developmental, or research work.

(3) If interest is required under the contract, the Contracting Officer shall determine a daily interest rate based on the higher of (i) the published prime rate of the financial institution (depository) in which the special account is established or (ii) the rate established by the Secretary of the Treasury under Pub. L. 92-41 (50 U.S.C. App. 1215(b)(2)). The Contracting Officer shall revise the daily interest rate during the contract period in keeping with any changes in the cited interest rates.

(4) If the full amount of interest charged under this paragraph has not been paid by deduction or otherwise upon completion or termination of this contract, the Contractor shall pay the remaining interest to the Government on demand.

(g) *Financial institution agreement.* Before an advance payment is made under this contract, the Contractor shall transmit to the administering office, in the form prescribed by the administering office, an agreement in triplicate from the financial institution in which the special account is established, clearly setting forth the special character of the account and the responsibilities of the financial institution under the account. The Contractor shall select a financial institution that is a member bank of the Federal Reserve System, an "insured" bank within the meaning of the Federal Deposit Insurance

Corporation Act (12 U.S.C. 1811), or a credit union insured by the National Credit Union Administration.

(h) *Lien on special bank account.* The Government shall have a lien upon any balance in the special account paramount to all other liens. The Government lien shall secure the repayment of any advance payments made under this contract and any related interest charges.

(i) *Lien on property under contract.* (1) All advance payments under this contract, together with interest charges, shall be secured, when made, by a lien in favor of the Government, paramount to all other liens, on the supplies or other things covered by this contract and on material and other property acquired for or allocated to the performance of this contract, except to the extent that the Government by virtue of any other terms of this contract, or otherwise, shall have valid title to the supplies, materials, or other property as against other creditors of the Contractor.

(2) The Contractor shall identify, by marking or segregation, all property that is subject to a lien in favor of the Government by virtue of any terms of this contract in such a way as to indicate that it is subject to a lien and that it has been acquired for or allocated to performing this contract. If, for any reason, the supplies, materials, or other property are not identified by marking or segregation, the Government shall be considered to have a lien to the extent of the Government's interest under this contract on any mass of property with which the supplies, materials, or other property are commingled. The Contractor shall maintain adequate accounting control over the property on its books and records.

(3) If, at any time during the progress of the work on the contract, it becomes necessary to deliver to a third person any items or materials on which the Government has a lien, the Contractor shall notify the third person of the lien and shall obtain from the third person a receipt in duplicate acknowledging the existence of the lien. The Contractor shall provide a copy of each receipt to the Contracting Officer.

(4) If, under the termination clause, the Contracting Officer authorizes the Contractor to sell or retain termination inventory, the approval shall constitute a release of the Government's lien to the extent that—

- (i) The termination inventory is sold or retained; and
- (ii) The sale proceeds or retention credits are applied to reduce any outstanding advance payments.

(j) *Insurance.* (1) The Contractor shall maintain with responsible insurance carriers—

(i) Insurance on plant and equipment against fire and other hazards, to the extent that similar properties are usually insured by others operating plants and properties of similar character in the same general locality;

(ii) Adequate insurance against liability on account of damage to persons or property; and

(iii) Adequate insurance under all applicable workers' compensation laws.

(2) Until work under this contract has been completed and all advance payments made under the contract have been liquidated, the Contractor shall—

(i) Maintain this insurance;

(ii) Maintain adequate insurance on any materials, parts, assemblies, subassemblies, supplies, equipment, and other property acquired for or allocable to this contract and subject to the Government lien under paragraph (i) of this clause; and

(iii) Furnish any evidence with respect to its insurance that the administering office may require.

(k) *Default.* (1) If any of the following events occurs, the Government may, by written notice to the Contractor, withhold further withdrawals from the special account and further payments on this contract:

(i) Termination of this contract for a fault of the Contractor.

(ii) A finding by the administering office that the Contractor has failed to—

(A) Observe any of the conditions of the advance payment terms;

(B) Comply with any material term of this contract;

(C) Make progress or maintain a financial condition adequate for performance of this contract;

(D) Limit inventory allocated to this contract to reasonable requirements; or

(E) Avoid delinquency in payment of taxes or of the costs of performing this contract in the ordinary course of business.

(iii) The appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or the institution of proceedings by or against the Contractor for bankruptcy, reorganization, arrangement, or liquidation.

(iv) The service of any writ of attachment, levy of execution, or commencement of garnishment proceedings concerning the special account.

(v) The commission of an act of bankruptcy.

(2) If any of the events described in paragraph (k)(1) of this clause continue for 30 days after the written notice to the Contractor, the Government may take any of the following additional actions:

(i) Withdraw by checks payable to the Treasurer of the United States, signed only by the countersigning agency, all or any part of the balance in the special account and apply the amounts to reduce outstanding advance payments and any other claims of the Government against the Contractor.

(ii) Charge interest, in the manner prescribed in paragraph (f) of this clause, on outstanding advance payments during the period of any event described in paragraph (k)(1) of this clause.

(iii) Demand immediate repayment by the Contractor of the unliquidated balance of advance payments.

(iv) Take possession of and, with or without advertisement, sell at public or private sale all or any part of the property on which the Government has a lien under this contract and, after deducting any expenses incident to the sale, apply the net proceeds of the sale to reduce the unliquidated balance of advance payments or other Government claims against the Contractor.

(3) The Government may take any of the actions described in paragraphs (k)(1) and (2) of this clause it considers appropriate at its discretion and without limiting any other rights of the Government.

(l) *Prohibition against assignment.* Notwithstanding any other terms of this contract, the Contractor shall not assign this contract, any interest therein, or any claim under the contract to any party.

(m) *Information and access to records.* The Contractor shall furnish to the administering office (1) monthly or at other intervals as required, signed or certified balance sheets and profit and loss statements together with a report on the operation of the special account in the form prescribed by the administering office; and (2) if requested, other information concerning the operation of the Contractor's business. The Contractor shall provide the authorized Government representatives proper facilities for inspection of the Contractor's books, records, and accounts.

(n) *Other security.* The terms of this contract are considered to provide adequate security to the Government for advance payments; however, if the administering office considers the security inadequate, the Contractor shall furnish additional security satisfactory to the administering office, to the extent that the security is available.

(o) *Representations.* The Contractor represents the following:

(1) The balance sheet, the profit and loss statement, and any other supporting financial statements furnished to the administering office fairly reflect the financial condition of the Contractor at the date shown or the period covered, and there has been no subsequent materially adverse change in the financial condition of the Contractor.

(2) No litigation or proceedings are presently pending or threatened against the Contractor, except as shown in the financial statements.

(3) The Contractor has disclosed all contingent liabilities, except for liability resulting from the renegotiation of defense production contracts, in the financial statements furnished to the administering office.

(4) None of the terms in this clause conflict with the authority under which the Contractor is doing business or with the provision of any existing indenture or agreement of the Contractor.

(5) The Contractor has the power to enter into this contract and accept advance payments, and has taken all neces-

sary action to authorize the acceptance under the terms of this contract.

(6) The assets of the Contractor are not subject to any lien or encumbrance of any character except for current taxes not delinquent, and except as shown in the financial statements furnished by the Contractor. There is no current assignment of claims under any contract affected by these advance payment provisions.

(7) All information furnished by the Contractor to the administering office in connection with each request for advance payments is true and correct.

(8) These representations shall be continuing and shall be considered to have been repeated by the submission of each invoice for advance payments.

(p) *Covenants.* To the extent the Government considers it necessary while any advance payments made under this contract remain outstanding, the Contractor, without the prior written consent of the administering office, shall not—

(1) Mortgage, pledge, or otherwise encumber or allow to be encumbered, any of the assets of the Contractor now owned or subsequently acquired, or permit any preexisting mortgages, liens, or other encumbrances to remain on or attach to any assets of the Contractor which are allocated to performing this contract and with respect to which the Government has a lien under this contract;

(2) Sell, assign, transfer, or otherwise dispose of accounts receivable, notes, or claims for money due or to become due;

(3) Declare or pay any dividends, except dividends payable in stock of the corporation, or make any other distribution on account of any shares of its capital stock, or purchase, redeem, or otherwise acquire for value any of its stock, except as required by sinking fund or redemption arrangements reported to the administering office incident to the establishment of these advance payment provisions;

(4) Sell, convey, or lease all or a substantial part of its assets;

(5) Acquire for value the stock or other securities of any corporation, municipality, or governmental authority, except direct obligations of the United States;

(6) Make any advance or loan or incur any liability as guarantor, surety, or accommodation endorser for any party;

(7) Permit a writ of attachment or any similar process to be issued against its property without getting a release or bonding the property within 30 days after the entry of the writ of attachment or other process;

(8) Pay any remuneration in any form to its directors, officers, or key employees higher than rates provided in existing agreements of which notice has been given to the administering office; accrue excess remuneration without first obtaining an agreement subordinating it to all claims of the Government; or employ any person at a rate of compensation over \$_____ a year;

(9) Change substantially the management, ownership, or control of the corporation;

(10) Merge or consolidate with any other firm or corporation, change the type of business, or engage in any transaction outside the ordinary course of the Contractor's business as presently conducted;

(11) Deposit any of its funds except in a bank or trust company insured by the Federal Deposit Insurance Corporation or a credit union insured by the National Credit Union Administration;

(12) Create or incur indebtedness for advances, other than advances to be made under the terms of this contract, or for borrowings;

(13) Make or covenant for capital expenditures exceeding \$ _____ in total;

(14) Permit its net current assets, computed in accordance with generally accepted accounting principles, to become less than \$ _____; or

(15) Make any payments on account of the obligations listed below, except in the manner and to the extent provided in this contract:

[List the pertinent obligations]

(End of clause)

Alternate I (Apr 1984). If the agency desires to waive the countersignature requirement because of the Contractor's financial strength, good performance record, and favorable experience concerning cost disallowances, add the following sentence, if appropriate, to paragraph (b) of the basic clause:

However, for this contract, countersignature on behalf of the Government will not be required unless it is determined necessary by the administering office.

Alternate II (May 2001). If used in a cost-reimbursement contract, substitute the following paragraphs (c) and (e), and paragraphs (f)(1) and (f)(2) for paragraphs (c) and (e) and paragraphs (f)(1) and (2) of the basic clause:

(c) *Use of funds.* The Contractor shall withdraw funds from the special account only to pay for allowable costs as prescribed by the _____ clause of this contract. Payment for any other types of expenses shall be approved in writing by the administering office.

* * * * *

(e) *Maximum payment.* When the sum of all unliquidated advance payments, unpaid interest charges, and other payments equal the total estimated cost of \$ _____ (not including fixed-fee, if any) for the work under this contract, the Government shall withhold further payments to the Contractor. Upon completion or termination of the contract, the Government shall deduct from the amount due to the Contractor all unliquidated advance payments and interest charges payable. The Contractor shall pay any deficiency to the Government upon demand. For

purposes of this paragraph, the estimated cost shall be considered to be the stated estimated cost, less any subsequent reductions of the estimated cost, plus any increases in the estimated costs that do not, in the aggregate, exceed \$ _____ [Insert an amount not higher than 10 percent of the stated estimated cost inserted in this paragraph]. The estimated cost shall include, without limitation, any reimbursable cost (as estimated by the Contracting Officer) incident to a termination for the convenience of the Government. Any payments withheld under this paragraph shall be applied to reduce the unliquidated advance payments. If full liquidation has been made, payments under the contract shall resume.

(f) *Interest.* (1) The Contractor shall pay interest to the Government on the daily unliquidated advance payments at the daily rate specified in paragraph (f)(3) of this clause. Interest shall be computed at the end of each calendar month for the actual number of days involved. For the purpose of computing the interest charge, the following shall be observed:

(i) Advance payments shall be considered as increasing the unliquidated balance as of the date of the advance payment check.

(ii) Repayments by Contractor check shall be considered as decreasing the unliquidated balance as of the date on which the check is received by the Government authority designated by the Contracting Officer.

(iii) Liquidations by deductions from payments to the Contractor shall be considered as decreasing the unliquidated balance as of the dates on which the Contractor presents to the Contracting Officer full and accurate data for the preparation of each voucher. Credits resulting from these deductions shall be made upon the approval of the reimbursement vouchers by the Disbursing Officer, based upon the Contracting Officer's certification of the applicable dates.

(2) Interest charges resulting from the monthly computation shall be deducted from any payments on account of the fixed-fee due to the Contractor. If the accrued interest exceeds the payment due, any excess interest shall be carried forward and deducted from subsequent payments of the contract price or fixed-fee. Interest carried forward shall not be compounded. Interest on advance payments shall cease to accrue upon (i) satisfactory completion or (ii) termination of the contract for the convenience of the Government. The Contractor shall charge interest on advance payments to subcontractors in the manner described above and credit the interest to the Government. Interest need not be charged on advance payments to non-profit educational or research subcontractors for experimental, developmental, or research work.

Alternate III (Apr 1984). If the agency considers a more rapid liquidation appropriate, add the following sentence as the first sentence of paragraph (e) of the basic clause with the appropriate percentage specified:

To liquidate the principal amount of any advance payment made to the Contractor, there shall be deductions of _____ percent from all payments made by the Government under the contracts involved.

Alternate IV (Apr 1984). If the agency provides advance payments under the contract at no interest to the prime contractor, add the following sentences as the beginning sentences of paragraph (f) of the clause:

No interest shall be charged to the prime Contractor for advance payments except for interest charged during a period of default. The terms of this paragraph concerning interest charges for advance payments shall not apply to the prime Contractor.

Alternate V (May 2001). If the requirement for a special account is eliminated in accordance with 32.409-3(e) or (g), insert the clause set forth below instead of the basic clause.

If this Alternate is used in combination with *Alternate II*, disregard the instructions concerning paragraph (c), Use of funds, in *Alternate II*; substitute paragraph (e), Maximum payment, in *Alternate II* for paragraph (d) below; and substitute paragraph (f), Interest, in *Alternate II* for paragraph (e) below and change the reference to paragraph (f)(3) in the first sentence of paragraph (f) of *Alternate II* to (e)(3).

If this Alternate is used in combination with *Alternate III*, insert the additional sentence set forth in *Alternate III* as the first sentence of paragraph (d) of this Alternate.

If this Alternate is used in combination with *Alternate IV*, insert the additional sentences set forth in *Alternate IV* as the beginning sentences of paragraph (e) of this Alternate.

ADVANCE PAYMENTS WITHOUT SPECIAL ACCOUNT (MAY 2001)

(a) *Requirements for payment.* Advance payments will be made under this contract (1) upon submission of properly certified invoices or vouchers by the contractor, and approval by the administering office, _____ [insert the name of the office designated under agency procedures], or (2) under a letter of credit. The amount of the invoice or voucher submitted plus all advance payments previously approved shall not exceed \$_____. If a letter of credit is used, the Contractor shall withdraw cash only when needed for disbursements acceptable under this contract and report cash disbursements and balances as required by the administering office. The Contractor shall apply terms similar to this clause to any advance payments to subcontractors.

(b) *Use of funds.* The Contractor may use advance payment funds only to pay for properly allocable, allowable, and reasonable costs for direct materials, direct labor, and indirect costs. Determinations of whether costs are properly allocable, allowable, and reasonable shall be in accordance with generally accepted accounting principles, subject to any applicable subparts of Part 31 of the Federal Acquisition Regulation.

(c) *Repayment to the Government.* At any time, the Contractor may repay all or any part of the funds advanced by the Government. Whenever requested in writing to do so by the administering office, the Contractor shall repay to the Government any part of unliquidated advance payments considered by the administering office to exceed the Contractor's current

requirements or the amount specified in paragraph (a) of this clause.

(d) *Maximum payment.* When the sum of all unliquidated advance payments, unpaid interest charges, and other payments exceed ___ percent of the contract price, the Government shall withhold further payments to the Contractor. On completion or termination of the contract, the Government shall deduct from the amount due to the Contractor all unliquidated advance payments and all interest charges payable. If previous payments to the Contractor exceed the amount due, the excess amount shall be paid to the Government on demand. For purposes of this paragraph, the contract price shall be considered to be the stated contract price of \$____, less any subsequent price reductions under the contract, plus (1) any price increases resulting from any terms of this contract for price redetermination or escalation, and (2) any other price increases that do not, in the aggregate, exceed \$_____ [insert an amount not higher than 10 percent of the stated contract amount inserted in this paragraph]. Any payments withheld under this paragraph shall be applied to reduce the unliquidated advance payments. If full liquidation has been made, payments under the contract shall resume.

(e) *Interest.* (1) The Contractor shall pay interest to the Government on the daily unliquidated advance payments at the daily rate in paragraph (e)(3) of this clause. Interest shall be computed at the end of each calendar month for the actual number of days involved. For the purpose of computing the interest charge—

(i) Advance payments shall be considered as increasing the unliquidated balance as of the date of the advance payment check;

(ii) Repayments by Contractor check shall be considered as decreasing the unliquidated balance as of the date on which the check is received by the Government authority designated by the Contracting Officer; and

(iii) Liquidations by deductions from Government payments to the Contractor shall be considered as decreasing the unliquidated balance as of the date of the check for the reduced payment.

(2) Interest charges resulting from the monthly computation shall be deducted from payments, other than advance payments, due the Contractor. If the accrued interest exceeds the payment due, any excess interest shall be carried forward and deducted from subsequent payments. Interest carried forward shall not be compounded. Interest on advance payments shall cease to accrue upon satisfactory completion or termination of the contract for the convenience of the Government. The Contractor shall charge interest on advance payments to subcontractors in the manner described above and credit the interest to the Government. Interest need not be charged on advance payments to nonprofit educational or research subcontractors, for experimental, developmental, or research work.

(3) If interest is required under the contract, the Contracting Officer shall determine a daily interest rate based on the rate established by the Secretary of the Treasury under Pub. L. 92-41 (50 U.S.C. App., 1215(b)(2)). The Contracting

Officer shall revise the daily interest rate during the contract period in keeping with any changes in the cited interest rate.

(4) If the full amount of interest charged under this paragraph has not been paid by deduction or otherwise upon completion or termination of this contract, the Contractor shall pay the remaining interest to the Government on demand.

(f) *Lien on property under contract.* (1) All advance payments under this contract, together with interest charges, shall be secured, when made, by a lien in favor of the Government, paramount to all other liens, on the supplies or other things covered by this contract and on all material and other property acquired for or allocated to the performance of this contract, except to the extent that the Government by virtue of any other terms of this contract, or otherwise, shall have valid title to the supplies, materials, or other property as against other creditors of the Contractor.

(2) The Contractor shall identify, by marking or segregation, all property that is subject to a lien in favor of the Government by virtue of any terms of this contract in such a way as to indicate that it is subject to a lien and that it has been acquired for or allocated to performing this contract. If, for any reason, the supplies, materials, or other property are not identified by marking or segregation, the Government shall be considered to have a lien to the extent of the Government's interest under this contract on any mass of property with which the supplies, materials, or other property are commingled. The Contractor shall maintain adequate accounting control over the property on its books and records.

(3) If, at any time during the progress of the work on the contract, it becomes necessary to deliver to a third person any items or materials on which the Government has a lien, the Contractor shall notify the third person of the lien and shall obtain from the third person a receipt in duplicate acknowledging the existence of the lien. The Contractor shall provide a copy of each receipt to the Contracting Officer.

(4) If, under the termination clause, the Contracting Officer authorizes the contractor to sell or retain termination inventory, the approval shall constitute a release of the Government's lien to the extent that—

- (i) The termination inventory is sold or retained; and
- (ii) The sale proceeds or retention credits are applied to reduce any outstanding advance payments.

(g) *Insurance.* (1) The Contractor shall maintain with responsible insurance carriers—

- (i) Insurance on plant and equipment against fire and other hazards, to the extent that similar properties are usually insured by others operating plants and properties of similar character in the same general locality;
- (ii) Adequate insurance against liability on account of damage to persons or property; and
- (iii) Adequate insurance under all applicable workers' compensation laws.

(2) Until work under this contract has been completed and all advance payments made under the contract have been liquidated, the Contractor shall—

(i) Maintain this insurance;

(ii) Maintain adequate insurance on any materials, parts, assemblies, subassemblies, supplies, equipment, and other property acquired for or allocable to this contract and subject to the Government lien under paragraph (f) of this clause; and

(iii) Furnish any evidence with respect to its insurance that the administering office may require.

(h) *Default.* (1) If any of the following events occur, the Government may, by written notice to the Contractor, withhold further payments on this contract:

(i) Termination of this contract for a fault of the Contractor.

(ii) A finding by the administering office that the Contractor has failed to—

(A) Observe any of the conditions of the advance payment terms;

(B) Comply with any material term of this contract;

(C) Make progress or maintain a financial condition adequate for performance of this contract;

(D) Limit inventory allocated to this contract to reasonable requirements; or

(E) Avoid delinquency in payment of taxes or of the costs of performing this contract in the ordinary course of business.

(iii) The appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or the institution of proceedings by or against the Contractor for bankruptcy, reorganization, arrangement, or liquidation.

(iv) The commission of an act of bankruptcy.

(2) If any of the events described in paragraph (h)(1) of this clause continue for 30 days after the written notice to the Contractor, the Government may take any of the following additional actions:

(i) Charge interest, in the manner prescribed in paragraph (e) of this clause, on outstanding advance payments during the period of any event described in paragraph (h)(1) of this clause.

(ii) Demand immediate repayment by the Contractor of the unliquidated balance of advance payments.

(iii) Take possession of and, with or without advertisement, sell at public or private sale all or any part of the property on which the Government has a lien under this contract and, after deducting any expenses incident to the sale, apply the net proceeds of the sale to reduce the unliquidated balance of advance payments or other Government claims against the Contractor.

(3) The Government may take any of the actions described in paragraphs (h)(1) and (h)(2) of this clause it considers appropriate at its discretion and without limiting any other rights of the Government.

(i) *Prohibition against assignment.* Notwithstanding any other terms of this contract, the Contractor shall not assign this contract, any interest therein, or any claim under the contract to any party.

(j) *Information and access to records.* The Contractor shall furnish to the administering office (1) monthly or at other intervals as required, signed or certified balance sheets and profit and loss statements, and, (2) if requested, other information concerning the operation of the contractor's business. The Contractor shall provide the authorized Government representatives proper facilities for inspection of the Contractor's books, records, and accounts.

(k) *Other security.* The terms of this contract are considered to provide adequate security to the Government for advance payments; however, if the administering office considers the security inadequate, the Contractor shall furnish additional security satisfactory to the administering office, to the extent that the security is available.

(l) *Representations.* The Contractor represents the following:

(1) The balance sheet, the profit and loss statement, and any other supporting financial statements furnished to the administering office fairly reflect the financial condition of the Contractor at the date shown or the period covered, and there has been no subsequent materially adverse change in the financial condition of the Contractor.

(2) No litigation or proceedings are presently pending or threatened against the Contractor, except as shown in the financial statements.

(3) The Contractor has disclosed all contingent liabilities, except for liability resulting from the renegotiation of defense production contracts, in the financial statements furnished to the administering office.

(4) None of the terms in this clause conflict with the authority under which the Contractor is doing business or with the provision of any existing indenture or agreement of the Contractor.

(5) The Contractor has the power to enter into this contract and accept advance payments, and has taken all necessary action to authorize the acceptance under the terms of this contract.

(6) The assets of the Contractor are not subject to any lien or encumbrance of any character except for current taxes not delinquent, and except as shown in the financial statements furnished by the Contractor. There is no current assignment of claims under any contract affected by these advance payment provisions.

(7) All information furnished by the Contractor to the administering office in connection with each request for advance payments is true and correct.

(8) These representations shall be continuing and shall be considered to have been repeated by the submission of each invoice for advance payments.

(m) *Covenants.* To the extent the Government considers it necessary while any advance payments made under this contract remain outstanding, the Contractor, without the prior written consent of the administering office, shall not—

(1) Mortgage, pledge, or otherwise encumber or allow to be encumbered, any of the assets of the Contractor now owned or subsequently acquired, or permit any preexisting

mortgages, liens, or other encumbrances to remain on or attach to any assets of the Contractor which are allocated to performing this contract and with respect to which the Government has a lien under this contract;

(2) Sell, assign, transfer, or otherwise dispose of accounts receivable, notes, or claims for money due or to become due;

(3) Declare or pay any dividends, except dividends payable in stock of the corporation, or make any other distribution on account of any shares of its capital stock, or purchase, redeem, or otherwise acquire for value any of its stock, except as required by sinking fund or redemption arrangements reported to the administering office incident to the establishment of these advance payment provisions;

(4) Sell, convey, or lease all or a substantial part of its assets;

(5) Acquire for value the stock or other securities of any corporation, municipality, or Governmental authority, except direct obligations of the United States;

(6) Make any advance or loan or incur any liability as guarantor, surety, or accommodation endorser for any party;

(7) Permit a writ of attachment or any similar process to be issued against its property without getting a release or bonding the property within 30 days after the entry of the writ of attachment or other process;

(8) Pay any remuneration in any form to its directors, officers, or key employees higher than rates provided in existing agreements of which notice has been given to the administering office, accrue excess remuneration without first obtaining an agreement subordinating it to all claims of the Government, or employ any person at a rate of compensation over \$ _____ a year;

(9) Change substantially the management, ownership, or control of the corporation;

(10) Merge or consolidate with any other firm or corporation, change the type of business, or engage in any transaction outside the ordinary course of the Contractor's business as presently conducted;

(11) Deposit any of its funds except in a bank or trust company insured by the Federal Deposit Insurance Corporation or a credit union insured by the National Credit Union Administration;

(12) Create or incur indebtedness for advances, other than advances to be made under the terms of this contract, or for borrowings;

(13) Make or covenant for capital expenditures exceeding \$ _____ in total;

(14) Permit its net current assets, computed in accordance with generally accepted accounting principles, to become less than \$ _____; or

(15) Make any payments on account of the obligations listed below, except in the manner and to the extent provided in this contract:

[List the pertinent obligations]

52.232-13 Notice of Progress Payments.

As prescribed in 32.502-3(a), insert the following provision in invitations for bids and requests for proposals that include a Progress Payments clause:

NOTICE OF PROGRESS PAYMENTS (APR 1984)

The need for customary progress payments conforming to the regulations in Subpart 32.5 of the Federal Acquisition Regulation (FAR) will not be considered as a handicap or adverse factor in the award of the contract. The Progress Payments clause included in this solicitation will be included in any resulting contract, modified or altered if necessary in accordance with subsection 52.232-16 and its Alternate I of the FAR. Even though the clause is included in the contract, the clause shall be inoperative during any time the contractor's accounting system and controls are determined by the Government to be inadequate for segregation and accumulation of contract costs.

(End of provision)

52.232-14 Notice of Availability of Progress Payments Exclusively for Small Business Concerns.

As prescribed in 32.502-3(b)(2), insert the following provision in invitations for bids if it is anticipated that (a) both small business concerns and others may submit bids in response to the same invitation and (b) only the small business bidders would need progress payments:

NOTICE OF AVAILABILITY OF PROGRESS PAYMENTS
EXCLUSIVELY FOR SMALL BUSINESS CONCERNS
(APR 1984)

The Progress Payments clause will be available only to small business concerns. Any bid conditioned upon inclusion of a progress payment clause in the resulting contract will be rejected as nonresponsive if the bidder is not a small business concern.

(End of provision)

52.232-15 Progress Payments Not Included.

As prescribed in 32.502-3(c), insert the following provision in invitations for bids if the solicitation will not contain one of the provisions prescribed in 32.502-3(a) and (b):

PROGRESS PAYMENTS NOT INCLUDED (APR 1984)

A progress payments clause is not included in this solicitation, and will not be added to the resulting contract at the time of award. Bids conditioned upon inclusion of a progress payment clause in the resulting contract will be rejected as nonresponsive.

(End of provision)

52.232-16 Progress Payments.

As prescribed in 32.502-4(a), insert the following clause:

PROGRESS PAYMENTS (APR 2003)

The Government will make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts of \$2,500 or more approved by the Contracting Officer, under the following conditions:

(a) *Computation of amounts.* (1) Unless the Contractor requests a smaller amount, the Government will compute each progress payment as 80 percent of the Contractor's total costs incurred under this contract whether or not actually paid, plus financing payments to subcontractors (see paragraph (j) of this clause), less the sum of all previous progress payments made by the Government under this contract. The Contracting Officer will consider cost of money that would be allowable under FAR 31.205-10 as an incurred cost for progress payment purposes.

(2) The amount of financing and other payments for supplies and services purchased directly for the contract are limited to the amounts that have been paid by cash, check, or other forms of payment, or that are determined due and will be paid to subcontractors—

- (i) In accordance with the terms and conditions of a subcontract or invoice; and
- (ii) Ordinarily within 30 days of the submission of the Contractor's payment request to the Government.

(3) The Government will exclude accrued costs of Contractor contributions under employee pension plans until actually paid unless—

- (i) The Contractor's practice is to make contributions to the retirement fund quarterly or more frequently; and
- (ii) The contribution does not remain unpaid 30 days after the end of the applicable quarter or shorter payment period (any contribution remaining unpaid shall be excluded from the Contractor's total costs for progress payments until paid).

(4) The Contractor shall not include the following in total costs for progress payment purposes in paragraph (a)(1) of this clause:

- (i) Costs that are not reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices.
- (ii) Costs incurred by subcontractors or suppliers.
- (iii) Costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.
- (iv) Payments made or amounts payable to subcontractors or suppliers, except for—
 - (A) Completed work, including partial deliveries, to which the Contractor has acquired title; and

(B) Work under cost-reimbursement or time-and-material subcontracts to which the Contractor has acquired title.

(5) The amount of unliquidated progress payments may exceed neither (i) the progress payments made against incomplete work (including allowable unliquidated progress payments to subcontractors) nor (ii) the value, for progress payment purposes, of the incomplete work. Incomplete work shall be considered to be the supplies and services required by this contract, for which delivery and invoicing by the Contractor and acceptance by the Government are incomplete.

(6) The total amount of progress payments shall not exceed 80 percent of the total contract price.

(7) If a progress payment or the unliquidated progress payments exceed the amounts permitted by paragraphs (a)(4) or (a)(5) of this clause, the Contractor shall repay the amount of such excess to the Government on demand.

(8) Notwithstanding any other terms of the contract, the Contractor agrees not to request progress payments in dollar amounts of less than \$2,500. The Contracting Officer may make exceptions.

(b) *Liquidation.* Except as provided in the Termination for Convenience of the Government clause, all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress payments, the unliquidated progress payments, or 80 percent of the amount invoiced, whichever is less. The Contractor shall repay to the Government any amounts required by a retroactive price reduction, after computing liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly. The Government reserves the right to unilaterally change from the ordinary liquidation rate to an alternate rate when deemed appropriate for proper contract financing.

(c) *Reduction or suspension.* The Contracting Officer may reduce or suspend progress payments, increase the rate of liquidation, or take a combination of these actions, after finding on substantial evidence any of the following conditions:

(1) The Contractor failed to comply with any material requirement of this contract (which includes paragraphs (f) and (g) of this clause).

(2) Performance of this contract is endangered by the Contractor's—

- (i) Failure to make progress; or
- (ii) Unsatisfactory financial condition.

(3) Inventory allocated to this contract substantially exceeds reasonable requirements.

(4) The Contractor is delinquent in payment of the costs of performing this contract in the ordinary course of business.

(5) The unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this contract.

(6) The Contractor is realizing less profit than that reflected in the establishment of any alternate liquidation rate in paragraph (b) of this clause, and that rate is less than the progress payment rate stated in paragraph (a)(1) of this clause.

(d) *Title.* (1) Title to the property described in this paragraph (d) shall vest in the Government. Vestiture shall be immediately upon the date of this contract, for property acquired or produced before that date. Otherwise, vestiture shall occur when the property is or should have been allocable or properly chargeable to this contract.

(2) "Property," as used in this clause, includes all of the below-described items acquired or produced by the Contractor that are or should be allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices.

(i) Parts, materials, inventories, and work in process;

(ii) Special tooling and special test equipment to which the Government is to acquire title under any other clause of this contract;

(iii) Nondurable (*i.e.*, noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, and other similar manufacturing aids, title to which would not be obtained as special tooling under paragraph (d)(2)(ii) of this clause; and

(iv) Drawings and technical data, to the extent the Contractor or subcontractors are required to deliver them to the Government by other clauses of this contract.

(3) Although title to property is in the Government under this clause, other applicable clauses of this contract; *e.g.*, the termination or special tooling clauses, shall determine the handling and disposition of the property.

(4) The Contractor may sell any scrap resulting from production under this contract without requesting the Contracting Officer's approval, but the proceeds shall be credited against the costs of performance.

(5) To acquire for its own use or dispose of property to which title is vested in the Government under this clause, the Contractor must obtain the Contracting Officer's advance approval of the action and the terms. The Contractor shall (i) exclude the allocable costs of the property from the costs of contract performance, and (ii) repay to the Government any amount of unliquidated progress payments allocable to the property. Repayment may be by cash or credit memorandum.

(6) When the Contractor completes all of the obligations under this contract, including liquidation of all progress payments, title shall vest in the Contractor for all property (or the proceeds thereof) not—

(i) Delivered to, and accepted by, the Government under this contract; or

(ii) Incorporated in supplies delivered to, and accepted by, the Government under this contract and to which title is vested in the Government under this clause.

(7) The terms of this contract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.

(e) *Risk of loss.* Before delivery to and acceptance by the Government, the Contractor shall bear the risk of loss for property, the title to which vests in the Government under this clause, except to the extent the Government expressly assumes the risk. The Contractor shall repay the Government an amount equal to the unliquidated progress payments that are based on costs allocable to property that is damaged, lost, stolen, or destroyed.

(f) *Control of costs and property.* The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(g) *Reports and access to records.* The Contractor shall promptly furnish reports, certificates, financial statements, and other pertinent information reasonably requested by the Contracting Officer for the administration of this clause. Also, the Contractor shall give the Government reasonable opportunity to examine and verify the Contractor's books, records, and accounts.

(h) *Special terms regarding default.* If this contract is terminated under the Default clause, (i) the Contractor shall, on demand, repay to the Government the amount of unliquidated progress payments and (ii) title shall vest in the Contractor, on full liquidation of progress payments, for all property for which the Government elects not to require delivery under the Default clause. The Government shall be liable for no payment except as provided by the Default clause.

(i) *Reservations of rights.* (1) No payment or vesting of title under this clause shall—

(i) Excuse the Contractor from performance of obligations under this contract; or

(ii) Constitute a waiver of any of the rights or remedies of the parties under the contract.

(2) The Government's rights and remedies under this clause—

(i) Shall not be exclusive but rather shall be in addition to any other rights and remedies provided by law or this contract; and

(ii) Shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.

(j) *Financing payments to subcontractors.* The financing payments to subcontractors mentioned in paragraphs (a)(1) and (a)(2) of this clause shall be all financing payments to subcontractors or divisions, if the following conditions are met:

(1) The amounts included are limited to—

(i) The unliquidated remainder of financing payments made; plus

(ii) Any unpaid subcontractor requests for financing payments.

(2) The subcontract or interdivisional order is expected to involve a minimum of approximately 6 months between the beginning of work and the first delivery; or, if the subcontractor is a small business concern, 4 months.

(3) If the financing payments are in the form of progress payments, the terms of the subcontract or interdivisional order concerning progress payments—

(i) Are substantially similar to the terms of this clause for any subcontractor that is a large business concern, or this clause with its Alternate I for any subcontractor that is a small business concern;

(ii) Are at least as favorable to the Government as the terms of this clause;

(iii) Are not more favorable to the subcontractor or division than the terms of this clause are to the Contractor;

(iv) Are in conformance with the requirements of FAR 32.504(e); and

(v) Subordinate all subcontractor rights concerning property to which the Government has title under the subcontract to the Government's right to require delivery of the property to the Government if—

(A) The Contractor defaults; or

(B) The subcontractor becomes bankrupt or insolvent.

(4) If the financing payments are in the form of performance-based payments, the terms of the subcontract or interdivisional order concerning payments—

(i) Are substantially similar to the Performance-Based Payments clause at FAR 52.232-32 and meet the criteria for, and definition of, performance-based payments in FAR Part 32;

(ii) Are in conformance with the requirements of FAR 32.504(f); and

(iii) Subordinate all subcontractor rights concerning property to which the Government has title under the subcontract to the Government's right to require delivery of the property to the Government if—

(A) The Contractor defaults; or

(B) The subcontractor becomes bankrupt or insolvent.

(5) If the financing payments are in the form of commercial item financing payments, the terms of the subcontract or interdivisional order concerning payments—

(i) Are constructed in accordance with FAR 32.206(c) and included in a subcontract for a commercial item purchase that meets the definition and standards for acquisition of commercial items in FAR Parts 2 and 12;

(ii) Are in conformance with the requirements of FAR 32.504(g); and

(iii) Subordinate all subcontractor rights concerning property to which the Government has title under the subcon-

tract to the Government's right to require delivery of the property to the Government if—

(A) The Contractor defaults; or

(B) The subcontractor becomes bankrupt or insolvent.

(6) If financing is in the form of progress payments, the progress payment rate in the subcontract is the customary rate used by the contracting agency, depending on whether the subcontractor is or is not a small business concern.

(7) Concerning any proceeds received by the Government for property to which title has vested in the Government under the subcontract terms, the parties agree that the proceeds shall be applied to reducing any unliquidated financing payments by the Government to the Contractor under this contract.

(8) If no unliquidated financing payments to the Contractor remain, but there are unliquidated financing payments that the Contractor has made to any subcontractor, the Contractor shall be subrogated to all the rights the Government obtained through the terms required by this clause to be in any subcontract, as if all such rights had been assigned and transferred to the Contractor.

(9) To facilitate small business participation in subcontracting under this contract, the Contractor shall provide financing payments to small business concerns, in conformity with the standards for customary contract financing payments stated in FAR 32.113. The Contractor shall not consider the need for such financing payments as a handicap or adverse factor in the award of subcontracts.

(k) *Limitations on undefinitized contract actions.* Notwithstanding any other progress payment provisions in this contract, progress payments may not exceed 80 percent of costs incurred on work accomplished under undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes. This limitation shall apply to the costs incurred, as computed in accordance with paragraph (a) of this clause, and shall remain in effect until the contract action is definitized. Costs incurred which are subject to this limitation shall be segregated on Contractor progress payment requests and invoices from those costs eligible for higher progress payment rates. For purposes of progress payment liquidation, as described in paragraph (b) of this clause, progress payments for undefinitized contract actions shall be liquidated at 80 percent of the amount invoiced for work performed under the undefinitized contract action as long as the contract action remains undefinitized. The amount of unliquidated progress payments for undefinitized contract actions shall not exceed 80 percent of the maximum liability of the Govern-

ment under the undefinitized contract action or such lower limit specified elsewhere in the contract. Separate limits may be specified for separate actions.

(l) *Due date.* The designated payment office will make progress payments on the _____ [*Contracting Officer insert date as prescribed by agency head; if not prescribed, insert "30th"*] day after the designated billing office receives a proper progress payment request. In the event that the Government requires an audit or other review of a specific progress 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. Progress payments are considered contract financing and are not subject to the interest penalty provisions of the Prompt Payment Act.

(m) *Progress payments under indefinite-delivery contracts.* The Contractor shall account for and submit progress payment requests under individual orders as if the order constituted a separate contract, unless otherwise specified in this contract.

(End of clause)

Alternate I (Mar 2000). If the contract is with a small business concern, change each mention of the progress payment and liquidation rates excepting paragraph (k) to the customary rate of 85 percent for small business concerns (see FAR 32.501-1).

Alternate II (Apr 2003). If the contract is a letter contract, add paragraphs (n) and (o). The amount specified in paragraph (o) shall not exceed 80 percent of the maximum liability of the Government under the letter contract. The contracting officer may specify separate limits for separate parts of the work.

(n) The Contracting Officer will liquidate progress payments made under this letter contract, unless previously liquidated under paragraph (b) of this clause, using the following procedures:

(1) If this letter contract is superseded by a definitive contract, unliquidated progress payments made under this letter contract shall be liquidated by deducting the amount from the first progress or other payments made under the definitive contract.

(2) If this letter contract is not superseded by a definitive contract calling for the furnishing of all or part of the articles or services covered under the letter contract, unliquidated progress payments made under the letter contract shall be liquidated by deduction from the amount payable under the Termination clause.

(3) If this letter contract is partly terminated and partly superseded by a contract, the Government will allocate the unliquidated progress payments to the terminated and unterminated portions as the Government deems equitable, and will liquidate each portion under the relevant procedure in paragraphs (n)(1) and (n)(2) of this clause.

(4) If the method of liquidating progress payments provided in this clause does not result in full liquidation, the Contractor shall immediately pay the unliquidated balance to the Government on demand.

(o) The amount of unliquidated progress payments shall not exceed _____ [Contracting Officer specify dollar amount].

Alternate III (Apr 2003). As prescribed in 32.502-4(d), add the following paragraph (n) to the basic clause. If Alternate II is also being used, redesignate the following paragraph as paragraph (p):

(n) The provisions of this clause will not be applicable to individual orders at or below the simplified acquisition threshold.

52.232-17 Interest.

As prescribed in 32.617(a) and (b), insert the following clause:

INTEREST (JUNE 1996)

(a) Except as otherwise provided in this contract under a Price Reduction for Defective Cost or Pricing Data clause or a Cost Accounting Standards clause, all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481)) shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(b) Amounts shall be due at the earliest of the following dates:

- (1) The date fixed under this contract.
- (2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.
- (3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.

(4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(End of clause)

52.232-18 Availability of Funds.

As prescribed in 32.705-1(a), insert the following clause:

AVAILABILITY OF FUNDS (APR 1984)

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

(End of clause)

52.232-19 Availability of Funds for the Next Fiscal Year.

As prescribed in 32.705-1(b), insert the following clause in solicitations and contracts if a one-year indefinite-quantity or requirements contract for services is contemplated and the contract (a) is funded by annual appropriations and (b) is to extend beyond the initial fiscal year (see 32.703-2(b)):

AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR (APR 1984)

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

(End of clause)

52.232-20 Limitation of Cost.

As prescribed in 32.705-2(a), insert the following clause in solicitations and contracts if a fully funded cost-reimbursement contract is contemplated, except those for consolidated facilities, facilities acquisition, or facilities use, whether or not the contract provides for payment of a fee. The 60-day period may be varied from 30 to 90 days and the 75 percent from 75 to 85 percent. "Task Order" or other appropriate designation may be substituted for "Schedule" wherever that word appears in the clause.

LIMITATION OF COST (APR 1984)

(a) The parties estimate that performance of this contract, exclusive of any fee, 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 Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that—

(1) The costs the Contractor expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost specified in the Schedule; or

(2) The total cost for the performance of this contract, exclusive of any fee, will be either greater or substantially less than had been previously estimated.

(c) As part of the notification, the Contractor shall provide the Contracting Officer a revised estimate of the total cost of performing this contract.

(d) 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 (i) the estimated cost specified in the Schedule or, (ii) if this is a cost-sharing contract, the estimated cost to the Government specified in the Schedule; 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 the estimated cost specified in the Schedule, until the Contracting Officer (i) notifies the Contractor in writing that the estimated cost has been increased and (ii) provides a revised estimated total cost of performing this contract. If this is a cost-sharing contract, the increase shall be allocated in accordance with the formula specified in the Schedule.

(e) No notice, communication, or representation in any form other than that specified in paragraph (d)(2) of this clause, or from any person other than the Contracting Officer, shall affect this contract's estimated cost to the Government. In the absence of the specified notice, the Government is not obligated to reimburse the Contractor for any costs in excess of the estimated cost or, if this is a cost-sharing contract, for any costs in excess of the estimated cost to the Government specified in the Schedule, whether those excess costs were incurred during the course of the contract or as a result of termination.

(f) If the estimated cost specified in the Schedule is increased, any costs the Contractor incurs before the increase that are in excess of the previously estimated cost shall be allowable to the same extent as if incurred afterward, unless the Contracting Officer issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.

(g) Change orders shall not be considered an authorization to exceed the estimated cost to the Government specified in the Schedule, unless they contain a statement increasing the estimated cost.

(h) If this contract is terminated or the estimated cost is not increased, 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.

(End of clause)

52.232-21 Limitation of Cost (Facilities).

As prescribed in 32.705-2(b), insert the following clause in solicitations and contracts for consolidated facilities, facilities acquisition, or facilities use (see 45.301):

LIMITATION OF COST (FACILITIES) (APR 1984)

(a) The parties estimate that performance of this contract will not cost Government more than the estimated cost specified in the Schedule. The Contractor agrees to use its best efforts to perform the work specified in the Schedule within the estimated cost.

(b) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that—

(1) The costs that the Contractor expects to incur under this contract in the next 30 days, when added to all costs previously incurred, will exceed 85 percent of the estimated cost specified in the Schedule; or

(2) The total cost to the Government for the performance of this contract will be either greater or substantially less than had previously been estimated.

(c) As part of the notification, the Contractor shall provide the Contracting Officer a revised estimate of the total cost of performing this contract.

(d) 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 estimated cost specified in the Schedule; 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 the estimated cost specified in the Schedule, until the Contracting Officer—

(i) Notifies the Contractor in writing that the estimated cost has been increased; and

(ii) Provides a revised estimated total cost of performing this contract.

(e) No notice, communication, or representation in any form other than specified in paragraph (d)(2) of this clause, or from any person other than the Contracting Officer, shall affect this contract's estimated cost to the Government. In the

absence of the specified notice, the Government is not obligated to reimburse the Contractor for any costs in excess of the estimated cost, whether those excess costs were incurred during the course of the contract or as a result of termination.

(f) If the estimated cost specified in the Schedule is increased, any costs the Contractor incurs before the increase that are in excess of the previously estimated cost shall be allowable to the same extent as if incurred afterward, unless the Contracting Officer issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.

(g) Change orders shall not be considered an authorization to exceed the estimated cost to the Government specified in the Schedule, unless they contain a statement increasing the estimated cost.

(End of clause)

52.232-22 Limitation of Funds.

As prescribed in 32.705-2(c), insert the following clause in solicitations and contracts if an incrementally funded cost-reimbursement contract is contemplated. The 60-day period may be varied from 30 to 90 days and the 75 percent from 75 to 85 percent. "Task Order" or other appropriate designation may be substituted for "Schedule" wherever that word appears in the clause.

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 paragraph (f)(2) of this clause, or from any person other than the Contracting Officer, shall affect the amount allotted by the Government to this contract. In the absence of the specified notice, the Government

is not obligated to reimburse the Contractor for any costs in excess of the total amount allotted by the Government to this contract, whether incurred during the course of the contract or as a result of termination.

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

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

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

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

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

(l) If the Government does not allot sufficient funds to allow completion of the work, the Contractor is entitled to a percentage of the fee specified in the Schedule equalling the percentage of completion of the work contemplated by this contract.

(End of clause)

52.232-23 Assignment of Claims.

As prescribed in 32.806(a)(1), insert the following clause:

ASSIGNMENT OF CLAIMS (JAN 1986)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

(End of clause)

Alternate I (Apr 1984). If a no-setoff commitment is to be included in the contract (see 32.801 and 32.803(d)), add the following sentence at the end of paragraph (a) of the basic clause:

Unless otherwise stated in this contract, payments to an assignee of any amounts due or to become due under this contract shall not, to the extent specified in the Act, be subject to reduction or setoff.

52.232-24 Prohibition of Assignment of Claims.

As prescribed in 32.806(b), insert the following clause:

PROHIBITION OF ASSIGNMENT OF CLAIMS (Jan 1986)

The assignment of claims under the Assignment of Claims Act of 1940, as amended, 31 U.S.C. 3727, 41 U.S.C. 15, is prohibited for this contract.

(End of clause)

52.232-25 Prompt Payment.

As prescribed in 32.908(c), insert the following clause:

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 per-

ishable 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, post-marked 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.

(End of clause)

Alternate I (Feb 2002). As prescribed in 32.908(c)(3), add the following paragraph (e) to the basic clause:

(e) *Invoices for interim payments.* For interim payments under this cost-reimbursement contract for services—

(1) Paragraphs (a)(2), (a)(3), (a)(4)(ii), (a)(4)(iii), and (a)(5)(i) do not apply;

(2) For purposes of computing late payment interest penalties that may apply, the due date for payment is the 30th day after the designated billing office receives a proper invoice; and

(3) The contractor shall submit invoices for interim payments in accordance with paragraph (a) of FAR 52.216-7, Allowable Cost and Payment. If the invoice does not comply with contract requirements, it will be returned within 7 days after the date the designated billing office received the invoice.

52.232-26 Prompt Payment for Fixed-Price Architect-Engineer Contracts.

As prescribed in 32.908(a), insert the following clause:

PROMPT PAYMENT FOR FIXED-PRICE ARCHITECT-ENGINEER CONTRACTS (OCT 2003)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(3) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) *Invoice payments*—(1) *Due date.* The due date for making invoice payments is—

(i) For work or services completed by the Contractor, 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)(iii) of this clause).

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

(ii) The due date for progress payments is the 30th day after Government approval of Contractor estimates of work or services accomplished.

(iii) If the designated billing office fails to annotate the invoice or payment request with the actual date of receipt at the time of receipt, the payment due date is the 30th day after the date of the Contractor's invoice or payment request, provided the designated billing office receives a proper invoice or payment request and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) *Contractor's invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(2)(i) through (a)(2)(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, with the reasons why it is not a proper invoice. When computing any interest penalty owed the Contractor, the Government will take into account if the Government notifies the Contractor of an improper invoice in an untimely manner.

(i) Name and address of the Contractor.

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

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

(iv) Description of work or services performed.

(v) Delivery and payment terms (e.g., discount for prompt payment terms).

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

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

(viii) 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.

(3) *Interest penalty.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date

falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

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

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

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

(4) *Computing penalty amount.* The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR Part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance or approval is deemed to occur constructively as shown in paragraphs (a)(4)(i)(A) and (B) of this clause. If actual acceptance or approval occurs within the constructive acceptance or approval period, the Government will base the determination of an interest penalty on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, Contractor compliance with a contract provision, or requested progress payment amounts. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(A) For work or services completed by the Contractor, Government acceptance is deemed to occur constructively on the 7th day after the Contractor completes the work or services in accordance with the terms and conditions of the contract.

(B) For progress payments, Government approval is deemed to occur on the 7th day after the designated billing office receives the Contractor estimates.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes, and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

(5) *Discounts for prompt payment.* The designated payment office will pay an interest penalty automatically, without

request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with 5 CFR Part 1315.

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

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

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

(C) The contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(6)(ii) of this clause, post-marked not later than 40 days after the date the invoice amount is paid.

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

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

(2) Attach a copy of the invoice on which the unpaid late payment interest 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 payments.* If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the

Contracting Officer and request instructions for disposition of the overpayment.

(End of clause)

52.232-27 Prompt Payment for Construction Contracts.

As prescribed in 32.908(b), insert the following clause:

PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS
(OCT 2003)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

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

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

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

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

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

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

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

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

(B) If the designated billing office fails to annotate the invoice with the date of actual receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) *Contractor's invoice*. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(2)(i) through (a)(2)(xi) of this clause. If the invoice does not comply with these requirements, the designated billing office must return it within 7 days after receipt, with the reasons why it is not a proper invoice. When computing any interest penalty owed the Contractor, the Government will take into account if the Government notifies the Contractor of an improper invoice in an untimely manner.

(i) Name and address of the Contractor.

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

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

(iv) Description of work or services performed.

(v) Delivery and payment terms (e.g., discount for prompt payment terms).

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

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

(viii) For payments described in paragraph (a)(1)(i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts.

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

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

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

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

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

(xi) Any other information or documentation required by the contract.

(3) *Interest penalty.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

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

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

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

(4) *Computing penalty amount.* The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR Part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor for payments described in paragraph (a)(1)(ii) of this clause, Government acceptance or approval is deemed to occur constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. If actual acceptance or approval occurs within the constructive acceptance or approval period, the Government will base the determination of an interest penalty on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration func-

tions, or make payment prior to fulfilling their responsibilities.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes, and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

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

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

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

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

(C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(6)(ii) of this clause, post-marked not later than 40 days after the date the invoice amount is paid.

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

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

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

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

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

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

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

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

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

(c) *Subcontract clause requirements.* The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:

(1) *Prompt payment for subcontractors.* A payment clause that obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.

(2) *Interest for subcontractors.* An interest penalty clause that obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause—

(i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the *Federal Register*, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(3) *Subcontractor clause flowdown.* A clause requiring each subcontractor to—

(i) Include a payment clause and an interest penalty clause conforming to the standards set forth in paragraphs (c)(1) and (c)(2) of this clause in each of its subcontracts; and

(ii) Require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) *Subcontract clause interpretation.* The clauses required by paragraph (c) of this clause shall not be construed to impair the right of the Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions that—

(1) *Retainage permitted.* Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) *Withholding permitted.* Permit the Contractor or subcontractor to make a determination that part or all of the

subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) *Withholding requirements.* Permit such withholding without incurring any obligation to pay a late payment penalty if—

(i) A notice conforming to the standards of paragraph (g) of this clause previously has been furnished to the subcontractor; and

(ii) The Contractor furnishes to the Contracting Officer a copy of any notice issued by a Contractor pursuant to paragraph (d)(3)(i) of this clause.

(e) *Subcontractor withholding procedures.* If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the Contractor shall—

(1) *Subcontractor notice.* Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

(2) *Contracting Officer notice.* Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to paragraph (e)(1) of this clause;

(3) *Subcontractor progress payment reduction.* Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (e)(1) of this clause;

(4) *Subsequent subcontractor payment.* Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and—

(i) Make such payment within—

(A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under paragraph (e)(5)(i)) of this clause; or

(B) Seven days after the Contractor recovers such funds from the Government; or

(ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the *Federal Register*, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty;

(5) *Notice to Contracting Officer.* Notify the Contracting Officer upon—

(i) Reduction of the amount of any subsequent certified application for payment; or

(ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying—

(A) The amounts withheld under paragraph (e)(1) of this clause; and

(B) The dates that such withholding began and ended; and

(6) *Interest to Government.* Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1)), from the 8th day after receipt of the withheld amounts from the Government until—

(i) The day the identified subcontractor performance deficiency is corrected; or

(ii) The date that any subsequent payment is reduced under paragraph (e)(5)(i) of this clause.

(f) *Third-party deficiency reports—* (1) *Withholding from subcontractor.* If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a "second-tier subcontractor") a written notice in accordance with section 2 of the Act of August 24, 1935 (40 U.S.C. 270b, Miller Act), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, the Contractor may, without incurring an obligation to pay an interest penalty under paragraph (e)(6) of this clause—

(i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and

(ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (f)(1)(i) of this clause.

(2) *Subsequent payment or interest charge.* As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall—

(i) Pay the amount withheld under paragraph (f)(1)(ii) of this clause to such first-tier subcontractor; or

(ii) Incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in the *Federal Register*, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(g) *Written notice of subcontractor withholding.* The Contractor shall issue a written notice of any withholding to a sub-

contractor (with a copy furnished to the Contracting Officer), specifying—

(1) The amount to be withheld;

(2) The specific causes for the withholding under the terms of the subcontract; and

(3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) *Subcontractor payment entitlement.* The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.

(i) *Prime-subcontractor disputes.* A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the Government is a party. The Government may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) *Preservation of prime-subcontractor rights.* Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) *Non-recourse for prime contractor interest penalty.* The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the Government for such interest penalty. A cost-reimbursement claim may not include any amount for reimbursement of such interest penalty.

(l) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(End of clause)

52.232-28 Invitation to Propose Performance-Based Payments.

As prescribed in 32.1005(b)(1), insert the following provision:

INVITATION TO PROPOSE PERFORMANCE-BASED PAYMENTS (MAR 2000)

(a) The Government invites the offeror to propose terms under which the Government will make performance-based contract financing payments during contract performance.

The Government will consider performance-based payment financing terms proposed by the offeror in the evaluation of the offeror's proposal. The Contracting Officer will incorporate the financing terms of the successful offeror and the FAR clause, Performance-Based Payments, at FAR 52.232-32, in any resulting contract.

(b) In the event of any conflict between the terms proposed by the offeror and the terms in the clause at FAR 52.232-32, Performance-Based Payments, the terms of the clause at FAR 52.232-32 shall govern.

(c) The Contracting Officer will not accept the offeror's proposed performance-based payment financing if the financing does not conform to the following limitations:

(1) The Government will make delivery payments only for supplies delivered and accepted, or services rendered and accepted in accordance with the payment terms of this contract.

(2) The terms and conditions of the performance-based payments must—

(i) Comply with FAR 32.1004;

(ii) Be reasonable and consistent with all other technical and cost information included in the offeror's proposal; and

(iii) Their total shall not exceed 90 percent of the contract price if on a whole contract basis, or 90 percent of the delivery item price if on a delivery item basis.

(3) The terms and conditions of the performance-based financing must be in the best interests of the Government.

(d) The offeror's proposal of performance-based payment financing shall include the following:

(1) The proposed contractual language describing the performance-based payments (see FAR 32.1004 for appropriate criteria for establishing performance bases and performance-based finance payment amounts).

(2) A listing of—

(i) The projected performance-based payment dates and the projected payment amounts; and

(ii) The projected delivery date and the projected payment amount.

(3) Information addressing the Contractor's investment in the contract.

(e) Evaluation of the offeror's proposed prices and financing terms will include whether the offeror's proposed performance-based payment events and payment amounts are reasonable and consistent with all other terms and conditions of the offeror's proposal.

(End of provision)

Alternate I (Mar 2000). As prescribed in FAR 32.1005(b)(2), add the following paragraph (f) to the basic provision:

(f) The Government will adjust each proposed price to reflect the cost of providing the proposed performance-based payments to determine the total cost to the Government of that particular combination of price and performance-based financing. The Government will make the adjustment using the procedure described in FAR 32.205(c).

52.232-29 Terms for Financing of Purchases of Commercial Items.

As prescribed in 32.206(b)(2), insert the following clause:

TERMS FOR FINANCING OF PURCHASES OF COMMERCIAL ITEMS (FEB 2002)

(a) *Contractor entitlement to financing payments.* The Contractor may request, and the Government shall pay, a contract financing payment as specified elsewhere in this contract when: the payment requested is properly due in accordance with this contract; the supplies deliverable or services due under the contract will be delivered or performed in accordance with the contract; and there has been no impairment or diminution of the Government's security under this contract.

(b) *Special terms regarding termination for cause.* If this contract is terminated for cause, the Contractor shall, on demand, repay to the Government the amount of unliquidated contract financing payments. The Government shall be liable for no payment except as provided by the Termination for Cause paragraph of the clause at 52.212-4, Contract Terms and Conditions—Commercial Items.

(c) *Security for Government financing.* In the event the Contractor fails to provide adequate security, as required in this contract, no financing payment shall be made under this contract. Upon receipt of adequate security, financing payments shall be made, including all previous payments to which the Contractor is entitled, in accordance with the terms of the provisions for contract financing. If at any time the Contracting Officer determines that the security provided by the Contractor is insufficient, the Contractor shall promptly provide such additional security as the Contracting Officer determines necessary. In the event the Contractor fails to provide such additional security, the Contracting Officer may collect or liquidate such security that has been provided and suspend further payments to the Contractor; and the Contractor shall repay to the Government the amount of unliquidated financing payments as the Contracting Officer at his sole discretion deems repayable.

(d) *Reservation of rights.* (1) No payment or other action by the Government under this clause shall—

(i) Excuse the Contractor from performance of obligations under this contract; or

(ii) Constitute a waiver of any of the rights or remedies of the parties under the contract.

(2) The Government's rights and remedies under this clause—

(i) Shall not be exclusive, but rather shall be in addition to any other rights and remedies provided by law or this contract; and

(ii) Shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.

(e) *Content of Contractor's request for financing payment.* The Contractor's request for financing payment shall contain the following:

- (1) The name and address of the Contractor;
- (2) The date of the request for financing payment;
- (3) The contract number and/or other identifier of the contract or order under which the request is made; and
- (4) An appropriately itemized and totaled statement of the financing payments requested and such other information as is necessary for computation of the payment, prepared in accordance with the direction of the Contracting Officer.

(f) *Limitation on frequency of financing payments.* Contractor financing payments shall be provided no more frequently than monthly.

(g) *Dates for payment.* A payment under this clause is a contract financing payment and not subject to the interest penalty provisions of the Prompt Payment Act. The designated payment office will pay approved payment requests within 30 days of submittal of a proper request for payment.

(h) *Conflict between terms of offeror and clause.* In the event of any conflict between the terms proposed by the offeror in response to an invitation to propose financing terms (52.232-31) and the terms in this clause, the terms of this clause shall govern.

(End of clause)

52.232-30 Installment Payments for Commercial Items.

As prescribed in 32.206(g), insert the following clause:

INSTALLMENT PAYMENTS FOR COMMERCIAL ITEMS (OCT 1995)

(a) *Contractor entitlement to financing payments.* The Contractor may request, and the Government shall pay, a contract financing installment payment as specified in this contract when: the payment requested is properly due in accordance with this contract; the supplies deliverable or services due under the contract will be delivered or performed in accordance with the contract; and there has been no impairment or diminution of the Government's security under this contract.

(b) *Computation of amounts.* Installment payment financing shall be paid to the Contractor when requested for each separately priced unit of supply (but not for services) of each contract line item in amounts approved by the Contracting Officer pursuant to this clause.

(1) *Number of installment payments for each contract line item.* Each separately priced unit of each contract line item is authorized a fixed number of monthly installment payments. The number of installment payments authorized for each unit of a contract line item is equal to the number of months from the date of contract award to the date one month before the first delivery of the first separately priced unit of the contract line item. For example, if the first scheduled delivery of any separately priced unit of a contract line item is 9 months after award of the contract, all separately priced units of that contract line item are authorized 8 installment payments.

(2) *Amount of each installment payment.* The amount of each installment payment for each separately priced unit of each contract line item is equal to 70 percent of the unit price divided by the number of installment payments authorized for that unit.

(3) *Date of each installment payment.* Installment payments for any particular separately priced unit of a contract line item begin the number of months prior to the delivery of that unit that are equal to the number of installment payments authorized for that unit. For example, if 8 installment payments are authorized for each separately priced unit of a contract line item, the first installment payment for any particular unit of that contract line item would be 8 months before the scheduled delivery date for that unit. The last installment payment would be 1 month before scheduled delivery of a unit.

(4) *Limitation on payment.* Prior to the delivery payment for a separately priced unit of a contract line item, the sum of all installment payments for that unit shall not exceed 70 percent of the price of that unit.

(c) *Contractor request for installment payment.* The Contractor may submit requests for payment of installment payments not more frequently than monthly, in a form and manner acceptable to the Contracting Officer. Unless otherwise authorized by the Contracting Officer, all installment payments in any month for which payment is being requested shall be included in a single request, appropriately itemized and totaled.

(d) *Dates for payment.* An installment payment under this clause is a contract financing payment under the Prompt Payment clause of this contract, and except as provided in paragraph (e) of this clause, approved requests shall be paid within 30 days of submittal of a proper request for payment.

(e) *Liquidation of installment payments.* Installment payments shall be liquidated by deducting from the delivery payment of each item the total unliquidated amount of installment payments made for that separately priced unit of that contract line item. The liquidation amounts for each unit of each line item shall be clearly delineated in each request for delivery payment submitted by the Contractor.

(f) *Security for installment payment financing.* In the event the Contractor fails to provide adequate security as required in this contract, no financing payment shall be made under this

contract. Upon receipt of adequate security, financing payments shall be made, including all previous payments to which the Contractor is entitled, in accordance with the terms of the contract. If at any time the Contracting Officer determines that the security provided by the Contractor is insufficient, the Contractor shall promptly provide such additional security as the Contracting Officer determines necessary. In the event the Contractor fails to provide such additional security, the Contracting Officer may collect or liquidate such security that has been provided, and suspend further payments to the Contractor; the Contractor shall repay to the Government the amount of unliquidated financing payments as the Contracting Officer at his sole discretion deems repayable.

(g) *Special terms regarding termination for cause.* If this contract is terminated for cause, the Contractor shall, on demand, repay to the Government the amount of unliquidated installment payments. The Government shall be liable for no payment except as provided by the Termination for Cause paragraph of the clause at 52.212-4, Contract Terms and Conditions—Commercial Items.

(h) *Reservation of rights.* (1) No payment, vesting of title under this clause, or other action taken by the Government under this clause shall—

(i) Excuse the Contractor from performance of obligations under this contract; or

(ii) Constitute a waiver of any of the rights or remedies of the parties under the contract.

(2) The Government's rights and remedies under this clause—

(i) Shall not be exclusive, but rather shall be in addition to any other rights and remedies provided by law or this contract; and

(ii) Shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.

(i) *Content of Contractor's request for installment payment.* The Contractor's request for installment payment shall contain the following:

(1) The name and address of the Contractor;

(2) The date of the request for installment payment;

(3) The contract number and/or other identifier of the contract or order under which the request is made; and

(4) An itemized and totaled statement of the items, installment payment amount, and month for which payment is being requested, for each separately priced unit of each contract line item.

(End of clause)

52.232-31 Invitation to Propose Financing Terms.

As prescribed in 32.205(b) and 32.206, insert the following provision:

INVITATION TO PROPOSE FINANCING TERMS (OCT 1995)

(a) The offeror is invited to propose terms under which the Government shall make contract financing payments during contract performance. The financing terms proposed by the offeror shall be a factor in the evaluation of the offeror's proposal. The financing terms of the successful offeror and the clause, Terms for Financing of Purchases of Commercial Items, at 52.232-29, shall be incorporated in any resulting contract.

(b) The offeror agrees that in the event of any conflict between the terms proposed by the offeror and the terms in the clause at 52.232-29, Terms for Financing of Purchases of Commercial Items, the terms of the clause at 52.232-29 shall govern.

(c) Because of statutory limitations (10 U.S.C. 2307(f) and 41 U.S.C. 255(f)), the offeror's proposed financing shall not be acceptable if it does not conform to the following limitations:

(1) Delivery payments shall be made only for supplies delivered and accepted, or services rendered and accepted in accordance with the payment terms of this contract;

(2) Contract financing payments shall not exceed 15 percent of the contract price in advance of any performance of work under the contract;

(3) The terms and conditions of the contract financing must be appropriate or customary in the commercial marketplace; and

(4) The terms and conditions of the contract financing must be in the best interests of the United States.

(d) The offeror's proposal of financing terms shall include the following:

(1) The proposed contractual language describing the contract financing (see FAR 32.202-2 for appropriate definitions of types of payments); and

(2) A listing of the earliest date and greatest amount at which each contract financing payment may be payable and the amount of each delivery payment. Any resulting contract shall provide that no contract financing payment shall be made at any earlier date or in a greater amount than shown in the offeror's listing.

(e) The offeror's proposed prices and financing terms shall be evaluated to determine the cost to the United States of the proposal using the interest rate and delivery schedule specified elsewhere in this solicitation.

(End of provision)

52.232-32 Performance-Based Payments.

As prescribed in 32.1005, insert the following clause:

PERFORMANCE-BASED PAYMENTS (FEB 2002)

(a) *Amount of payments and limitations on payments.* Subject to such other limitations and conditions as are specified in this contract and this clause, the amount of payments and limitations on payments shall be specified in the contract's description of the basis for payment.

(b) *Contractor request for performance-based payment.* The Contractor may submit requests for payment of performance-based payments not more frequently than monthly, in a form and manner acceptable to the Contracting Officer. Unless otherwise authorized by the Contracting Officer, all performance-based payments in any period for which payment is being requested shall be included in a single request, appropriately itemized and totaled. The Contractor's request shall contain the information and certification detailed in paragraphs (l) and (m) of this clause.

(c) *Approval and payment of requests.* (1) The Contractor shall not be entitled to payment of a request for performance-based payment prior to successful accomplishment of the event or performance criterion for which payment is requested. The Contracting Officer shall determine whether the event or performance criterion for which payment is requested has been successfully accomplished in accordance with the terms of the contract. The Contracting Officer may, at any time, require the Contractor to substantiate the successful performance of any event or performance criterion which has been or is represented as being payable.

(2) A payment under this performance-based payment clause is a contract financing payment under the Prompt Payment clause of this contract and not subject to the interest penalty provisions of the Prompt Payment Act. The designated payment office will pay approved requests on the _____ [Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "30th"] day after receipt of the request for performance-based payment. However, the designated payment office is not required to provide payment if the Contracting Officer requires substantiation as provided in paragraph (c)(1) of this clause, or inquires into the status of an event or performance criterion, or into any of the conditions listed in paragraph (e) of this clause, or into the Contractor certification. The payment period will not begin until the Contracting Officer approves the request.

(3) The approval by the Contracting Officer of a request for performance-based payment does not constitute an acceptance by the Government and does not excuse the Contractor from performance of obligations under this contract.

(d) *Liquidation of performance-based payments.* (1) Performance-based finance amounts paid prior to payment for delivery of an item shall be liquidated by deducting a percentage or a designated dollar amount from the delivery payment. If the performance-based finance payments are on a delivery item basis, the liquidation amount for each such line item shall be the percent of that delivery item price that was previously

paid under performance-based finance payments or the designated dollar amount. If the performance-based finance payments are on a whole contract basis, liquidation shall be by either predesignated liquidation amounts or a liquidation percentage.

(2) If at any time the amount of payments under this contract exceeds any limitation in this contract, the Contractor shall repay to the Government the excess. Unless otherwise determined by the Contracting Officer, such excess shall be credited as a reduction in the unliquidated performance-based payment balance(s), after adjustment of invoice payments and balances for any retroactive price adjustments.

(e) *Reduction or suspension of performance-based payments.* The Contracting Officer may reduce or suspend performance-based payments, liquidate performance-based payments by deduction from any payment under the contract, or take a combination of these actions after finding upon substantial evidence any of the following conditions:

(1) The Contractor failed to comply with any material requirement of this contract (which includes paragraphs (h) and (i) of this clause).

(2) Performance of this contract is endangered by the Contractor's—

(i) Failure to make progress; or

(ii) Unsatisfactory financial condition.

(3) The Contractor is delinquent in payment of any subcontractor or supplier under this contract in the ordinary course of business.

(f) *Title.* (1) Title to the property described in this paragraph (f) shall vest in the Government. Vestiture shall be immediately upon the date of the first performance-based payment under this contract, for property acquired or produced before that date. Otherwise, vestiture shall occur when the property is or should have been allocable or properly chargeable to this contract.

(2) "Property," as used in this clause, includes all of the following described items acquired or produced by the Contractor that are or should be allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices:

(i) Parts, materials, inventories, and work in process;

(ii) Special tooling and special test equipment to which the Government is to acquire title under any other clause of this contract;

(iii) Nondurable (*i.e.*, noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment and other similar manufacturing aids, title to which would not be obtained as special tooling under paragraph (f)(2)(ii) of this clause; and

(iv) Drawings and technical data, to the extent the Contractor or subcontractors are required to deliver them to the Government by other clauses of this contract.

(3) Although title to property is in the Government under this clause, other applicable clauses of this contract (e.g., the termination or special tooling clauses) shall determine the handling and disposition of the property.

(4) The Contractor may sell any scrap resulting from production under this contract, without requesting the Contracting Officer's approval, provided that any significant reduction in the value of the property to which the Government has title under this clause is reported in writing to the Contracting Officer.

(5) In order to acquire for its own use or dispose of property to which title is vested in the Government under this clause, the Contractor must obtain the Contracting Officer's advance approval of the action and the terms. If approved, the basis for payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

(6) When the Contractor completes all of the obligations under this contract, including liquidation of all performance-based payments, title shall vest in the Contractor for all property (or the proceeds thereof) not—

(i) Delivered to, and accepted by, the Government under this contract; or

(ii) Incorporated in supplies delivered to, and accepted by, the Government under this contract and to which title is vested in the Government under this clause.

(7) The terms of this contract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.

(g) *Risk of loss.* Before delivery to and acceptance by the Government, the Contractor shall bear the risk of loss for property, the title to which vests in the Government under this clause, except to the extent the Government expressly assumes the risk. If any property is damaged, lost, stolen, or destroyed, the basis of payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

(h) *Records and controls.* The Contractor shall maintain records and controls adequate for administration of this clause. The Contractor shall have no entitlement to performance-based payments during any time the Contractor's records or controls are determined by the Contracting Officer to be inadequate for administration of this clause.

(i) *Reports and Government access.* The Contractor shall promptly furnish reports, certificates, financial statements, and other pertinent information requested by the Contracting Officer for the administration of this clause and to determine

that an event or other criterion prompting a financing payment has been successfully accomplished. The Contractor shall give the Government reasonable opportunity to examine and verify the Contractor's records and to examine and verify the Contractor's performance of this contract for administration of this clause.

(j) *Special terms regarding default.* If this contract is terminated under the Default clause, (1) the Contractor shall, on demand, repay to the Government the amount of unliquidated performance-based payments, and (2) title shall vest in the Contractor, on full liquidation of all performance-based payments, for all property for which the Government elects not to require delivery under the Default clause of this contract. The Government shall be liable for no payment except as provided by the Default clause.

(k) *Reservation of rights.* (1) No payment or vesting of title under this clause shall—

(i) Excuse the Contractor from performance of obligations under this contract; or

(ii) Constitute a waiver of any of the rights or remedies of the parties under the contract.

(2) The Government's rights and remedies under this clause—

(i) Shall not be exclusive, but rather shall be in addition to any other rights and remedies provided by law or this contract; and

(ii) Shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.

(l) *Content of Contractor's request for performance-based payment.* The Contractor's request for performance-based payment shall contain the following:

(1) The name and address of the Contractor;

(2) The date of the request for performance-based payment;

(3) The contract number and/or other identifier of the contract or order under which the request is made;

(4) Such information and documentation as is required by the contract's description of the basis for payment; and

(5) A certification by a Contractor official authorized to bind the Contractor, as specified in paragraph (m) of this clause.

(m) *Content of Contractor's certification.* As required in paragraph (l)(5) of this clause, the Contractor shall make the following certification in each request for performance-based payment:

I certify to the best of my knowledge and belief that—

(1) This request for performance-based payment is true and correct; this request (and attachments) has been prepared

from the books and records of the Contractor, in accordance with the contract and the instructions of the Contracting Officer;

(2) (Except as reported in writing on _____), all payments to subcontractors and suppliers under this contract have been paid, or will be paid, currently, when due in the ordinary course of business;

(3) There are no encumbrances (except as reported in writing on _____) against the property acquired or produced for, and allocated or properly chargeable to, the contract which would affect or impair the Government's title;

(4) There has been no materially adverse change in the financial condition of the Contractor since the submission by the Contractor to the Government of the most recent written information dated _____; and

(5) After the making of this requested performance-based payment, the amount of all payments for each deliverable item for which performance-based payments have been requested will not exceed any limitation in the contract, and the amount of all payments under the contract will not exceed any limitation in the contract.

(End of clause)

52.232-33 Payment by Electronic Funds Transfer—

Central Contractor Registration.

As prescribed in 32.1110(a)(1), insert the following clause:

PAYMENT BY ELECTRONIC FUNDS TRANSFER—CENTRAL CONTRACTOR REGISTRATION (OCT 2003)

(a) *Method of payment.* (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term “EFT” refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either—

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) *Contractor's EFT information.* The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) *Mechanisms for EFT payment.* The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.

(d) *Suspension of payment.* If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) *Liability for uncompleted or erroneous transfers.*

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for—

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and—

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(f) *EFT and prompt payment.* A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) *EFT and assignment of claims.* If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register separately in the CCR database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to Subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) *Liability for change of EFT information by financial agent.* The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(i) *Payment information.* The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

(End of clause)

**52.232-34 Payment by Electronic Funds Transfer—
Other than Central Contractor Registration.**

As prescribed in 32.1110(a)(2), insert the following clause:

PAYMENT BY ELECTRONIC FUNDS TRANSFER—OTHER
THAN CENTRAL CONTRACTOR REGISTRATION
(MAY 1999)

(a) *Method of payment.* (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT) except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either—

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend payment due dates until such time as the Government makes payment by EFT (but see paragraph (d) of this clause).

(b) *Mandatory submission of Contractor's EFT information.* (1) The Contractor is required to provide the Government with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereafter: "designated office") by _____ [the Contracting Officer shall insert date, days after award, days before first request, the date specified for receipt of offers if the provision at 52.232-38 is utilized, or "concurrent with first request" as prescribed by the head of the agency; if not prescribed, insert "no later than 15 days prior to submission of the first request for payment"].

If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office(s).

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information supplied to a designated office shall be applicable only to contracts that identify that designated office as the office to receive EFT information for that contract.

(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.* (1) The Government is not required to make any payment under this contract until after receipt, by the designated office, of the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, 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.

(2) If the EFT information changes after submission of correct EFT information, the Government shall begin using the changed EFT information no later than 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the updated EFT information is implemented by the payment office. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(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) 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 provide the EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) *Liability for change of EFT information by financial agent.* The Government is not liable for errors resulting from changes to EFT information provided 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 in the contract.

(j) *EFT information.* The Contractor shall provide the following information to the designated office. The Contractor

may supply this data for this or multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

(1) The contract number (or other procurement identification number).

(2) The Contractor's name and remittance address, as stated in the contract(s).

(3) The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.

(4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.

(5) The Contractor's account number and the type of account (checking, saving, or lockbox).

(6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.

(7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and, therefore, not the receiver of the wire transfer payment.

(End of clause)

52.232-35 Designation of Office for Government Receipt of Electronic Funds Transfer Information.

As prescribed in 32.1110(c), insert the following clause:

DESIGNATION OF OFFICE FOR GOVERNMENT RECEIPT OF
ELECTRONIC FUNDS TRANSFER INFORMATION
(MAY 1999)

(a) As provided in paragraph (b) of the clause at 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration, the Government has designated the office cited in paragraph (c) of this clause as the office to receive the Contractor's electronic funds transfer (EFT) information, in lieu of the payment office of this contract.

(b) The Contractor shall send all EFT information, and any changes to EFT information to the office designated in paragraph (c) of this clause. The Contractor shall not send EFT information to the payment office, or any other office than that designated in paragraph (c). The Government need not use any EFT information sent to any office other than that designated in paragraph (c).

(c) Designated Office:

Name:

Mailing Address:

Telephone Number:

Person to Contact:

Electronic Address:

(End of clause)

52.232-36 Payment by Third Party.

As prescribed in 32.1110(d), insert the following clause:

PAYMENT BY THIRD PARTY (MAY 1999)

(a) *General.* The Contractor agrees to accept payments due under this contract, through payment by a third party in lieu of payment directly from the Government, in accordance with the terms of this clause. The third party and, if applicable, the particular Governmentwide commercial purchase card to be used are identified elsewhere in this contract.

(b) *Contractor payment request.* In accordance with those clauses of this contract that authorize the Contractor to submit invoices, contract financing requests, other payment requests, or as provided in other clauses providing for payment to the Contractor, the Contractor shall make such payment requests through a charge to the Government account with the third party, at the time and for the amount due in accordance with the terms of this contract.

(c) *Payment.* The Contractor and the third party shall agree that payments due under this contract shall be made upon submittal of payment requests to the third party in accordance with the terms and conditions of an agreement between the Contractor, the Contractor's financial agent (if any), and the third party and its agents (if any). No payment shall be due the Contractor until such agreement is made. Payments made or due by the third party under this clause are not payments made by the Government and are not subject to the Prompt Payment Act or any implementation thereof in this contract.

(d) *Documentation.* Documentation of each charge against the Government's account shall be provided to the Contracting Officer upon request.

(e) *Assignment of claims.* Notwithstanding any other provision of this contract, if any payment is made under this clause, then no payment under this contract shall be assigned under the provisions of the assignment of claims terms of this contract or the Assignment of Claims Act of 1940, as amended, 31 U.S.C. 3727, 41 U.S.C. 15.

(f) *Other payment terms.* The other payment terms of this contract shall govern the content and submission of payment requests. If any clause requires information or documents in or with the payment request, that is not provided in the third party agreement referenced in paragraph (c) of this clause, the Contractor shall obtain instructions from the Contracting Officer before submitting such a payment request.

(End of clause)

52.232-37 Multiple Payment Arrangements.

As prescribed in 32.1110(e), insert the following clause:

MULTIPLE PAYMENT ARRANGEMENTS (MAY 1999)

This contract or agreement provides for payments to the Contractor through several alternative methods. The applicability of specific methods of payment and the designation of the payment office(s) are either stated—

- (a) Elsewhere in this contract or agreement; or
- (b) In individual orders placed under this contract or agreement.

(End of clause)

52.232-38 Submission of Electronic Funds Transfer Information with Offer.

As prescribed in 32.1110(g), insert the following provision:

SUBMISSION OF ELECTRONIC FUNDS TRANSFER INFORMATION WITH OFFER (MAY 1999)

The offeror shall provide, with its offer, the following information that is required to make payment by electronic funds transfer (EFT) under any contract that results from this solicitation. This submission satisfies the requirement to provide EFT information under paragraphs (b)(1) and (j) of the clause at 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration.

- (1) The solicitation number (or other procurement identification number).
- (2) The offeror's name and remittance address, as stated in the offer.
- (3) The signature (manual or electronic, as appropriate), title, and telephone number of the offeror's official authorized to provide this information.
- (4) The name, address, and 9-digit Routing Transit Number of the offeror's financial agent.
- (5) The offeror's account number and the type of account (checking, savings, or lockbox).
- (6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the offeror's financial agent.
- (7) If applicable, the offeror shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving

the wire transfer payment if the offeror's financial agent is not directly on-line to the Fedwire and, therefore, not the receiver of the wire transfer payment.

(End of provision)

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52.233-1 Disputes.

As prescribed in 33.215, insert the following clause:

DISPUTES (JULY 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.

(End of clause)

Alternate I (Dec 1991). As prescribed in 33.215, substitute the following paragraph (i) for paragraph (i) of the basic clause:

(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 or relating to the contract, and comply with any decision of the Contracting Officer.

52.233-2 Service of Protest.

As prescribed in 33.106, insert the following provision:

SERVICE OF PROTEST (AUG 1996)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from _____.
[Contracting Officer designate the official or location where a protest may be served on the Contracting Officer.]

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of provision)

52.233-3 Protest after Award.

As prescribed in 33.106(b), insert the following clause:

PROTEST AFTER AWARD (AUG 1996)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either—

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if—

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

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

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

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

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the

requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

(End of clause)

Alternate I (June 1985). As prescribed in 33.106(b), substitute in paragraph (a)(2) the words "the Termination clause of this contract" for the words "the Default, or the Termination for Convenience of the Government clause of this contract." In paragraph (b) substitute the words "an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected" for the words "an equitable adjustment in the delivery schedule or contract price, or both."

52.233-4 Applicable Law for Breach of Contract Claim.

As prescribed in 33.215(b), insert the following clause:

APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM
(OCT 2004)

United States law will apply to resolve any claim of breach of this contract.

(End of clause)

52.234-1 Industrial Resources Developed Under Defense Production Act Title III.

As prescribed at 34.104, insert the following clause:

INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE
PRODUCTION ACT TITLE III (DEC 1994)

(a) *Definitions.* "Title III industrial resource" means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) established or maintained under the authority of Title III, Defense Production Act (50 U.S.C. App. 2091-2093).

"Title III project contractor" means a contractor that has received assistance for the development or manufacture of an industrial resource under 50 U.S.C. App. 2091-2093, Defense Production Act.

(b) The Contractor shall refer any request from a Title III project contractor for testing and qualification of a Title III industrial resource to the Contracting Officer.

(c) Upon the direction of the Contracting Officer, the Contractor shall test Title III industrial resources for qualification. The Contractor shall provide the test results to the Defense Production Act Office, Title III Program, located at Wright Patterson Air Force Base, Ohio 45433-7739.

(d) When the Contracting Officer modifies the contract to direct testing pursuant to this clause, the Government will provide the Title III industrial resource to be tested and will make

an equitable adjustment in the contract for the costs of testing and qualification of the Title III industrial resource.

(e) The Contractor agrees to insert the substance of this clause, including paragraph (e), in every subcontract issued in performance of this contract.

(End of clause)

52.235 [Reserved]

52.236-1 Performance of Work by the Contractor.

As prescribed in 36.501(b), insert the following clause in solicitations and contracts when a fixed-price construction contract is contemplated and the contract amount is expected to exceed \$1,000,000. The Contracting Officer may insert the clause in solicitations and contracts when a fixed-price construction contract is contemplated and the contract amount is expected to be \$1,000,000 or less. Complete the clause by inserting the appropriate percentage consistent with the complexity and magnitude of the work and customary or necessary specialty subcontracting (see 36.501(a)).

PERFORMANCE OF WORK BY THE CONTRACTOR (APR 1984)

The Contractor shall perform on the site, and with its own organization, work equivalent to at least _____ [*insert the appropriate number in words followed by numerals in parentheses*] percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

(End of clause)

52.236-2 Differing Site Conditions.

As prescribed in 36.502, insert the following clause:

DIFFERING SITE CONDITIONS (APR 1984)

(a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of—

(1) Subsurface or latent physical conditions at the site which differ materially from those indicated in this contract; or

(2) Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

(b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any

part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.

(c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; *provided*, that the time prescribed in paragraph (a) of this clause for giving written notice may be extended by the Contracting Officer.

(d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

(End of clause)

52.236-3 Site Investigation and Conditions Affecting the Work.

As prescribed in 36.503, insert the following clause:

SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984)

(a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Government, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Government.

(b) The Government assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Government. Nor does the Government assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

(End of clause)

52.236-4 Physical Data.

As prescribed in 36.504, insert the following clause in solicitations and contracts when a fixed-price construction contract is contemplated and physical data (e.g., test borings, hydrographic, weather conditions data) will be furnished or made available to offerors. All information to be furnished or made available to offerors before award that pertains to the performance of the work should be identified in the clause. When paragraphs are not applicable they may be deleted.

PHYSICAL DATA (APR 1984)

Data and information furnished or referred to below is for the Contractor's information. The Government shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor. (a) The indications of physical conditions on the drawings and in the specifications are the result of site investigations by _____ [insert a description of investigational methods used, such as surveys, auger borings, core borings, test pits, probings, test tunnels].

(b) Weather conditions _____ [insert a summary of weather records and warnings].

(c) Transportation facilities _____ [insert a summary of transportation facilities providing access from the site, including information about their availability and limitations].

(d) _____ [insert other pertinent information].

(End of clause)

52.236-5 Material and Workmanship.

As prescribed in 36.505, insert the following clause:

MATERIAL AND WORKMANSHIP (APR 1984)

(a) All equipment, material, and articles incorporated into the work covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.

(b) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this contract or by the Contract-

ing Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. When directed to do so, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

(c) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may require, in writing, that the Contractor remove from the work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

(End of clause)

52.236-6 Superintendence by the Contractor.

As prescribed in 36.506, insert the following clause:

SUPERINTENDENCE BY THE CONTRACTOR (APR 1984)

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work-site a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

(End of clause)

52.236-7 Permits and Responsibilities.

As prescribed in 36.507, insert the following clause:

PERMITS AND RESPONSIBILITIES (NOV 1991)

The Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

(End of clause)

52.236-8 Other Contracts.

As prescribed in 36.508, insert the following clause:

OTHER CONTRACTS (APR 1984)

The Government may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other

contractors and with Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Government employees.

(End of clause)

52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements.

As prescribed in 36.509, insert the following clause:

PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984)

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

(End of clause)

52.236-10 Operations and Storage Areas.

As prescribed in 36.510, insert the following clause:

OPERATIONS AND STORAGE AREAS (APR 1984)

(a) The Contractor shall confine all operations (including storage of materials) on Government premises to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only

with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the Government. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

(End of clause)

52.236-11 Use and Possession Prior to Completion.

As prescribed in 36.511, insert the following clause:

USE AND POSSESSION PRIOR TO COMPLETION (APR 1984)

(a) The Government shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Government intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Government's possession or use shall not be deemed an acceptance of any work under the contract.

(b) While the Government has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the work resulting from the Government's possession or use, notwithstanding the terms of the clause in this contract entitled "Permits and Responsibilities." If prior possession or use by the Government delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

(End of clause)

52.236-12 Cleaning Up.

As prescribed in 36.512, insert the following clause:

CLEANING UP (APR 1984)

The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the Government. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.

(End of clause)

52.236-13 Accident Prevention.

As prescribed in 36.513, insert the following clause:

ACCIDENT PREVENTION (NOV 1991)

(a) The Contractor shall provide and maintain work environments and procedures which will—

(1) Safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities;

(2) Avoid interruptions of Government operations and delays in project completion dates; and

(3) Control costs in the performance of this contract.

(b) For these purposes on contracts for construction or dismantling, demolition, or removal of improvements, the Contractor shall—

(1) Provide appropriate safety barricades, signs, and signal lights;

(2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and

(3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the purposes are taken.

(c) If this contract is for construction or dismantling, demolition or removal of improvements with any Department of Defense agency or component, the Contractor shall comply with all pertinent provisions of the latest version of U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, in effect on the date of the solicitation.

(d) Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Government personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the

contract price or extension of the performance schedule on any stop work order issued under this clause.

(e) The Contractor shall insert this clause, including this paragraph (e), with appropriate changes in the designation of the parties, in subcontracts.

(End of clause)

Alternate I (Nov 1991). If the contract will involve (a) work of a long duration or hazardous nature, or (b) performance on a Government facility that on the advice of technical representatives involves hazardous materials or operations that might endanger the safety of the public and/or Government personnel or property, add the following paragraph (f) to the basic clause:

(f) Before commencing the work, the Contractor shall—

(1) Submit a written proposed plan for implementing this clause. The plan shall include an analysis of the significant hazards to life, limb, and property inherent in contract work performance and a plan for controlling these hazards; and

(2) Meet with representatives of the Contracting Officer to discuss and develop a mutual understanding relative to administration of the overall safety program.

52.236-14 Availability and Use of Utility Services.

As prescribed in 36.514, insert the following clause in solicitations and contracts when a fixed-price construction contract or a fixed-price dismantling, demolition, or removal of improvements contract is contemplated, the contract is to be performed on Government sites when the contracting officer decides (a) that the existing utility system is adequate for the needs of both the Government and the contractor, and (b) furnishing it is in the Government's interest. When this clause is used, the contracting officer shall list the available utilities in the contract.

AVAILABILITY AND USE OF UTILITY SERVICES (APR 1984)

(a) The Government shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. Unless otherwise provided in the contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the Government or, where the utility is produced by the Government, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge.

(b) The Contractor, at its expense and in a workmanlike manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges. Before final acceptance of the work by the Government, the

Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.

(End of clause)

52.236-15 Schedules for Construction Contracts.

As prescribed in 36.515, insert the following clause:

SCHEDULES FOR CONSTRUCTION CONTRACTS (APR 1984)

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the Government. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.

(End of clause)

52.236-16 Quantity Surveys.

As prescribed in 36.516, the contracting officer may insert the following clause in solicitations and contracts when a

fixed-price construction contract providing for unit pricing of items and for payment based on quantity surveys is contemplated:

QUANTITY SURVEYS (APR 1984)

(a) Quantity surveys shall be conducted, and the data derived from these surveys shall be used in computing the quantities of work performed and the actual construction completed and in place.

(b) The Government shall conduct the original and final surveys and make the computations based on them. The Contractor shall conduct the surveys for any periods for which progress payments are requested and shall make the computations based on these surveys. All surveys conducted by the Contractor shall be conducted under the direction of a representative of the Contracting Officer, unless the Contracting Officer waives this requirement in a specific instance.

(c) Promptly upon completing a survey, the Contractor shall furnish the originals of all field notes and all other records relating to the survey or to the layout of the work to the Contracting Officer, who shall use them as necessary to determine the amount of progress payments. The Contractor shall retain copies of all such material furnished to the Contracting Officer.

(End of clause)

Alternate I (Apr 1984). If it is determined at a level above that of the Contracting Officer that it is impracticable for Government personnel to perform the original and final surveys, and the Government wishes the Contractor to perform these surveys, substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b) The Contractor shall conduct the original and final surveys and surveys for any periods for which progress payments are requested. All these surveys shall be conducted under the direction of a representative of the Contracting Officer, unless the Contracting Officer waives this requirement in a specific instance. The Government shall make such computations as are necessary to determine the quantities of work performed or finally in place. The Contractor shall make the computations based on the surveys for any periods for which progress payments are requested.

52.236-17 Layout of Work.

As prescribed in 36.517, insert the following clause in solicitations and contracts when a fixed-price construction contract is contemplated and use of this clause is appropriate due to a need for accurate work layout and for siting verification during work performance:

LAYOUT OF WORK (APR 1984)

The Contractor shall lay out its work from Government established base lines and bench marks indicated on the drawings, and shall be responsible for all measurements in connec-

tion with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work. The Contractor shall be responsible for executing the work to the lines and grades that may be established or indicated by the Contracting Officer. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Contracting Officer may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

(End of clause)

52.236-18 Work Oversight in Cost-Reimbursement Construction Contracts.

As prescribed in 36.518, insert the following clause in solicitations and contracts when cost-reimbursement construction contracts are contemplated:

WORK OVERSIGHT IN COST-REIMBURSEMENT
CONSTRUCTION CONTRACTS (APR 1984)

The extent and character of the work to be done by the Contractor shall be subject to the general supervision, direction, control, and approval of the Contracting Officer.

(End of clause)

52.236-19 Organization and Direction of the Work.

As prescribed in 36.519, insert the following clause in solicitations and contracts when a cost-reimbursement construction contract is contemplated:

ORGANIZATION AND DIRECTION OF THE WORK
(APR 1984)

(a) When this contract is executed, the Contractor shall submit to the Contracting Officer a chart showing the general executive and administrative organization, the personnel to be employed in connection with the work under this contract, and their respective duties. The Contractor shall keep the data furnished current by supplementing it as additional information becomes available.

(b) Work performance under this contract shall be under the full-time resident direction of (1) the Contractor, if the Contractor is an individual; (2) one or more principal partners, if the Contractor is a partnership; or (3) one or more senior officers, if Contractor is a corporation, association, or similar legal entity. However, if the Contracting Officer approves, the Contractor may be represented in the direction of the work by a specific person or persons holding positions other than those identified in this paragraph.

(End of clause)

52.236-20 [Reserved]

52.236-21 Specifications and Drawings for Construction.

As prescribed in 36.521, insert the following clause:

SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION
(FEB 1997)

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words “directed,” “required,” “ordered,” “designated,” “prescribed,” or words of like import are used, it shall be understood that the “direction,” “requirement,” “order,” “designation,” or “prescription,” of the Contracting Officer is intended and similarly the words “approved,” “acceptable,” “satisfactory,” or words of like import shall mean “approved by,” or “acceptable to,” or “satisfactory to” the Contracting Officer, unless otherwise expressly stated.

(c) Where “as shown,” “as indicated,” “as detailed,” or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word “provided” as used herein shall be understood to mean “provide complete in place,” that is “furnished and installed.”

(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements, and (2) the installation (*i.e.*, fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail specific portions of the work required by the contract. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereon as evidence of

such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the Government's reasons therefor. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) of this clause.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor.

(End of clause)

Alternate I (Apr 1984). When record shop drawings are required and reproducible shop drawings are needed, add the following sentences to paragraph (g) of the basic clause:

Upon completing the work under this contract, the Contractor shall furnish a complete set of all shop drawings as finally approved. These drawings shall show all changes and revisions made up to the time the equipment is completed and accepted.

Alternate II (Apr 1984). When record shop drawings are required and reproducible shop drawings are not needed, the following sentences shall be added to paragraph (g) of the basic clause:

Upon completing the work under this contract, the Contractor shall furnish _____ [*Contracting Officer complete by inserting desired amount*] sets of prints of all shop drawings as finally approved. These drawings shall show changes and revisions made up to the time the equipment is completed and accepted.

52.236-22 Design Within Funding Limitations.

As prescribed in 36.609-1(c), insert the following clause:

DESIGN WITHIN FUNDING LIMITATIONS (APR 1984)

(a) The Contractor shall accomplish the design services required under this contract so as to permit the award of a contract, using standard Federal Acquisition Regulation proce-

dures for the construction of the facilities designed at a price that does not exceed the estimated construction contract price as set forth in paragraph (c) of this clause. When bids or proposals for the construction contract are received that exceed the estimated price, the contractor shall perform such redesign and other services as are necessary to permit contract award within the funding limitation. These additional services shall be performed at no increase in the price of this contract. However, the Contractor shall not be required to perform such additional services at no cost to the Government if the unfavorable bids or proposals are the result of conditions beyond its reasonable control.

(b) The Contractor will promptly advise the Contracting Officer if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these limitations. Upon receipt of such information, the Contracting Officer will review the Contractor's revised estimate of construction cost. The Government may, if it determines that the estimated construction contract price set forth in this contract is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth in paragraph (c) of this clause, or the Government may adjust such estimated construction contract price. When bids or proposals are not solicited or are unreasonably delayed, the Government shall prepare an estimate of constructing the design submitted and such estimate shall be used in lieu of bids or proposals to determine compliance with the funding limitation.

(c) The estimated construction contract price for the project described in this contract is \$_____.

(End of clause)

52.236-23 Responsibility of the Architect-Engineer Contractor.

As prescribed in 36.609-2(b), insert the following clause:

RESPONSIBILITY OF THE ARCHITECT-ENGINEER CONTRACTOR (APR 1984)

(a) The Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Contractor under this contract. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services.

(b) Neither the Government's review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Contractor shall be and

remain liable to the Government in accordance with applicable law for all damages to the Government caused by the Contractor's negligent performance of any of the services furnished under this contract.

(c) The rights and remedies of the Government provided for under this contract are in addition to any other rights and remedies provided by law.

(d) If the Contractor is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

(End of clause)

52.236-24 Work Oversight in Architect-Engineer Contracts.

As prescribed in 36.609-3, insert the following clause:

WORK OVERSIGHT IN ARCHITECT-ENGINEER CONTRACTS (APR 1984)

The extent and character of the work to be done by the Contractor shall be subject to the general oversight, supervision, direction, control, and approval of the Contracting Officer.

(End of clause)

52.236-25 Requirements for Registration of Designers.

As prescribed in 36.609-4, insert the following clause:

REQUIREMENTS FOR REGISTRATION OF DESIGNERS (JUNE 2003)

Architects or engineers registered to practice in the particular professional field involved in a State, the District of Columbia, or an outlying area of the United States shall prepare or review and approve the design of architectural, structural, mechanical, electrical, civil, or other engineering features of the work.

(End of clause)

52.236-26 Preconstruction Conference.

As prescribed in 36.522, insert the following clause:

PRECONSTRUCTION CONFERENCE (FEB 1995)

If the Contracting Officer decides to conduct a preconstruction conference, the successful offeror will be notified and will be required to attend. The Contracting Officer's notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

(End of clause)

52.236-27 Site Visit (Construction).

As prescribed in 36.523, insert a provision substantially the same as the following:

SITE VISIT (CONSTRUCTION) (FEB 1995)

(a) The clauses at 52.236-2, Differing Site Conditions, and 52.236-3, Site Investigations and Conditions Affecting the Work, will be included in any contract awarded as a result of this solicitation. Accordingly, offerors or quoters are urged and expected to inspect the site where the work will be performed.

(b) Site visits may be arranged during normal duty hours by contacting:

Name: _____

Address: _____

Telephone: _____

(End of provision)

Alternate I (Feb 1995). If an organized site visit will be conducted, substitute a paragraph substantially the same as the following for paragraph (b) of the basic provision:

(b) An organized site visit has been scheduled for—

_____ [Insert date and time]

(c) Participants will meet at—

_____ [Insert location]

(End of provision)

52.236-28 Preparation of Proposals—Construction.

As prescribed in 36.520, insert the following provision:

PREPARATION OF PROPOSALS—CONSTRUCTION (OCT 1997)

(a) Proposals must be (1) submitted on the forms furnished by the Government or on copies of those forms; and (2) manually signed. The person signing a proposal must initial each erasure or change appearing on any proposal form.

(b) The proposal form may require offerors to submit proposed prices for one or more items on various bases, including—

(1) Lump sum price;

(2) Alternate prices;

(3) Units of construction; or

(4) Any combination of paragraphs (b)(1) through (b)(3) of this provision.

(c) If the solicitation requires submission of a proposal on all items, failure to do so may result in the proposal being rejected without further consideration. If a proposal on all items is not required, offerors should insert the words “no pro-

posal” in the space provided for any item on which no price is submitted.

(d) Alternate proposals will not be considered unless this solicitation authorizes their submission.

(End of provision)

52.237-1 Site Visit.

As prescribed in 37.110(a), insert the following provision:

SITE VISIT (APR 1984)

Offerors or quoters are urged and expected to inspect the site where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site constitute grounds for a claim after contract award.

(End of provision)

52.237-2 Protection of Government Buildings, Equipment, and Vegetation.

As prescribed in 37.110(b), insert the following clause in solicitations and contracts for services to be performed on Government installations, unless a construction contract is contemplated:

PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)

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

(End of clause)

52.237-3 Continuity of Services.

As prescribed in 37.110(c), insert the following clause:

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.

(End of clause)

52.237-4 Payment by Government to Contractor.

As prescribed in 37.304(a), insert the following clause in solicitations and contracts solely for dismantling, demolition, or removal of improvements whenever the contracting officer determines that the Government shall make payment to the contractor in addition to any title to property that the contractor may receive under the contract:

PAYMENT BY GOVERNMENT TO CONTRACTOR (APR 1984)

(a) In _____ [*insert “full” if Alternate I is used; otherwise insert “partial”*] consideration of the performance of the work called for in the Schedule, the Government will pay to the Contractor _____ [*fill in amount*].

(b) The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates approved by the Contracting Officer. Except as provided in paragraph (c) of this clause, in making progress payments the Contracting Officer shall retain 10 percent of the estimated payment until final completion and acceptance of the contract work. However, if the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer may authorize such payment in full, without retaining a percent-

age. Also, on completion and acceptance of each unit or division for which the price is stated separately, the Contracting Officer may authorize full payment for that unit or division without retaining a percentage.

(c) When the work is substantially completed, the Contracting Officer shall retain an amount considered adequate for the protection of the Government and, at the Contracting Officer's discretion, may release all or a portion of any excess amount.

(d) In further consideration of performance, the Contractor shall receive title to all property to be dismantled or demolished that is not specifically designated as being retained by the Government. The title shall vest in the Contractor immediately upon the Government's issuing the notice of award, or if a performance bond is to be furnished after award, upon the Government's issuance of a notice to proceed with the work. The Government shall not be responsible for the condition of, or any loss or damage to, the property. If the Contractor does not wish to remove from the site any of the property acquired, the Contracting Officer may, upon written request, grant the Contractor permission to leave the property on the premises. As a condition to the granting of this permission, the Contractor agrees to waive any right, title, claim, or interest in and to the property.

(e) Upon completion and acceptance of all work and receipt of a properly executed voucher, the Government shall make final payment of the amount due the Contractor under this contract. If requested, the Contractor shall release all claims against the Government arising under this contract, other than any claims the Contractor specifically excepts, in stated amounts, from operation of this release.

(End of clause)

Alternate I (Apr 1984). If the contracting officer determines that the Government shall retain all material resulting from the dismantling or demolition work, delete paragraph (d) from the basic clause and renumber the remaining paragraphs.

52.237-5 Payment by Contractor to Government.

As prescribed in 37.304(b), insert the following clause in solicitations and contracts for dismantling, demolition, or removal of improvements whenever the contractor is to receive title to dismantled or demolished property and a net amount of compensation is due to the Government, except if the contracting officer determines that it would be advantageous to the Government for the contractor to pay in increments and the Government to transfer title to the contractor for increments of property only upon receipt of those payments:

PAYMENT BY CONTRACTOR TO GOVERNMENT
(APR 1984)

(a) The Contractor shall receive title to all property to be dismantled, demolished, or removed under this contract and

not specifically designated in the Schedule as being retained by the Government. The title shall vest in the Contractor immediately upon the Government's issuing the notice of award, or if a performance bond is to be furnished, upon the Government's issuing a notice to proceed with the work. The Government shall not be responsible for the condition of, or any loss or damage to, the property.

(b) The Contractor shall promptly remove from the site all property acquired by the Contractor. The Government shall not permit storage of property on the site beyond the completion date. If the Contractor does not wish to remove from the site any of the property acquired, the Contracting Officer may, upon written request, grant the Contractor permission to leave the property on the premises. As a condition of the granting of the permission, the Contractor agrees to waive any right, title, claim, or interest in and to the property.

(c) The Contractor shall perform the work called for under this contract and within _____ days of receipt of notice of award, unless otherwise provided in the Schedule and before proceeding with the work, shall pay _____ [*fill in amount*]. Checks shall be made payable to the office designated in the contract and shall be forwarded to the Contracting Officer.

(End of clause)

52.237-6 Incremental Payment by Contractor to Government.

As prescribed in 37.304(c), insert the following clause in solicitations and contracts for dismantling, demolition, or removal of improvements—

(a) If the Contractor is to receive title to dismantled or demolished property and a net amount of compensation is due the Government; and

(b) If the Contracting Officer determines that it would be advantageous to the Government for the Contractor to pay in increments, and for the Government to transfer title to the Contractor for increments of property, only upon receipt of those payments:

INCREMENTAL PAYMENT BY CONTRACTOR TO
GOVERNMENT (APR 1984)

(a) The Contractor shall perform the work called for under this contract and within _____ days of receipt of notice of award, unless otherwise provided in the Schedule, and before proceeding with the work, shall pay _____ [*fill in amount*]. Thereafter, the Contractor shall make payment to the Government in the amount and frequency specified in the Schedule. Checks shall be made payable to the office designated in the contract and shall be forwarded to the Contracting Officer.

(b) Upon the Government's receipt of each increment of payment, the Contractor shall receive title to such property as the Contracting Officer determines to be fair and reasonable for that increment of payment. Upon receipt of the Contract-

tor's final payment, all title that has not passed to the Contractor shall vest in the Contractor, unless specifically designated in the Schedule as being retained by the Government. The Government shall not be responsible for the condition of, or any loss or damage to, the property.

(c) The Contractor shall promptly remove from the site all property acquired by the Contractor. The Government will not permit storage of property on the site beyond the completion date. If the Contractor does not wish to remove from the site any of the property acquired, the Contracting Officer may, upon written request, grant the Contractor permission to leave the property on the premises. As a condition of the granting of this permission, the Contractor agrees to waive any right, title, claim, or interest in and to the property.

(End of clause)

52.237-7 Indemnification and Medical Liability Insurance.

As prescribed in 37.403, insert the following clause:

INDEMNIFICATION AND MEDICAL LIABILITY INSURANCE (JAN 1997)

(a) It is expressly agreed and understood that this is a non-personal services contract, as defined in Federal Acquisition Regulation (FAR) 37.101, under which the professional services rendered by the Contractor are rendered in its capacity as an independent contractor. The Government may evaluate the quality of professional and administrative services provided, but retains no control over professional aspects of the services rendered, including by example, the Contractor's professional medical judgment, diagnosis, or specific medical treatments. The Contractor shall be solely liable for and expressly agrees to indemnify the Government with respect to any liability producing acts or omissions by it or by its employees or agents. The Contractor shall maintain during the term of this contract liability insurance issued by a responsible insurance carrier of not less than the following amount(s) per specialty per occurrence: * _____.

(b) An apparently successful offeror, upon request by the Contracting Officer, shall furnish prior to contract award evidence of its insurability concerning the medical liability insurance required by paragraph (a) of this clause.

(c) Liability insurance may be on either an occurrences basis or on a claims-made basis. If the policy is on a claims-made basis, an extended reporting endorsement (tail) for a period of not less than 3 years after the end of the contract term must also be provided.

(d) Evidence of insurance documenting the required coverage for each health care provider who will perform under this contract shall be provided to the Contracting Officer prior to the commencement of services under this contract. If the insurance is on a claims-made basis and evidence of an extended reporting endorsement is not provided prior to the

commencement of services, evidence of such endorsement shall be provided to the Contracting Officer prior to the expiration of this contract. Final payment under this contract shall be withheld until evidence of the extended reporting endorsement is provided to the Contracting Officer.

(e) The policies evidencing required insurance shall also contain an endorsement to the effect that any cancellation or material change adversely affecting the Government's interest shall not be effective until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer. If, during the performance period of the contract the Contractor changes insurance providers, the Contractor must provide evidence that the Government will be indemnified to the limits specified in paragraph (a) of this clause, for the entire period of the contract, either under the new policy, or a combination of old and new policies.

(f) The Contractor shall insert the substance of this clause, including this paragraph (f), in all subcontracts under this contract for health care services and shall require such subcontractors to provide evidence of and maintain insurance in accordance with paragraph (a) of this clause. At least 5 days before the commencement of work by any subcontractor, the Contractor shall furnish to the Contracting Officer evidence of such insurance.

(End of clause)

* Contracting Officer insert the dollar value(s) of standard coverage(s) prevailing within the local community as to the specific medical specialty, or specialties, concerned, or such higher amount as the Contracting Officer deems necessary to protect the Government's interests.

52.237-8 Restriction on Severance Payments to Foreign Nationals.

As prescribed in 37.113-2(a), use the following provision:

RESTRICTION ON SEVERANCE PAYMENTS TO FOREIGN NATIONALS (AUG 2003)

(a) The Federal Acquisition Regulation (FAR), at 31.205-6(g)(6), limits the cost allowability of severance payments to foreign nationals employed under a service contract performed outside the United States unless the agency grants a waiver pursuant to FAR 37.113-1 before contract award.

(b) In making the determination concerning the granting of a waiver, the agency will determine that—

(1) The application of the severance pay limitations to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for—

(i) Members of the armed forces stationed or deployed outside the United States; or

(ii) Employees of an executive agency posted outside the United States;

(2) The Contractor has taken (or has established plans to take) appropriate actions within its control to minimize the amount and number of incidents of the payment of severance pay to employees under the contract who are foreign nationals; and

(3) The payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract, or is necessary to comply with a collective bargaining agreement.

(End of provision)

52.237-9 Waiver of Limitation on Severance Payments to Foreign Nationals.

As prescribed in 37.113-2(b), use the following clause:

WAIVER OF LIMITATION ON SEVERANCE PAYMENTS TO FOREIGN NATIONALS (AUG 2003)

(a) Pursuant to 10 U.S.C. 2324(e)(3)(A) or 41 U.S.C. 256(e)(2)(A), as applicable, the cost allowability limitations in FAR 31.205-6(g)(6) are waived.

(b) This clause may be incorporated into subcontracts issued under this contract, if approved by the Contracting Officer.

(End of clause)

52.237-10 Identification of Uncompensated Overtime.

As prescribed in 37.115-3, insert the following provision:

IDENTIFICATION OF UNCOMPENSATED OVERTIME (OCT 1997)

(a) *Definitions.* As used in this provision—

“Uncompensated overtime” means the hours worked without additional compensation in excess of an average of 40 hours per week by direct charge employees who are exempt from the Fair Labor Standards Act. Compensated personal absences such as holidays, vacations, and sick leave shall be included in the normal work week for purposes of computing uncompensated overtime hours.

“Uncompensated overtime rate” is the rate that results from multiplying the hourly rate for a 40-hour work week by 40, and then dividing by the proposed hours per week. For example, 45 hours proposed on a 40-hour work week basis at \$20 per hour would be converted to an uncompensated overtime rate of \$17.78 per hour ($\20.00×40 divided by 45 = \$17.78).

(b) For any proposed hours against which an uncompensated overtime rate is applied, the offeror shall identify in its proposal the hours in excess of an average of 40 hours per week, by labor category at the same level of detail as compensated hours, and the uncompensated overtime rate per hour, whether at the prime or subcontract level. This includes uncompensated overtime hours that are in indirect cost pools for personnel whose regular hours are normally charged direct.

(c) The offeror’s accounting practices used to estimate uncompensated overtime must be consistent with its cost accounting practices used to accumulate and report uncompensated overtime hours.

(d) Proposals that include unrealistically low labor rates, or that do not otherwise demonstrate cost realism, will be considered in a risk assessment and will be evaluated for award in accordance with that assessment.

(e) The offeror shall include a copy of its policy addressing uncompensated overtime with its proposal.

(End of provision)

52.238 [Reserved]

52.239-1 Privacy or Security Safeguards.

As prescribed in 39.107, insert a clause substantially the same as the following:

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.

(End of clause)

52.240 [Reserved]

52.241 Utility Services Provisions and Clauses.**52.241-1 Electric Service Territory Compliance Representation.**

As prescribed in 41.501(b), insert a provision substantially the same as the following:

ELECTRIC SERVICE TERRITORY COMPLIANCE
REPRESENTATION (MAY 1999)

(a) Section 8093 of Public Law 100-202 generally requires purchases of electricity by any department, agency, or instrumentality of the United States to be consistent with State law governing the provision of electric utility service, including State utility commission rulings and electric utility franchises or service territories established pursuant to State statute, State regulation, or State-approved territorial agreements.

(b) By signing this offer, the offeror represents that this offer to sell electricity is consistent with Section 8093 of Public Law 100-202.

(c) Upon request of the Contracting Officer, the offeror shall submit supporting legal and factual rationale for this representation.

(End of provision)

52.241-2 Order of Precedence—Utilities.

As prescribed in 41.501(c)(1), insert a clause substantially the same as the following:

ORDER OF PRECEDENCE—UTILITIES (FEB 1995)

In the event of any inconsistency between the terms of this contract (including the specifications) and any rate schedule, rider, or exhibit incorporated in this contract by reference or otherwise, or any of the Contractor's rules and regulations, the terms of this contract shall control.

(End of clause)

52.241-3 Scope and Duration of Contract.

As prescribed in 41.501(c)(2), insert a clause substantially the same as the following:

SCOPE AND DURATION OF CONTRACT (FEB 1995)

(a) For the period _____, [*insert period of service*] the Contractor agrees to furnish and the Government agrees to purchase _____ [*insert type of service*] utility service in accordance with the applicable tariff(s), rules, and regulations as approved by the applicable governing regulatory body and as set forth in the contract.

(b) It is expressly understood that neither the Contractor nor the Government is under any obligation to continue any service under the terms and conditions of this contract beyond the expiration date.

(c) The Contractor shall provide the Government with one complete set of rates, terms, and conditions of service which are in effect as of the date of this contract and any subsequently approved rates.

(d) The Contractor shall be paid at the applicable rate(s) under the tariff and the Government shall be liable for the minimum monthly charge, if any, specified in this contract commencing with the period in which service is initially furnished and continuing for the term of this contract. Any minimum monthly charge specified in this contract shall be equitably prorated for the periods in which commencement and termination of this contract become effective.

(End of clause)

52.241-4 Change in Class of Service.

As prescribed in 41.501(c)(3), insert a clause substantially the same as the following:

CHANGE IN CLASS OF SERVICE (FEB 1995)

(a) In the event of a change in the class of service, such service shall be provided at the Contractor's lowest available rate schedule applicable to the class of service furnished.

(b) Where the Contractor does not have on file with the regulatory body approved rate schedules applicable to services provided, no clause in this contract shall preclude the parties from negotiating a rate schedule applicable to the class of service furnished.

(End of clause)

52.241-5 Contractor's Facilities.

As prescribed in 41.501(c)(4), insert a clause substantially the same as the following:

CONTRACTOR'S FACILITIES (FEB 1995)

(a) The Contractor, at its expense, unless otherwise provided for in this contract, shall furnish, install, operate, and maintain all facilities required to furnish service hereunder, and measure such service at the point of delivery specified in the Service Specifications. Title to all such facilities shall remain with the Contractor and the Contractor shall be responsible for loss or damage to such facilities, except that the Government shall be responsible to the extent that loss or damage has been caused by the Government's negligent acts or omissions.

(b) Notwithstanding any terms expressed in this clause, the Contractor shall obtain approval from the Contracting Officer prior to any equipment installation, construction, or removal. The Government hereby grants to the Contractor, free of any rental or similar charge, but subject to the limitations specified in this contract, a revocable permit or license to enter the service location for any proper purpose under this contract. This permit or license includes use of the site or sites agreed upon

by the parties hereto for the installation, operation, maintenance, and repair of the facilities of the Contractor required to be located upon Government premises. All applicable taxes and other charges in connection therewith, together with all liability of the Contractor in construction, operation, maintenance and repair of such facilities, shall be the obligation of the Contractor.

(c) Authorized representatives of the Contractor will be allowed access to the facilities on Government premises at reasonable times to perform the obligations of the Contractor regarding such facilities. It is expressly understood that the Government may limit or restrict the right of access herein granted in any manner considered necessary (e.g., national security, public safety).

(d) Unless otherwise specified in this contract, the Contractor shall, at its expense, remove such facilities and restore Government premises to their original condition as near as practicable within a reasonable time after the Government terminates this contract. In the event such termination of this contract is due to the fault of the Contractor, such facilities may be retained in place at the option of the Government for a reasonable time while the Government attempts to obtain service elsewhere comparable to that provided for hereunder.

(End of clause)

52.241-6 Service Provisions.

As prescribed in 41.501(c)(5), insert a clause substantially the same as the following:

SERVICE PROVISIONS (FEB 1995)

(a) *Measurement of service.* (1) All service furnished by the Contractor shall be measured by suitable metering equipment of standard manufacture, to be furnished, installed, maintained, repaired, calibrated, and read by the Contractor at its expense. When more than a single meter is installed at a service location, the readings thereof may be billed conjunctively, if appropriate. In the event any meter fails to register (or registers incorrectly) the service furnished, the parties shall agree upon the length of time of meter malfunction and the quantity of service delivered during such period of time. An appropriate adjustment shall be made to the next invoice for the purpose of correcting such errors. However, any meter which registers not more than ___ percent slow or fast shall be deemed correct.

(2) The Contractor shall read all meters at periodic intervals of approximately 30 days or in accordance with the policy of the cognizant regulatory body or applicable bylaws. All billings based on meter readings of less than ___ days shall be prorated accordingly.

(b) *Meter test.* (1) The Contractor, at its expense, shall periodically inspect and test Contractor-installed meters at intervals not exceeding _____ year(s). The Government has the right to have representation during the inspection and test.

(2) At the written request of the Contracting Officer, the Contractor shall make additional tests of any or all such meters in the presence of Government representatives. The cost of such additional tests shall be borne by the Government if the percentage of errors is found to be not more than ___ percent slow or fast.

(3) No meter shall be placed in service or allowed to remain in service which has an error in registration in excess of ___ percent under normal operating conditions.

(c) *Change in volume or character.* Reasonable notice shall be given by the Contracting Officer to the Contractor regarding any material changes anticipated in the volume or characteristics of the utility service required at each location.

(d) *Continuity of service and consumption.* The Contractor shall use reasonable diligence to provide a regular and uninterrupted supply of service at each service location, but shall not be liable for damages, breach of contract or otherwise, to the Government for failure, suspension, diminution, or other variations of service occasioned by or in consequence of any cause beyond the control of the Contractor, including but not limited to acts of God or of the public enemy, fires, floods, earthquakes, or other catastrophe, strikes, or failure or breakdown of transmission or other facilities. If any such failure, suspension, diminution, or other variation of service shall aggregate more than _____ hour(s) during any billing period hereunder, an equitable adjustment shall be made in the monthly billing specified in this contract (including the minimum monthly charge).

(End of clause)

52.241-7 Change in Rates or Terms and Conditions of Service for Regulated Services.

As prescribed in 41.501(d)(1), insert a clause substantially the same as the following:

CHANGE IN RATES OR TERMS AND CONDITIONS OF SERVICE FOR REGULATED SERVICES (FEB 1995)

(a) This clause applies to the extent services furnished under this contract are subject to regulation by a regulatory body. The Contractor agrees to give * _____ written notice of (1) the filing of an application for change in rates or terms and conditions of service concurrently with the filing of the application and (2) any changes pending with the regulatory body as of the date of contract award. Such notice shall fully describe the proposed change. If, during the term of this contract, the regulatory body having jurisdiction approves any changes, the Contractor shall forward to the Contracting Officer a copy of such changes within 15 days after the effective date thereof. The Contractor agrees to continue furnishing service under this contract in accordance with the amended tariff, and the Government agrees to pay for such service at the higher or lower rates as of the date when such rates are made effective.

(b) The Contractor agrees that throughout the life of this contract the applicable published and unpublished rate schedule(s) shall not be in excess of the lowest cost published and unpublished rate schedule(s) available to any other customers of the same class under similar conditions of use and service.

(c) In the event that the regulatory body promulgates any regulation concerning matters other than rates which affects this contract, the Contractor shall immediately provide a copy to the Contracting Officer. The Government shall not be bound to accept any new regulation inconsistent with Federal laws or regulations.

(d) Any changes to rates or terms and conditions of service shall be made a part of this contract by the issuance of a contract modification unless otherwise specified in the contract. The effective date of the change shall be the effective date by the regulatory body. Any factors not governed by the regulatory body will have an effective date as agreed to by the parties.

(End of clause)

* NOTE: Insert language prescribed in 41.501(d)(1).

52.241-8 Change in Rates or Terms and Conditions of Service for Unregulated Services.

As prescribed in 41.501(d)(2), insert a clause substantially the same as the following:

CHANGE IN RATES OR TERMS AND CONDITIONS OF SERVICE FOR UNREGULATED SERVICES (FEB 1995)

(a) This clause applies to the extent that services furnished hereunder are not subject to regulation by a regulatory body.

(b) After _____ [insert date], either party may request a change in rates or terms and conditions of service, unless otherwise provided in this contract. Both parties agree to enter in negotiations concerning such changes upon receipt of a written request detailing the proposed changes and specifying the reasons for the proposed changes.

(c) The effective date of any change shall be as agreed to by the parties. The Contractor agrees that throughout the life of this contract the rates so negotiated will not be in excess of published and unpublished rates charged to any other customer of the same class under similar terms and conditions of use and service.

(d) The failure of the parties to agree upon any change after a reasonable period of time shall be a dispute under the Disputes clause of this contract.

(e) Any changes to rates, terms, or conditions as a result of such negotiations shall be made a part of this contract by the issuance of a contract modification.

(End of clause)

52.241-9 Connection Charge.

As prescribed in 41.501(d)(3), insert a clause substantially the same as the following:

CONNECTION CHARGE (FEB 1995)

(a) *Charge.* In consideration of the Contractor furnishing and installing at its expense the new connection facilities described herein, the Government shall pay the Contractor a connection charge. The payment shall be in the form of progress payments, advance payments or as a lump sum, as agreed to by the parties and as permitted by applicable law. The total amount payable shall be either the estimated cost of \$ _____ less the agreed to salvage value of \$ _____, or the actual cost less the salvage value, whichever is less. As a condition precedent to final payment, the Contractor shall execute a release of any claims against the Government arising under or by the virtue of such installation.

(b) *Ownership, operation, maintenance and repair of new facilities to be provided.* The facilities to be supplied by the Contractor under this clause, notwithstanding the payment by the Government of a connection charge, shall be and remain the property of the Contractor and shall, at all times during the life of this contract or any renewals thereof, be operated, maintained, and repaired by the Contractor at its expense. All taxes and other charges in connection therewith, together with all liability arising out of the construction, operations, maintenance, or repair of such facilities, shall be the obligation of the Contractor.

(c) *Credits.* (1) The Contractor agrees to allow the Government, on each monthly bill for service furnished under this contract to the service location, a credit of _____ percent of the amount of each such bill as rendered until the accumulation of credits shall equal the amount of such connection charge, provided that the Contractor may at any time allow a credit up to 100 percent of the amount of each such bill.

(2) In the event the Contractor, before any termination of this contract but after completion of the facilities provided for in this clause, serves any customer other than the Government (regardless of whether the Government is being served simultaneously, intermittently, or not at all) by means of these facilities, the Contractor shall promptly notify the Government in writing. Unless otherwise agreed by the parties in writing at that time, the Contractor shall promptly accelerate the credits provided for under paragraph (c)(1) of this clause, up to 100 percent of each monthly bill until there is refunded the amount that reflects the Government's connection costs for that portion of the facilities used in serving others.

(3) In the event the Contractor terminates this contract, or defaults in performance, prior to full credit of any connection charge paid by the Government, the Contractor shall pay to the Government an amount equal to the uncredited balance of the connection charge as of the date of the termination or default.

(d) *Termination before completion of facilities.* The Government reserves the right to terminate this contract at any time before completion of the facilities with respect to which the Government is to pay a connection charge. In the event the Government exercises this right, the Contractor shall be paid the cost of any work accomplished, including direct and indirect costs reasonably allocable to the completed work prior to the time of termination by the Government, plus the cost of removal, less the salvage value.

(e) *Termination after completion of facilities.* In the event the Government terminates this contract after completion of the facilities with respect to which the Government has paid a connection charge, but before the crediting in full by the Contractor of any connection charge in accordance with the terms of this contract, the Contractor shall have the following options:

(1) To retain in place for _____ months after the notice of termination by the Government such facilities on condition that—

(i) If, during such _____ month period, the Contractor serves any other customer by means of such facilities, the Contractor, shall, in lieu of allowing credits, pay the Government during such period installments in like amount, manner, and extent as the credit provided for under paragraph (c) of this clause before such termination; and

(ii) Immediately after such _____ month period the Contractor shall promptly pay in full to the Government the uncredited balance of the connection charge.

(2) To remove such facilities at the Contractor's own expense within _____ months after the effective date of the termination by the Government. If the Contractor elects to remove such facilities, the Government shall then have the option of purchasing such facilities at the agreed salvage value set forth herein; and provided further, that the Contractor shall, at the direction of the Government, leave in place such facilities located on Government property which the Government elects to purchase at the agreed salvage value.

(End of clause)

Alternate I (Feb 1995). If the Contracting Officer determines that a nonrefundable charge is to be paid and no credits are due the Government, delete paragraphs (c) and (e), renumber paragraph (d) as (c) and add the following as paragraph (d):

(d) *Termination after completion of facilities.* In the event the Government terminates this contract after completion of the facilities with respect to which the Government is to pay a connection charge, the Contractor shall have the following options:

(1) To retain in place for _____ months after the notice of termination by the Government. If the Contractor and the Government have not agreed on terms for retention in place beyond _____ months, then the Contractor must remove the facilities pursuant to the terms of paragraph (d)(2) of this clause.

(2) To remove such facilities at the Contractor's own expense within _____ months after the effective date of the termination by the Government. If the Contractor elects to remove such facilities, the Government shall then have the option of purchasing such facilities at the agreed salvage value set forth herein; and provided further, that the Contractor shall, at the direction of the Government, leave in place such facilities located on Government property which the Government elects to purchase at the agreed salvage value.

52.241-10 Termination Liability.

As prescribed in 41.501(d)(4), insert a clause substantially the same as the following:

TERMINATION LIABILITY (FEB 1995)

(a) If the Government discontinues utility service under this contract before completion of the facilities cost recovery period specified in paragraph (b) of this clause, in consideration of the Contractor furnishing and installing at its expense, the new facility described herein, the Government shall pay termination charges, calculated as set forth in this clause.

(b) *Facility cost recovery period.* The period of time, not exceeding the term of this contract, during which the net cost of the new facility shall be recovered by the Contractor is _____ months. [*Insert negotiated duration.*]

(c) *Net facility cost.* The cost of the new facility, less the agreed upon salvage value of such facility, is \$ _____. [*Insert appropriate dollar amount.*]

(d) *Monthly facility cost recovery rate.* The monthly facility cost recovery rate which the Government shall pay the Contractor whether or not service is received is \$ _____. [*Divide the net facility cost in paragraph (c) of this clause by the facility's cost recovery period in paragraph (b) of this clause and insert the resultant figure.*]

(e) *Termination charges.* Termination charges = \$ _____. [*Multiply the remaining months of the facility's cost recovery period specified in paragraph (b) of this clause by the monthly facility cost recovery rate in paragraph (d) of this clause and insert the resultant figure.*]

(f) If the Contractor has recovered its capital costs at the time of termination there will be no termination liability charge.

(End of clause)

52.241-11 Multiple Service Locations.

As prescribed in 41.501(d)(5), insert a clause substantially the same as the following:

MULTIPLE SERVICE LOCATIONS (FEB 1995)

(a) At any time by written order, the Contracting Officer may designate any location within the service area of the Contractor at which utility service shall commence or be discontinued. Any changes to the service specifications shall be

made a part of the contract by the issuance of a contract modification to include the name and location of the service, specifying any different rate, the point of delivery, different service specifications, and any other terms and conditions.

(b) The applicable monthly charge specified in this contract shall be equitably prorated from the period in which commencement or discontinuance of service at any service location designated under the Service Specifications shall become effective.

(End of clause)

52.241-12 Nonrefundable, Nonrecurring Service Charge.

As prescribed in 41.501(d)(6), insert a clause substantially the same as the following:

NONREFUNDABLE, NONRECURRING SERVICE CHARGE (FEB 1995)

As provided herein, the Government will pay a nonrefundable, nonrecurring charge when the rules and regulations of a Contractor require that a customer pay (1) a charge for the initiation of service, (2) a contribution in aid of construction, or (3) a nonrefundable membership fee. This charge may be in addition to or in lieu of a connection charge. Therefore, there is hereby added to the Contractor's schedule a nonrefundable, nonrecurring charge for _____ in the amount of \$ _____ dollars payable [*specify dates or schedules*].

(End of clause)

52.241-13 Capital Credits.

As prescribed in 41.501(d)(7), insert a clause substantially the same as the following:

CAPITAL CREDITS (FEB 1995)

(a) The Government is a member of the _____ [*insert cooperative name*], and as any other member, is entitled to capital credits consistent with the bylaws of the cooperative, which states the obligation of the Contractor to pay capital credits and which specifies the method and time of payment.

(b) The Contractor shall furnish to the Contracting Officer, or the designated representative of the Contracting Officer, in writing, on an _____ basis [*insert period of time*] a list of accrued credits by contract number, year, and delivery point.

(c) Payment of capital credits will be made by check, payable to the _____ [*insert agency name*], and forwarded to the Contracting Officer at _____ [*insert agency address*], unless otherwise directed in writing by the Contracting Officer. Checks shall cite the current or last contract number and indicate whether the check is partial or final payment for all capital credits accrued.

(End of clause)

52.242-1 Notice of Intent to Disallow Costs.

As prescribed in 42.802, insert the following clause in solicitations and contracts when a cost-reimbursement contract, a fixed-price incentive contract, or a contract providing for price redetermination is contemplated:

NOTICE OF INTENT TO DISALLOW COSTS (APR 1984)

(a) Notwithstanding any other clause of this contract—

(1) The Contracting Officer may at any time issue to the Contractor a written notice of intent to disallow specified costs incurred or planned for incurrence under this contract that have been determined not to be allowable under the contract terms; and

(2) The Contractor may, after receiving a notice under paragraph (a)(1) of this clause, submit a written response to the Contracting Officer, with justification for allowance of the costs. If the Contractor does respond within 60 days, the Contracting Officer shall, within 60 days of receiving the response, either make a written withdrawal of the notice or issue a written decision.

(b) Failure to issue a notice under this Notice of Intent to Disallow Costs clause shall not affect the Government's rights to take exception to incurred costs.

(End of clause)

52.242-2 Production Progress Reports.

As prescribed in 42.1107(a), insert the following clause:

PRODUCTION PROGRESS REPORTS (APR 1991)

(a) The Contractor shall prepare and submit to the Contracting Officer the production progress reports specified in the contract Schedule.

(b) During any delay in furnishing a production progress report required under this contract, the Contracting Officer may withhold from payment an amount not exceeding \$25,000 or 5 percent of the amount of this contract, whichever is less.

(End of clause)

52.242-3 Penalties for Unallowable Costs.

As prescribed in 42.709-6, use the following clause:

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.

(End of clause)

52.242-4 Certification of Final Indirect Costs.

As prescribed in 42.703-2(f), insert the following clause:

CERTIFICATION OF FINAL INDIRECT COSTS (JAN 1997)

(a) The Contractor shall—

(1) Certify any proposal to establish or modify final indirect cost rates;

(2) Use the format in paragraph (c) of this clause to certify; and

(3) Have the certificate signed by an individual of the Contractor's organization at a level no lower than a vice president or chief financial officer of the business segment of the Contractor that submits the proposal.

(b) Failure by the Contractor to submit a signed certificate, as described in this clause, may result in final indirect costs at rates unilaterally established by the Contracting Officer.

(c) The certificate of final indirect costs shall read as follows:

CERTIFICATE OF FINAL INDIRECT COSTS

This is to certify that I have reviewed this proposal to establish final indirect cost rates and to the best of my knowledge and belief:

1. All costs included in this proposal (identify proposal and date) to establish final indirect cost rates for (identify period covered by rate) are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) and its supplements applicable to the contracts to which the final indirect cost rates will apply; and

2. This proposal does not include any costs which are expressly unallowable under applicable cost principles of the FAR or its supplements.

Firm: _____

Signature: _____

Name of Certifying Official: _____

Title: _____

Date of Execution: _____

(End of clause)

52.242-5 [Reserved]

52.242-6 [Reserved]

52.242-7 [Reserved]

52.242-8 [Reserved]

52.242-9 [Reserved]

52.242-10 F.o.b. Origin—Government Bills of Lading or Prepaid Postage.

As prescribed in 42.1404-2(a), insert the following clause in solicitations and contracts when f.o.b origin shipments are to be made using Government bills of lading or prepaid postage:

F.O.B. ORIGIN—GOVERNMENT BILLS OF LADING OR
PREPAID POSTAGE (APR 1984)

(a) F.o.b. origin shipments shall be made on Government bills of lading, or, if the supplies are mailable, via the U.S. Postal Service or a foreign postal system, as appropriate, with postage costs prepaid by the Contractor. Any direct charge for

postage costs shall be listed as a separate item on invoices for the supplies shipped. Use of agency official indicia mail by Contractors is not authorized. Quantities shall not be divided into mailable lots for the express purpose of avoiding movement by other modes of transportation.

(b) If Government bills of lading are not furnished with the contract or applicable ordering document, the Contractor shall obtain them from the Contracting Officer or designated representative.

(c) Unless otherwise directed, the Contractor shall address overseas parcel post to an ultimate DoD consignee in care of a designated Army, Air Force, or Navy (fleet) post office and not to, or in care of, a transportation officer, or other activity at a CONUS water or aerial terminal for transshipment.

(End of clause)

52.242-11 F.o.b. Origin—Government Bills of Lading or Indicia Mail.

As prescribed in 42.1404-2(b), insert the following clause:

F.O.B. ORIGIN—GOVERNMENT BILLS OF LADING OR
INDICIA MAIL (FEB 1993)

(a) F.o.b. origin shipments shall be made on Government bills of lading, or, if the supplies are mailable, via the U.S. Postal System, using “Penalty Permit Imprint” indicia labels.

(b) If Government bills of lading are not furnished with the contract or applicable ordering document, the Contractor shall obtain them from the Contracting Officer or designated representative.

(c) Unless otherwise directed, the Contractor shall address overseas parcel post to an ultimate DoD consignee in care of a designated Army, Air Force, or Navy (fleet) post office and not to, or in care of, a transportation officer, or other activity at a CONUS water or aerial terminal for transshipment.

(End of clause)

52.242-12 Report of Shipment (REPSHIP).

As prescribed in 42.1406-2, insert the following clause:

REPORT OF SHIPMENT (REPSHIP) (JUNE 2003)

(a) *Definition.* “Domestic destination,” as used in this clause, means—

(1) A destination within the contiguous United States;
or

(2) If shipment originates in Alaska or Hawaii, a destination in Alaska or Hawaii, respectively.

(b) Unless otherwise directed by the Contracting Officer, the Contractor shall—

(1) Send a prepaid notice of shipment to the consignee transportation officer—

(i) For all shipments of—

(A) Classified material, protected sensitive, and protected controlled material;

(B) Explosives and poisons, classes A and B;

(C) Radioactive materials requiring the use of a III bar label; or

(ii) When a truckload/carload shipment of supplies weighing 20,000 pounds or more, or a shipment of less weight that occupies the full visible capacity of a railway car or motor vehicle, is given to any carrier (common, contract or private) for transportation to a domestic destination (other than a port for export);

(2) Transmit the notice by rapid means to be received by the consignee transportation officer at least 24 hours before the arrival of the shipment; and

(3) Send, to the receiving transportation officer, the Government bill of lading, commercial bill of lading or letter or other document containing the following information and prominently identified as a “Report of Shipment” or “REPSHIP FOR T.O.”

REPSHIP FOR T.O. 81 JUN 01
TRANSPORTATION OFFICER
DEFENSE DEPOT, MEMPHIS, TENN.
SHIPPED YOUR DEPOT 1981 JUN 1 540 CTNS MENS
COTTON TROUSERS, 30,240 LB, 1782 CUBE, VIA
XX-YY*
IN CAR NO. XX 123456**-GBL***-C98000031****
CONTRACT DLA _____ ETA*****-JUNE 5 JONES
& CO., JERSEY CITY, N.J.

* Name of rail carrier, trucker, or other carrier.

** Vehicle identification.

*** Government bill of lading.

**** If not shipped by GBL, identify lading document and state whether paid by contractor.

***** Estimated time of arrival.

(End of clause)

52.242-13 Bankruptcy.

As prescribed in 42.903, insert the following clause:

BANKRUPTCY (JULY 1995)

In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the contracting officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of government contract numbers and contracting offices for all government contracts against which final payment has not been

made. This obligation remains in effect until final payment under this contract.

(End of clause)

52.242-14 Suspension of Work.

As prescribed in 42.1305(a), insert the following clause in solicitations and contracts when a fixed-price construction or architect-engineer contract is contemplated:

SUSPENSION OF WORK (APR 1984)

(a) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

(c) A claim under this clause shall not be allowed—

(1) For any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and

(2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

(End of clause)

52.242-15 Stop-Work Order.

As prescribed in 42.1305(b), insert the following clause. The "90-day" period stated in the clause may be reduced to less than 90 days.

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.

(End of clause)

Alternate I (Apr 1984). If this clause is inserted in a cost-reimbursement contract, substitute in paragraph (a)(2) the words "the Termination clause of this contract" for the words "the Default, or the Termination for Convenience of the Government clause of this contract." In paragraph (b) substitute the words "an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected" for the words "an equitable adjustment in the delivery schedule or contract price, or both."

52.242-16 Stop-Work Order—Facilities.

As prescribed in 42.1305(c), insert the following clause. The “90-day” period stated in the clause may be reduced to less than 90 days.

STOP-WORK ORDER—FACILITIES (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 acquisition, construction, or installation 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, at Government expense, immediately comply with its terms and take all reasonable steps to minimize the incurrence of cost allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either—

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Termination of Work 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 completion schedule, the estimated cost, 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, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) An appropriate equitable adjustment may be made in any related contract of the Contractor that provides for adjustment and is affected by any stop-work order under this clause. The Government shall not be liable to the Contractor for damages or loss of profits because of a stop-work order issued under this clause.

(End of clause)

52.242-17 Government Delay of Work.

As prescribed in 42.1305(d), insert the following clause in solicitations and contracts when a fixed-price contract is contemplated for supplies other than commercial or modified-commercial items. The clause use is optional when a fixed-price contract is contemplated for services, or for supplies that are commercial or modified-commercial items.

GOVERNMENT DELAY OF WORK (APR 1984)

(a) If the performance of all or any part of the work of this contract is delayed or interrupted (1) by an act of the Contracting Officer in the administration of this contract that is not expressly or impliedly authorized by this contract, or (2) by a failure of the Contracting Officer to act within the time specified in this contract, or within a reasonable time if not specified, an adjustment (excluding profit) shall be made for any increase in the cost of performance of this contract caused by the delay or interruption and the contract shall be modified in writing accordingly. Adjustment shall also be made in the delivery or performance dates and any other contractual term or condition affected by the delay or interruption. However, no adjustment shall be made under this clause for any delay or interruption to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an adjustment is provided or excluded under any other term or condition of this contract.

(b) A claim under this clause shall not be allowed—

(1) For any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved; and

(2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the delay or interruption, but not later than the day of final payment under the contract.

(End of clause)

52.243-1 Changes—Fixed-Price.

As prescribed in 43.205(a)(1), insert the following clause. The 30-day period may be varied according to agency procedures.

CHANGES—FIXED PRICE (AUG 1987)

(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) 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.

(2) Method of shipment or packing.

(3) Place of delivery.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

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

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

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

(End of clause)

Alternate I (Apr 1984). If the requirement is for services, other than architect-engineer or other professional services, and no supplies are to be furnished, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(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.

Alternate II (Apr 1984). If the requirement is for services (other than architect-engineer services, transportation, or research and development) and supplies are to be furnished, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(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.

Alternate III (Apr 1984). If the requirement is for architect-engineer or other professional services, substitute the following paragraph (a) for paragraph (a) of the basic clause and add the following paragraph (f):

(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 the services to be performed.

* * * * *

(f) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written authorization of the Contracting Officer.

Alternate IV (Apr 1984). If the requirement is for transportation services, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(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) Specifications.
- (2) Work or services.
- (3) Place of origin.
- (4) Place of delivery.
- (5) Tonnage to be shipped.
- (6) Amount of Government-furnished property.

Alternate V (Apr 1984). If the requirement is for research and development and it is desired to include the clause, substitute the following paragraphs (a)(1) and (a)(3) and paragraph (b) for paragraphs (a)(1) and (a)(3) and paragraph (b) of the basic clause:

(a) ***

- (1) Drawings, designs, or specifications.

* * * * *

- (3) Place of inspection, delivery, or acceptance.

(b) If any such change causes an increase or decrease in the cost of, or time required for, performing this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in—

- (1) The contract price, the time of performance, or both; and
- (2) Other affected terms of the contract, and shall modify the contract accordingly.

52.243-2 Changes—Cost-Reimbursement.

As prescribed in 43.205(b)(1), insert the following clause. The 30-day period may be varied according to agency procedures.

CHANGES—COST-REIMBURSEMENT (AUG 1987)

(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) 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.

(2) Method of shipment or packing.

(3) Place of delivery.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the Contracting Officer shall make an equitable adjustment in the—

(1) Estimated cost, delivery or completion schedule, or both;

(2) Amount of any fixed fee; and

(3) Other affected terms and shall modify the contract accordingly.

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

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

(e) Notwithstanding the terms and conditions of paragraphs (a) and (b) of this clause, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance of this contract, shall not be increased or considered to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. Until this modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point established in the Limitation of Cost or Limitation of Funds clause of this contract.

(End of clause)

Alternate I (Apr 1984). If the requirement is for services and no supplies are to be furnished, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(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.

Alternate II (Apr 1984). If the requirement is for services and supplies are to be furnished, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(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.

Alternate III (Apr 1984). If the requirement is for construction, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(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 the plans and specifications or instructions incorporated in the contract.

Alternate IV (Apr 1984). If a facilities contract is contemplated, substitute the following paragraphs (a) and (e) for paragraphs (a) and (e) of the basic clause:

(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 the facilities or work described in the schedule.

(e) Any related contract with the Contractor may be equitably adjusted if it provides for adjustment and is affected by a change ordered under this clause.

Alternate V (Apr 1984). If the requirement is for research and development, and it is desired to include the clause, substitute the following paragraphs (a)(1) and (a)(3) for paragraphs (a)(1) and (a)(3) of the basic clause:

(a)***

(1) Drawings, designs, or specifications.

* * * * *

(3) Place of inspection, delivery, or acceptance.

52.243-3 Changes—Time-and-Materials or Labor-Hours.

As prescribed in 43.205(c), insert the following clause:

CHANGES—TIME-AND-MATERIALS OR LABOR-HOURS
(SEPT 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.

(End of clause)

52.243-4 Changes.

As prescribed in 43.205(d), insert the following clause: The 30-day period may be varied according to agency procedures.

CHANGES (AUG 1987)

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes—

(1) In the specifications (including drawings and designs);

(2) In the method or manner of performance of the work;

(3) In the Government-furnished facilities, equipment, materials, services, or site; or

(4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contracting Officer written notice stating—

(1) The date, circumstances, and source of the order; and

(2) That the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) of this clause.

(f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

(End of clause)

52.243-5 Changes and Changed Conditions.

As prescribed in 43.205(e), insert the following clause:

CHANGES AND CHANGED CONDITIONS (APR 1984)

(a) The Contracting Officer may, in writing, order changes in the drawings and specifications within the general scope of the contract.

(b) The Contractor shall promptly notify the Contracting Officer, in writing, of subsurface or latent physical conditions differing materially from those indicated in this contract or unknown unusual physical conditions at the site before proceeding with the work.

(c) If changes under paragraph (a) or conditions under paragraph (b) increase or decrease the cost of, or time required for performing the work, the Contracting Officer shall make an equitable adjustment (see paragraph (d)) upon submittal of a “proposal for adjustment” (hereafter referred to as proposal) by the Contractor before final payment under the contract.

(d) The Contracting Officer shall not make an equitable adjustment under paragraph (b) unless—

(1) The Contractor has submitted and the Contracting Officer has received the required written notice; or

(2) The Contracting Officer waives the requirement for the written notice.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause.

(End of clause)

52.243-6 Change Order Accounting.

As prescribed in 43.205(f), the contracting officer may insert a clause, substantially the same as follows:

CHANGE ORDER ACCOUNTING (APR 1984)

The Contracting Officer may require change order accounting whenever the estimated cost of a change or series of related changes exceeds \$100,000. The Contractor, for each change or series of related changes, shall maintain separate accounts, by job order or other suitable accounting procedure, of all incurred segregable, direct costs (less allocable credits) of work, both changed and not changed, allocable to the change. The Contractor shall maintain such accounts until the parties agree to an equitable adjustment for the changes ordered by the Contracting Officer or the matter is conclusively disposed of in accordance with the Disputes clause.

(End of clause)

52.243-7 Notification of Changes.

As prescribed in 43.107, the contracting officer may insert a clause substantially the same as the following in solicitations and contracts. The clause is available for use primarily in negotiated research and development or supply contracts for the acquisition of major weapon systems or principal subsystems. If the contract amount is expected to be less than \$1,000,000, the clause shall not be used, unless the contracting officer anticipates that situations will arise that may result in a contractor alleging that the Government has effected changes other than those identified as such in writing and signed by the contracting officer.

NOTIFICATION OF CHANGES (APR 1984)

(a) *Definitions.* “Contracting Officer,” as used in this clause, does not include any representative of the Contracting Officer.

“Specifically Authorized Representative (SAR),” as used in this clause, means any person the Contracting Officer has so designated by written notice (a copy of which shall be provided to the Contractor) which shall refer to this paragraph and shall be issued to the designated representative before the SAR exercises such authority.

(b) *Notice.* The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers to constitute a change to this contract. Except for changes identified as such in writing and signed by the Contracting Officer, the Contractor shall notify the Administrative Contracting Officer in writing promptly, within _____ (to be negotiated) calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the Contractor regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state—

(1) The date, nature, and circumstances of the conduct regarded as a change;

(2) The name, function, and activity of each Government individual and Contractor official or employee involved in or knowledgeable about such conduct;

(3) The identification of any documents and the substance of any oral communication involved in such conduct;

(4) In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;

(5) The particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including—

(i) What contract line items have been or may be affected by the alleged change;

(ii) What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;

(iii) To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;

(iv) What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and

(6) The Contractor’s estimate of the time by which the Government must respond to the Contractor’s notice to minimize cost, delay or disruption of performance.

(c) *Continued performance.* Following submission of the notice required by paragraph (b) of this clause, the Contractor shall diligently continue performance of this contract to the maximum extent possible in accordance with its terms and conditions as construed by the Contractor, unless the notice reports a direction of the Contracting Officer or a communi-

cation from a SAR of the Contracting Officer, in either of which events the Contractor shall continue performance; provided, however, that if the Contractor regards the direction or communication as a change as described in paragraph (b) of this clause, notice shall be given in the manner provided. All directions, communications, interpretations, orders and similar actions of the SAR shall be reduced to writing promptly and copies furnished to the Contractor and to the Contracting Officer. The Contracting Officer shall promptly countermand any action which exceeds the authority of the SAR.

(d) *Government response.* The Contracting Officer shall promptly, within _____ (to be negotiated) calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer shall either—

(1) Confirm that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance;

(2) Countermand any communication regarded as a change;

(3) Deny that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance; or

(4) In the event the Contractor's notice information is inadequate to make a decision under paragraphs (d)(1), (2), or (3) of this clause, advise the Contractor what additional information is required, and establish the date by which it should be furnished and the date thereafter by which the Government will respond.

(e) *Equitable adjustments.* (1) If the Contracting Officer confirms that Government conduct effected a change as alleged by the Contractor, and the conduct causes an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether changed or not changed by such conduct, an equitable adjustment shall be made—

(i) In the contract price or delivery schedule or both; and

(ii) In such other provisions of the contract as may be affected.

(2) The contract shall be modified in writing accordingly. In the case of drawings, designs or specifications which are defective and for which the Government is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by the Contractor in attempting to comply with the defective drawings, designs or specifications before the Contractor identified, or reasonably should have identified, such defect. When the cost of property made obsolete or excess as a result of a change confirmed by the Contracting Officer under this clause is included in the equitable adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of the property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the Contractor's fail-

ure to provide notice or to continue performance as provided, respectively, in paragraphs (b) and (c) of this clause.

NOTE: The phrases "contract price" and "cost" wherever they appear in the clause, may be appropriately modified to apply to cost-reimbursement or incentive contracts, or to combinations thereof.

(End of clause)

52.244-1 [Reserved]

52.244-2 Subcontracts.

As prescribed in 44.204(a)(1), insert the following clause:

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:

(End of clause)

Alternate I (Aug 1998). As prescribed in 44.204(a)(2)(i), substitute the following paragraph (f)(2) for paragraph (f)(2) of the basic clause:

(f)(2) If the Contractor has an approved purchasing system and consent is not required under paragraph (c), (d), or (e) of this clause, the Contractor nevertheless shall notify the Contracting Officer reasonably in advance of entering into any (i) cost-plus-fixed-fee subcontract, or (ii) fixed-price subcontract that exceeds the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of this contract. The notification shall include the information required by paragraphs (f)(1)(i) through (f)(1)(iv) of this clause.

Alternate II (Aug 1998). As prescribed in 44.204(a)(2)(ii), substitute the following paragraph (f)(2) for paragraph (f)(2) of the basic clause:

(f)(2) If the Contractor has an approved purchasing system and consent is not required under paragraph (c), (d), or (e) of this clause, the Contractor nevertheless shall notify the Contracting Officer reasonably in advance of entering into any (i) cost-plus-fixed-fee subcontract, or (ii) fixed-price subcontract that exceeds either the simplified acquisition threshold or 5 percent of the total estimated cost of this contract. The notification shall include the information required by paragraphs (f)(1)(i) through (f)(1)(iv) of this clause.

52.244-3 [Reserved]**52.244-4 Subcontractors and Outside Associates and Consultants (Architect-Engineer Services).**

As prescribed in 44.204(b), insert the following clause:

SUBCONTRACTORS AND OUTSIDE ASSOCIATES AND
CONSULTANTS (ARCHITECT-ENGINEER SERVICES)
(AUG 1998)

Any subcontractors and outside associates or consultants required by the Contractor in connection with the services covered by the contract will be limited to individuals or firms that were specifically identified and agreed to during negotiations. The Contractor shall obtain the Contracting Officer's written consent before making any substitution for these subcontractors, associates, or consultants.

(End of clause)

52.244-5 Competition in Subcontracting.

As prescribed in 44.204(c), insert the following clause:

COMPETITION IN SUBCONTRACTING (DEC 1996)

(a) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

(b) If the Contractor is an approved mentor under the Department of Defense Pilot Mentor-Protégé Program (Pub. L. 101-510, section 831 as amended), the Contractor may award subcontracts under this contract on a noncompetitive basis to its protégés.

(End of clause)

52.244-6 Subcontracts for Commercial Items.

As prescribed in 44.403, insert the following clause:

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 Contractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (APR 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212(a));

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (JUNE 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. App. 1241 and 10 U.S.C. 2631) (flow down required in accordance with paragraph (d) of FAR clause 52.247-64).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(End of clause)

52.245-1 Property Records.

As prescribed in 45.106(a), insert the following clause in solicitations and contracts when the conditions in 45.105(b) exist and the Government maintains the Government's official Government property records:

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.

(End of clause)

52.245-2 Government Property (Fixed-Price Contracts).

As prescribed in 45.106(b)(1), insert the following clause:

GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS)
(MAY 2004)

(a) *Government-furnished property.* (1) 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 any related data and information that the Contractor may request and is reasonably required for the intended use of the property (hereinafter referred to as "Government-furnished property").

(2) The delivery or performance dates for this contract are based upon the expectation that Government-furnished property suitable for use (except for property furnished "as is") 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.

(3) If Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt of it, notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either repair, modify, 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.

(4) If Government-furnished property is not delivered to the Contractor by the required time, 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-fur-

nished 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 such 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 the property available for performing this contract and there is any—

(i) Decrease or substitution in this property pursuant to paragraph (b)(1) of this clause; or

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

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

(2) 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. However, special tooling accountable to this contract is subject to the provisions of the Special Tooling clause and is not 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.

(3) Title to each item of facilities and special test equipment acquired by the Contractor for the Government under this contract shall pass to and vest in the Government when its use in performing this contract commences or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.

(4) If this contract contains a provision directing the Contractor to purchase material for which the Government will reimburse the Contractor as a direct item of cost under this contract—

(i) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and

(ii) Title to all other material shall pass to and vest in the Government upon—

(A) Issuance of the material for use in contract performance;

(B) Commencement of processing of the material or its use in contract performance; or

(C) Reimbursement of the cost of the material by the Government, whichever occurs first.

(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 this contract and shall comply with Federal Acquisition Regulation (FAR) Subpart 45.5, as in effect on the date of this contract.

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound industrial practice and the applicable provisions of Subpart 45.5 of the FAR.

(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.

(4) The Contractor represents that the contract price does not include any amount for repairs or replacement for which the Government is responsible. Repair or replacement of property for which the Contractor is responsible shall be accomplished by the Contractor at its own expense.

(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) *Risk of loss.* Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or destruction of, or damage to, Government property upon its delivery to the Contractor or upon passage of title to the Government under paragraph (c) of this clause. However, the Contractor is not responsible for reasonable wear and tear to Government property or for Government property properly consumed in performing this contract.

(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 (to which the Government has obtained title under paragraph (c) of this clause).*— (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.

wastes;

(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 Gov-

ernment 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 without 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 shall 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 price or cost of work covered by this contract or to the Government as the Contracting Officer directs.

(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 of 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.

(End of clause)

Alternate I (Apr 1984). As prescribed in 45.106(b)(2), substitute the following paragraph (g) for paragraph (g) of the basic clause:

(g) *Limited risk of loss*. (1) The term “Contractor’s managerial personnel,” as used in this paragraph (g), means the Contractor’s directors, officers, and any of the Contractor’s 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 Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this contract (or, if an educational or nonprofit organization, for expenses incidental to such loss, destruction, or damage), except as provided in paragraphs (g)(3) and (g)(4) of this clause.

(3) 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.

(4)(i) If the Contractor fails to act as provided in subdivision (g)(3)(v) of this clause, 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.

(5) 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.

(6) 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.

(7) 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 paragraph (g)(7) 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 such equitable adjustment.

(8) The Contractor represents that it is not including in the price and agrees it will not hereafter include in any price to the Government any charge or reserve for insurance (including any self-insurance fund or reserve) covering 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.

(9) 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 equitably reimburse the Government, as directed by the Contracting Officer.

(10) 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.

Alternate II (June 2003). As prescribed in 45.106(b)(3), substitute the following paragraphs (c) and (g) for paragraphs (c) and (g) of the basic clause:

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

(2) 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.

(3) Title to each item of facilities, special test equipment, and special tooling (other than that subject to a special tooling clause) acquired by the Contractor for the Government

under this contract shall pass to and vest in the Government when its use in performing this contract commences, or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.

(4) Title to equipment (and other tangible personal property) purchased with funds available for research and having an acquisition cost of less than \$5,000 shall vest in the Contractor upon acquisition or as soon thereafter as feasible; provided, that the Contractor obtained the Contracting Officer's approval before each acquisition. Title to equipment purchased with funds available for research and having an acquisition cost of \$5,000 or more shall vest as set forth in the contract. If title to equipment vests in the Contractor under this paragraph (c)(4), the Contractor agrees that no charge will be made to the Government for any depreciation, amortization, or use under any existing or future Government contract or subcontract thereunder. The Contractor shall furnish the Contracting Officer a list of all equipment to which title is vested in the Contractor under this paragraph (c)(4) within 10 days following the end of the calendar quarter during which it was received.

(5) Vesting title under this paragraph (c) is subject to civil rights legislation, 42 U.S.C. 2000d. Before title is vested and by signing this contract, the Contractor accepts and agrees that—

"No person in the United States or its outlying areas shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this contemplated financial assistance (title to equipment)."

* * * * *

(g) *Limited risk of loss.* (1) The term "Contractor's managerial personnel," as used in this paragraph (g), means the Contractor's directors, officers, and any of the Contractor's 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, laboratory, 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 Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this contract (or, if an educational or nonprofit organization, for expenses incidental to such loss, destruction, or damage), except as provided in paragraphs (g)(3) and (g)(4) of this clause.

(3) 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 which 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.

(4)(i) If the Contractor fails to act as provided in subdivision (g)(3)(v) of this clause, 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) Furthermore, 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.

(5) 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.

(6) 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.

(7) 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 paragraph (g)(7) 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.

(8) The Contractor represents that it is not including in the price, and agrees it will not hereafter include in any price to the Government, any charge or reserve for insurance (including any self-insurance fund or reserve) covering 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.

(9) In the event the Contractor is reimbursed or otherwise compensated for any loss or destruction of, or damage to, the 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.

(10) 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.

52.245-3 Identification of Government-Furnished Property.

As prescribed in 45.106(c), insert the following clause, in addition to the clause at 52.245-2, Government Property (Fixed-Price Contracts), in solicitations and contracts when a fixed-price construction contract is contemplated under which the Government is to furnish Government property f.o.b. railroad cars at a specified destination or f.o.b. truck at the project site. The contract Schedule shall specify the point of delivery and may include special terms and conditions covering installation, preparation for operation, or equipment testing by the Government or by another contractor.

IDENTIFICATION OF GOVERNMENT-FURNISHED PROPERTY (APR 1984)

(a) The Government will furnish to the Contractor the property identified in the Schedule to be incorporated or installed into the work or used in performing the contract. The listed property will be furnished f.o.b. railroad cars at the place specified in the contract Schedule or f.o.b. truck at the project site. The Contractor is required to accept delivery, pay any demurrage or detention charges, and unload and transport the property to the job site at its own expense. When the property is delivered, the Contractor shall verify its quantity and condition and acknowledge receipt in writing to the Contracting Officer. The Contractor shall also report in writing to the Contracting Officer within 24 hours of delivery any damage to or shortage of the property as received. All such property shall be installed or incorporated into the work at the expense of the Contractor, unless otherwise indicated in this contract.

(b) Each item of property to be furnished under this clause shall be identified in the Schedule by quantity, item, and description.

(End of clause)

52.245-4 Government-Furnished Property (Short Form).

As prescribed in 45.106(d), insert the following clause:

GOVERNMENT-FURNISHED PROPERTY (SHORT FORM) (JUNE 2003)

(a) The Government shall deliver to the Contractor, at the time and locations stated in this contract, the Government-furnished property described in the Schedule or specifications. If that property, suitable for its intended use, is not delivered to the Contractor, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the Changes clause when—

(1) The Contractor submits a timely written request for an equitable adjustment; and

(2) The facts warrant an equitable adjustment.

(b) Title to Government-furnished property shall remain in the Government. The Contractor shall use the Government-furnished property only in connection with this contract. The

Contractor shall maintain adequate property control records in accordance with sound industrial practice and will make such records available for Government inspection at all reasonable times, unless the clause at Federal Acquisition Regulation 52.245-1, Property Records, is included in this contract.

(c) Upon delivery of Government-furnished property to the Contractor, the Contractor assumes the risk and responsibility for its loss or damage, except—

(1) For reasonable wear and tear;

(2) To the extent property is consumed in performing this contract; or

(3) As otherwise provided for by the provisions of this contract.

(d) Upon completing this contract, the Contractor shall follow the instructions of the Contracting Officer regarding the disposition of all Government-furnished property not consumed in performing this contract or previously delivered to the Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property, as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to the Government as directed by the Contracting Officer.

(e) 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.

(End of clause)

52.245-5 Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts).

As prescribed in 45.106(f)(1), insert the following clause:

GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS) (MAY 2004)

(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 paragraph (b)(1) of this clause; or

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

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

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

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

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

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

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

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

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

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

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound business practice and the applicable provisions of FAR Subpart 45.5.

(3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot effect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.

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

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

(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) of this clause, 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 paragraph (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 dis-

posal. 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.

(End of clause)

Alternate I (June 2003). As prescribed in 45.106(f)(2), substitute the following paragraph (c) for paragraph (c) of the basic clause:

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

(2) 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.

(3) 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 and that, under the provisions of this

contract is to vest in the Government, shall pass to and vest in the Government upon the vendor's delivery of such property. Title to all other property, the cost of which is to be reimbursed to the Contractor under this contract and that under the provisions of this contract is to vest in the Government, 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 or its use in contract performance; or

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

(4) Title to equipment (and other tangible personal property) purchased with funds available for research and having an acquisition cost of less than \$5,000 shall vest in the Contractor upon acquisition or as soon thereafter as feasible; provided, that the Contractor obtained the Contracting Officer's approval before each acquisition. Title to equipment purchased with funds available for research and having an acquisition cost of \$5,000 or more shall vest as set forth in the contract. If title to equipment vests in the Contractor under this paragraph (c)(4), the Contractor agrees that no charge will be made to the Government for any depreciation, amortization, or use under any existing or future Government contract or subcontract thereunder. The Contractor shall furnish the Contracting Officer a list of all equipment to which title is vested in the Contractor under this paragraph (c)(4) within 10 days following the end of the calendar quarter during which it was received.

(5) Vesting title under this paragraph (c) is subject to civil rights legislation, 42 U.S.C. 2000d. Before title is vested and by signing this contract, the Contractor accepts and agrees that—

“No person in the United States or its outlying areas shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this contemplated financial assistance (title to equipment).”

52.245-6 Liability for Government Property (Demolition Services Contracts).

As prescribed in 45.106(g) insert the following clause, in addition to the clauses prescribed at 37.304, in solicitations and contracts for dismantling, demolition, or removal of improvements:

LIABILITY FOR GOVERNMENT PROPERTY (DEMOLITION SERVICES CONTRACTS) (APR 1984)

Except for reasonable wear and tear incident to removal and delivery to the Government, the Contractor assumes the risk of and shall be responsible for any loss or destruction of, or damage to, items of property, title to which—

(a) Remains in the Government and that are to be delivered to the Government by the Contractor in performing the work; and

(b) Is vested in the Contractor but that under the Termination clauses of this contract is revested in the Government upon notice of termination.

(End of clause)

52.245-7 Government Property (Consolidated Facilities).

As prescribed in 45.302-6(a), insert the following clause in solicitations and contracts when a consolidated facilities contract is contemplated:

GOVERNMENT PROPERTY (CONSOLIDATED FACILITIES) (MAR 1996)

(a) *Definitions.* For the purpose of this contract, the following definitions apply:

“Facilities,” as used in this clause, means all property provided under this facilities contract.

“Related contract,” as used in this clause, means a Government contract or subcontract for supplies or services under which the use of the facilities is or may be authorized.

(b) *Facilities to be provided.* (1) The Contractor, at Government expense and subject to the provisions of this contract, shall acquire, construct, or install the facilities and perform the related work as described in the Schedule.

(2) The Government, subject to the provisions of this contract, shall furnish to the Contractor the facilities identified in the Schedule as Government-furnished facilities. The Contractor, at Government expense, shall perform the work with respect to those facilities as is described in the Schedule.

(3) All shipments of the facilities shall be made on Government bills of lading, unless otherwise authorized by the Contracting Officer. The required number of such Government bills of lading will be furnished to the Contractor by, and the Contractor shall be accountable therefor to, the transportation activity designated by the Contracting Officer.

(c) *Period of this contract.* If not otherwise specified in the contract and if not previously terminated under paragraph (m), the use of the facilities authorized under this contract shall terminate 5 years after its effective date. Thereafter, if continued use of the facilities by the Contractor is mutually desired, the parties shall enter into a new contract that shall incorporate such provisions as may then be required by applicable laws and regulations. The parties may, by written agreement, extend the use of the facilities under this contract beyond this 5-year period to permit the completion of any then-existing related contracts and subcontracts.

(d) *Title in the facilities.* (1) The Government shall retain title to all Government-furnished property.

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

(3) Title to replacement parts furnished by the Contractor in carrying out its normal maintenance obligations under

paragraph (h) shall pass to and vest in the Government upon completion of their installation in the facilities.

(4) Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in the Government upon—

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

(ii) Commencement of processing or use of the property in performing this contract; or

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

(5) Title to the facilities shall not be affected by their incorporation into or attachment to any property not owned by the Government, nor shall any item of the facilities become a fixture or lose its identity as personal property by being attached to any real property. The Contractor shall keep the facilities free and clear of all liens and encumbrances and, except as otherwise authorized by this contract or by the Contracting Officer, shall not remove or otherwise part with possession of, or permit the use by others of, any of the facilities.

(6) The Contractor may, with the written approval of the Contracting Officer, install, arrange, or rearrange, on Government-furnished premises, readily movable machinery, equipment, and other items belonging to the Contractor. Title to any such item shall remain in the Contractor even though it may be attached to real property owned by the Government, unless the Contracting Officer determines that it is so permanently attached that removal would cause substantial injury to Government property.

(7) The Contractor shall not construct or install, at its own expense, any fixed improvement or structural alterations in Government buildings or other real property without advance written approval of the Contracting Officer. Fixed improvement or structural alterations, as used herein, means any alteration or improvement in the nature of the building or other real property, that, after completion, cannot be removed without substantial loss of value or damage to the premises. The term does not include foundations for production equipment.

(e) *Location of the facilities.* The Contractor may use the facilities at any of the locations specified in the Schedule and, with the prior written approval of the Contracting Officer, at any other location. In granting this approval, the Contracting Officer may prescribe such terms and conditions as may be deemed necessary for protecting the Government's interest in the facilities involved. Those terms and conditions shall take precedence over any conflicting provisions of this contract.

(f) *Notice of use of the facilities.* The Contractor shall notify the Contracting Officer in writing—

(1) Whenever use of all facilities for Government work in any quarterly period averages less than 75 percent of the total use of the facilities; or

(2) Whenever any item of the facilities is no longer needed or usable for performing existing related contracts that authorize such use.

(g) *Property control.* The Contractor shall maintain property control procedures and records and a system of identification of the facilities, in accordance with the provisions of Federal Acquisition Regulation (FAR) Subpart 45.5 in effect on the date of this contract. The provisions of FAR 45.5 are hereby incorporated by reference and made a part of this contract.

(h) *Maintenance.* (1) Except as otherwise provided in the Schedule, the Contractor shall perform normal maintenance of the facilities in accordance with sound industrial practice, including protection, preservation, and repair of the facilities and normal parts replacement for equipment.

(2) As soon as practicable after the execution of this contract, the Contractor shall submit to the Contracting Officer a written proposed maintenance program, including a maintenance records system, in sufficient detail to show its adequacy. If the Contracting Officer agrees to the proposed program, it shall become the normal maintenance obligation of the Contractor. The Contractor's performance according to the approved program shall satisfy the Contractor's obligations under paragraphs (h)(1) and (h)(5) of this clause.

(3) The Contracting Officer may at any time direct the Contractor in writing to reduce the work required by the normal maintenance program. If such order reduces the cost of performing the maintenance, an appropriate equitable adjustment may be made in any affected related contract that so provides.

(4) The Contractor shall perform any maintenance work directed by the Contracting Officer in writing. Work in excess of the maintenance required under paragraphs (h)(1) through (h)(3) of this clause shall be at Government expense. The Contractor shall notify the Contracting Officer in writing when sound industrial practice requires maintenance in excess of the normal maintenance program.

(5) The Contractor shall keep records of all work done on the facilities and shall give the Government reasonable opportunity to inspect these records. When facilities are disposed of under this contract, the Contractor shall deliver the related records to the Government or, if the Contracting Officer directs, to third persons.

(6) The Contractor's obligation under this clause for each item of facilities shall continue until the item is removed, abandoned, or disposed of; until the expiration of the 120-day period stated in paragraph (n)(4) of this clause; and until the Contractor has discharged its other obligations under this contract with respect to such items.

(i) *Access.* The Government and any persons designated by it shall, at all reasonable times, have access to the premises where any of the facilities are located.

(j) *Indemnification of the Government.* The Contractor shall indemnify the Government and hold it harmless against claims for injury to persons or damage to property of the Contractor or others arising from the Contractor's possession or use of the facilities, except as specified in the clause at FAR 52.228-7, Insurance—Liability to Third Persons. However, the provisions of the Contractor's related contracts shall govern any assumption of liability by the Government for claims arising under those contracts.

(k) *Late delivery, diversion, and substitution.* (1) The Government shall not be liable for breach of contract for any delay in delivery or nondelivery of facilities to be furnished under this contract.

(2) The Government has the right, at its expense, to divert the facilities under this contract by directing the Contractor to—

(i) Deliver any of the facilities to locations other than those specified in the Schedule; or

(ii) Assign purchase orders or subcontracts for any of the facilities to the Government or third parties.

(3) The Government may furnish any facilities instead of having the Contractor acquire or construct them. In such event, the Contractor is entitled to reimbursement for the cost related to the acquisition or construction of the facilities, including the cost of terminating purchase orders and subcontracts.

(4) Appropriate equitable adjustment may be made in any related contract that so provides and that is affected by any nondelivery, delay, diversion, or substitution under this paragraph (k).

(l) *Representations and warranties.* (1) The Government makes no warranty, express or implied, regarding the condition or fitness for use of any facilities. To the extent practical, the Contractor shall be allowed to inspect all the facilities to be furnished by the Government before their shipment.

(2) If the Contractor receives facilities in a condition not suitable for the intended use, the Contractor shall, within 30 days after receipt and installation thereof, so notify the Contracting Officer, detailing the facts and, as directed by the Contracting Officer and at Government expense, either (i) return such item or otherwise dispose of it or (ii) effect repairs or modifications. An appropriate equitable adjustment may be made in any related contract that so provides and that is affected by the return, disposition, repair, or modification of any facilities.

(m) *Termination of the use of the facilities.* (1) The Contractor may at any time, upon written notice to the Contracting Officer, terminate its authority to use any or all of the facilities. Termination under this paragraph (m) shall not relieve the Contractor of any of its obligations or liabilities under any related contract or subcontract affected by the termination.

(2) The Contracting Officer may at any time, upon written notice, terminate or limit the Contractor's authority to use

any of the facilities. Except as otherwise provided in the Failure to Perform clause of this contract, an equitable adjustment may be made in any related contract of the Contractor that so provides and that is affected by such notice.

(n) *Disposition of the facilities.* (1) The provisions of this paragraph (n) shall apply to facilities for which use has been terminated by either the Contracting Officer or the Contractor under paragraph (m), except as provided in paragraph (n)(2).

(2) Unless otherwise directed by the Contracting Officer, this paragraph shall not apply to facilities terminated by the Contractor if—

(i) The facilities terminated do not comprise all of the facilities in the possession of the Contractor; and

(ii) The Contracting Officer determines that continued retention of the facilities will not interfere with the Contractor's operations.

(3) Within 60 days after the effective date of any notice of termination given under paragraph (m), or within such longer period as the Contracting Officer may approve in writing, the Contractor shall submit to the Contracting Officer, in a form satisfactory to the Contracting Officer, an accounting for all the facilities covered by the notice.

(4) Within 120 days after the Contractor accounts for any facilities under paragraph (n)(3), the Contracting Officer shall give written notice to the Contractor as to the disposition of the facilities, except as otherwise provided in paragraph (n)(6). In its disposition of the facilities, the Government may either—

(i) Abandon the facilities in place, in which case all obligations of the Government regarding such abandoned facilities and the restoration or rehabilitation of the premises in and on which they are located shall immediately cease; or

(ii) Require the Contractor to comply, at Government expense, with such directions as the Contracting Officer may give with respect to—

(A) The preparation, protection, removal, or shipment of the affected facilities;

(B) The retention or storage of the affected facilities; provided, that the Contracting Officer shall not direct the Contractor to retain or store any items of facilities in or on real property not owned by the Government if such retention or storage will interfere with the Contractor's operations;

(C) The restoration of Government-owned property incident to the removal of the facilities from such property; and

(D) The sale of any affected facilities in such manner, at such times, and at such price as may be approved by the Government, except that the Contractor shall not be required to extend credit to any purchaser.

(5) If the Contracting Officer fails to give the written notice required by paragraph (n)(4) within the prescribed 120-day period, the Contractor may, upon not less than 30 days' written notice to the Government and at Government

risk and expense, (i) retain the facilities in place or (ii) remove any of the affected severable facilities located in Contractor-owned property and store them at the Contractor's plant or in a public insured warehouse, in accordance with sound practice and in a manner compatible with their security classification. Except as provided in this paragraph, the Government shall not be liable to the Contractor for failure to give the written notice required by paragraph (n)(4).

(6) Nonseverable items of the facilities or items of the facilities subject to patent or proprietary rights shall be disposed of in such manner as the parties may have agreed to in writing.

(7) The Government, either directly or by third persons engaged by it, may remove or otherwise dispose of any facilities for which the Contractor's authority to use has been terminated, other than those for which specific provision is made in paragraph (n)(6).

(8) The Contractor shall, within a reasonable time after the expiration of the 120-day period specified in paragraph (n)(4), remove all of its property from the Government property and take such action as the Contracting Officer may direct in writing with respect to restoring that Government property (to the extent that it is affected by the installation of the Contractor's property) to its condition before such installation.

(9) Unless otherwise specifically provided in this contract, the Government shall not be obligated to the Contractor to restore or rehabilitate any property at the Contractor's plant, except for restoration or rehabilitation costs caused by removal of the facilities under subdivision (n)(4)(ii). The Contractor agrees to indemnify the Government against all suits or claims for damages arising out of the Government's failure to restore or rehabilitate any property at the Contractor's plant or property of its subcontractors, except any damage as may be caused by the negligence of the Government, its agents, or independent contractors.

(End of clause)

52.245-8 Liability for the Facilities.

As prescribed in 45.302-6(b), insert the following clause:

LIABILITY FOR THE FACILITIES (JAN 1997)

(a) The term "Contractor's managerial personnel," as used in this clause, 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 operations at any one plant or separate location in which the facilities are installed or located; or
- (3) A separate and complete major industrial operation in connection with which the facilities are used.

(b) The Contractor shall not be liable for any loss or destruction of, or damage to, the facilities or for expenses incidental to such loss, destruction, or damage, except as provided in this clause.

(c) The Contractor shall be liable for loss or destruction of, or damage to, the facilities, and for expenses incidental to such loss, destruction, or damage—

(1) 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;

(2) 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;

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

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

(5) That results from a failure, due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel—

(i) To establish, maintain, and administer a system for control of the facilities in accordance with the "Property administration" paragraph of the Government Property clause; or

(ii) To maintain and administer a program for maintenance, repair, protection, and preservation of the facilities, in accordance with the "Property administration" paragraph of the Government Property clause, or to take reasonable steps to comply with any appropriate written direction that the Contracting Officer may prescribe as reasonably necessary for the protection of the facilities. If the Government Property clause does not include the "Property administration" paragraph, then the Contractor shall exercise sound industrial practice in complying with the requirements of this subdivision (c)(5)(ii).

(d)(1) If the Contractor fails to act as provided by paragraph (c)(5) of this clause, 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.

(2) Furthermore, 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—

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

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

(e) If the Contractor transfers facilities 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 facilities. 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 facilities 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 the facilities in as good condition as when received, except for reasonable wear and tear or for their utilization in accordance with the provisions of the prime contract.

(f) Unless expressly directed in writing by the Contracting Officer, the Contractor shall not include in the price or cost under any contract with the Government the cost of insurance (including self-insurance) against any form of loss, destruction, or damage to the facilities. Any insurance required under this clause shall be in such form, in such amounts, for such periods of time, and with such insurers (including the Contractor as self-insurer in appropriate circumstances) as the Contracting Officer shall require or approve. Such insurance shall provide for 30 days advance notice to the Contracting Officer, in the event of cancellation or material change in the policy coverage on the part of the insurer. Documentation of insurance or an authenticated copy of such insurance shall be deposited promptly with the Contracting Officer. The Contractor shall, not less than 30 days before the expiration of such insurance, deliver to the Contracting Officer documentation of insurance or an authenticated copy of each renewal policy. The insurance shall be in the name of the United States of America (Agency Name), the Contractor, and such other interested parties as the Contracting Officer shall approve, and shall contain a loss payable clause reading substantially as follows:

Any loss under this policy shall be adjusted with (Contractor) and the proceeds, at the direction of the Government, shall be paid to (Contractor). Proceeds not paid to (Contractor) shall be paid to the office designated by the Contracting Officer.

(g) When there is any loss or destruction of, or damage to, the facilities—

(1) The Contractor shall promptly notify the Contracting Officer and, with the assistance of the Contracting Officer, shall take all reasonable steps to protect the facilities from further damage, separate the damaged and undamaged facilities, put all the facilities in the best possible order, and promptly furnish to the Contracting Officer (and in any event within 30 days) a statement of—

(i) The facilities lost or damaged;

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

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

(iv) Any insurance covering any part of or interest in such commingled property;

(2) The Contractor shall make such repairs, replacements and renovations of the lost, destroyed, or damaged facilities, or take such other action as the Contracting Officer may direct in writing; and

(3) The Contractor shall perform its obligations under this paragraph (g) at Government expense, except to the extent that the Contractor is liable for such damage, destruction, or loss under the terms of this clause, and except as any damage, destruction, or loss is compensated by insurance.

(h) The Government is not obliged to replace or repair the facilities that have been lost, destroyed, or damaged. If the Government does not replace or repair the facilities, the right of the parties to an equitable adjustment in delivery or performance dates, price, or both, and in any other contractual condition of the related contracts affected shall be governed by the terms and conditions of those contracts.

(i) Except to the extent of any loss or destruction of, or damage to, the facilities for which the Contractor is relieved of liability, the facilities shall be returned to the Government or otherwise disposed of under the terms of this contract—

(1) In as good condition as when received by the Contractor;

(2) Improved; or

(3) As required under the terms of this contract, less ordinary wear and tear.

(j) If the Contractor is in any way compensated (excepting proceeds from use and occupancy insurance, the cost of which is not borne directly or indirectly by the Government) for any loss or destruction of, or damage to, the facilities, the Contractor, as directed by the Contracting Officer, shall—

(1) Use the proceeds to repair, renovate, or replace the facilities involved; or

(2) Pay such proceeds to the Government.

(k) The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any loss or destruction of, or damage to, the facilities. Upon the request of the Contracting Officer, the Contractor shall furnish to the Government, at Government expense, 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.

(End of clause)

52.245-9 Use and Charges.

As prescribed in 45.302-6(c), insert the following clause in solicitations and contracts (1) when a consolidated facilities contract or a facilities use contract or (2) when a fixed-price

contract is contemplated, and Government production and research property is provided other than on a rent-free basis. If the conditions specified in 45.403(a) apply, the contracting officer shall modify the clause, as appropriate.

USE AND CHARGES (APR 1984)

(a) The Contractor may use the facilities without charge in the performance of—

(1) Contracts with the Government that specifically authorize such use without charge;

(2) Subcontracts of any tier under Government prime contracts if the Contracting Officer having cognizance of the prime contract—

(i) Approves a subcontract specifically authorizing such use; or

(ii) Otherwise authorizes such use in writing; and

(3) Other work, if the Contracting Officer specifically authorizes in writing use without charge for such work.

(b) If granted written permission by the Contracting Officer, or if it is specifically provided for in the Schedule, the Contractor may use the facilities for a rental fee for work other than that provided in paragraph (a). Authorizing such use of the facilities does not waive any rights of the Government to terminate the Contractor's right to use the facilities. The rental fee shall be determined in accordance with the following paragraphs.

(c) The following bases are or shall be established in writing for the rental computation prescribed in paragraphs (d) and (e) of this clause in advance of any use of the facilities on a rental basis:

(1) The rental rates shall be those set forth in Table I.

(2) The acquisition cost of the facilities shall be the total cost to the Government, as determined by the Contracting Officer, and includes the cost of transportation and installation, if borne by the Government.

(i) When Government-owned special tooling or accessories are rented with any of the facilities, the acquisition cost of the facilities shall be increased by the total cost to the Government of such tooling or accessories, as determined by the Contracting Officer.

(ii) When any of the facilities are substantially improved at Government expense, the acquisition cost of the facilities shall be increased by the increase in value that the improvement represents, as determined by the Contracting Officer.

(iii) The determinations of the Contracting Officer under this paragraph (c)(2) shall be final.

(3) For the purpose of determining the amount of rental due under paragraph (d), the rental period shall be not less than 1 month nor more than 6 months, as approved by the Contracting Officer.

(4) For the purpose of computing any credit under paragraph (e), the unit in determining the amount of use of the

facilities shall be direct labor hours, sales, hours of use, or any other unit of measure that will result in an equitable apportionment of the rental charge, as approved by the Contracting Officer.

(d) The Contractor shall compute the amount of rentals to be paid for each rental period by applying the appropriate rental rates to the acquisition cost of such facilities as may have been authorized for use in advance for the rental period.

(e) The full rental charge for each period shall be reduced by a credit. The credit equals the rental amount that would otherwise be properly allocable to the work for which the facilities were used without charge under paragraph (a). The credit shall be computed by multiplying the full rental for the rental period by a fraction in which the numerator is the amount of use of the facilities by the Contractor without charge during the period, and the denominator is the total amount of use of the facilities by the Contractor during the period.

(f) Within 90 days after the close of each rental period, the Contractor shall submit to the Contracting Officer a written statement of the use made of the facilities by the Contractor and the rental due the Government. At the same time, the Contractor shall make available such records and data as are determined by the Contracting Officer to be necessary to verify the information contained in the statement.

(g) If the Contractor fails to submit the information as required in paragraph (f) of this clause, the Contractor shall be liable for the full rental for the period. However, if the Contractor's failure to submit was not the fault of the Contractor, the Contracting Officer shall grant to the Contractor in writing a reasonable extension of time to submit.

(h) Unless otherwise directed in writing by the Contracting Officer, the Contractor shall give priority in the use of the facilities to performing contracts and subcontracts of the Contracting Officer having cognizance of the facilities and shall not undertake any work involving the use of the facilities that would interfere with performing existing Government contracts or subcontracts.

(i) Concurrently with the submission of the written statement prescribed by paragraph (f) of this clause, the Contractor shall pay the rental due the Government under this clause. Payment shall be by check made payable to the office designated for contract administration and mailed or delivered to the Contracting Officer. Receipt and acceptance by the Government of the Contractor's check pursuant to this paragraph shall constitute an accord and satisfaction of the final amount due the Government hereunder, unless the Contractor is notified in writing within 180 days following receipt that the amount received is not regarded by the Government as the final amount due.

(j) If the Contractor uses any item of the facilities without authorization, the Contractor shall be liable for the full monthly rental, without credit, for such item for each month or part of a month in which such unauthorized use occurs; pro-

vided, however, that the agency head concerned may, in writing, waive the Contractor's liability for such unauthorized use if the agency head determines that without such a waiver gross inequity would result. The acceptance of any rental by the Government under this clause shall not be construed as a waiver or relinquishment of any rights it may have against the Contractor growing out of the Contractor's unauthorized use of the facilities or any other failure to perform this contract according to its terms.

TABLE I—RENTAL RATES

- (i) For real property and associated fixtures, a fair and reasonable rental shall be established, based on sound commercial practice.
- (ii) For plant equipment of the types covered in Federal Supply classes 3405, 3408, 3410, and 3411 through 3419, machine tools; and in 3441 through 3449, secondary metal forming and cutting machines, the following monthly rates shall apply:

<u>Age of Equipment</u>	<u>Monthly Rental Rate</u>
Under 2 years old	3.0 percent
Over 2 to 3 years old	2.0 percent
Over 3 to 6 years old	1.05 percent
Over 6 to 10 years old	1.00 percent
Over 10 years old	0.75 percent

The age of each item of the equipment shall be based on the year in which it was manufactured, with a birthday on January 1 of each year thereafter. For example, an item of equipment manufactured on July 15, 1978, will be considered to be "over 1 year old" on and after January 1, 1979, and "over 2 years old" on and after January 1, 1980.

- (iii) For personal property and equipment not covered in (i) or (ii) of this Table, a rental shall be established at not less than the prevailing commercial rate, if any, or, in the absence of such rate, not less than 2 percent per month for electronic test equipment and automotive equipment and not less than 1 percent per month for all other property and equipment.

(End of clause)

52.245-10 Government Property (Facilities Acquisition).

As prescribed in 45.302-6(d), insert the following clause in solicitations and contracts when a facilities acquisition contract is contemplated:

GOVERNMENT PROPERTY (FACILITIES ACQUISITION) (MAR 1996)

(a) *Definitions.*

"Facilities," as used in this clause, means all property provided under this facilities contract.

"Related contract," as used in this clause, means a Government contract or subcontract for supplies or services under which the use of the facilities is or may be authorized.

(b) *Facilities to be provided.* (1) The Contractor, at Government expense and subject to the provisions of this contract, shall acquire, construct, or install the facilities and perform the related work as described in the Schedule.

(2) The Government, subject to the provisions of this contract, shall furnish to the Contractor the facilities identified in the Schedule as Government-furnished facilities. The Contractor, at Government expense, shall perform the work with respect to those Government-furnished facilities as is described in the Schedule.

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

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

(3) Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in the Government upon—

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

(ii) Commencement of processing or use of the property in performing this contract; or

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

(4) Title to the facilities shall not be affected by their incorporation into, or attachment to, any property not owned by the Government, nor shall any item of the facilities become a fixture or lose its identity as personal property by being attached to any real property. The Contractor shall keep the facilities free and clear of all liens and encumbrances and, except as otherwise authorized by this contract or by the Contracting Officer, shall not remove or otherwise part with possession of, or permit the use by others of, any of the facilities.

(5) The Contractor may, with the written approval of the Contracting Officer, install, arrange, or rearrange, on Government-furnished premises, readily movable machinery, equipment, and other items belonging to the Contractor. Title to any such item shall remain in the Contractor even though it may be attached to real property owned by the Government, unless the Contracting Officer determines that it is so permanently attached that removal would cause substantial injury to Government property.

(6) The Contractor shall not construct or install, at its own expense, any fixed improvement or structural alterations in Government buildings or other real property without advance written approval of the Contracting Officer. Fixed improvement, or structural alterations, as used herein, means any alteration or improvement in the nature of the building or other real property, that, after completion, cannot be removed without substantial loss of value or damage to the premises. The term does not include foundations for production equipment.

(d) *Property control.* The Contractor shall maintain property control procedures and records and a system of identification of the facilities in accordance with the provisions of Federal Acquisition Regulation (FAR) Subpart 45.5 in effect

on the date of this contract. The provisions of FAR 45.5 are hereby incorporated by reference and made a part of this contract.

(e) *Access.* The Government and any persons designated by it shall, at all reasonable times, have access to the premises where any of the facilities are located.

(f) *Indemnification of the Government.* The Contractor shall indemnify the Government and hold it harmless against claims for injury to persons or damage to property of the Contractor or others arising from the Contractor's possession or use of the facilities, except as specified in the clause at FAR 52.228-7, Insurance—Liability to Third Persons. However, the provisions of the Contractor's related contracts shall govern any assumption of liability by the Government for claims arising under such related contracts.

(g) *Late delivery, diversion, and substitution.* (1) The Government shall not be liable for breach of contract for any delay in delivery or nondelivery of facilities to be furnished under this contract.

(2) The Government has the right, at its expense, to divert the facilities under this contract by directing the Contractor to—

(i) Deliver any of the facilities to locations other than those specified in the Schedule; or

(ii) Assign purchase orders or subcontracts for any of the facilities to the Government or third parties.

(3) The Government may furnish any facilities instead of having the Contractor acquire or construct them. In such event, the Contractor is entitled to reimbursement for the cost related to the acquisition or construction of the facilities, including the cost of terminating purchase orders and subcontracts.

(4) Appropriate equitable adjustment may be made in any related contract that so provides and that is affected by nondelivery, delay, diversion, or substitution under this paragraph (g).

(h) *Representations and warranties.* (1) The Government makes no warranty, express or implied, regarding the condition or fitness for use of any facilities. To the extent practical, the Contractor shall be allowed to inspect all the facilities to be furnished by the Government before their shipment.

(2) If the Contractor receives facilities in a condition not suitable for the intended use, the Contractor shall, within 30 days after receipt and installation thereof, so notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either (i) return such item or otherwise dispose of it or (ii) effect repairs or modifications. An appropriate equitable adjustment may be made in any related contract that so provides and that is affected by the return, disposition, repair, or modification of any facilities.

(i) *Supersedeure.* Upon acquisition, construction, or installation of the facilities called for by this contract, or any usable

increment of the facilities, and acceptance by the Government, the facilities shall then be subject to the provisions of the facilities contract that authorizes the use of the items.

(End of clause)

52.245-11 Government Property (Facilities Use).

As prescribed in 45.302-6(e)(1), insert the following clause:

GOVERNMENT PROPERTY (FACILITIES USE (APR 1984)

(a) *Definitions.*

“Facilities,” as used in this clause, means property provided under this facilities contract.

“Related contract,” as used in this clause, means a Government contract or subcontract for supplies or services under which the use of the facilities is or may be authorized.

(b) *Period of this contract.* If not otherwise specified in this contract and if not previously terminated under paragraph (k), the use of the facilities authorized under this contract shall terminate 5 years after its effective date. Thereafter, if continued use of the facilities by the Contractor is mutually desired, the parties shall enter into a new contract that shall incorporate such provisions as may then be required by applicable laws and regulations. The parties may, by written agreement, extend the use of the facilities under this contract beyond this 5-year period to permit the completion of any then-existing related contracts and subcontracts.

(c) *Title in the facilities.* (1) Title to the facilities shall remain in the Government. Title to parts replaced by the Contractor in carrying out its normal maintenance obligations under paragraph (g) shall pass to and vest in the Government upon completion of their installation in the facilities.

(2) Title to the facilities shall not be affected by their incorporation into or attachment to any property not owned by the Government, nor shall any item of the facilities become a fixture or lose its identity as personal property by being attached to any real property. The Contractor shall keep the facilities free and clear of all liens and encumbrances and, except as otherwise authorized by this contract or by the Contracting Officer, shall not remove or otherwise part with possession of, or permit the use by others of, any of the facilities.

(3) The Contractor may, with the written approval of the Contracting Officer, install, arrange, or rearrange, on Government-furnished premises, readily movable machinery, equipment, and other items belonging to the Contractor. Title to any such item shall remain in the Contractor even though it may be attached to real property owned by the Government, unless the Contracting Officer determines that it is so permanently attached that removal would cause substantial injury to Government property.

(4) The Contractor shall not construct or install, at its own expense, any fixed improvement or structural alterations in Government buildings or other real property without

advance written approval of the Contracting Officer. Fixed improvement or structural alterations, as used herein, means any alteration or improvement in the nature of the building or other real property that, after completion, cannot be removed without substantial loss of value or damage to the premises. The term does not include foundations for production equipment.

(d) *Location of the facilities.* The Contractor may use the facilities at any of the locations specified in the Schedule and, with the prior written approval of the Contracting Officer, at any other location. In granting this approval, the Contracting Officer may prescribe such terms and conditions as may be deemed necessary for protecting the Government's interest in the facilities involved. Those terms and conditions shall take precedence over any conflicting provisions of this contract.

(e) *Notice of use of the facilities.* The Contractor shall notify the Contracting Officer in writing—

(1) Whenever use of all facilities for Government work in any quarterly period averages less than 75 percent of the total use of the facilities; or

(2) Whenever any item of the facilities is no longer needed or usable for performing existing related contracts that authorize such use.

(f) *Property control.* The Contractor shall maintain property control procedures and records, and a system of identification of the facilities, in accordance with the provisions of Federal Acquisition Regulation (FAR) Subpart 45.5 in effect on the date of this contract. The provisions of FAR 45.5 are hereby incorporated by reference and made a part of this contract.

(g) *Maintenance.* (1) Except as otherwise provided in the Schedule, the Contractor shall protect, preserve, maintain (including normal parts replacement), and repair the facilities in accordance with sound industrial practice.

(2) As soon as practicable after the execution of this contract, the Contractor shall submit to the Contracting Officer a written proposed maintenance program, including a maintenance records system, in sufficient detail to show the adequacy of the proposed program. If the Contracting Officer agrees to the proposed program, it shall become the normal maintenance obligation of the Contractor. The Contractor's performance according to the approved program shall satisfy the Contractor's obligations under paragraphs (g)(1) and (g)(5) of this clause.

(3) The Contracting Officer may at any time direct the Contractor in writing to reduce the work required by the normal maintenance program. If such order reduces the cost of performing the maintenance, an appropriate equitable adjustment may be made in any affected related contract that so provides.

(4) The Contractor shall perform any maintenance work directed by the Contracting Officer in writing. Work in excess of the maintenance required under paragraphs (g)(1) through

(g)(3) of this clause shall be at Government expense. The Contractor shall notify the Contracting Officer in writing when sound industrial practice requires maintenance in excess of the normal maintenance program.

(5) The Contractor shall keep records of all work done on the facilities and shall give the Government reasonable opportunity to inspect such records. When facilities are disposed of under this contract, the Contractor shall deliver the related records to the Government or, if directed by the Contracting Officer, to third persons.

(6) The Contractor's obligation under this clause for each item of facilities shall continue until the item is removed, abandoned, or disposed of at the expiration of the 120-day period stated in paragraph (1)(4) of this clause and when the Contractor has discharged its other obligations under this contract with respect to such items.

(h) *Access.* The Government and any persons designated by it shall, at all reasonable times, have access to the premises where any of the facilities are located.

(i) *Indemnification of the Government.* The Contractor shall indemnify the Government and hold it harmless against claims for injury to persons or damage to property of the Contractor or others arising from the Contractor's possession or use of the facilities under this contract. However, the provisions of the Contractor's related contracts shall govern any assumption of liability by the Government for claims arising under those contracts.

(j) *Representations and warranties.* (1) The Government makes no warranty, express or implied, regarding the condition or fitness for use of any facilities. To the extent practical, the Contractor shall be allowed to inspect all the facilities to be furnished by the Government before their shipment.

(2) If the Contractor receives facilities in a condition not suitable for the intended use, the Contractor shall, within 30 days after receipt and installation thereof, so notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either (i) return such item or otherwise dispose of it or (ii) effect repairs or modifications. An appropriate equitable adjustment may be made in any related contract that so provides and that is affected by the return, disposition, repair, or modification of any facilities.

(k) *Termination of use of the facilities.* (1) The Contractor may at any time, upon written notice to the Contracting Officer, terminate its authority to use any or all of the facilities. Termination under this paragraph (k) shall not relieve the Contractor of any of its obligations or liabilities under any related contract or subcontract affected by the termination.

(2) The Contracting Officer may at any time, upon written notice, terminate or limit the Contractor's authority to use any of the facilities. Except as otherwise provided in the Failure to Perform clause of this contract, an equitable adjustment

may be made in any related contract of the Contractor that so provides and that is affected by such notice.

(l) *Disposition of the facilities.* (1) The provisions of this paragraph (1) shall apply to facilities whose use has been terminated by either the Contracting Officer or the Contractor under paragraph (k), except as provided in paragraph (1)(2).

(2) Unless otherwise directed by the Contracting Officer, this paragraph (1) shall not apply to facilities terminated by the Contractor if—

(i) The facilities terminated do not comprise all of the facilities in the possession of the Contractor; and

(ii) The Contracting Officer determines that continued retention of the facilities will not interfere with the Contractor's operations.

(3) Within 60 days after the effective date of any notice of termination given under paragraph (k) or within such longer period as the Contracting Officer may approve in writing, the Contractor shall submit to the Contracting Officer an accounting for all the facilities covered by such notice. The submission of the Contractor shall be in a form satisfactory to the Contracting Officer.

(4) Within 120 days after the Contractor accounts for any facilities under paragraph (1)(3), the Contracting Officer shall give written notice to the Contractor as to the disposition of the facilities, except as otherwise provided in paragraph (1)(6). In its disposition of the facilities, the Government may either—

(i) Abandon the facilities in place, in which case all obligations of the Government regarding such abandoned facilities and the rehabilitation of the premises in and on which they are located shall immediately cease; or

(ii) Require the Contractor to comply, at Government expense, with such directions as the Contracting Officer may give with respect to—

(A) The preparation, protection, removal, or shipment of the affected facilities;

(B) The retention or storage of the affected facilities; provided, that the Contracting Officer shall not direct the Contractor to retain or store any items of facilities in or on real property not owned by the Government if such retention or storage will interfere with the Contractor's operations;

(C) The restoration of Government-owned property incident to the removal of the facilities from such property; and

(D) The sale of any affected facilities in such manner, at such times, and at such price as may be approved by the Government, except that the Contractor shall not be required to extend credit to any purchaser.

(5) If the Contracting Officer fails to give the written notice required by paragraph (1)(4) of this clause within the prescribed 120-day period, the Contractor may, upon not less than 30 days' written notice to the Government, and at Government risk and expense, (i) retain the facilities in place or

(ii) remove any of the affected severable facilities located in Contractor-owned property and store them at the Contractor's plant or in a public insured warehouse. Such removal and storage shall be in accordance with sound practice and in a manner compatible with the security classification of the facilities. Except as provided in this paragraph (1)(5), the Government shall not be liable to the Contractor for failure to give the written notice required by paragraph (1)(4).

(6) Nonseverable items of the facilities or items of the facilities subject to patent or proprietary rights shall be disposed of in such manner as the parties may have agreed to in writing.

(7) The Government, either directly or by third persons engaged by it, may remove or otherwise dispose of any facilities for which the Contractor's authority to use has been terminated, other than those for which specific provision is made in paragraph (1)(6).

(8) The Contractor shall, within a reasonable time after the expiration of the 120-day period specified in paragraph (1)(4), remove all of its property from the Government property and take such action as the Contracting Officer may direct in writing with respect to restoring such Government property, to the extent that it is affected by the installation of the Contractor's property, to its condition before such installation.

(9) Unless otherwise specifically provided in this contract, the Government shall not be obligated to the Contractor to restore or rehabilitate any property at the Contractor's plant, except for restoration or rehabilitation costs caused by removal of the facilities under subdivision (1)(4)(ii). The Contractor agrees to indemnify the Government against all suits or claims for damages arising out of the Government's failure to restore or rehabilitate any property at the Contractor's plant or property of its subcontractors, except any damage as may be caused by the negligence of the Government, its agents, or independent contractors.

(m) *Supersedure.* (1) Facilities previously provided to the Contractor under the contracts specified in the Schedule of this contract shall become subject to this contract upon its effective date. The terms of those contracts by which such facilities were previously provided to the Contractor are hereby superseded with respect to such facilities, except for rights and obligations that may have accrued under such other contract before the effective date of this contract.

(2) Facilities subsequently provided the Contractor under any contract shall, if that contract so specifies, be subject to this contract upon the completion of their construction, acquisition, and installation or upon their availability for use, whichever occurs first, except as otherwise provided in the contract or other document by which such facilities are provided to the Contractor.

(End of clause)

Alternate I (June 2003). As prescribed in 45.302-6(e)(2), substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) *Title.* (1) Title to equipment (and other tangible personal property) having a unit acquisition cost of less than \$5,000 purchased with funds available for research shall vest in the Contractor upon acquisition or as soon thereafter as feasible, provided that the Contractor received the Contracting Officer's approval before acquiring the equipment. Title to other equipment purchased with Government funds shall vest in the Government. The Government may at any time during the term of this contract or upon its completion or termination transfer to the Contractor the title to any equipment purchased with funds available for research. Any such transfer shall be upon terms and conditions agreed to by the parties. The Contractor agrees that it shall not charge under any Government contract or sub-contract any depreciation, amortization, or use of the equipment purchased or transferred under this paragraph. When title to equipment is vested in the Contractor or is transferred under this paragraph to the Contractor, the equipment ceases to be Government property. Within 10 days after the end of the calendar quarter in which such acquisition or transfer of title occurs, the Contractor shall furnish the Contracting Officer a list of all equipment, title to which is vested in the Contractor.

(2)(i) The Government shall retain title to all Government-furnished property.

(ii) Except as set forth in paragraph (c)(1), title to all property shall pass to and vest in the Government upon delivery by the vendor of all such items purchased by the Contractor for which it is entitled to be reimbursed as a direct item of cost under this or a related contract.

(iii) Title to replacement parts furnished by the Contractor in performing its normal obligations under paragraph (g) shall pass to and vest in the Government upon completion of their installation in the facilities.

(iv) Title to other property, the cost of which is reimbursable to the contractor under this contract or a related contract, shall pass to and vest in the Government upon—

(A) Issuance of the property for use in performing this contract;

(B) Commencement of processing or use of the property in performing this contract; or

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

(3) Title to the facilities shall not be affected by their incorporation into or attachment to any property not owned by the Government, nor shall any item of the facilities become a fixture or lose its identity as personal property by being attached to any real property. The Contractor shall keep the facilities free and clear of all liens and encumbrances and, except as otherwise authorized by this contract or by the Contracting Officer, shall not remove or otherwise part with possession of, or permit the use by others of, any of the facilities.

(4) The Contractor may, with the written approval of the Contracting Officer, install, arrange, or rearrange, on Government-furnished premises, readily movable machinery, equip-

ment, and other items belonging to the Contractor. Title to any such item shall remain in the Contractor even though it may be attached to real property owned by the Government, unless the Contracting Officer determines that it is so permanently attached that removal would cause substantial injury to Government property.

(5) The Contractor shall not construct or install, at its own expense, any fixed improvement or structural alterations in Government buildings or other real property without advance written approval of the Contracting Officer. Fixed improvement, as used herein, means any alteration or improvement in the nature of the building or other real property that, after completion, cannot be removed without substantial loss of value or damage to the premises. The term does not include foundations for production equipment.

(6) Vesting title under this paragraph (c) is subject to civil rights legislation, 42 U.S.C. 2000d. Before title is vested and by signing this contract, the Contractor accepts and agrees that—

“No person in the United States or its outlying areas shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this contemplated financial assistance (title to equipment).”

52.245-12 Contract Purpose (Nonprofit Educational Institutions).

As prescribed in 45.302-7(a), the contracting officer may insert the following clause in solicitations and contracts when a facilities use contract is contemplated and award may be made to a nonprofit educational institution:

CONTRACT PURPOSE (NONPROFIT EDUCATIONAL INSTITUTIONS) (APR 1984)

This facilities use contract is designed specifically for nonprofit educational institutions to set forth provisions for the use and accountability of facilities furnished or acquired under related contracts identified elsewhere herein. There are no funds provided under this contract. Costs incurred for acquisition, maintenance, repair, replacement, disposition, or other purposes in connection with the facilities accountable hereunder will be subject to the reimbursement provisions of the related contracts; provided, however, that should no other contract be available for reimbursement of such costs, this contract may be appropriately modified to provide for such reimbursement.

(End of clause)

52.245-13 Accountable Facilities (Nonprofit Educational Institutions).

As prescribed in 45.302-7(b), the contracting officer may insert the following clause in solicitations and contracts when a facilities contract is contemplated and award may be made to a nonprofit educational institution:

ACCOUNTABLE FACILITIES (NONPROFIT EDUCATIONAL INSTITUTIONS) (APR 1984)

The facilities accountable under this contract are those facilities furnished or acquired under this contract and those facilities furnished or acquired under those related contracts that are specifically identified in this contract Schedule.

(End of clause)

52.245-14 Use of Government Facilities.

As prescribed in 45.302-7(c), the contracting officer may insert the following clause in solicitations and contracts when a facilities use contract is contemplated and award may be made to a nonprofit educational institution:

USE OF GOVERNMENT FACILITIES (APR 1984)

The Contractor may use the facilities without charge in performing—

- (a) Contracts with the Government which specifically authorize such use without charge;
- (b) Subcontracts of any tier if the Contracting Officer having cognizance of the prime contract has authorized, in writing, use without charge; and
- (c) Other work for which the Contracting Officer has specifically authorized use without charge in writing.

(End of clause)

52.245-15 Transfer of Title to the Facilities.

As prescribed in 45.302-7(d), insert the following clause:

TRANSFER OF TITLE TO THE FACILITIES (JUNE 2003)

(a) The Contracting Officer may, at any time during the term of this contract and acting under Public Law 97-258 (31 U.S.C. 6306), transfer title to equipment to the Contractor upon mutually agreeable terms and conditions. This clause takes precedence over the title paragraph of the Government property clause of this contract. However, every agreement to transfer title to equipment shall provide that the Contractor will not include in the contract price or charge the Government in any manner for depreciation, amortization, or use of such equipment.

(b) Vesting title under paragraph (a) of this clause is subject to civil rights legislation, 42 U.S.C. 2000d. Before title is vested and by signing this contract, the contractor accepts and agrees that—

“No person in the United States or its outlying areas shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this contemplated financial assistance (title to equipment).”

(End of clause)

52.245-16 Facilities Equipment Modernization.

As prescribed in 45.302-7(e), insert the following clause:

FACILITIES EQUIPMENT MODERNIZATION (APR 1985)

(a) The Contractor agrees to return to the Government the net cost savings realized from using modernized or replacement equipment provided by the Government under this contract. This applies to using such equipment on any contracts or subcontracts that are firm-fixed price, or that are fixed-price with economic price adjustment provisions, entered into within the 3 years following the date such equipment is placed into production. This provision does not apply to the use of such equipment in sealed bid contracts entered into after the equipment is placed in production or in contracts or subcontracts that specifically provide that they have been priced on the basis of anticipated use of such equipment.

(b)(1) The Contractor shall maintain adequate records for implementing this clause. The Contractor shall make such records available at its office for inspection, audit, or reproduction by any authorized representative of the Contracting Officer.

(2) When the Contractor authorizes a subcontractor to use the modernized or replacement equipment, the subcontractor shall be required to maintain records and make them and additional information available to the Contracting Officer.

(c) Records of equipment shall generally be acceptable if they are maintained under established accounting practices and permit a fair estimation of the net cost savings realized. Net cost savings realized shall be determined by a comparison of the Contractor’s cost experience in the operation of the equipment before and after modernization.

(d) Amounts due the Government under this clause shall be returned by the Contractor, as directed by the Contracting Officer, by—

- (1) Credits to, or adjustment of the prices of, the related contracts benefitting from using the modernized or replacement equipment;
- (2) Payment to the Government through the Contracting Officer having cognizance of the equipment; or
- (3) Any other means mutually agreed to.

(End of clause)

52.245-17 Special Tooling.

As prescribed in 45.306-5, insert the following clause:

SPECIAL TOOLING (MAY 2004)

(a) *Definition.*

“Special tooling” means jigs, dies, fixtures, molds, patterns, taps, gauges, other equipment and manufacturing aids, all components of these items, and replacements of these items that are of such a specialized nature that without substantial modification or alteration their use is limited to the

development or production of particular supplies or parts thereof or performing particular services. It does not include material, special test equipment, facilities (except foundations and similar improvements necessary for installing special tooling), general or special machine tools, or similar capital items. Special tooling, for the purpose of this clause, includes all special tooling acquired or fabricated by the Contractor for the Government (other than special tooling to be delivered as a line item) or furnished by the Government for use in connection with and under the terms of the contract.

(b) *Title.* The Government retains title to Government-owned special tooling and option to take title to all special tooling subject to this clause until such time as title or option to take title is relinquished by the Contracting Officer as provided for in paragraphs (j)(2) and (j)(3) of this clause.

(c) *Risk of loss.* Except to the extent that the Government shall have otherwise assumed the risk of loss to special tooling applicable to this clause, in the event of the loss, theft or destruction of or damage to any such property, the repair or replacement shall be accomplished by the Contractor at its own expense.

(d) *Special tooling furnished by the Government.*
(1) Except as otherwise provided in this contract, all Government-furnished special tooling is provided “as is.” The Government makes no warranty whatsoever with respect to special tooling 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 last available for inspection by the Contractor under the solicitation.

(2) The Contractor may repair any special tooling 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 as necessary for use under this contract at the Contractor’s expense, except as otherwise directed by the Contracting Officer. Any repair or modification of property furnished “as is” shall not affect the title of the Government.

(3) If there is any change in the condition of special tooling 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 or the Government directs a change in the quantity of special tooling furnished or to be furnished, 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 (i) return such items at the Government’s expense or otherwise dispose of the property, or (ii) effect repair 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, dis-

position, or repair in accordance with 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 special tooling in a condition or in quantities other than that when originally offered.

(e) *Use of special tooling.* The Contractor may use special tooling subject to this clause on other Government effort when specifically approved in writing by the Contracting Officer for this contract and the Contracting Officer for the contract under which the special tooling will be used. Any other use of the special tooling shall be subject to advance written approval of the Contracting Officer. In the event the Government elects to remove any special tooling that is required for continued contract performance, the contract shall be equitably adjusted in accordance with paragraph (m) of this clause.

(f) *Property control—*(1) *Records.* The Contractor’s special tooling records shall provide the following minimum information regarding each item of special tooling subject to this clause and shall be made available for Government inspection at all reasonable times:

(i) Number or code of the contract to which the tooling is accountable and the number or code of the contract for which the tooling was originally acquired or fabricated.

(ii) Retention codes as defined below:

(A) *Primary Code.* Assign one of the following to each item of special tooling:

Code A. Spares Tooling. Required to produce a provisioned spare part or assembly.

Code B. Judgment (Insurance) Tooling. Fabrication tools for parts that are not provisioned spares but which in the judgment of the Contractor will be required at some time for logistic support of the end item.

Code C. Rate Tooling. Necessary to economically produce at increased rates (e.g., for mobilization or surge) but not essential for parts fabrication at low production rates.

Code D. Assembly Tooling. Required for manufacture of the end product but not required for production of spare parts. Those items having no postproduction need except for potential modification or resumed production programs.

(B) *Secondary Code.* Assign one or more of the following codes, as applicable, to each item of special tooling:

Code 1. Repair Tooling. Items which are capable of being used for repair of provisioned parts or assemblies.

Code 2. Replaceable Tooling. Spares or judgment tooling (primary retention codes A or B) which, in the opinion of the Contractor, can be effectively and economically replaced by “soft” tooling on an “as required” basis in lieu of retention of the “hard” production tooling for supporting postproduction requirements.

Code 3. Maintenance Tooling. Items which are capable of being used for depot level maintenance of the applicable end item or components thereof.

Code 4. Crash Damage Tooling. Items which apply to provisioned or nonprovisioned parts or assemblies which are designated as or have the potential of being required for crash damage repairs.

(iii) Nomenclature, function, or comparable code.

(iv) Tool part number or code.

(v) Tool identification number, or quantity of each tool part number or code, if tool identification number is not assigned.

(vi) Part number(s) of item(s) on which used (complete hierarchy of part numbers).

(vii) Unit price. (Estimates are acceptable.)

(viii) Storage method code. Assign one of the following:

Code J. Inside storage.

Code K. Outside storage.

Code L. Other.

(ix) Estimated weight of tool, if over 25 pounds.

(x) Estimated volume of tool, if over 3 cubic feet.

(xi) Location of Contractor, subcontractor, vendor for each item. Use Federal Supply Code for Manufacturers (FSCM), or name and address if code is not available.

(xii) All operation sheets or other data as are necessary to show the manufacturing operation or processes for which such items were used, designed, or modified.

(2) *Identification or tagging.* To the extent practicable, the Contractor shall identify all special tooling subject to this clause in accordance with the Contractor's identification procedures.

(g) *Maintenance.* The Contractor shall maintain special tooling in accordance with sound industrial practice. These requirements do not apply to those items designated by the Contracting Officer for disposal as scrap or identified as of no further interest to the Government under paragraph (j), Disposition instructions, of this clause.

(h) *Identification of excess special tooling.* The Contractor shall promptly identify and report all special tooling in excess of the amounts needed to complete full performance under this contract (see subdivision (i)(2)(i) of this clause).

(i) *Lists of special tooling.* The Contractor shall periodically prepare and distribute lists of special tooling as described below:

(1) *Special tooling list.* The list shall be furnished within 60 days after delivery of the first production end item under this contract or completion of the initial provisioning process, whichever is later, and shall include all special tooling subject to this clause as of the reporting date. However, if this contract represents the final production contract, the Contractor shall

provide this list of all tools not later than 180 days prior to scheduled delivery of the last production end item. If this is a contract for storage of special tooling, the list shall be provided within 60 days of contract implementation.

(2) *Excess special tooling list—*(i) *Excess special tooling.* Except for items subject to subdivision (i)(2)(ii) of this clause, lists of special tooling excess to this contract shall be furnished within 60 days of the date that the item is determined to be excess. The Contractor shall include in this list the information prescribed in Format of lists, paragraph (i)(3) of this clause, as well as the applicable excess code as follows:

Code V. Excess to contract requirements with no follow-on requirements.

Code W. Excess to contract requirements but can be used to support actual or anticipated follow-on requirements.

Code X. Excess due to changes in design or specification of the end items.

Code Y. Excess due to nonserviceable or nonrepairable condition.

Code Z. Other.

(ii) *Termination inventory.* The Contractor shall submit these items on an SF 1428 or by computer list attached to an SF 1428 in accordance with FAR 45.602-1. Format and content of this submission will be as prescribed by paragraph (i)(3) of this clause, but will contain information as prescribed by FAR Subpart 45.6, in effect on the date of award of this contract.

(3) *Format of lists.* Lists furnished by the Contractor shall state the type of list and shall include all information from paragraph (f)(1), Records, of this clause, items (i) through (xi). All lists will be grouped by primary retention code as prescribed in subdivision (f)(1)(ii)(A) of this clause and further listed in tool part number sequence.

(4) *Distribution of lists.* The Contractor shall submit two copies of lists to each of the following recipients unless otherwise directed:

(i) The Contracting Officer.

(ii) The Administrative Contracting Officer.

(iii) The inventory control point designated by the contracting office.

(j) *Disposition instructions.* The Contracting Officer shall provide the Contractor with written disposition instructions within 180 days of receipt of the list as prescribed by paragraph (i)(1) of this clause and within 90 days of the receipt of excess special tooling lists reported in accordance with paragraph (i)(2) of this clause. The Contracting Officer may direct disposition by any of the methods listed in paragraphs (j)(1) through (j)(3) of this clause, or a combination of such methods. The Contractor shall comply with such disposition instructions.

(1) The Contracting Officer may identify specific items of special tooling to be retained or give the Contractor a list specifying the products, parts, or services including follow-on

requirements for which the Government may require special tooling and request the Contractor to identify all usable items of special tooling on hand that were designed for or used in the production or performance of such products, parts, or services. Once items of usable special tooling required by the Government are identified, the Contracting Officer may—

(i) Direct the Contractor to transfer specified items of special tooling to follow-on contracts requiring their use. Those items shall be furnished for use on the contract(s) as specified by the Contracting Officer and shall be subject to the provisions of the gaining contract(s); or

(ii) Request the Contractor to enter into an appropriate storage contract for special tooling specified to be retained by the Contractor for the Government. Tooling to be stored shall be stored pursuant to a storage contract between the Government and the Contractor; or

(iii) Direct the Contractor to transfer title to the Government (to the extent not previously transferred) and deliver to the Government those items of special tooling which are specified for removal from the Contractor's plant.

(2) The Contracting Officer may direct the Contractor to sell, or dispose of as scrap, for the account of the Government, any special tooling not specified by the Government pursuant to paragraph (j)(1) of this clause. To the extent that the Contractor incurs any costs occasioned by compliance with such direction, for which it is not otherwise compensated, the contract price shall be equitably adjusted in accordance with the Changes clause of this contract. The net proceeds of all sales shall either be credited to the cost of contract performance or shall be otherwise paid to the Government as directed by the Contracting Officer. Sale of special tooling to the prime Contractor or any of its subcontractors is subject to the prior written approval of the Contracting Officer.

(3) The Contracting Officer may furnish the Contractor with a statement disclaiming further Government interest or right in specified special tooling.

(4) *Restoration of Contractor's premises.* Unless otherwise provided in this contract, the Government has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (*e.g.*, abandonment, disposition upon completion of need, or upon contract completion). However, if special tooling is withdrawn or if other special tooling is substituted, then the equitable adjustment under paragraph (m) of this clause may properly include restoration or rehabilitation costs.

(k) *Access to special tooling.* The Contractor shall provide access to special tooling subject to this clause at all reasonable times to all individuals designated by the Contracting Officer.

(l) *Storage or shipment.* The Contractor shall promptly arrange for either the shipment or the storage of special tooling specified in accordance with the final disposition instructions in subdivisions (j)(1)(ii) or (j)(1)(iii) of this clause.

Tooling to be shipped shall be properly packaged, packed, and marked in accordance with the directions of the Contracting Officer. All operation sheets or other appropriate data necessary to show the manufacturing operations or processes for which the items were used or designed shall accompany special tooling to be shipped or stored or shall otherwise be provided to the Government as directed by the Contracting Officer. To the extent that the Contractor incurs costs for storage, shipment, packing, crating, or handling under this paragraph and not otherwise compensated for, the contract price shall be equitably adjusted in accordance with the Changes clause of this contract.

(m) *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 special tooling;

(2) Delivery of Government-furnished special tooling in a condition not suitable for its intended use;

(3) A decrease in or substitution of special tooling; or

(4) Failure to repair or replace Government-furnished special tooling for which the Government is responsible.

(n) *Subcontract provisions.* In order to perform this contract, the Contractor may place subcontracts (including purchase orders) involving the use of special tooling. If the full cost of the tooling is charged to those subcontracts, the Contractor agrees to include in the subcontract appropriate provisions to obtain Government rights and data comparable to the rights of the Government under this clause (unless the Contractor and Contracting Officer agree in writing that such rights are not of interest to the Government). The Contractor agrees to exercise such rights for the benefit of the Government as directed by the Contracting Officer.

(End of clause)

52.245-18 Special Test Equipment.

As prescribed in 45.307-3, insert the following clause:

SPECIAL TEST EQUIPMENT (FEB 1993)

(a) "Special test equipment," as used in this clause, means either single or multipurpose integrated test units engineered, designed, fabricated, or modified to accomplish special purpose testing in performing a contract. It consists of items or assemblies of equipment, including standard or general purpose items or components, that are interconnected and interdependent so as to become a new functional entity for special testing purposes. It does not include material, special tooling, facilities (except foundations and similar improvements nec-

essary for installing special test equipment), and plant equipment items used for general plant testing purposes.

(b) The Contractor may either acquire or fabricate special test equipment at Government expense when the equipment is not otherwise itemized in this contract and the prior approval of the Contracting Officer has been obtained. The Contractor shall provide the Contracting Officer with a written notice, at least 30 days in advance, of the Contractor's intention to acquire or fabricate the special test equipment. As a minimum, the notice shall also include an estimated aggregate cost of all items and components of the equipment the individual cost of which is less than \$5,000, and the following information on each item or component of equipment costing \$5,000 or more:

(1) The end use application and function of each proposed special test unit, identifying special characteristics and the reasons for the classification of the test unit as special test equipment.

(2) A complete description identifying the items to be acquired and the items to be fabricated by the Contractor.

(3) The estimated cost of the item of special test equipment or component.

(4) A statement that intra-plant screening of Contractor and Government-owned special test equipment and components has been accomplished and that none are available for use in performing this contract.

(c) The Government may furnish any special test equipment or components rather than approve their acquisition or fabrication by the Contractor. Such Government-furnished items shall be subject to the Government Property clause, except that the Government shall not be obligated to deliver such items any sooner than the Contractor could have acquired or fabricated them after expiration of the 30-day notice period in paragraph (b) of this clause. However, unless the Government notifies the Contractor of its decision to furnish the items within the 30-day notice period, the Contractor may proceed to acquire or fabricate the equipment or components subject to any other applicable provisions of this contract.

(d) The Contractor shall, in any subcontract that provides that special test equipment or components may be acquired or fabricated for the Government, insert provisions that conform substantially to the language of this clause, including this paragraph (d). The Contractor shall furnish the names of such subcontractors to the Contracting Officer.

(e) If an engineering change requires either the acquisition or fabrication of new special test equipment or substantial modification of existing special test equipment, the Contractor shall comply with paragraph (b) of this clause. In so complying, the Contractor shall identify the change order which

requires the proposed acquisition, fabrication, or modification.

(End of clause)

52.245-19 Government Property Furnished "As Is."

As prescribed in 45.308-2, insert the following clause:

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.

(End of clause)

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52.246-1 Contractor Inspection Requirements.

As prescribed in 46.301, insert the following clause:

CONTRACTOR INSPECTION REQUIREMENTS (APR 1984)

The Contractor is responsible for performing or having performed all inspections and tests necessary to substantiate that the supplies or services furnished under this contract conform to contract requirements, including any applicable technical requirements for specified manufacturers' parts. This clause takes precedence over any Government inspection and testing required in the contract's specifications, except for specialized inspections or tests specified to be performed solely by the Government.

(End of clause)

52.246-2 Inspection of Supplies—Fixed-Price.

As prescribed in 46.302, insert the following clause:

INSPECTION OF SUPPLIES—FIXED-PRICE (AUG 1996)

(a) *Definition.* "Supplies," as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering supplies under this contract and shall tender to the Government for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the Government during contract performance and for as long afterwards as the contract requires. The Government may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under the contract.

(c) The Government has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Government shall perform inspections and tests in a manner that will not unduly delay the work. The Government assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in this contract.

(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, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the Government

shall bear the expense of Government inspections or tests made at other than the Contractor's or subcontractor's premises; provided, that in case of rejection, the Government shall not be liable for any reduction in the value of inspection or test samples.

(e)(1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.

(2) The Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes reinspection or retest necessary.

(f) The Government has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. The Government may reject nonconforming supplies with or without disposition instructions.

(g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and, when required, shall disclose the corrective action taken.

(h) If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Government may either (1) by contract or otherwise, remove, replace, or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.

(i)(1) If this contract provides for the performance of Government quality assurance at source, and if requested by the Government, the Contractor shall furnish advance notification of the time—

(i) When Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract; and

(ii) When the supplies will be ready for Government inspection.

(2) The Government's request shall specify the period and method of the advance notification and the Government representative to whom it shall be furnished. Requests shall not require more than 2 workdays of advance notification if the Government representative is in residence in the Contractor's plant, nor more than 7 workdays in other instances.

(j) The Government shall accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. Government failure to inspect and

accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability on the Government, for nonconforming supplies.

(k) Inspections and tests by the Government do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.

(l) If acceptance is not conclusive for any of the reasons in paragraph (k) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in paragraph (l)(1) or (l)(2) of this clause and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right by contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby.

(End of clause)

Alternate I (July 1985). If a fixed-price incentive contract is contemplated, substitute paragraphs (g), (h), and (l) below for paragraphs (g), (h), and (l) of the basic clause.

(g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and when required shall disclose the corrective action taken. Cost of removal, replacement, or correction shall be considered a cost incurred, or to be incurred, in the total final negotiated cost fixed under the incentive price revision clause. However, replacements or corrections by the Contractor after the establishment of the total final price shall be at no increase in the total final price.

(h) If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Government may either (1) by contract or otherwise, remove, replace, or correct the supplies and equitably reduce the target price or, if established, the total final price or (2) may terminate the contract for default. Unless the Contractor corrects or replaces the nonconforming supplies within the delivery schedule, the Contracting Officer may require their delivery and equitably reduce any target price or, if it is established, the total final contract price. Failure to agree upon an equitable price reduction shall be a dispute.

* * * * *

(l) If acceptance is not conclusive for any of the reasons in paragraph (k) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (1) at no increase in any target price or, if it is established, the total final price of this contract, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in any target price, or, if it is established, the total final price of this contract, if the Contractor fails to meet such delivery schedule; or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the total final price as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation costs from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in paragraph (l)(1) or (l)(2) of this clause and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right by contract or otherwise to replace or correct such supplies and equitably reduce any target price or, if it is established, the total final price of this contract.

Alternate II (July 1985). If a fixed-ceiling-price contract with retroactive price redetermination is contemplated, substitute paragraphs (g), (h), and (l) below for paragraphs (g), (h), and (l) of the basic clause:

(g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and when required shall disclose the corrective action taken. Cost of removal, replacement, or correction shall be considered a cost incurred, or to be incurred, when redetermining the prices under the price redetermination clause. However, replacements or corrections by the Contractor after the

establishment of the redetermined prices shall be at no increase in the redetermined price.

(h) If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Government may either (1) by contract or otherwise, remove, replace, or correct the supplies and equitably reduce the initial contract prices or, if established, the redetermined contract prices or (2) terminate the contract for default. Unless the Contractor corrects or replaces the nonconforming supplies within the delivery schedule, the Contracting Officer may require their delivery and equitably reduce the initial contract price or, if it is established, the redetermined contract prices. Failure to agree upon an equitable price reduction shall be a dispute.

* * * * *

(l) If acceptance is not conclusive for any of the reasons in paragraph (k) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (1) at no increase in the initial contract prices, or, if it is established, the redetermined prices of this contract, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in the initial contract prices, or, if it is established, the redetermined prices of this contract, if the Contractor fails to meet such delivery schedule; or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the initial contract prices, or, if it is established, the redetermined prices of this contract, as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation costs from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in paragraph (l)(1) or (l)(2) of this clause and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right by contract or otherwise to replace or correct such supplies and equitably reduce the initial contract prices, or, if it is established, the redetermined prices of this contract.

52.246-3 Inspection of Supplies—Cost-Reimbursement.

As prescribed in 46.303, insert the following clause in solicitations and contracts for supplies, or services that involve the furnishing of supplies, when a cost-reimbursement contract is contemplated:

INSPECTION OF SUPPLIES—COST-REIMBURSEMENT
(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 a plant or separate location where the contract is being performed; or
- (3) A separate and complete major industrial operation connected with performing this contract.

“Supplies” includes but is not limited to raw materials, components, intermediate assemblies, end products, lots of supplies, and, when the contract does not include the Warranty of Data clause, data.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the supplies, fabricating methods, and special tooling 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 the contract supplies, to the extent practicable at all places and times, including the period of manufacture, and in any event before acceptance. The Government may also inspect the plant or plants of the Contractor or any subcontractor engaged in the 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 supplies as promptly as practicable after delivery, and supplies shall be deemed accepted 60 days after delivery, unless accepted earlier.

(f) At any time during contract performance, but no later than 6 months (or such other time as may be specified in the contract) after acceptance of the supplies to be delivered under the contract, the Government may require the Contractor to replace or correct any supplies that are nonconforming at time of delivery. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. Except as otherwise provided in paragraph (h) of this clause, the cost of replacement or correction shall be included in allowable cost, determined as provided in the Allowable Cost and Payment clause, but no additional fee shall be paid. The Contractor shall not tender for acceptance supplies required to be replaced or corrected without disclosing the former requirement for replace-

ment 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, the Government may—

(i) By contract or otherwise, perform the replacement or correction and charge to the Contractor any increased cost or make an equitable reduction in any fixed fee paid or payable under the contract;

(ii) Require delivery of undelivered supplies at an equitable reduction in any fixed fee paid or payable under the contract; or

(iii) Terminate the contract for default.

(2) Failure to agree on the amount of increased cost to be charged to the Contractor or to the reduction in the fixed fee shall be a dispute.

(h) Notwithstanding paragraphs (f) and (g) of this clause, the Government may at any time require the Contractor to correct or replace, without cost to the Government, nonconforming supplies, if the nonconformances are 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 to corrected or replacement supplies as to supplies originally delivered.

(j) The Contractor shall have no obligation or liability under this contract to replace supplies that were nonconforming at the time of delivery, except as provided in this clause or as may be otherwise provided in the contract.

(k) Except as 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.

(End of clause)

52.246-4 Inspection of Services—Fixed-Price.

As prescribed in 46.304, insert the following clause:

INSPECTION OF SERVICES—FIXED-PRICE (AUG 1996)

(a) *Definition.* "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may—

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may—

(1) By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service; or

(2) Terminate the contract for default.

(End of clause)

52.246-5 Inspection of Services—Cost-Reimbursement.

As prescribed in 46.305, insert the following clause in solicitations and contracts for services, or supplies that involve the furnishing of services, when a cost-reimbursement contract is contemplated:

INSPECTION OF SERVICES—COST-REIMBURSEMENT (APR 1984)

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

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all places and times during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If any of the services performed do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, for no additional fee. When the defects in services cannot be corrected by reperformance, the Government may—

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce any fee payable under the contract to reflect the reduced value of the services performed.

(e) If the Contractor fails to promptly perform the services again or take the action necessary to ensure future performance in conformity with contract requirements, the Government may—

(1) By contract or otherwise, perform the services and reduce any fee payable by an amount that is equitable under the circumstances; or

(2) Terminate the contract for default.

(End of clause)

52.246-6 Inspection—Time-and-Material and Labor-Hour.

As prescribed in 46.306, insert the following clause:

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 con-

tract 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) of this clause, 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.

(End of clause)

Alternate I (Apr 1984). If Government inspection and acceptance are to be performed at the contractor's plant, paragraph (e) below may be substituted for paragraph (e) of the basic clause:

(e) The Government shall inspect for acceptance all items (other than aircraft to be flown away, if any) to be furnished under this contract at the Contractor's plant or plants specified in the contract, or at any other plant or plants approved for such purpose in writing by the Contracting Officer. The Contractor shall inform the contract administration office or Contracting Officer when the work is ready for inspection. The Government reserves the right to charge to the Contractor any additional cost of Government inspection and test when items are not ready at the time for which inspection and test is requested by the Contractor.

52.246-7 Inspection of Research and Development— Fixed-Price.

As prescribed in 46.307(a), insert the following clause:

INSPECTION OF RESEARCH AND DEVELOPMENT— FIXED-PRICE (AUG 1996)

(a) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the work 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.

(b) The Government has the right to inspect and test all work called for by the 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 premises 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.

(c) If the Government performs any inspection or test on the premises of the Contractor or a subcontractor, the Contractor

shall furnish and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the Government shall bear the expense of Government inspections or tests made at other than the Contractor's or subcontractor's premises.

(d) The Government shall accept or reject the work as promptly as practicable after delivery, unless otherwise specified in the contract. Government failure to inspect and accept or reject the work shall not relieve the Contractor from responsibility, nor impose liability on the Government, for nonconforming work. Work is nonconforming when it is defective in material or workmanship or is otherwise not in conformity with contract requirements.

(e) The Government has the right to reject nonconforming work. If the Contractor fails or is unable to correct or to replace nonconforming work within the delivery schedule (or such later time as the Contracting Officer may authorize), the Contracting Officer may accept the work and make an equitable price reduction. Failure to agree on a price reduction shall be a dispute.

(f) Inspection and test by the Government does not relieve the Contractor from responsibility for defects or other failures to meet the contract requirements that may be discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise specified in the contract. If acceptance is not conclusive for any of these causes, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor—

(1) At no increase in contract price, to correct or replace the defective or nonconforming supplies (work) at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule; or

(2) Within a reasonable time after the Contractor's receipt of notice of defects or nonconformance, to repayment of such portion of the contract price as is equitable under the circumstances if the Government elects not to require correction or replacement. When supplies (work) are (is) returned to the Contractor, the Contractor shall bear transportation costs from the original point of delivery to the Contractor's plant and return to the original point of delivery when that point is not the Contractor's plant.

(End of clause)

**52.246-8 Inspection of Research and Development—
Cost-Reimbursement.**

As prescribed in 46.308, insert the following clause in solicitations and contracts for research and development when—

(a) The primary objective is the delivery of end items other than designs, drawings, or reports; and

(b) Cost-reimbursement contract is contemplated; unless use of the clause is impractical and the clause prescribed in 46.309 is considered to be more appropriate:

INSPECTION OF RESEARCH AND DEVELOPMENT—
COST-REIMBURSEMENT (MAY 2001)

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

“Contractor’s managerial personnel” means 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 performing this contract.

“Work” 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 work 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 work called for by the 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 its subcontractors engaged in the contract performance. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs any 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 provided in the contract, the Government shall accept work as promptly as practicable after delivery, and work shall be deemed accepted 90 days after delivery, unless accepted earlier.

(f) At any time during contract performance, but no later than 6 months (or such other time as may be specified in the contract) after acceptance of all of the end items (other than designs, drawings, or reports) to be delivered under the contract, the Government may require the Contractor to replace

or correct work not meeting contract requirements. Time devoted to the replacement or correction of such work shall not be included in the computation of the above time period. Except as otherwise provided in paragraph (h) of this clause, the cost of replacement or correction shall be determined as specified in the Allowable Cost and Payment clause, but no additional fee shall be paid. The Contractor shall not tender for acceptance work 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, the Government may—

(i) By contract or otherwise, perform the replacement or correction, charge to the Contractor any increased cost, or make an equitable reduction in any fixed fee paid or payable under the contract;

(ii) Require delivery of any undelivered articles and shall have the right to make an equitable reduction in any fixed fee paid or payable under the contract; or

(iii) Terminate the contract for default.

(2) Failure to agree on the amount of increased cost to be charged the Contractor or to the reduction in fixed fee shall be a dispute.

(h) Notwithstanding paragraphs (f) and (g) of this clause, 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 shall apply in the same manner to a corrected or replacement end item or components as to work originally delivered.

(j) The Contractor has no obligation or liability under the contract to correct or replace articles not meeting contract requirements at time of delivery, except as provided in this clause or as may otherwise be specified in the contract.

(k) Unless otherwise provided in the contract, the Contractor’s obligations to correct or replace Government-furnished property shall be governed by the clause pertaining to Government property.

(End of clause)

Alternate I (Apr 1984). If it is contemplated that the contract will be on a no-fee basis, substitute paragraphs (f) and (g) below for paragraphs (f) and (g) of the basic clause.

(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 all of the end items (other than designs, drawings, or reports) to be delivered under the contract, the Government may require the Contractor to correct or replace work not meeting contract requirements. Time devoted to the correction or replacement of such work shall not be included in the computation of the above time period. Except as otherwise provided in paragraph (g) of this clause, the allowability of the cost of any such replacement or correction shall be determined as specified in the Allowable Cost and Payment clause. The Contractor shall not tender for acceptance corrected work without disclosing the former requirement for correction, and, when required, shall disclose the corrective action taken.

(g) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, the Government may—

- (1) By contract or otherwise, perform the replacement or correction and charge to the Contractor any increased cost;
- (2) Require delivery of any undelivered articles; or
- (3) Terminate the contract for default. Failure to agree on the amount of increased cost to be charged to the Contractor shall be a dispute.

52.246-9 Inspection of Research and Development (Short Form).

As prescribed in 46.309, insert the following clause:

INSPECTION OF RESEARCH AND DEVELOPMENT (SHORT FORM) (APR 1984)

The Government has the right to inspect and evaluate the work performed or being performed under the contract, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If the Government performs inspection or evaluation 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.

(End of clause)

52.246-10 Inspection of Facilities.

As prescribed in 46.310, insert the following clause in solicitations and contracts when a facilities contract is contemplated:

INSPECTION OF FACILITIES (APR 1984)

(a) *Definition.* “Contractor’s managerial personnel,” as used in this clause, is defined in the Liability for the Facilities clause of this contract.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the facilities and work called for by 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 the facilities and work called for by the contract, to the extent practicable at all places and times, including the period of manufacture. The Government may also inspect the facilities and work at the plant or plants of the Contractor or its subcontractors engaged in the performance of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work to be performed by the Contractor under this contract or any related contract.

(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) The Contracting Officer may, at any time, require the Contractor to correct or replace facilities or work that is defective or does not conform to contract requirements. Except as provided in paragraph (f) of this clause, corrections and replacements shall be at Government expense if, under the terms of this contract, the facilities or work corrected or replaced were initially furnished, or required to be performed at Government expense.

(f) The Contracting Officer may, at any time, require the Contractor to correct or replace facilities or work that is defective or does not conform to contract requirements, without cost to the Government under this contract or any related contract or subcontract, if the defects or failures are due to fraud, lack of good faith, or willful misconduct on the part of the Contractor’s managerial personnel; or to 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.

(g) Corrected or replacement facilities or work shall be subject to this clause in the same manner as facilities or work originally completed under the contract.

(End of clause)

52.246-11 Higher-Level Contract Quality Requirement.

As prescribed in 46.311, insert the following clause:

HIGHER-LEVEL CONTRACT QUALITY REQUIREMENT (FEB 1999)

The Contractor shall comply with the higher-level quality standard selected below. *[If more than one standard is listed,*

the offeror shall indicate its selection by checking the appropriate block.]

	TITLE	NUMBER	DATE	TAILORING
<input type="checkbox"/>	_____	_____	_____	_____
<input type="checkbox"/>	_____	_____	_____	_____
<input type="checkbox"/>	_____	_____	_____	_____
<input type="checkbox"/>	_____	_____	_____	_____

[Contracting Officer insert the title, number (if any), date, and tailoring (if any) of the higher-level quality standards.]

(End of clause)

52.246-12 Inspection of Construction.

As prescribed in 46.312, insert the following clause:

INSPECTION OF CONSTRUCTION (AUG 1996)

(a) *Definition.* “Work” includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.

(b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

(c) Government inspections and tests are for the sole benefit of the Government and do not—

(1) Relieve the Contractor of responsibility for providing adequate quality control measures;

(2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;

(3) Constitute or imply acceptance; or

(4) Affect the continuing rights of the Government after acceptance of the completed work under paragraph (i) of this section.

(d) The presence or absence of a Government inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer’s written authorization.

(e) The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Government may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior

rejection makes reinspection or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

(f) The Contractor shall, without charge, replace or correct work found by the Government not to conform to contract requirements, unless in the public interest the Government consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

(g) If the Contractor does not promptly replace or correct rejected work, the Government may—

(1) By contract or otherwise, replace or correct the work and charge the cost to the Contractor; or

(2) Terminate for default the Contractor’s right to proceed.

(h) If, before acceptance of the entire work, the Government decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

(i) Unless otherwise specified in the contract, the Government shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government’s rights under any warranty or guarantee.

(End of clause)

52.246-13 Inspection—Dismantling, Demolition, or Removal of Improvements.

As prescribed in 46.313, insert the following clause in solicitations and contracts for dismantling, demolition, or removal of improvements:

INSPECTION—DISMANTLING, DEMOLITION, OR REMOVAL OF IMPROVEMENTS (AUG 1996)

(a) Unless otherwise designated by the specifications, all workmanship performed under the contract is subject to Government inspection at all times and places where dismantling or demolition work is being performed. The Contractor shall furnish promptly, and at no increase in contract price, all rea-

sonable facilities, labor, and materials necessary for safe and convenient inspection by the Government. The Government shall perform inspections in a manner that will not unduly delay the work.

(b) The Contractor is responsible for damage to property caused by defective workmanship. The Contractor shall promptly segregate and remove from the premises any unsatisfactory facilities, materials, and equipment used in contract performance, and promptly replace them with satisfactory items. If the Contractor fails to proceed at once in a workmanlike manner with performance of the work or with the correction of defective workmanship, the Government may—

(1) By contract or otherwise, replace the facilities, materials, and equipment or correct the workmanship and charge the cost to the Contractor; and

(2) Terminate for default the Contractor's right to proceed. The Contractor and any surety shall be liable, to the extent specified in the contract for any damage or cost of repair or replacement.

(End of clause)

52.246-14 Inspection of Transportation.

As prescribed in 46.314, insert the following clause in solicitations and contracts for freight transportation services (including local drayage) by rail, motor (including bus), domestic freight forwarder, and domestic water carriers (including inland, coastwise, and intercoastal). The contracting officer shall not use the clause for the acquisition of transportation services by domestic or international air carriers or by international ocean carriers, or to freight services provided under bills of lading or to those negotiated for reduced rates under 49 U.S.C. 1072(b)(1). (See Part 47, Transportation.)

INSPECTION OF TRANSPORTATION (APR 1984)

The Government has the right to inspect and test the Contractor's services, facilities, and equipment at all reasonable times. The Contractor shall furnish Government representatives with the free access and reasonable facilities and assistance required to accomplish their inspections and tests.

(End of clause)

52.246-15 Certificate of Conformance.

As prescribed in 46.315, insert the following clause in solicitations and contracts for supplies or services when the conditions in 46.504 apply:

CERTIFICATE OF CONFORMANCE (APR 1984)

(a) When authorized in writing by the cognizant Contract Administration Office (CAO), the Contractor shall ship with a Certificate of Conformance any supplies for which the contract would otherwise require inspection at source. In no case shall the Government's right to inspect supplies under the

inspection provisions of this contract be prejudiced. Shipments of such supplies will not be made under this contract until use of the Certificate of Conformance has been authorized in writing by the CAO, or inspection and acceptance have occurred.

(b) The Contractor's signed certificate shall be attached to or included on the top copy of the inspection or receiving report distributed to the payment office or attached to the CAO copy when contract administration (Block 10 of the DD Form 250) is performed by the Defense Contract Administration Services. In addition, a copy of the signed certificate shall also be attached to or entered on copies of the inspection or receiving report accompanying the shipment.

(c) The Government has the right to reject defective supplies or services within a reasonable time after delivery by written notification to the Contractor. The Contractor shall in such event promptly replace, correct, or repair the rejected supplies or services at the Contractor's expense.

(d) The certificate shall read as follows:

I certify that on _____ [insert date], the _____ [insert Contractor's name] furnished the supplies or services called for by Contract No. _____ via _____ [Carrier] on _____ [identify the bill of lading or shipping document] in accordance with all applicable requirements. I further certify that the supplies or services are of the quality specified and conform in all respects with the contract requirements, including specifications, drawings, preservation, packaging, packing, marking requirements, and physical item identification (part number), and are in the quantity shown on this or on the attached acceptance document.

DATE OF EXECUTION: _____

SIGNATURE: _____

TITLE: _____

52.246-16 Responsibility for Supplies.

As prescribed in 46.316, insert the following clause:

RESPONSIBILITY FOR SUPPLIES (APR 1984)

(a) Title to supplies furnished under this contract shall pass to the Government upon formal acceptance, regardless of when or where the Government takes physical possession, unless the contract specifically provides for earlier passage of title.

(b) Unless the contract specifically provides otherwise, risk of loss of or damage to supplies shall remain with the Contractor until, and shall pass to the Government upon—

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Acceptance by the Government or delivery of the supplies to the Government at the destination specified in the contract, whichever is later, if transportation is f.o.b. destination.

(c) Paragraph (b) of this clause shall not apply to supplies that so fail to conform to contract requirements as to give a

right of rejection. The risk of loss of or damage to such nonconforming supplies remains with the Contractor until cure or acceptance. After cure or acceptance, paragraph (b) of this clause shall apply.

(d) Under paragraph (b) of this clause, the Contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Government acting within the scope of their employment.

(End of clause)

52.246-17 Warranty of Supplies of a Noncomplex Nature.

As prescribed in 46.710(a)(1), insert a clause substantially as follows:

WARRANTY OF SUPPLIES OF A NONCOMPLEX NATURE (JUNE 2003)

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

“Acceptance” means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing supplies, or approves specific services as partial or complete performance of the contract.

“Supplies” means the end items furnished by the Contractor and related services required under this contract. The word does not include “data.”

(b) *Contractor’s obligations.* (1) Notwithstanding inspection and acceptance by the Government of supplies furnished under this contract, or any condition of this contract concerning the conclusiveness thereof, the Contractor warrants that for _____ [*Contracting Officer shall state specific period of time after delivery, or the specified event whose occurrence will terminate the warranty period; e.g., the number of miles or hours of use, or combinations of any applicable events or periods of time*]—

(i) All supplies furnished under this contract will be free from defects in material or workmanship and will conform with all requirements of this contract; and

(ii) The preservation, packaging, packing, and marking, and the preparation for, and method of, shipment of such supplies will conform with the requirements of this contract.

(2) When return, correction, or replacement is required, transportation charges and responsibility for the supplies while in transit shall be borne by the Contractor. However, the Contractor’s liability for the transportation charges shall not exceed an amount equal to the cost of transportation by the usual commercial method of shipment between the place of delivery specified in this contract and the Contractor’s plant, and return.

(3) Any supplies or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as supplies initially delivered. The warranty, with respect to supplies or parts thereof, shall be equal in duration to that in paragraph (b)(1)

of this clause and shall run from the date of delivery of the corrected or replaced supplies.

(4) All implied warranties of merchantability and “fitness for a particular purpose” are excluded from any obligation contained in this contract.

(c) *Remedies available to the Government.* (1) The Contracting Officer shall give written notice to the Contractor of any breach of warranties in paragraph (b)(1) of this clause within _____ [*Contracting Officer shall insert specific period of time; e.g., “45 days of the last delivery under this contract,” or “45 days after discovery of the defect”*].

(2) Within a reasonable time after the notice, the Contracting Officer may either—

(i) Require, by written notice, the prompt correction or replacement of any supplies or parts thereof (including preservation, packaging, packing, and marking) that do not conform with the requirements of this contract within the meaning of paragraph (b)(1) of this clause; or

(ii) Retain such supplies and reduce the contract price by an amount equitable under the circumstances.

(3)(i) If the contract provides for inspection of supplies by sampling procedures, conformance of supplies or components subject to warranty action shall be determined by the applicable sampling procedures in the contract. The Contracting Officer—

(A) May, for sampling purposes, group any supplies delivered under this contract;

(B) Shall require the size of the sample to be that required by sampling procedures specified in the contract for the quantity of supplies on which warranty action is proposed;

(C) May project warranty sampling results over supplies in the same shipment or other supplies contained in other shipments even though all of such supplies are not present at the point of reinspection; provided, that the supplies remaining are reasonably representative of the quantity on which warranty action is proposed; and

(D) Need not use the same lot size as on original inspection or reconstitute the original inspection lots.

(ii) Within a reasonable time after notice of any breach of the warranties specified in paragraph (b)(1) of this clause, the Contracting Officer may exercise one or more of the following options:

(A) Require an equitable adjustment in the contract price for any group of supplies.

(B) Screen the supplies grouped for warranty action under this clause at the Contractor’s expense and return all nonconforming supplies to the Contractor for correction or replacement.

(C) Require the Contractor to screen the supplies at locations designated by the Government within the contiguous United States and to correct or replace all nonconforming supplies.

(D) Return the supplies grouped for warranty action under this clause to the Contractor (irrespective of the f.o.b. point or the point of acceptance) for screening and correction or replacement.

(4)(i) The Contracting Officer may, by contract or otherwise, correct or replace the nonconforming supplies with similar supplies from another source and charge to the Contractor the cost occasioned to the Government thereby if the Contractor—

(A) Fails to make redelivery of the corrected or replaced supplies within the time established for their return; or

(B) Fails either to accept return of the nonconforming supplies or fails to make progress after their return to correct or replace them so as to endanger performance of the delivery schedule, and in either of these circumstances does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

(ii) Instead of correction or replacement by the Government, the Contracting Officer may require an equitable adjustment of the contract price. In addition, if the Contractor fails to furnish timely disposition instructions, the Contracting Officer may dispose of the nonconforming supplies for the Contractor's account in a reasonable manner. The Government is entitled to reimbursement from the Contractor, or from the proceeds of such disposal, for the reasonable expenses of the care and disposition of the nonconforming supplies, as well as for excess costs incurred or to be incurred.

(5) The rights and remedies of the Government provided in this clause are in addition to and do not limit any rights afforded to the Government by any other clause of this contract.

(End of clause)

Alternate I [Reserved]

Alternate II (Apr 1984). If it is desirable to specify that necessary transportation incident to correction or replacement will be at the Government's expense (as might be the case if, for example, the cost of a warranty would otherwise be prohibitive), substitute a paragraph substantially the same as the following paragraph (b)(2) for paragraph (b)(2) of the basic clause:

(2) If correction or replacement is required and transportation of supplies in connection with correction or replacement is necessary, transportation charges and responsibility for the supplies while in transit shall be borne by the Government.

Alternate III (Apr 1984). If the supplies cannot be obtained from another source, substitute a paragraph substantially the same as the following paragraph (c)(4) for paragraph (c)(4) of the basic clause:

(4) If the Contractor does not agree as to responsibility to correct or replace the supplies delivered, the Contractor shall nevertheless proceed in accordance with the written request issued by the Contracting Officer under paragraph (c)(2) of this clause to correct or replace the defective or nonconforming supplies. In the event it is later determined that the supplies were not defective or nonconforming within the terms and conditions of this clause, the contract price will be equitably adjusted.

Alternate IV (Apr 1984). If a fixed-price incentive contract is contemplated, add a paragraph substantially the same as the following paragraph (c)(6) to the basic clause:

(6) All costs incurred or estimated to be incurred by the Contractor in complying with this clause shall be considered when negotiating the total final price under the Incentive Price Revision clause of this contract. After establishment of the total final price, Contractor compliance with this clause shall be at no increase in the total final price. Any equitable adjustment made under paragraph (c)(2) of this clause shall be governed by the paragraph entitled "Equitable Adjustments Under Other Clauses" in the Incentive Price Revision clause of this contract.

Alternate V (Apr 1984). If it is anticipated that recovery of the warranted item will involve considerable Government expense for disassembly and/or reassembly of larger items, add a paragraph substantially the same as the following paragraph (c)(6) to the basic clause. Redesignate the additional paragraph as "(c)(7)" if Alternate IV is also being used.

(6) The Contractor shall be liable for the reasonable costs of disassembly and/or reassembly of larger items when it is necessary to remove the supplies to be inspected and/or returned for correction or replacement.

52.246-18 Warranty of Supplies of a Complex Nature.

As prescribed in 46.710(b)(1), insert a clause substantially as follows:

WARRANTY OF SUPPLIES OF A COMPLEX NATURE (MAY 2001)

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

"Acceptance" means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services rendered, as partial or complete performance of the contract.

"Supplies" means the end items furnished by the Contractor and related services required under this contract. The word does not include "data."

(b) *Contractor's obligations*. (1) The Contractor warrants that for _____ [*Contracting Officer shall state the specific warranty period after delivery, or the specified event whose occurrence will terminate the warranty period; e.g., the number of miles or hours of use, or combinations of any applicable events or periods of time*] all supplies furnished under this contract will be free from defects in material and workmanship and will conform with all requirements of this contract;

provided, however, that with respect to Government-furnished property, the Contractor's warranty shall extend only to its proper installation, unless the Contractor performs some modification or other work on the property, in which case the Contractor's warranty shall extend to the modification or other work.

(2) Any supplies or parts thereof corrected or furnished in replacement shall be subject to the conditions of this clause to the same extent as supplies initially delivered. This warranty shall be equal in duration to that set forth in paragraph (b)(1) of this clause and shall run from the date of delivery of the corrected or replaced supplies.

(3) The Contractor shall not be obligated to correct or replace supplies if the facilities, tooling, drawings, or other equipment or supplies necessary to accomplish the correction or replacement have been made unavailable to the Contractor by action of the Government. In the event that correction or replacement has been directed, the Contractor shall promptly notify the Contracting Officer, in writing, of the nonavailability.

(4) The Contractor shall also prepare and furnish to the Government data and reports applicable to any correction required (including revision and updating of all affected data called for under this contract) at no increase in the contract price.

(5) When supplies are returned to the Contractor, the Contractor shall bear the transportation costs from the place of delivery specified in the contract (irrespective of the f.o.b. point or the point of acceptance) to the Contractor's plant and return.

(6) All implied warranties of merchantability and "fitness for a particular purpose" are excluded from any obligation contained in this contract.

(c) *Remedies available to the Government.* (1) In the event of a breach of the Contractor's warranty in paragraph (b)(1) of this clause, the Government may, at no increase in contract price—

(i) Require the Contractor, at the place of delivery specified in the contract (irrespective of the f.o.b. point or the point of acceptance) or at the Contractor's plant, to repair or replace, at the Contractor's election, defective or nonconforming supplies; or

(ii) Require the Contractor to furnish at the Contractor's plant the materials or parts and installation instructions required to successfully accomplish the correction.

(2) If the Contracting Officer does not require correction or replacement of defective or nonconforming supplies or the Contractor is not obligated to correct or replace under paragraph (b)(3) of this clause, the Government shall be entitled to an equitable reduction in the contract price.

(3) The Contracting Officer shall notify the Contractor in writing of any breach of the warranty in paragraph (b) of this clause within _____. [*Contracting Officer shall insert*

specific period of time in which notice shall be given to the Contractor; e.g., "45 days after delivery of the nonconforming supplies."; "45 days of the last delivery under this contract."; or "45 days after discovery of the defect."] The Contractor shall submit to the Contracting Officer a written recommendation within _____ [*Contracting Officer shall insert period of time*] as to the corrective action required to remedy the breach. After the notice of breach, but not later than _____ [*Contracting Officer shall insert period within which the warranty remedies should be exercised*] after receipt of the Contractor's recommendation for corrective action, the Contracting Officer may, in writing, direct correction or replacement as in paragraph (c)(1) of this clause, and the Contractor shall, notwithstanding any disagreement regarding the existence of a breach of warranty, comply with this direction. If it is later determined that the Contractor did not breach the warranty in paragraph (b)(1) of this clause, the contract price will be equitably adjusted.

(4) If supplies are corrected or replaced, the period for notification of a breach of the Contractor's warranty in paragraph (c)(3) of this clause shall be _____ [*Contracting Officer shall insert period within which the Contractor must be notified of a breach as to corrected or replaced supplies*] from the furnishing or return by the Contractor to the Government of the corrected or replaced supplies or parts thereof, or, if correction or replacement is effected by the Contractor at a Government or other activity, for _____ [*Contracting Officer shall insert period within which the Contractor must be notified of a breach of warranty as to corrected or replaced supplies*] thereafter.

(5) The rights and remedies of the Government provided in this clause are in addition to and do not limit any rights afforded to the Government by any other clause of the contract.

(End of clause)

Alternate I [Reserved]

Alternate II (Apr 1984). If it is desirable to specify that necessary transportation incident to correction or replacement will be at the Government's expense (as might be the case if, for example, the cost of a warranty would otherwise be prohibitive), substitute a paragraph substantially the same as the following paragraph (b)(5) for paragraph (b)(5) of the basic clause:

(5) If correction or replacement is required and transportation of supplies in connection with correction or replacement is necessary, transportation charges and responsibility for the supplies while in transit shall be borne by the Government.

Alternate III (Apr 1984). If a fixed-price incentive contract is contemplated, add a paragraph substantially the same as the following paragraph (c)(6) to the basic clause:

(6) All costs incurred or estimated to be incurred by the Contractor in complying with this clause shall be considered

when negotiating the total final price under the Incentive Price Revision clause of this contract. After establishment of the total final price, Contractor compliance with this clause shall be at no increase in the total final price. Any equitable adjustments made under paragraph (c)(2) of this clause shall be governed by the paragraph entitled "Equitable Adjustments Under Other Clauses" in the Incentive Price Revision clause of this contract.

Alternate IV (Apr 1984). If it is anticipated that recovery of the warranted item will involve considerable Government expense for disassembly and/or reassembly of larger items, add a paragraph substantially the same as the following paragraph (c)(6) to the basic clause. Redesignate the additional paragraph as "(c)(7)" if Alternate III is also used:

(6) The Contractor shall be liable for the reasonable costs of disassembly and/or reassembly of larger items when it is necessary to remove the supplies to be inspected and/or returned for correction or replacement.

52.246-19 Warranty of Systems and Equipment under Performance Specifications or Design Criteria.

As prescribed in 46.710(c)(1), the contracting officer may insert a clause substantially as follows:

WARRANTY OF SYSTEMS AND EQUIPMENT UNDER PERFORMANCE SPECIFICATIONS OR DESIGN CRITERIA (MAY 2001)

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

"Acceptance" means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services rendered, as partial or complete performance of the contract.

"Defect" means any condition or characteristic in any supplies or services furnished by the Contractor under the contract that is not in compliance with the requirements of the contract.

"Supplies" means the end items furnished by the Contractor and related services required under this contract. Except when this contract includes the clause entitled Warranty of Data, supplies also mean "data."

(b) *Contractor's obligations.* (1) The Contractor's warranties under this clause shall apply only to those defects discovered by either the Government or the Contractor _____ [Contracting Officer shall state the warranty period; e.g., "at the time of delivery;" "within 45 days after delivery," or the specified event whose occurrence will terminate the warranty period; e.g., the number of miles or hours of use, or combination of any applicable events or periods of time.].

(2) If the Contractor becomes aware at any time before acceptance by the Government (whether before or after tender to the Government) that a defect exists in any supplies or services, the Contractor shall—

(i) Promptly correct the defect; or

(ii) Promptly notify the Contracting Officer, in writing, of the defect, using the same procedures prescribed in paragraph (b)(3) of this clause.

(3) If the Contracting Officer determines that a defect exists in any of the supplies or services accepted by the Government under this contract, the Contracting Officer shall promptly notify the Contractor of the defect, in writing, within _____ [Contracting Officer shall insert the specific period of time in which notice shall be given to the Contractor; e.g., "30 days after delivery of the nonconforming supplies;" "90 days of the last delivery under this contract;" or "90 days after discovery of the defect."]. Upon timely notification of the existence of a defect, or if the Contractor independently discovers a defect in accepted supplies or services, the Contractor shall submit to the Contracting Officer, in writing, within _____ [Contracting Officer shall insert period of time] a recommendation for corrective actions, together with supporting information in sufficient detail for the Contracting Officer to determine what corrective action, if any, shall be undertaken.

(4) The Contractor shall promptly comply with any timely written direction from the Contracting Officer to correct or partially correct a defect, at no increase in the contract price.

(5) The Contractor shall also prepare and furnish to the Contracting Officer data and reports applicable to any correction required under this clause (including revision and updating of all other affected data called for under this contract) at no increase in the contract price.

(6) In the event of timely notice of a decision not to correct or only to partially correct, the Contractor shall submit a technical and cost proposal within _____. [Contracting Officer shall insert period of time] to amend the contract to permit acceptance of the affected supplies or services in accordance with the revised requirement, and an equitable reduction in the contract price shall promptly be negotiated by the parties and be reflected in a supplemental agreement to this contract.

(7) Any supplies or parts thereof corrected or furnished in replacement and any services reperformed shall also be subject to the conditions of this clause to the same extent as supplies or services initially accepted. The warranty, with respect to these supplies, parts, or services, shall be equal in duration to that set forth in paragraph (b)(1) of this clause, and shall run from the date of delivery of the corrected or replaced supplies.

(8) The Contractor shall not be responsible under this clause for the correction of defects in Government-furnished property, except for defects in installation, unless the Contractor performs, or is obligated to perform, any modifications or other work on such property. In that event, the Contractor shall be responsible for correction of defects that result from the modifications or other work.

(9) If the Government returns supplies to the Contractor for correction or replacement under this clause, the Contractor shall be liable for transportation charges up to an amount equal to the cost of transportation by the usual commercial method of shipment from the place of delivery specified in this contract (irrespective of the f.o.b. point or the point of acceptance) to the Contractor's plant and return to the place of delivery specified in this contract. The Contractor shall also bear the responsibility for the supplies while in transit.

(10) All implied warranties of merchantability and "fitness for a particular purpose" are excluded from any obligation under this contract.

(c) *Remedies available to the Government.* (1) The rights and remedies of the Government provided in this clause—

(i) Shall not be affected in any way by any terms or conditions of this contract concerning the conclusiveness of inspection and acceptance; and

(ii) Are in addition to, and do not limit, any rights afforded to the Government by any other clause of this contract.

(2) Within _____ [*Contracting Officer shall insert period of time*] after receipt of the Contractor's recommendations for corrective action and adequate supporting information, the Contracting Officer, using sole discretion, shall give the Contractor written notice not to correct any defect, or to correct or partially correct any defect within a reasonable time at _____ [*Contracting Officer shall insert locations where corrections may be performed*].

(3) In no event shall the Government be responsible for any extension or delays in the scheduled deliveries or periods of performance under this contract as a result of the Contractor's obligations to correct defects, nor shall there be any adjustment of the delivery schedule or period of performance as a result of the correction of defects unless provided by a supplemental agreement with adequate consideration.

(4) This clause shall not be construed as obligating the Government to increase the contract price.

(5)(i) The Contracting Officer shall give the Contractor a written notice specifying any failure or refusal of the Contractor to—

(A) Present a detailed recommendation for corrective action as required by paragraph (b)(3) of this clause;

(B) Correct defects as directed under paragraph (b)(4) of this clause; or

(C) Prepare and furnish data and reports as required by paragraph (b)(5) of this clause.

(ii) The notice shall specify a period of time following receipt of the notice by the Contractor in which the Contractor must remedy the failure or refusal specified in the notice.

(6) If the Contractor does not comply with the Contracting Officer's written notice in paragraph (c)(5)(i) of this

clause, the Contracting Officer may by contract or otherwise—

(i) Obtain detailed recommendations for corrective action and either—

(A) Correct the supplies or services; or

(B) Replace the supplies or services, and if the Contractor fails to furnish timely disposition instructions, the Contracting Officer may dispose of the nonconforming supplies for the Contractor's account in a reasonable manner, in which case the Government is entitled to reimbursement from the Contractor, or from the proceeds, for the reasonable expenses of care and disposition, as well as for excess costs incurred or to be incurred;

(ii) Obtain applicable data and reports; and

(iii) Charge the Contractor for the costs incurred by the Government.

(End of clause)

Alternate I (Apr 1984). If it is desirable to specify that necessary transportation incident to correction or replacement will be at the Government's expense (as might be the case if, for example, the cost of a warranty would otherwise be prohibitive), substitute a paragraph substantially the same as the following paragraph (b)(9) for paragraph (b)(9) of the basic clause:

(9) If correction or replacement is required, and transportation of supplies in connection with correction or replacement is necessary, transportation charges and responsibility for the supplies while in transit shall be borne by the Government.

Alternate II (Apr 1984). If a fixed-price incentive contract is contemplated, add a paragraph substantially the same as the following paragraph (c)(7) to the basic clause:

(7) All costs incurred or estimated to be incurred by the Contractor in complying with this clause shall be considered when negotiating the total final price under the Incentive Price Revision clause of this contract. After establishment of the total final price, Contractor compliance with this clause shall be at no increase in the total final price. Any equitable adjustments made under paragraph (b)(6) of this clause shall be governed by the paragraph entitled "Equitable Adjustments Under Other Clauses" in the Incentive Price Revision clause of this contract.

Alternate III (Apr 1984). If it is anticipated that recovery of the warranted item will involve considerable Government expense for disassembly and/or reassembly of larger items, add a paragraph substantially the same as the following paragraph (c)(7) to the basic clause. Redesignate the additional paragraph as "(c)(8)" if Alternate II is also being used:

(7) The Contractor shall be liable for the reasonable costs of disassembly and/or reassembly of larger items when it is necessary to remove the supplies to be inspected and/or returned for correction or replacement.

52.246-20 Warranty of Services.

As prescribed in 46.710(d), insert a clause substantially as follows:

WARRANTY OF SERVICES (MAY 2001)

(a) *Definition.* “Acceptance,” as used in this clause, means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services, as partial or complete performance of the contract.

(b) Notwithstanding inspection and acceptance by the Government or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor _____ [Contracting Officer shall insert the specific period of time in which notice shall be given to the Contractor; e.g., “within 30 days from the date of acceptance by the Government,”; within 1000 hours of use by the Government;” or other specified event whose occurrence will terminate the period of notice, or combination of any applicable events or period of time]. This notice shall state either—

(1) That the Contractor shall correct or reperform any defective or nonconforming services; or

(2) That the Government does not require correction or reperformance.

(c) If the Contractor is required to correct or reperform, it shall be at no cost to the Government, and any services corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Contracting Officer may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the Government thereby, or make an equitable adjustment in the contract price.

(d) If the Government does not require correction or reperformance, the Contracting Officer shall make an equitable adjustment in the contract price.

(End of clause)

52.246-21 Warranty of Construction.

As prescribed in 46.710(e)(1), the contracting officer may insert a clause substantially as follows in solicitations and contracts when a fixed-price construction contract (see 46.705(c)) is contemplated, and the use of a warranty clause has been approved under agency procedures:

WARRANTY OF CONSTRUCTION (MAR 1994)

(a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (i) of

this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If the Government takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the Government takes possession.

(c) The Contractor shall remedy at the Contractor’s expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor’s expense any damage to Government-owned or controlled real or personal property, when that damage is the result of—

(1) The Contractor’s failure to conform to contract requirements; or

(2) Any defect of equipment, material, workmanship, or design furnished.

(d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor’s warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(e) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

(f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Government shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor’s expense.

(g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall—

(1) Obtain all warranties that would be given in normal commercial practice;

(2) Require all warranties to be executed, in writing, for the benefit of the Government, if directed by the Contracting Officer; and

(3) Enforce all warranties for the benefit of the Government, if directed by the Contracting Officer.

(h) In the event the Contractor’s warranty under paragraph (b) of this clause has expired, the Government may bring suit at its expense to enforce a subcontractor’s, manufacturer’s, or supplier’s warranty.

(i) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the Government nor for the repair of any damage that results from any defect in Government-furnished material or design.

(j) This warranty shall not limit the Government's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.

(End of clause)

Alternate I (Apr 1984). If the Government specifies in the contract the use of any equipment by "brand name and model," the contracting officer may add a paragraph substantially the same as the following paragraph (k) to the basic clause:

(k) Defects in design or manufacture of equipment specified by the Government on a "brand name and model" basis, shall not be included in this warranty. In this event, the Contractor shall require any subcontractors, manufacturers, or suppliers thereof to execute their warranties, in writing, directly to the Government.

52.246-22 [Reserved]

52.246-23 Limitation of Liability.

As prescribed in 46.805, insert the following clause:

LIMITATION OF LIABILITY (FEB 1997)

(a) Except as provided in paragraphs (b) and (c) of this clause, and except for remedies expressly provided elsewhere in this contract, the Contractor shall not be liable for loss of or damage to property of the Government (excluding the supplies delivered under this contract) that—

(1) Occurs after Government acceptance of the supplies delivered under this contract; and

(2) Results from any defects or deficiencies in the supplies.

(b) The limitation of liability under paragraph (a) of this clause shall not apply when a defect or deficiency in, or the Government's acceptance of, the supplies 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 purchase or use of the supplies required to be delivered 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 or deficiencies in, the supplies delivered under this contract.

(End of clause)

52.246-24 Limitation of Liability—High-Value Items.

As prescribed in 46.805, insert the following clause:

LIMITATION OF LIABILITY—HIGH-VALUE ITEMS (FEB 1997)

(a) Except as provided in paragraphs (b) through (e) of this clause, and notwithstanding any other provision of this contract, the Contractor shall not be liable for loss of or damage to property of the Government (including the supplies delivered under this contract) that—

(1) Occurs after Government acceptance of the supplies delivered under this contract; and

(2) Results from any defects or deficiencies in the supplies.

(b) The limitation of liability under paragraph (a) of this clause shall not apply when a defect or deficiency in, or the Government's acceptance of, the supplies 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 purchase or use of the supplies required to be delivered 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 or deficiencies in, the supplies delivered under this contract.

(d)(1) This clause does not diminish the Contractor's obligations, to the extent that they arise otherwise under this contract, relating to correction, repair, replacement, or other relief for any defect or deficiency in supplies delivered under this contract.

(2) Unless this is a cost-reimbursement contract, if loss or damage occurs and correction, repair, or replacement is not feasible or desired by the Government, the Contractor shall, as determined by the Contracting Officer—

(i) Pay the Government the amount it would have cost the Contractor to make correction, repair, or replacement before the loss or damage occurred;

(ii) Provide other equitable relief.

(e) This clause shall not limit or otherwise affect the Government's rights under clauses, if included in this contract, that cover—

- (1) Warranty of technical data;
- (2) Ground and flight risks or aircraft flight risks; or
- (3) Government property.

(End of clause)

Alternate I (Apr 1984). If the contract is for both high-value items and other end items, the contracting officer shall identify the high-value items by line item and insert the following preamble before paragraph (a):

(This clause shall apply only to those items identified in this contract as being subject to this clause.)

52.246-25 Limitation of Liability—Services.

As prescribed in 46.805, insert the following clause:

LIMITATION OF LIABILITY—SERVICES (FEB 1997)

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

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

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

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

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

(End of clause)

52.247-1 Commercial Bill of Lading Notations.

As prescribed in 47.104-4, insert the following clause:

COMMERCIAL BILL OF LADING NOTATIONS (APR 1984)

If the Contracting Officer authorizes supplies to be shipped on a commercial bill of lading and the Contractor will be reimbursed these transportation costs as direct allowable costs, the Contractor shall ensure before shipment is made that the commercial shipping documents are annotated with either of the following notations, as appropriate:

(a) If the Government is shown as the consignor or the consignee, the annotation shall be:

Transportation is for the _____ [*name the specific agency*] and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are assignable to, and shall be reimbursed by, the Government.

(b) If the Government is not shown as the consignor or the consignee, the annotation shall be:

Transportation is for the _____ [*name the specific agency*] and the actual total transportation charges paid to the carrier(s) by the consignor or consignee shall be reimbursed by the Government, pursuant to cost-reimbursement contract No. _____. This may be confirmed by contacting _____ [*Name and address of the contract administration office listed in the contract*].

(End of clause)

52.247-2 Permits, Authorities, or Franchises.

As prescribed in 47.207-1(a), insert the following clause:

PERMITS, AUTHORITIES, OR FRANCHISES (JAN 1997)

(a) The offeror does , does not , hold authorization from the Federal Highway Administration (FHWA) or other cognizant regulatory body. If authorization is held, it is as follows:

(*Name of regulatory body*)

(*Authorization No.*)

(b) The offeror shall furnish to the Government, if requested, copies of the authorization before moving the material under any contract awarded. In addition, the offeror shall, at the offeror's expense, obtain and maintain any permits, franchises, licenses, and other authorities issued by State and local governments.

(End of clause)

52.247-3 Capability to Perform a Contract for the Relocation of a Federal Office.

As prescribed in 47.207-1(b), insert the following clause in solicitations and contracts for transportation or for transportation-related services when a Federal office is relocated, to ensure that offerors are capable to perform interstate or intrastate moving contracts involving the relocation of Federal offices:

CAPABILITY TO PERFORM A CONTRACT FOR THE RELOCATION OF A FEDERAL OFFICE (APR 1984)

(a) If the move specified in this contract is to be performed by the Contractor as a carrier within the borders of more than one State, including the District of Columbia, (*i.e.*, an interstate move), the Contractor shall have obtained and hold appropriate and current operating authority from the Interstate Commerce Commission.

(b)(1) If the move specified in this contract is to be performed by the Contractor as a carrier wholly within the borders of one State or the District of Columbia (*i.e.*, an intrastate move), the Contractor shall, when required by the State, or the District of Columbia, in which the move is to take place, have obtained and hold appropriate and current operating authority from that jurisdiction in the form of a certificate, permit, or equivalent license to operate.

(2) If no authority to operate is required by the State or the District of Columbia, the Contractor as carrier shall maintain facilities, equipment, and a business address within the jurisdiction in which the move is to take place. However, if the move is to originate and/or terminate within an area of one State, or the District of Columbia, that comprises a part of a recognized Commercial Zone (see 49 CFR 1048) the boundaries of which encompass portions of more than one State or the District of Columbia, it shall be sufficient if the Contractor as carrier maintains facilities, equipment, and a business address within the Commercial Zone and holds appropriate operating authority, if required, from the jurisdiction within which the Contractor maintains the facilities, equipment, and business address.

(c) If the move specified in this contract will not be performed by the Contractor as carrier, it must be performed for the Contractor by a carrier operating under a subcontract with the Contractor. In this case, the Contractor shall not be subject to the requirements of paragraphs (a) and (b) of this clause, but shall be responsible for requiring and ensuring that the subcontractor carrier complies with those requirements in every respect.

(d) The Contractor shall be in compliance with the applicable requirements of this clause at least 14 days before the date on which performance of the contract shall commence under the terms specified; except that, if the period from the date of award of the contract to the date that performance shall commence is less than 28 days, the Contractor shall comply

with the applicable requirements of this clause midway between the time of award and the time of commencement of performance.

(End of clause)

Alternate I (Apr 1984). If a Federal office move is intrastate and the contracting officer determines that it is in the Government's interest not to apply the requirements for holding or obtaining State authority to operate within the State, and to maintain a facility within the State or Commercial zone, delete paragraph (b) of the basic clause and redesignate the remaining paragraphs "(b) and (c)." In the 6th line of the new paragraph (b), delete the words "paragraphs (a) and (b) above" and replace them with "paragraph (a) of this clause."

52.247-4 Inspection of Shipping and Receiving Facilities.

As prescribed in 47.207-1(c), insert the following provision in solicitations for transportation or for transportation-related services when it is desired for offerors to inspect the shipping, receiving, or other sites to ensure realistic bids:

INSPECTION OF SHIPPING AND RECEIVING FACILITIES (APR 1984)

(a) Offerors are urged to inspect the shipping and receiving facilities where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance.

(b) Site visits have been scheduled as follows:

(Locations)

(Dates)

(Times)

(c) For further information offerors may contact:

(Name)

(Telephone)

(End of provision)

52.247-5 Familiarization with Conditions.

As prescribed in 47.207-1(d), insert the following clause in solicitations and contracts for transportation or for transportation-related services to ensure that offerors become familiar with conditions under which and where the services will be performed:

FAMILIARIZATION WITH CONDITIONS (APR 1984)

The offeror shall become familiar with all available information regarding difficulties that may be encountered and the conditions, including safety precautions, under which the work must be accomplished under the contract. The offeror shall not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required in this contract because the offeror failed to investigate the conditions or to become acquainted with all information concerning the services to be performed.

(End of clause)

52.247-6 Financial Statement.

As prescribed in 47.207-1(e), insert the following provision in solicitations for transportation or for transportation-related services to ensure that offerors are prepared to furnish financial statements:

FINANCIAL STATEMENT (APR 1984)

The offeror shall, upon request, promptly furnish the Government with a current certified statement of the offeror's financial condition and such data as the Government may request with respect to the offeror's operations. The Government will use this information to determine the offeror's financial responsibility and ability to perform under the contract. Failure of an offeror to comply with a request for information will subject the offer to possible rejection on responsibility grounds.

(End of provision)

52.247-7 Freight Excluded.

As prescribed in 47.207-3(d)(2), insert a clause substantially as follows in solicitations and contracts for transportation or for transportation-related services when any commodities or types of shipments have been identified for exclusion:

FREIGHT EXCLUDED (APR 1984)

Excluded from the scope of this contract are shipments that can be more advantageously or economically moved via parcel post or small package carrier; shipments of unusual value, explosives and other dangerous articles, household goods, commodities in bulk, commodities injurious or contaminating to other freight; and shipments that the Government may elect to move in Government vehicles.

(End of clause)

52.247-8 Estimated Weights or Quantities Not Guaranteed.

As prescribed in 47.207-3(e)(2), insert the following clause in solicitations and contracts for transportation or for transportation-related services when weights or quantities are estimates:

ESTIMATED WEIGHTS OR QUANTITIES NOT GUARANTEED
(APR 1984)

The estimated weights or quantities are not a guarantee of actual weights or quantities, as the Government does not guarantee any particular volume of traffic described in this contract. However, to the extent services are required as described in this contract and in accordance with the terms of this contract, orders for these services will be placed with the Contractor.

(End of clause)

52.247-9 Agreed Weight—General Freight.

As prescribed in 47.207-4(a)(1), insert the following clause in solicitations and contracts for transportation or for transportation-related services when the shipping activity determines the weight of shipments of freight other than household goods or office furniture:

AGREED WEIGHT—GENERAL FREIGHT (APR 1984)

The shipping activity shall determine the weight of each shipment. The weight shall be shown on the covering shipping document and shall be accepted by the Contractor as the agreed weight.

(End of clause)

52.247-10 Net Weight—General Freight.

As prescribed in 47.207-4(a)(2), insert the following clause in solicitations and contracts for transportation or for transportation-related services when the weight of shipments of freight other than household goods or office furniture is not known at the time of shipment and the contractor is responsible for determining the net weight of the shipments:

NET WEIGHT—GENERAL FREIGHT (APR 1984)

(a) The net weight of the shipment shall be determined by deducting the tare weight of the vehicle (determined by having the empty vehicle with a full tank of fuel weighed by a certified weighmaster on a certified scale) from the gross weight of the vehicle (determined by having the loaded vehicle with a full tank of fuel weighed by a certified weighmaster on a certified scale).

(b) The Contractor shall attach the original copies of the empty and loaded weight certificates to the invoice for services.

(End of clause)

52.247-11 Net Weight—Household Goods or Office Furniture.

As prescribed in 47.207-4(b), insert the following clause in contracts for transportation or for transportation-related ser-

vices when movements of Government employees' household goods or relocations of Government offices are involved:

NET WEIGHT—HOUSEHOLD GOODS OR OFFICE
FURNITURE (APR 1984)

(a) *Net weight—full loads.* The net weight of the shipment shall be determined by deducting the tare weight of the vehicle (determined by having a certified weighmaster weigh on a certified scale the empty vehicle with all blankets, pads, chains, dollies, hand trucks, and all other necessary equipment inside the vehicle) from the gross weight of the vehicle (determined by having a certified weighmaster weigh on a certified scale the fully loaded vehicle before arrival at destination).

(b) *Net weight—part loads.* The net weight of the first part load shall be determined in the same manner as specified for a full load. The net weight of the second part load shall be determined by using as the tare weight of the vehicle the gross weight of the vehicle containing the first part load and deducting this weight from the new gross weight (determined by having the loaded vehicle weighed again, in the same manner as specified for the full load). The same procedure shall apply for each succeeding part load.

(c) *Weight certificates.* The contractor shall attach the original copy of each weight certificate to the invoice for services.

(End of clause)

52.247-12 Supervision, Labor, or Materials.

As prescribed in 47.207-5(b), insert a clause substantially as follows in solicitations and contracts for transportation or for transportation-related services when the contractor is required to furnish supervision, labor, or materials:

SUPERVISION, LABOR, OR MATERIALS (APR 1984)

The Contractor shall furnish adequate supervision, labor, materials, supplies, and equipment necessary to perform all the services contemplated under this contract in an orderly, timely, and efficient manner.

(End of clause)

52.247-13 Accessorial Services—Moving Contracts.

As prescribed in 47.207-5(c), insert a clause substantially as follows in solicitations and contracts for the transportation of household goods or office furniture:

ACCESSORIAL SERVICES—MOVING CONTRACTS
(APR 1984)

(a) *Packing and/or crating and padding.* The Contractor shall—

(1) Perform all of the packing and/or crating and padding necessary for the protection of the goods to be transported;

(2) Furnish packing containers, including, but not limited to, barrels, boxes, wardrobes, and cartons; all crating materials; and all padding materials and equipment;

(3) Furnish or cause to be furnished, when necessary, padding or other protective material for the interior of the buildings, including elevators, from and to which the property will be moved under this contract; and

(4) Ensure that all containers and materials are clean and of quality sufficient for protection of the goods.

(b) *Disassembling and reassembling of property and servicing appliances.* The disassembling of property; e.g., beds and sectional bookcases, and the preparing of appliances; e.g., washers, driers, and record players, for shipment shall be performed by the Contractor. The Contractor shall reassemble the property and service the appliances upon delivery at the new location.

(c) *Unpacking and/or uncrating and placement of property.* The Contractor shall unpack and/or uncrate all property that was packed and/or crated for movement under this contract. The Contractor shall also place the property in the new location as instructed by the owner of the property or authorized representative, and shall remove all packing and similar or related material from the premises as requested by the owner.

(End of clause)

52.247-14 Contractor Responsibility for Receipt of Shipment.

As prescribed in 47.207-5(d), insert the following clause in solicitations and contracts for transportation or for transportation-related services:

CONTRACTOR RESPONSIBILITY FOR RECEIPT OF SHIPMENT (APR 1984)

The Contractor shall diligently count and examine all goods tendered for shipment, receipt for them, and make appropriate written exception for any goods not in apparent good order.

(End of clause)

52.247-15 Contractor Responsibility for Loading and Unloading.

As prescribed in 47.207-5(e), insert the following clause in solicitations and contracts for transportation or for transportation-related services when the contractor is responsible for loading and unloading shipments:

CONTRACTOR RESPONSIBILITY FOR LOADING AND UNLOADING (APR 1984)

(a)(1) Unless otherwise specified in this contract to cover store-door or inside delivery, the Contractor shall load and unload shipments at no additional expense to the Government.

(2) The Government or its agent will place or receive freight at the tailgate of the Contractor's vehicle. Tailgate delivery, for purposes of this contract, is defined as that which enables a forklift truck or similar equipment, with operator only, to place or remove cargo from the tailgate of the Contractor's vehicle.

(b) If loading is the responsibility of the Contractor, the Contractor shall perform all shoring, blocking, and bracing. The Contractor shall provide dunnage at the Contractor's expense.

(End of clause)

52.247-16 Contractor Responsibility for Returning Undelivered Freight.

As prescribed in 47.207-5(f), insert the following clause in solicitations and contracts for transportation or for transportation-related services when the contractor is responsible for returning undelivered freight:

CONTRACTOR RESPONSIBILITY FOR RETURNING UNDELIVERED FREIGHT (APR 1984)

(a) When, through no fault of the Contractor, a shipment cannot be delivered, the Contractor shall contact the shipper for disposition instructions. If the shipment is ordered returned to the origin point, the charges assessed for the return trip shall be the same as the charges assessed for the outbound trip. The shipper shall maintain a record of the goods that, through no fault of the Contractor, could not be delivered and are returned to the shipper. If, at a future date, the returned goods are determined to be related to a claim against the Contractor, the claim will be adjusted accordingly.

(b) When, through the fault of the Contractor, a shipment cannot be delivered, the Contractor shall return the shipment to the origin point at no charge to the Government. Any charges incurred for redelivery, which are in excess of the charges that would have been incurred under this contract, shall be for the Contractor's account in accordance with the Default clause of the contract.

(End of clause)

52.247-17 Charges.

As prescribed in 47.207-6(a)(2), insert the following clause in solicitations and contracts for transportation or for transportation-related services:

CHARGES (APR 1984)

In no event shall charges under this contract be in excess of charges based on the Contractor's lowest rate available to the general public, or be in excess of charges based on rates otherwise tendered to the Government by the Contractor for the same type of service.

(End of clause)

52.247-18 Multiple Shipments.

As prescribed in 47.207-6(c)(5)(i), insert the following clause in solicitations and contracts for transportation or for transportation-related services when multiple shipments are tendered at one time to the contractor for transportation from one origin to two or more consignees at the same destination:

MULTIPLE SHIPMENTS (APR 1984)

When multiple shipments are tendered at one time to the Contractor for movement from one origin to multiple consignees at the same destination, the rate charged for each shipment shall be the rate applicable to the aggregate weight.

(End of clause)

52.247-19 Stopping in Transit for Partial Unloading.

As prescribed in 47.207-6(c)(5)(ii), insert the following clause in solicitations and contracts for transportation or for transportation-related services when multiple shipments are tendered at one time to the contractor for transportation from one origin to two or more consignees along the route between origin and last destination:

STOPPING IN TRANSIT FOR PARTIAL UNLOADING
(APR 1984)

When multiple shipments are tendered at one time to the Contractor for movement from one origin to two or more consignees along the route between the origin and the last destination, the rate charged shall be the rate applicable to the aggregate weight, plus a charge of \$ _____ for each shipment unloaded at an intermediate point en route to the last destination.

(End of clause)

52.247-20 Estimated Quantities or Weights for Evaluation of Offers.

As prescribed in 47.207-6(c)(6), insert the following provision in solicitations for transportation or for transportation-related services when quantities or weights of shipments between each origin and destination are not known, stating estimated quantity or weight for each origin/destination pair:

ESTIMATED QUANTITIES OR WEIGHTS FOR EVALUATION
OF OFFERS (APR 1984)

For the purpose of evaluating offers, and for no other purpose, the following estimated quantities or weights will be

considered as the quantities or weights to be shipped between each origin and destination listed:

Origin	Destination	Estimated Quantity or Weight
_____	_____	_____
_____	_____	_____
_____	_____	_____

(End of provision)

52.247-21 Contractor Liability for Personal Injury and/or Property Damage.

As prescribed in 47.207-7(c), insert the following clause in solicitations and contracts for transportation or for transportation-related services:

CONTRACTOR LIABILITY FOR PERSONAL INJURY AND/OR
PROPERTY DAMAGE (APR 1984)

(a) The Contractor assumes responsibility for all damage or injury to persons or property occasioned through the use, maintenance, and operation of the Contractor's vehicles or other equipment by, or the action of, the Contractor or the Contractor's employees and agents.

(b) The Contractor, at the Contractor's expense, shall maintain adequate public liability and property damage insurance during the continuance of this contract, insuring the Contractor against all claims for injury or damage.

(c) The Contractor shall maintain Workers' Compensation and other legally required insurance with respect to the Contractor's own employees and agents.

(d) The Government shall in no event be liable or responsible for damage or injury to any person or property occasioned through the use, maintenance, or operation of any vehicle or other equipment by, or the action of, the Contractor or the Contractor's employees and agents in performing under this contract, and the Government shall be indemnified and saved harmless against claims for damage or injury in such cases.

(End of clause)

52.247-22 Contractor Liability for Loss of and/or Damage to Freight other than Household Goods.

As prescribed in 47.207-7(d), insert the following clause in solicitations and contracts for the transportation of freight other than household goods:

CONTRACTOR LIABILITY FOR LOSS OF AND/OR DAMAGE
TO FREIGHT OTHER THAN HOUSEHOLD GOODS
(APR 1984)

Except when loss and/or damage arises out of causes beyond the control and without the fault or negligence of the Contractor, the Contractor shall assume full liability for any

and all goods lost and/or damaged in the movement covered by this contract.

(End of clause)

52.247-23 Contractor Liability for Loss of and/or Damage to Household Goods.

As prescribed in 47.207-7(e), insert the following clause:

CONTRACTOR LIABILITY FOR LOSS OF AND/OR DAMAGE TO HOUSEHOLD GOODS (JAN 1991)

(a) Except when loss and/or damage arise out of causes beyond the control and without the fault or negligence of the Contractor, the Contractor shall be liable to the owner for the loss of and/or damage to any article while being—

(1) Packed, picked up, loaded, transported, delivered, unloaded, or unpacked;

(2) Stored in transit; or

(3) Serviced (appliances, etc.) by a third person hired by the Contractor to perform the servicing.

(b) The Contractor shall be liable for loss and/or damage discovered by the owner if written notice of such loss and/or damage is dispatched to the Contractor not later than 75 days following the date of delivery.

(c) The Contractor shall indemnify the owner of the goods at a rate of ___ cents per pound per article.

(End of clause)

52.247-24 Advance Notification by the Government.

As prescribed in 47.207-8(a)(1), insert the following clause in solicitations and contracts for transportation or for transportation-related services when the Government is responsible for notifying the contractor of specific service times or unusual shipments:

ADVANCE NOTIFICATION BY THE GOVERNMENT (APR 1984)

The Government will notify the Contractor ___ hours in advance of the number of pieces and weight of all normal shipments and the time the shipment will be available for pickup. On other-than-normal shipments, the Government will furnish additional information; e.g., dimension of oversized pieces, as necessary to determine the amount of equipment and/or manpower needed to perform the required services.

(End of clause)

52.247-25 Government-Furnished Equipment With or Without Operators.

As prescribed in 47.207-8(a)(2)(i), insert the following clause in solicitations and contracts for transportation or for transportation-related services when the Government furnishes equipment with or without operators:

GOVERNMENT-FURNISHED EQUIPMENT WITH OR WITHOUT OPERATORS (APR 1984)

The Government will provide ___ [*insert equipment; e.g., forklifts*] with or without operators at ___ [*strike out "with" or "without," as applicable, and insert origin, destination, or both*] to assist in ___ [*insert loading, unloading, or both*], when required.

(End of clause)

52.247-26 Government Direction and Marking.

As prescribed in 47.207-8(a)(3), insert the following clause in solicitations and contracts for transportation or for transportation-related services when office relocations are involved:

GOVERNMENT DIRECTION AND MARKING (APR 1984)

The agency being relocated shall tag or mark property, showing floor, room number, and location where property is to be placed in the new building. The agency shall provide sufficient personnel to direct the Contractor's personnel in the placement of the property at destination.

(End of clause)

52.247-27 Contract Not Affected by Oral Agreement.

As prescribed in 47.207-8(b), insert the following clause in solicitations and contracts for transportation or for transportation-related services:

CONTRACT NOT AFFECTED BY ORAL AGREEMENT (APR 1984)

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the Contracting Officer or an authorized representative.

(End of clause)

52.247-28 Contractor's Invoices.

As prescribed in 47.207-9(c), insert the following clause in solicitations and contracts for drayage or other term contracts for transportation or for transportation-related services:

CONTRACTOR'S INVOICES (APR 1984)

The Contractor shall submit itemized invoices as instructed by the agency ordering services under this contract. The Contractor shall annotate each invoice with the contract number and other ordering office document identification.

(End of clause)

52.247-29 F.o.b. Origin.

As prescribed in 47.303-1(c), insert the following clause:

F.O.B. ORIGIN (JUNE 1988)

(a) The term “f.o.b. origin,” as used in this clause, means free of expense to the Government delivered—

(1) On board the indicated type of conveyance of the carrier (or of the Government, if specified) at a designated point in the city, county, and State from which the shipment will be made and from which line-haul transportation service (as distinguished from switching, local drayage, or other terminal service) will begin;

(2) To, and placed on, the carrier’s wharf (at shipside, within reach of the ship’s loading tackle, when the shipping point is within a port area having water transportation service) or the carrier’s freight station;

(3) To a U.S. Postal Service facility; or

(4) If stated in the solicitation, to any Government designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (commercial zones are prescribed by the Interstate Commerce Commission at 49 CFR 1048).

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;

(2)(i) Order specified carrier equipment when requested by the Government; or

(ii) If not specified, order appropriate carrier equipment not in excess of capacity to accommodate shipment;

(3) Deliver the shipment in good order and condition to the carrier, and load, stow, trim, block, and/or brace carload or truckload shipment (when loaded by the Contractor) on or in the carrier’s conveyance as required by carrier rules and regulations;

(4) Be responsible for any loss of and/or damage to the goods—

(i) Occurring before delivery to the carrier;

(ii) Resulting from improper packing and marking;

or

(iii) Resulting from improper loading, stowing, trimming, blocking, and/or bracing of the shipment, if loaded by the Contractor on or in the carrier’s conveyance;

(5) Complete the Government bill of lading supplied by the ordering agency or, when a Government bill of lading is not supplied, prepare a commercial bill of lading or other transportation receipt. The bill of lading shall show—

(i) A description of the shipment in terms of the governing freight classification or tariff (or Government rate tender) under which lowest freight rates are applicable;

(ii) The seals affixed to the conveyance with their serial numbers or other identification;

(iii) Lengths and capacities of cars or trucks ordered and furnished;

(iv) Other pertinent information required to effect prompt delivery to the consignee, including name, delivery address, postal address and ZIP code of consignee, routing, etc.;

(v) Special instructions or annotations requested by the ordering agency for commercial bills of lading; e.g.,

(A) “To be converted to a Government bill of lading,” or

(B) “This shipment is the property of, and the freight charges paid to the carrier(s) will be reimbursed by, the Government”;

(vi) The signature of the carrier’s agent and the date the shipment is received by the carrier; and

(6) Distribute the copies of the bill of lading, or other transportation receipts, as directed by the ordering agency.

(c) These Contractor responsibilities are specified for performance at the plant or plants at which the supplies are to be finally inspected and accepted, unless the facilities for shipment by carrier’s equipment are not available at the Contractor’s plant, in which case the responsibilities shall be performed f.o.b. the point or points in the same or nearest city where the specified carrier’s facilities are available; subject, however, to the following qualifications:

(1) If the Contractor’s shipping plant is located in the State of Alaska or Hawaii, the Contractor shall deliver the supplies listed for shipment outside Alaska or Hawaii to the port of loading in Alaska or Hawaii, respectively, as specified in the contract, at Contractor’s expense, and to that extent the contract shall be “f.o.b. destination.”

(2) Notwithstanding paragraph (c)(1) of this clause, if the Contractor’s shipping plant is located in the State of Hawaii, and the contract requires delivery to be made by container service, the Contractor shall deliver the supplies, at the Contractor’s expense, to the container yard in the same or nearest city where seavan container service is available.

(End of clause)

52.247-30 F.o.b. Origin, Contractor’s Facility.

As prescribed in 47.303-2(c), insert the following clause in solicitations and contracts when the delivery term is f.o.b. origin, contractor’s facility:

F.O.B. ORIGIN, CONTRACTOR’S FACILITY (APR 1984)

(a) The term “f.o.b. origin, contractor’s facility,” as used in this clause, means free of expense to the Government delivered on board the indicated type of conveyance of the carrier (or of the Government, if specified) at the designated facility, on the named street or highway, in the city, county, and State from which the shipment will be made.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;

(2)(i) Order specified carrier equipment when requested by the Government; or

(ii) If not specified, order appropriate carrier equipment not in excess of capacity to accommodate shipment;

(3) Deliver the shipment in good order and condition to the carrier, and load, stow, trim, block, and/or brace carload or truckload shipment (when loaded by the Contractor) on or in the carrier's conveyance as required by carrier rules and regulations;

(4) Be responsible for any loss of and/or damage to the goods—

(i) Occurring before delivery to the carrier;

(ii) Resulting from improper packing and marking;

or

(iii) Resulting from improper loading, stowing, trimming, blocking, and/or bracing of the shipment, if loaded by the Contractor on or in the carrier's conveyance;

(5) Complete the Government bill of lading supplied by the ordering agency or, when a Government bill of lading is not supplied, prepare a commercial bill of lading or other transportation receipt. The bill of lading shall show—

(i) A description of the shipment in terms of the governing freight classification or tariff (or Government rate tender) under which lowest freight rates are applicable;

(ii) The seals affixed to the conveyance with their serial numbers or other identification;

(iii) Lengths and capacities of cars or trucks ordered and furnished;

(iv) Other pertinent information required to effect prompt delivery to the consignee, including name, delivery address, postal address and ZIP code of consignee, routing, etc.;

(v) Special instructions or annotations requested by the ordering agency for commercial bills of lading; *e.g.*,—

(A) "To be converted to a Government bill of lading," or

(B) "This shipment is the property of, and the freight charges paid to the carrier(s) will be reimbursed by, the Government"; and

(vi) The signature of the carrier's agent and the date the shipment is received by the carrier; and

(6) Distribute the copies of the bill of lading, or other transportation receipts, as directed by the ordering agency.

(End of clause)

52.247-31 F.o.b. Origin, Freight Allowed.

As prescribed in 47.303-3(c), insert the following clause:

F.O.B. ORIGIN, FREIGHT ALLOWED (JUNE 1988)

(a) The term "f.o.b. origin, freight allowed," as used in this clause, means—

(1) Free of expense to the Government delivered—

(i) On board the indicated type of conveyance of the carrier (or of the Government, if specified) at a designated point in the city, county, and State from which the shipments will be made and from which line-haul transportation service (as distinguished from switching, local drayage, or other terminal service) will begin;

(ii) To, and placed on, the carrier's wharf (at shipside within reach of the ship's loading tackle when the shipping point is within a port area having water transportation service) or the carrier's freight station;

(iii) To a U.S. Postal Service facility; or

(iv) If stated in the solicitation, to any Government-designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (commercial zones are prescribed by the Interstate Commerce Commission at 49 CFR 1048); and

(2) An allowance for freight, based on applicable published tariff rates (or Government rate tenders) between the points specified in the contract, is deducted from the contract price.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;

(2)(i) Order specified carrier equipment when requested by the Government; or

(ii) If not specified, order appropriate carrier equipment not in excess of capacity to accommodate shipment;

(3) Deliver the shipment in good order and condition to the carrier, and load, stow, trim, block, and/or brace carload or truckload shipment (when loaded by the Contractor) on or in the carrier's conveyance as required by carrier rules and regulations;

(4) Be responsible for any loss of and/or damage to the goods—

(i) Occurring before delivery to the carrier;

(ii) Resulting from improper packing and marking;

or

(iii) Resulting from improper loading, stowing, trimming, blocking, and/or bracing of the shipment, if loaded by the Contractor on or in the carrier's conveyance;

(5) Complete the Government bill of lading supplied by the ordering agency, or when a Government bill of lading is

not supplied, prepare a commercial bill of lading or other transportation receipt. The bill of lading shall show—

(i) A description of the shipment in terms of the governing freight classification or tariff (or Government rate tender) under which lowest freight rates are applicable;

(ii) The seals affixed to the conveyance with their serial numbers or other identification;

(iii) Lengths and capacities of cars or trucks ordered and furnished;

(iv) Other pertinent information required to effect prompt delivery to the consignee, including name, delivery address, postal address and ZIP code of consignee, routing, etc.;

(v) Special instructions or annotations requested by the ordering agency for commercial bills of lading; *e.g.*,

(A) “To be converted to a Government bill of lading,” or

(B) “This shipment is the property of, and the freight charges paid to the carrier(s) will be reimbursed by, the Government”; and

(vi) The signature of the carrier’s agent and the date the shipment is received by the carrier; and

(6) Distribute the copies of the bill of lading, or other transportation receipts, as directed by the ordering agency.

(c) These Contractor responsibilities are specified for performance at the plant or plants at which the supplies are to be finally inspected and accepted, unless the facilities for shipment by carrier’s equipment are not available at the Contractor’s plant, in which case the responsibilities shall be performed f.o.b. the point or points in the same or nearest city where the specified carrier’s facilities are available; subject, however, to the following qualifications:

(1) If the Contractor’s shipping plant is located in the State of Alaska or Hawaii, the Contractor shall deliver the supplies listed for shipment outside Alaska or Hawaii to the port of loading in Alaska or Hawaii, respectively, as specified in the contract, at Contractor’s expense, and to that extent the contract shall be “f.o.b. destination.”

(2) Notwithstanding paragraph (c)(1) of this clause, if the Contractor’s shipping plant is located in the State of Hawaii, and the contract requires delivery to be made by container service, the Contractor shall deliver the supplies, at the Contractor’s expense, to the container yard in the same or nearest city where seavan container service is available.

(End of clause)

52.247-32 F.o.b. Origin, Freight Prepaid.

As prescribed in 47.303-4(c), insert the following clause:

F.O.B. ORIGIN, FREIGHT PREPAID (JUNE 1988)

(a) The term “f.o.b. origin, freight prepaid,” as used in this clause, means—

(1) Free of expense to the Government delivered—

(i) On board the indicated type of conveyance of the carrier (or of the Government, if specified) at a designated point in the city, county, and State from which the shipments will be made and from which line-haul transportation service (as distinguished from switching, local drayage, or other terminal service) will begin;

(ii) To, and placed on, the carrier’s wharf (at ship-side, within reach of the ship’s loading tackle, when the shipping point is within a port area having water transportation service) or the carrier’s freight station;

(iii) To a U.S. Postal Service facility; or

(iv) If stated in the solicitation, to any Government-designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (commercial zones are prescribed by the Interstate Commerce Commission at 49 CFR 1048); and

(2) The cost of transportation, ultimately the Government’s obligation, is prepaid by the contractor to the point specified in the contract.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;

(2)(i) Order specified carrier equipment when requested by the Government; or

(ii) If not specified, order appropriate carrier equipment not in excess of capacity to accommodate shipment;

(3) Deliver the shipment in good order and condition to the carrier, and load, stow, trim, block, and/or brace carload or truckload shipment (when loaded by the Contractor) on or in the carrier’s conveyance as required by carrier rules and regulations;

(4) Be responsible for any loss of and/or damage to the goods—

(i) Occurring before delivery to the carrier;

(ii) Resulting from improper packing or marking; or

(iii) Resulting from improper loading, stowing, trimming, blocking, and/or bracing of the shipment, if loaded by the Contractor on or in the carrier’s conveyance;

(5) Prepare a commercial bill of lading or other transportation receipt. The bill of lading shall show—

(i) A description of the shipment in terms of the governing freight classification or tariff (or Government rate tender) under which lowest freight rates are applicable;

(ii) The seals affixed to the conveyance with their serial numbers or other identification;

(iii) Lengths and capacities of cars or trucks ordered and furnished;

(iv) Other pertinent information required to effect prompt delivery to the consignee, including name, delivery

address, postal address and ZIP code of consignee, routing, etc.;

(v) Special instructions or annotations requested by the ordering agency for commercial bills of lading; *e.g.*,—

(A) “to be converted to a Government bill of lading,” or

(B) “this shipment is the property of, and the freight charges paid to the carrier(s) will be reimbursed by, the Government”; and

(vi) The signature of the carrier’s agent and the date the shipment is received by the carrier;

(6) Distribute the copies of the bill of lading, or other transportation receipts, as directed by the ordering agency; and

(7) Prepay all freight charges to the extent specified in the contract.

(c) These Contractor responsibilities are specified for performance at the plant or plants at which these supplies are to be finally inspected and accepted, unless the facilities for shipment by carrier’s equipment are not available at the Contractor’s plant, in which case the responsibilities shall be performed f.o.b. the point or points in the same or nearest city where the specified carrier’s facilities are available; subject, however, to the following qualifications:

(1) If the Contractor’s shipping plant is located in the State of Alaska or Hawaii, the Contractor shall deliver the supplies listed for shipment outside Alaska or Hawaii to the port of loading in Alaska or Hawaii, respectively, as specified in the contract, at Contractor’s expense, and to that extent the contract shall be “f.o.b. destination.”

(2) Notwithstanding paragraph (c)(1) of this clause, if the Contractor’s shipping plant is located in the State of Hawaii, and the contract requires delivery to be made by container service, the Contractor shall deliver the supplies, at the Contractor’s expense, to the container yard in the same or nearest city where seavan container service is available.

(End of clause)

52.247-33 F.o.b. Origin, with Differentials.

As prescribed in 47.303-5(c), insert the following clause:

F.O.B. ORIGIN, WITH DIFFERENTIALS (JUNE 1988)

(a) The term “f.o.b. origin, with differentials,” as used in this clause, means—

(1) Free of expense to the Government delivered—

(i) On board the indicated type of conveyance of the carrier (or of the Government, if specified) at a designated point in the city, county, and State from which the shipments will be made and from which line-haul transportation service (as distinguished from switching, local drayage, or other terminal service) will begin;

(ii) To, and placed on, the carrier’s wharf (at ship-side, within reach of the ship’s loading tackle, when the ship-

ping point is within a port area having water transportation service) or the carrier’s freight station;

(iii) To a U.S. Postal Service facility; or

(iv) If stated in the solicitation, to any Government-designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (commercial zones are prescribed by the Interstate Commerce Commission at 49 CFR 1048); and

(2) Differentials for mode of transportation, type of vehicle, or place of delivery as indicated in Contractor’s offer may be added to the contract price.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specification; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;

(2)(i) Order specified carrier equipment when requested by the Government; or

(ii) If not specified, order appropriate carrier equipment not in excess of capacity to accommodate shipment;

(3) Deliver the shipment in good order and condition to the carrier, and load, stow, trim, block, and/or brace carload or truckload shipment (when loaded by the Contractor) on or in the carrier’s conveyance as required by carrier rules and regulations;

(4) Be responsible for any loss of and/or damage to the goods—

(i) Occurring before delivery to the carrier;

(ii) Resulting from improper packing and marking;

or

(iii) Resulting from improper loading, stowing, trimming, blocking, and/or bracing of the shipment, if loaded by the Contractor on or in the carrier’s conveyance;

(5) Complete the Government bill of lading supplied by the ordering agency or, when a Government bill of lading is not supplied, prepare a commercial bill of lading or other transportation receipt. The bill of lading shall show—

(i) A description of the shipment in terms of the governing freight classification or tariff (or Government rate tender) under which lowest freight rates are applicable;

(ii) The seals affixed to the conveyance with their serial numbers or other identification;

(iii) Lengths and capacities of cars or trucks ordered and furnished;

(iv) Other pertinent information required to effect prompt delivery to the consignee, including name, delivery address, postal address and ZIP code of consignee, routing, etc.;

(v) Special instructions or annotations requested by the ordering agency for commercial bills of lading; *e.g.*, —

(A) “To be converted to a Government bill of lading,” or

(B) “This shipment is the property of, and the freight charges paid to the carrier(s) will be reimbursed by, the Government”; and

(vi) The signature of the carrier’s agent and the date the shipment is received by the carrier; and

(6) Distribute the copies of the bill of lading, or other transportation receipts, as directed by the ordering agency.

(c)(1) It may be advantageous to the offeror to submit f.o.b. origin prices that include only the lowest cost to the Contractor for loading of shipment at the Contractor’s plant or most favorable shipping point. The cost beyond that plant or point of bringing the supplies to the place of delivery and the cost of loading, blocking, and bracing on the type vehicle specified by the Government at the time of shipment may exceed the offeror’s lowest cost when the offeror ships for the offeror’s account. Accordingly, the offeror may indicate differentials that may be added to the offered price. These differentials shall be expressed as a rate in cents for each 100 pounds (CWT) of the supplies for one or more of the options under this clause that the Government may specify at the time of shipment.

(2) These differential(s) will be considered in the evaluation of offers to determine the lowest overall cost to the Government. If, at the time of shipment, the Government specifies (normally on a Government bill of lading) a mode of transportation, type of vehicle, or place of delivery for which the offeror has set forth a differential, the Contractor shall include the total of such differential costs (the applicable differential multiplied by the actual weight on the Government bill of lading) as a separate reimbursable item on the Contractor’s invoice for the supplies.

(3) The Government shall have the option of performing or arranging at its own expense any transportation from Contractor’s shipping plant or point to carrier’s facility at the time of shipment and, whenever this option is exercised, the Government shall make no reimbursement based on a quoted differential.

(4) Offeror’s differentials in cents for each 100 pounds for optional mode of transportation, types of vehicle, transportation within a mode, or place of delivery, specified by the Government at the time of shipment and not included in the f.o.b. origin price indicated in the Schedule by the offeror, are as follows:

_____ (carload, truckload, less-load,
_____ wharf, flatcar, driveway, etc.)

(End of clause)

52.247-34 F.o.b. Destination.

As prescribed in 47.303-6(c), insert the following clause:

F.O.B. DESTINATION (NOV 1991)

(a) The term “f.o.b. destination,” as used in this clause, means—

(1) Free of expense to the Government, on board the carrier’s conveyance, at a specified delivery point where the consignee’s facility (plant, warehouse, store, lot, or other location to which shipment can be made) is located; and

(2) Supplies shall be delivered to the destination consignee’s wharf (if destination is a port city and supplies are for export), warehouse unloading platform, or receiving dock, at the expense of the Contractor. The Government shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved before the actual delivery (or “constructive placement” as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of the Government acting in its contractual capacity. If rail carrier is used, supplies shall be delivered to the specified unloading platform of the consignee. If motor carrier (including “piggyback”) is used, supplies shall be delivered to truck tailgate at the unloading platform of the consignee, except when the supplies delivered meet the requirements of Item 568 of the National Motor Freight Classification for “heavy or bulky freight.” When supplies meeting the requirements of the referenced Item 568 are delivered, unloading (including movement to the tailgate) shall be performed by the consignee, with assistance from the truck driver, if requested. If the contractor uses rail carrier or freight forwarded for less than carload shipments, the contractor shall ensure that the carrier will furnish tailgate delivery, when required, if transfer to truck is required to complete delivery to consignee.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements;

(2) Prepare and distribute commercial bills of lading;

(3) Deliver the shipment in good order and condition to the point of delivery specified in the contract;

(4) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;

(5) Furnish a delivery schedule and designate the mode of delivering carrier; and

(6) Pay and bear all charges to the specified point of delivery.

(End of clause)

52.247-35 F.o.b. Destination, Within Consignee’s Premises.

As prescribed in 47.303-7(c), insert the following clause in solicitations and contracts when the delivery term is f.o.b. destination, within consignee’s premises:

F.O.B. DESTINATION, WITHIN CONSIGNEE'S PREMISES
(APR 1984)

(a) The term "f.o.b. destination, within consignee's premises," as used in this clause, means free of expense to the Government delivered and laid down within the doors of the consignee's premises, including delivery to specific rooms within a building if so specified.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements;

(2) Prepare and distribute commercial bills of lading;

(3) Deliver the shipment in good order and condition to the point of delivery specified in the contract;

(4) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;

(5) Furnish a delivery schedule and designate the mode of delivering carrier; and

(6) Pay and bear all charges to the specified point of delivery.

(End of clause)

52.247-36 F.a.s. Vessel, Port of Shipment.

As prescribed in 47.303-8(c), insert the following clause in solicitations and contracts when the delivery term is f.a.s. vessel, port of shipment:

F.A.S. VESSEL, PORT OF SHIPMENT (APR 1984)

(a) The term "f.a.s. vessel, port of shipment," as used in this clause, means free of expense to the Government delivered alongside the ocean vessel and within reach of its loading tackle at the specified port of shipment.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment for ocean transportation in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;

(2)(i) Deliver the shipment in good order and condition alongside the ocean vessel and within reach of its loading tackle, at the point of delivery and on the date or within the period specified in the contract; and

(ii) Pay and bear all applicable charges, including transportation costs, wharfage, handling, and heavy lift charges, if necessary, up to this point;

(3) Provide a clean dock or ship's receipt;

(4) Be responsible for any loss of and/or damage to the goods occurring before delivery of the shipment to the point specified in the contract; and

(5) At the Government's request and expense, assist obtaining the documents required for—

(i) Exportation; or

(ii) Importation at destination.

(End of clause)

52.247-37 F.o.b. Vessel, Port of Shipment.

As prescribed in 47.303-9(c), insert the following clause in solicitations and contracts when the delivery term is f.o.b. vessel, port of shipment:

F.O.B. VESSEL, PORT OF SHIPMENT (APR 1984)

(a) The term "f.o.b. vessel, port of shipment," as used in this clause, means free of expense to the Government loaded, stowed, and trimmed on board the ocean vessel at the specified port of shipment.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment for ocean transportation in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;

(2)(i) Deliver the shipment on board the ocean vessel in good order and condition on the date or within the period fixed; and

(ii) Pay and bear all charges incurred in placing the shipment actually on board;

(3) Provide a clean ship's receipt or on-board ocean bill of lading;

(4) Be responsible for any loss of and/or damage to the goods occurring before delivery of the shipment on board the ocean vessel; and

(5) At the Government's request and expense, assist in obtaining the documents required for—

(i) Exportation; or

(ii) Importation at destination.

(End of clause)

52.247-38 F.o.b. Inland Carrier, Point of Exportation.

As prescribed in 47.303-10(c), insert the following clause in solicitations and contracts when the delivery term is f.o.b. inland carrier, point of exportation:

F.O.B. INLAND CARRIER, POINT OF EXPORTATION
(APR 1984)

(a) The term "f.o.b. inland carrier, point of exportation," as used in this clause, means free of expense to the Government, on board the conveyance of the inland carrier, delivered to the specified point of exportation.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment for ocean transportation in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;

(2) Prepare and distribute commercial bills of lading;

(3)(i) Deliver the shipment in good order and condition in or on the conveyance of the carrier on the date or within the period specified; and

(ii) Pay and bear all applicable charges, including transportation costs, to the point of delivery specified in the contract;

(4) Be responsible for any loss of and/or damage to the goods occurring before delivery of the shipment to the point of delivery in the contract; and

(5) At the Government's request and expense, assist in obtaining the documents required for—

(i) Exportation; or

(ii) Importation at destination.

(End of clause)

52.247-39 F.o.b. Inland Point, Country of Importation.

As prescribed in 47.303-11(c), insert the following clause in solicitations and contracts when the delivery term is f.o.b. inland point, country of importation:

F.O.B. INLAND POINT, COUNTRY OF IMPORTATION (APR 1984)

(a) The term “f.o.b. inland point, country of importation,” as used in this clause, means free of expense to the Government, on board the indicated type of conveyance of the carrier, delivered to the specified inland point where the consignee's facility is located.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment for ocean transportation in conformance with carrier requirements to protect the goods;

(2)(i) Deliver, in or on the inland carrier's conveyance, the shipment in good order and condition to the specified inland point where the consignee's facility is located; and

(ii) Pay and bear all applicable charges incurred up to the point of delivery, including transportation costs; export, import, or other fees or taxes; costs of landing; wharfage costs; customs duties and costs of certificates of origin; consular invoices; and other documents that may be required for importation; and

(3) Be responsible for any loss of and/or damage to the goods until their arrival on or in the carrier's conveyance at the specified inland point.

(End of clause)

52.247-40 Ex Dock, Pier, or Warehouse, Port of Importation.

As prescribed in 47.303-12(c), insert the following clause in solicitations and contracts when the delivery term is ex dock, pier, or warehouse, port of importation:

EX DOCK, PIER, OR WAREHOUSE, PORT OF IMPORTATION (APR 1984)

(a) The term “ex dock, pier, or warehouse, port of importation,” as used in this clause, means free of expense to the Government delivered on the designated dock or pier or in the warehouse at the specified port of importation.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment for ocean transportation in conformance with carrier requirements to protect the goods;

(2)(i) Deliver shipment in good order and condition; and

(ii) Pay and bear all charges up to the point of delivery specified in the contract, including transportation costs; export, import, or other fees or taxes; costs of wharfage and landing, if any; customs duties; and costs of certificates of origin, consular invoices, or other documents that may be required for exportation or importation; and

(3) Be responsible for any loss of and/or damage to the goods occurring before delivery of the shipment to the point of delivery specified in the contract.

(End of clause)

52.247-41 C.& f. Destination.

As prescribed in 47.303-13(c), insert the following clause in solicitations and contracts when the delivery term is c.& f. destination:

C.&F. DESTINATION (APR 1984)

(a) The term “c.& f. destination,” as used in this clause, means free of expense to the Government delivered on board the ocean vessel to the specified point of destination, with the cost of transportation paid by the Contractor.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment for ocean transportation in conformance with carrier requirements;

(2)(i) Deliver the shipment in good order and condition; and

(ii) Pay and bear all applicable charges to the point of destination specified in the contract, including transportation costs and export taxes or other fees or charges levied because of exportation;

(3) Obtain and dispatch promptly to the Government clean on-board ocean bills of lading to the specified point of destination;

(4) Be responsible for any loss of and/or damage to the goods occurring before delivery; and

(5) At the Government's request and expense, provide certificates of origin, consular invoices, or any other documents issued in the country of origin or of shipment, or both, that may be required for importation into the country of destination.

(End of clause)

52.247-42 C.i.f. Destination.

As prescribed in 47.303-14(c), insert the following clause in solicitations and contracts when the delivery term is c.i.f. destination:

C.I.F. DESTINATION (APR 1984)

(a) The term "c.i.f. destination," as used in this clause, means free of expense to the Government delivered on board the ocean vessel to the specified point of destination, with the cost of transportation and marine insurance paid by the Contractor.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment for ocean transportation in conformance with carrier requirements;

(2)(i) Deliver the shipment in good order and condition; and

(ii) Pay and bear all applicable charges to the point of destination specified in the contract, including transportation costs and export taxes or other fees or charges levied because of exportation;

(3) Obtain and dispatch promptly to the Government clean on-board ocean bills of lading to the specified point of destination;

(4) Be responsible for any loss of and/or damage to the goods occurring before delivery;

(5) At the Government's request and expense, provide certificates of origin, consular invoices, or any other documents issued in the country of origin or of shipment, or both, that may be required for importation into the country of destination; and

(6) Obtain and dispatch to the Government an insurance policy or certificate providing the amount and extent of

marine insurance coverage specified in the contract or agreed upon by the Government Contracting Officer.

(End of clause)

52.247-43 F.o.b. Designated Air Carrier's Terminal, Point of Exportation.

As prescribed in 47.303-15(c), insert the following clause in solicitations and contracts when the delivery term is f.o.b. designated air carrier's terminal, point of exportation:

F.O.B. DESIGNATED AIR CARRIER'S TERMINAL, POINT OF EXPORTATION (APR 1984)

(a) The term "f.o.b. designated air carrier's terminal, point of exportation," as used in this clause, means free of expense to the Government loaded aboard the aircraft, or delivered to the custody of the air carrier (if only the air carrier performs the loading), at the air carrier's terminal specified in the contract.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment for air transportation in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;

(2)(i) Deliver the shipment in good order and condition into the conveyance of the carrier, or to the custody of the carrier (if only the carrier performs the loading), at the point of delivery and on the date or within the period specified in the contract; and

(ii) Pay and bear all applicable charges up to this point;

(3) Provide a clean Government bill of lading and/or air waybill;

(4) Be responsible for any loss of and/or damage to the goods occurring before delivery of the goods to the point specified in the contract; and

(5) At the Government's request and expense, assist in obtaining the documents required for the purpose of exportation.

(End of clause)

52.247-44 F.o.b. Designated Air Carrier's Terminal, Point of Importation.

As prescribed in 47.303-16(c), insert the following clause in solicitations and contracts when the delivery term is f.o.b. designated air carrier's terminal, point of importation:

F.O.B. DESIGNATED AIR CARRIER'S TERMINAL, POINT OF IMPORTATION (APR 1984)

(a) The term "f.o.b. designated air carrier's terminal, point of importation," as used in this clause, means free of expense

to the Government delivered to the air carrier's terminal at the point of importation specified in the contract.

(b) The Contractor shall—

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment for air transportation in conformance with carrier requirements to protect the goods;

(2) Prepare and distribute bills of lading or air waybills;

(3)(i) Deliver the shipment in good order and condition to the point of delivery specified in the contract; and

(ii) Pay and bear all charges incurred up to the point of delivery specified in the contract, including transportation costs; export, import, or other fees or taxes; cost of landing, if any; customs duties; and costs of certificates of origin, consular invoices, or other documents that may be required for exportation or importation; and

(4) Be responsible for any loss of and/or damage to the goods until delivery of the goods to the Government at the designated air carrier's terminal.

(End of clause)

52.247-45 F.o.b. Origin and/or F.o.b. Destination Evaluation.

As prescribed in 47.305-2(b), insert the following provision in solicitations when offers are solicited on the basis of both f.o.b. origin and f.o.b. destination:

F.O.B. ORIGIN AND/OR F.O.B. DESTINATION EVALUATION
(APR 1984)

Offers are invited on the basis of both f.o.b. origin and f.o.b. destination, and the Government will award on the basis the Contracting Officer determines to be most advantageous to the Government. An offer on the basis of f.o.b. origin only or f.o.b. destination only is acceptable, but will be evaluated only on the basis submitted.

(End of provision)

52.247-46 Shipping Point(s) Used in Evaluation of F.o.b. Origin Offers.

As prescribed in 47.305-3(b)(4)(ii), insert the following provision in f.o.b. origin solicitations when price evaluation for shipments from various shipping points is contemplated:

SHIPPING POINT(S) USED IN EVALUATION OF F.O.B.
ORIGIN OFFERS (APR 1984)

(a) If more than one shipping point or plant is designated by the offeror and the offeror fails to indicate the quantity per shipping point or plant before bid opening, the Government will evaluate the offer on the basis of delivery of the entire quantity from the point or plant where cost of transportation is most favorable to the Government.

(b) If the offeror, before bid opening (or the closing date specified for receipt of offers) fails to indicate any shipping point or plant, the Government will evaluate the offer on the basis of delivery from the plant at which the contract will be performed, as indicated in the offer. If no plant is indicated in the offer, the offer will be evaluated on the basis of delivery from the Contractor's business address indicated in the offer.

(c) If the offeror uses a shipping point other than that which has been used by the Government as a basis for the evaluation of offers, any increase of transportation costs shall be borne by the Contractor and any savings shall revert to the Government.

(End of provision)

52.247-47 Evaluation—F.o.b. Origin.

As prescribed in 47.305-3(f)(2), insert the following provision. When it is appropriate to use methods other than land transportation in evaluating offers; *e.g.*, air, pipeline, barge, or ocean tanker, modify the provision accordingly.

EVALUATION—F.O.B. ORIGIN (JUNE 2003)

(a) The Government normally uses land methods of transportation by regulated common carrier for shipment within the contiguous United States.

(b) To evaluate offers, the Government will consider only these methods to establish the cost of transportation between offeror's shipping point and destination (tentative or firm, whichever is applicable) in the contiguous United States.

(c) This transportation cost will be added to the offer price to determine the Government's overall cost.

(d) When tentative destinations are indicated, the Government will use them only for evaluation purposes. The Government has the right to use any other means of transportation or any other destination at the time of shipment.

(End of provision)

52.247-48 F.o.b. Destination—Evidence of Shipment.

As prescribed in 47.305-4(c), insert the following clause:

F.O.B. DESTINATION—EVIDENCE OF SHIPMENT
(FEB 1999)

(a) If this contract is awarded on a free on board (f.o.b.) destination basis, the Contractor—

(1) Shall not submit an invoice for payment until the supplies covered by the invoice have been shipped to the destination; and

(2) Shall retain, and make available to the Government for review as necessary, the following evidence of shipment documentation for a period of 3 years after final payment under the contract:

(i) If transportation is accomplished by common carrier, a signed copy of the commercial bill of lading for the sup-

plies covered by the Contractor's invoice, indicating the carrier's intent to ship the supplies to the destination specified in the contract.

(ii) If transportation is accomplished by parcel post, a copy of the certificate of mailing.

(iii) If transportation is accomplished by other than common carrier or parcel post, a copy of the delivery document showing receipt at the destination specified in the contract.

(b) The Contractor is not required to submit evidence of shipment documentation with its invoice.

(End of clause)

52.247-49 Destination Unknown.

As prescribed in 47.305-5(b)(2), insert the following provision in solicitations when destinations are tentative and only for the purpose of evaluating offers:

DESTINATION UNKNOWN (APR 1984)

For the purpose of evaluating offers and for no other purpose, the final destination(s) for the supplies will be considered to be as follows: _____

(End of provision)

52.247-50 No Evaluation of Transportation Costs.

As prescribed in 47.305-5(c)(1), insert the following provision in solicitations when exact destinations are not known and it is impractical to establish tentative or general delivery places for the purpose of evaluating transportation costs:

NO EVALUATION OF TRANSPORTATION COSTS
(APR 1984)

Costs of transporting supplies to be delivered under this contract will not be an evaluation factor for award.

(End of provision)

52.247-51 Evaluation of Export Offers.

As prescribed in 47.305-6(e), insert the following provision:

EVALUATION OF EXPORT OFFERS (JAN 2001)

(a) *Port handling and ocean charges—other than DoD water terminals.* Port handling and ocean charges in tariffs on file with the Bureau of Domestic Regulation, Federal Maritime Commission, or other appropriate regulatory authorities as of the date of bid opening (or the closing date specified for receipt of offers) and which will be effective for the date of the

expected initial shipment will be used in the evaluation of offers.

(b) *F.o.b. origin, transportation under Government bill of lading.* (1) Offers shall be evaluated and awards made on the basis of the lowest laid down cost to the Government at the overseas port of discharge, via methods and ports compatible with required delivery dates and conditions affecting transportation known at the time of evaluation. Included in this evaluation, in addition to the f.o.b. origin price of the item, shall be the inland transportation costs from the point of origin in the United States to the port of loading, port handling charges at the port of loading, and ocean shipping costs from the United States port of loading (see paragraph (d) of this clause) to the overseas port of discharge. The Government may designate the mode of routing of shipment and may load from other than those ports specified for evaluation purposes.

(2) Offers shall be evaluated on the basis of shipment through one of the ports set forth in paragraph (d) of this clause to the overseas port of discharge. Evaluation shall be made on the basis of shipment through the port that will result in the lowest cost to the Government.

(3) Ports of loading shall be considered as destinations within the meaning of the term "f.o.b. destination" as that term is used in the F.o.b. Origin clause of this contract.

(c) *F.o.b. port of loading with inspection and acceptance at origin.* (1) Offers shall be evaluated on the basis of the lowest laid down cost to the Government at the overseas port of discharge via methods compatible with required delivery dates and conditions affecting transportation known at the time of evaluation. Included in this evaluation, in addition to the price to the United States port of loading (see paragraph (c)(2) of this clause), shall be the port handling charges at the port of loading and the ocean shipping cost from the port of loading (see paragraph (d) of this clause) to the overseas port of discharge.

(2) Unless offers are applicable only to f.o.b. origin delivery under Government bills of lading (see paragraph (b) of this provision), offerors shall designate below at least one of the ports of loading listed in paragraph (d) of this clause as their place of delivery. Failure to designate at least one of the ports as the point to which delivery will be made by the Contractor may render the offer nonresponsive.

PLACE OF DELIVERY: _____
[Offerors insert at least one of the ports listed in paragraph (d) of this clause.]

(d) *Ports of loading for evaluation of offers.* Terminals to be used by the Government in evaluating offers are as follows: (For the information of the offerors, ocean and port handling

charges are set forth if the terminal named is a DoD water terminal.)

PORTS/ TERMINALS OF LOADING	COMBINED OCEAN AND PORT HANDING CHARGES TO (INDICATE COUNTRY)	UNIT OF MEASURE: I.E., METRIC TON, MEASUREMENT TON, CUBIC FOOT, ETC.
_____	_____	_____
_____	_____	_____
_____	_____	_____

(e) *Ports of loading nominated by offeror.* The ports of loading named in paragraph (d) of this clause are considered by the Government to be appropriate for this solicitation due to their compatibility with methods and facilities required to handle the cargo and types of vessels and to meet the required overseas delivery dates. Notwithstanding the foregoing, offerors may nominate additional ports of loading that the offeror considers to be more favorable to the Government. The Government may disregard such nominated ports if, after considering the quantity and nature of the supplies concerned, the requisite cargo handling capability, the available sailings on U.S.-flag vessels, and other pertinent transportation factors, it determines that use of the nominated ports is not compatible with the required overseas delivery date. United States Great Lakes ports of loading may be considered in the evaluation of offers only for those items scheduled in this provision for delivery during the ice-free or navigable period as proclaimed by the authorities of the St. Lawrence Seaway (normal period is between April 15 and November 30 annually). All ports named, including those nominated by offerors and determined to be eligible as provided in this provision, shall be considered in evaluating all offers received in order to establish the lowest laid down cost to the Government at the overseas port of discharge. All determinations shall be based on availability of ocean services by U.S.-flag vessels only. Additional U.S. port(s) of loading nominated by offeror, if any:

(f) *Price basis.* Offeror shall indicate whether prices are based on—

- Paragraph (b), f.o.b. origin, transportation by GBL to port listed in paragraph (d);
- Paragraph (c), f.o.b. destination (*i.e.*, a port listed in paragraph (d));
- Paragraph (e), f.o.b. origin, transportation by GBL to port nominated in paragraph (e); and/or
- Paragraph (e), f.o.b. destination (*i.e.*, a port nominated in paragraph (e)).

(End of provision)

Alternate I (Feb 1995). When the CONUS ports of export are DoD water terminals, delete paragraph (a) from the basic provision and substitute for it the following paragraph (a):

(a) *Port handling and ocean charges—DoD water terminals.* The port handling and ocean charges are set forth in paragraph (d) of this provision for the information of offerors and are current as of the time of issuance of the solicitation. For evaluation of offers, the Government will use the port handling and ocean charges made available by the Directorate of International Traffic, Military Traffic Management Command rate information letters, on file as of the date of bid opening (or the closing date specified for receipt of offers) and which will be effective for the date of the expected initial shipment.

Alternate II (Apr 1984). When offers are solicited on an f.o.b. origin only basis, delete paragraphs (c) and (f) from the basic provision, but do not redesignate the ensuing paragraphs. Add the following basic paragraph (g) to the provision:

(g) Paragraphs (c) and (f) have been deleted but ensuing paragraphs have not been redesignated.

Alternate III (Apr 1984). When offers are solicited on an f.o.b. destination only basis, delete paragraph (b) from the basic provision but do not redesignate the ensuing paragraphs. Delete paragraph (c)(2) and paragraph (f) from the provision and substitute the following paragraph (c)(2) and paragraph (f). Add paragraph (g) below.

(c)(2) Offerors shall designate below at least one of the ports of loading listed in paragraph (d) below as their place of delivery. Failure to designate at least one of the ports as the point to which delivery will be made by the Contractor may render the offer nonresponsive.

PLACE OF DELIVERY: _____
[Offerors insert at least one of the ports listed in paragraph (d) below.]

* * * * *

(f) *Price basis.* Offerors shall indicate whether prices are based on—

- Paragraph (c), f.o.b. destination (*i.e.*, a port listed in paragraph (d)); or
- Paragraph (e), f.o.b. destination (*i.e.*, a port nominated in paragraph (e)).

(g) Paragraph (b) has been deleted, but ensuing paragraphs have not been redesignated.

52.247-52 Clearance and Documentation Requirements—Shipments to DoD Air or Water Terminal Transshipment Points.

As prescribed in 47.305-6(f)(2), insert the following clause in solicitations and contracts when shipments will be consigned to DoD air or water terminal transshipment points:

CLEARANCE AND DOCUMENTATION REQUIREMENTS—
SHIPMENTS TO DOD AIR OR WATER TERMINAL
TRANSSHIPMENT POINTS (APR 1984)

All shipments to water or air ports for transshipment to overseas destinations are subject to the following requirements unless clearance and documentation requirements have been expressly delegated to the Contractor:

(a) At least 10 days before shipping cargo to a water port, the Contractor shall obtain an Export Release from the Government transportation office for—

(1) Each shipment weighing 10,000 pounds or more; and

(2) Each shipment weighing less than 10,000 pounds; if the cargo either—

(i) Is classified TOP SECRET, SECRET, or CONFIDENTIAL;

(ii) Will require exclusive use of a motor vehicle;

(iii) Will occupy full visible capacity of a railway car or motor vehicle;

(iv) Is less than a carload or truckload, but will be tendered as a carload or truckload; or

(v) Is to be shipped to an ammunition outloading port for water shipment; or

(3) Each shipment weighing less than 10,000 pounds if the cargo consists of—

(i) Narcotics;

(ii) Perishable biological material;

(iii) Vehicles to be offered for driveaway service;

(iv) Explosives, or other dangerous articles classified as A, B, or C explosives;

(v) Poisons, classes A, B, or C; or

(vi) Radioactive material, as defined in 49 CFR 170-179.

(b) The Contractor is cautioned not to order railway cars or motor vehicles for loading until an Export Release has been received.

(c) If the Contracting Officer directs delivery within a shorter period than 10 days, the Contractor shall advise the transportation office of the date on which the cargo will be ready for shipment.

(d) At least 5 days before shipping cargo to either a water port or an airport (regardless of the weight, security classification, or the commodity description), the Contractor shall provide the Government transportation office the information shown in paragraph (e) of this clause to permit preparation of a Transportation Control and Movement Document (TCMD).

(e) When applying for the Export Release in paragraph (a) of this clause or when providing information for preparation of the TCMD in accordance with paragraph (d) of this clause, the Contractor shall furnish the—

(1) Proposed date or dates of shipment;

(2) Number and type of containers;

(3) Gross weight and cube of the shipment;

(4) Number of cars or trucks that will be involved;

(5) Transportation Control Number(s) (TCN) as required for marking under MIL-STD-129 or Federal Standard 123; and

(6) Proper shipping name as specified in 46 CFR 146.05 for all items classified as dangerous substances as required for marking under MIL-STD-129.

(f) All movement documents (Government or commercial bills of lading or other delivery documents) shall be annotated by the Contractor with the—

(1) Transportation Control Number, Consignor Code of activity directing the shipment; *i.e.*, cognizant contract administration office, purchasing office when contract administration has been retained, or a Contractor specifically delegated MILSTAMP responsibilities in the contract, whichever is appropriate, Consignee Code, and Transportation Priority for each shipment unit;

(2) Export Release Number and valid shipping period, if stated (if expired, the Contractor shall request a renewal); and

(3) Cubic foot measurement of each shipment unit.

(g) All annotations on the movement documents shall be made in the “Description of Articles” space except, on Government bills of lading the Export Release number and shipping period shall be entered in the space entitled “Route Order/Release No.”

(h) The Contractor shall—

(1) Mail a copy of the commercial bill of lading or other movement document to the transshipment point; and

(2) Give a copy of the commercial bill of lading or other movement document to the carrier for presentation to the transshipment point with delivery of the shipment.

(End of clause)

52.247-53 Freight Classification Description.

As prescribed in 47.305-9(b)(1), insert the following provision in solicitations when the supplies being acquired are new to the supply system, nonstandard, or modifications of previously shipped items, and different freight classifications may apply:

FREIGHT CLASSIFICATION DESCRIPTION (APR 1984)

Offerors are requested to indicate below the full Uniform Freight Classification (rail) description, or the National Motor Freight Classification description applicable to the supplies, the same as offeror uses for commercial shipment. This description should include the packing of the commodity (box, crate, bundle, loose, setup, knocked down, compressed, unwrapped, etc.), the container material (fiberboard, wooden, etc.), unusual shipping dimensions, and other conditions affecting traffic descriptions. The Government will use these descriptions as well as other information available to determine the classification description most appropriate and

advantageous to the Government. Offeror understands that shipments on any f.o.b. origin contract awarded, as a result of this solicitation, will be made in conformity with the shipping classification description specified by the Government, which may be different from the classification description furnished below.

FOR FREIGHT CLASSIFICATION PURPOSES, OFFEROR DESCRIBES THIS COMMODITY AS _____.

(End of provision)

52.247-54 [Reserved]

52.247-55 F.o.b. Point for Delivery of Government-Furnished Property.

As prescribed in 47.305-12(a)(2), insert the following clause:

F.O.B. POINT FOR DELIVERY OF GOVERNMENT-FURNISHED PROPERTY (JUNE 2003)

(a) Unless otherwise specified in this solicitation, the Government will deliver any Government-furnished property for use within the contiguous United States or Canada to a point specified by the Contractor in the offer. If the Government makes delivery by railroad, the f.o.b. point will be private siding, Contractor’s plant. If the Contractor’s plant is not served by rail, the f.o.b. point will be railroad cars in the same or nearest city having rail service. The Government may choose the mode of transportation and the carriers and will bear the cost of all line-haul transportation to the specified destination.

(b) If the destination of the Government-furnished property is a Contractor’s plant located outside the contiguous United States or Canada, the f.o.b. point for Government delivery of Government-furnished property will be a Contractor-specified location in the contiguous United States. If the Contractor fails to name a point, the Government will select as the f.o.b. point the port city in the contiguous United States nearest to the Government-furnished property that has regular commercial water transportation services to the offshore port nearest the Contractor’s plant.

(c) Unless otherwise directed by the Contracting Officer or provided in the contract, the Contractor shall return all Government-furnished equipment, supplies, and property, including all property not returned in the form of acceptable end items, to the point at which the Government property was originally furnished to the Contractor under the contract. Notwithstanding the fact that the Government may have furnished the property at the Contractor’s plant, the Contracting Officer may direct the Contractor to deliver the Government property being returned to, and load, block, and brace it in, railway cars in the city in which the Contractor’s plant is located, or, if the Contractor’s city is not served by rail service, in the nearest city having rail service. Unless otherwise specified in the con-

tract, all property shall be packed in containers conforming with the rules of common carrier published tariffs so as to be free of penalty charges by the carrier designated for shipment by the Government.

(End of clause)

52.247-56 Transit Arrangements.

As prescribed in 47.305-13(a)(3)(ii), insert the following provision in solicitations when benefits may accrue to the Government because transit arrangements may apply:

TRANSIT ARRANGEMENTS (APR 1984)

The lowest appropriate common carrier transportation costs, including offeror’s through transit rates and charges when applicable, from offeror’s shipping points, via the transit point, to the ultimate destination will be used in evaluating offers.

TRANSIT POINT(S)	DESTINATION(S)
_____	_____
_____	_____

(End of provision)

52.247-57 Transportation Transit Privilege Credits.

As prescribed in 47.305-13(b)(4), insert the following clause in solicitations and contracts when supplies are of such a nature, or when it is the custom of the trade, that offerors may have potential transit credits available and the Government may reduce transportation costs through the use of transit credits:

TRANSPORTATION TRANSIT PRIVILEGE CREDITS (APR 1984)

(a) If the offeror has established with regulated common carriers transit privileges that can be applied to the supplies when shipped from the original source, the offeror is invited to propose to use these credits for shipping the supplies to the designated Government destinations. The offeror will ship these supplies under commercial bills of lading, paying all remaining transportation charges connected with the shipment, subject to reimbursement by the Government in an amount equal to the remaining charges but not exceeding the amount quoted by the offeror.

(b) After loading on the carrier’s equipment and acceptance by the carrier, these shipments under paid commercial bills of lading will move for the account of and at the risk of the Government (unless, pursuant to the Changes clause, the office administering the contract directs use of Government bills of lading).

(c) The amount quoted below by the offeror represents the transportation costs in cents per 100 pounds (freight rate) for

full carload/truckload shipments of the supplies from offeror's original source, via offeror's transit plant or point, to the Government destination(s) including the carrier's transit privilege charge, less the applicable transit credit (*i.e.*, the amount (rate) initially paid to the carrier for shipment from original source to offeror's transit plant or point).

(d) The rate per CWT quoted will be used by the Government to evaluate the offered f.o.b. origin price unless a lower rate is applicable on the date of bid opening (or closing date specified for receipt of offers). To have the offer evaluated on this basis, the offeror must insert below the remaining transportation charges that the offeror agrees to pay, including any transit charges, subject to reimbursement by the Government, as explained in this clause, to destinations listed in the Schedule as follows:

Rate Per CWT in Cents: _____
To Destination: _____

(End of clause)

52.247-58 Loading, Blocking, and Bracing of Freight Car Shipments.

As prescribed in 47.305-15(a)(2), insert the following clause in solicitations and contracts when supplies may be shipped in carload lots by rail:

LOADING, BLOCKING, AND BRACING OF FREIGHT CAR SHIPMENTS (APR 1984)

(a) Upon receipt of shipping instructions, as provided in this contract, the supplies to be included in any carload shipment by rail shall be loaded, blocked, and braced by the Contractor in accordance with the standards published by the Association of American Railroads and effective at the time of shipment.

(b) Shipments, for which the Association of American Railroads has published no such standards, shall be loaded, blocked, and braced in accordance with standards established by the shipper as evidenced by written acceptance of an authorized representative of the carrier.

(c) The Contractor shall be liable for payment of any damage to any supplies caused by the failure to load, block, and brace in accordance with acceptable standards set forth herein.

(d) A copy of the appropriate pamphlet of the Association of American Railroads may be obtained from that Association.

(End of clause)

52.247-59 F.o.b. Origin—Carload and Truckload Shipments.

As prescribed in 47.305-16(a), insert the following clause in solicitations and contracts when it is contemplated that they may result in f.o.b. origin contracts with shipments in carloads

or truckloads. This will facilitate realistic freight cost evaluations of offers and ensure that contractors produce economical shipments of agreed size.

F.O.B. ORIGIN—CARLOAD AND TRUCKLOAD SHIPMENTS (APR 1984)

(a) The Contractor agrees that shipment shall be made in carload or truckload lots when the quantity to be delivered to any one destination in any delivery period pursuant to the contract schedule of deliveries is sufficient to constitute a carload or truckload shipment, except as may otherwise be permitted or directed, in writing, by the Contracting Officer.

(b) For evaluation purposes, the agreed weight of a carload or truckload shall be the highest applicable minimum weight that will result in the lowest freight rate (or per car charge) on file or published in common carrier tariffs or tenders as of the date of bid opening (or the closing date specified for receipt of proposals).

(c) For purposes of actual delivery, the agreed weight of a carload or truckload will be the highest applicable minimum weight that will result in the lowest possible freight rate (or per car charge) on file or published as of date of shipment.

(d) If the total weight of any scheduled quantity to a destination is less than the highest carload/truckload minimum weight used for evaluation of offers, the Contractor agrees to ship such scheduled quantity in one shipment.

(e) The Contractor shall be liable to the Government for any increased costs to the Government resulting from failure to comply with the above requirements.

(End of clause)

52.247-60 Guaranteed Shipping Characteristics.

As prescribed in 47.305-16(b)(1), insert the following clause:

GUARANTEED SHIPPING CHARACTERISTICS (DEC 1989)

(a) The offeror is requested to complete paragraph (a)(1) of this clause, for each part or component which is packed or packaged separately. This information will be used to determine transportation costs for evaluation purposes. If the offeror does not furnish sufficient data in paragraph (a)(1) of this clause, to permit determination by the Government of the item shipping costs, evaluation will be based on the shipping characteristics submitted by the offeror whose offer produces the highest transportation costs or in the absence thereof, by the Contracting Officer's best estimate of the actual transportation costs. If the item shipping costs, based on the actual shipping characteristics, exceed the item shipping costs used for evaluation purposes, the Contractor agrees that the contract price shall be reduced by an amount equal to the difference between the transportation costs actually incurred, and the costs which would have been incurred if the evaluated shipping characteristics had been accurate.

- (1) To be completed by the offeror:
- (i) *Type of container:* Wood Box , Fiber Box , Barrel , Reel , Drum , Other (Specify) _____;
 - (ii) *Shipping configuration:* Knocked-down , Set-up , Nested , Other (specify) _____;
 - (iii) *Size of container:* _____" (Length), × _____" (Width), × _____" (Height) = _____ Cubic Ft;
 - (iv) Number of items per container _____ each;
 - (v) Gross weight of container and contents _____ Lbs;
 - (vi) Palletized/skidded Yes No;
 - (vii) Number of containers per pallet/skid _____;
 - (viii) Weight of empty pallet bottom/skid and sides _____ Lbs;
 - (ix) Size of pallet/skid and contents _____ Lbs Cube _____;
 - (x) Number of containers or pallets/skids per railcar _____*
 - (A) Size of railcar _____
 - (B) Type of railcar _____
 - (xi) Number of containers or pallets/skids per trailer _____*
 - (A) Size of trailer _____ Ft
 - (B) Type of trailer _____

* Number of complete units (contract line item) to be shipped in carrier's equipment.

(2) To be completed by the Government after evaluation but before contract award:

- (i) Rate used in evaluation _____;
- (ii) Tender/Tariff _____;
- (iii) Item _____.

(b) The guaranteed shipping characteristics requested in paragraph (a)(1) of this clause do not establish actual transportation requirements, which are specified elsewhere in this solicitation. The guaranteed shipping characteristics will be used only for the purpose of evaluating offers and establishing any liability of the successful offeror for increased transportation costs resulting from actual shipping characteristics which differ from those used for evaluation in accordance with paragraph (a) of this clause.

(End of clause)

52.247-61 F.o.b. Origin—Minimum Size of Shipments.

As prescribed in 47.305-16(c), insert the following clause in solicitations and contracts when volume rates may apply:

F.O.B. ORIGIN—MINIMUM SIZE OF SHIPMENTS
(APR 1984)

The Contractor agrees that shipment will be made in carload and truckload lots when the quantity to be delivered to any one destination in any delivery period pursuant to the contract schedule of deliveries is sufficient to constitute a carload or truckload shipment, except as may otherwise be permitted

or directed in writing by the Contracting Officer. The agreed weight of a carload or truckload will be the highest applicable minimum weight which will result in the lowest freight rate (or per car charge) on file or published in common carrier tariffs or tenders as of date of shipment. In the event the total weight of any scheduled quantity to a destination is less than the highest carload/truckload minimum weight, the Contractor agrees to ship such scheduled quantity in one shipment. The Contractor shall be liable to the Government for any increased costs to the Government resulting from failure to comply with the above requirements. This liability shall not attach if supplies are oversized or of such nature that they cannot be loaded at the highest minimum weight bracket.

(End of clause)

52.247-62 Specific Quantities Unknown.

As prescribed in 47.305-16(d)(2), insert the following clause in solicitations and contracts when total requirements and destinations to which shipments will be made are known, but the specific quantity to be shipped to each destination cannot be predetermined. This clause protects the interests of both the Government and the contractor during the course of the performance of the contract.

SPECIFIC QUANTITIES UNKNOWN (APR 1984)

(a) For the purpose of evaluating "f.o.b. destination" offers, the Government estimates that the quantity specified will be shipped to the destinations indicated:

ESTIMATED QUANTITY	DESTINATION(S)
_____	_____
_____	_____

(b) If the quantity shipped to each destination varies from the quantity estimated, and if the variation results in a change in the transportation costs, appropriate adjustment shall be made.

(End of clause)

52.247-63 Preference for U.S.-Flag Air Carriers.

As prescribed in 47.405, insert the following clause:

PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JUNE 2003)

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

"International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

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

"U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

(b) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

(c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

(d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

STATEMENT OF UNAVAILABILITY OF U.S.-FLAG AIR
CARRIERS

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see section 47.403 of the Federal Acquisition Regulation): [*State reasons*]:

(End of statement)

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

(End of clause)

52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels.

As prescribed in 47.507(a), insert the following clause:

PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG
COMMERCIAL VESSELS (APR 2003)

(a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 (46 U.S.C. App. 1241(b)) requires that Federal departments and agencies shall transport in privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of equipment, materials, or commodities that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo liners, and

tankers). Such transportation shall be accomplished when any equipment, materials, or commodities, located within or outside the United States, that may be transported by ocean vessel are—

- (1) Acquired for a U.S. Government agency account;
- (2) Furnished to, or for the account of, any foreign nation without provision for reimbursement;
- (3) Furnished for the account of a foreign nation in connection with which the United States advances funds or credits, or guarantees the convertibility of foreign currencies; or
- (4) Acquired with advance of funds, loans, or guaranties made by or on behalf of the United States.

(b) The Contractor shall use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage involved under this contract (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or commodities under the conditions set forth in paragraph (a) of this clause, to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.

(c)(1) The Contractor shall submit one legible copy of a rated on-board ocean bill of lading for each shipment to both—

- (i) The Contracting Officer, and
- (ii) The:

Office of Cargo Preference
Maritime Administration (MAR-590)
400 Seventh Street, SW
Washington DC 20590.

Subcontractor bills of lading shall be submitted through the Prime Contractor.

(2) The Contractor shall furnish these bill of lading copies (i) within 20 working days of the date of loading for shipments originating in the United States, or (ii) within 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:

- (A) Sponsoring U.S. Government agency.
- (B) Name of vessel.
- (C) Vessel flag of registry.
- (D) Date of loading.
- (E) Port of loading.
- (F) Port of final discharge.
- (G) Description of commodity.
- (H) Gross weight in pounds and cubic feet if available.
- (I) Total ocean freight revenue in U.S. dollars.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts or purchase orders under this contract, except those described in paragraph (e)(4).

(e) The requirement in paragraph (a) does not apply to—

(1) Cargoes carried in vessels of the Panama Canal Commission or as required or authorized by law or treaty;

(2) Ocean transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2353);

(3) Shipments of classified supplies when the classification prohibits the use of non-Government vessels; and

(4) Subcontracts or purchase orders for the acquisition of commercial items unless—

(i) This contract is—

(A) A contract or agreement for ocean transportation services; or

(B) A construction contract; or

(ii) The supplies being transported are—

(A) Items the Contractor is reselling or distributing to the Government without adding value. (Generally, the Contractor does not add value to the items when it subcontracts items for f.o.b. destination shipment); or

(B) Shipped in direct support of U.S. military—

(1) Contingency operations;

(2) Exercises; or

(3) Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.

(f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from the:

Office of Costs and Rates
Maritime Administration
400 Seventh Street, SW
Washington DC 20590
Phone: (202) 366-4610.

(End of clause)

Alternate I (Apr 2003). As prescribed in 47.507(a)(2), substitute the following paragraphs (a) and (b) for paragraphs (a) and (b) of the basic clause:

(a) Except as provided in paragraphs (b) and (e) of this clause, the Contractor shall use privately owned U.S.-flag commercial vessels, and no others, in the ocean transportation of any supplies to be furnished under this contract.

(b) If such vessels are not available for timely shipment at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels, the Contractor shall notify the Contracting Officer and request (1) authorization to ship in foreign-flag vessels or (2) designation of available U.S.-flag vessels. If the Contractor is authorized in writing by the Contracting Officer to ship the supplies in foreign-flag vessels, the contract price shall be equitably adjusted to reflect the difference in costs of shipping the supplies in privately owned U.S.-flag commercial vessels and in foreign-flag vessels.

Alternate II (Apr 2003). As prescribed in 47.507(a)(3), substitute the following paragraph (e) for paragraph (e) of the basic clause:

(e) The requirement in paragraph (a) does not apply to—

(1) Cargoes carried in vessels of the Panama Canal Commission or as required or authorized by law or treaty;

(2) Ocean transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2353); and

(3) Shipments of classified supplies when the classification prohibits the use of non-Government vessels.

(4) Subcontracts or purchase orders under this contract for the acquisition of commercial items unless the supplies being transported are—

(i) Items the Contractor is reselling or distributing to the Government without adding value. (Generally, the Contractor does not add value to the items when it subcontracts items for f.o.b. destination shipment); or

(ii) Shipments in direct support of U.S. military—

(A) Contingency operations;

(B) Exercises; or

(C) Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations. (*Note:* This contract requires shipment of commercial items in direct support of U.S. military contingency operations, exercises, or forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.)

52.247-65 F.o.b. Origin, Prepaid Freight—Small Package Shipments.

As prescribed in 47.303-17(f), insert the following clause:

F.O.B. ORIGIN, PREPAID FREIGHT—SMALL PACKAGE SHIPMENTS (JAN 1991)

(a) When authorized by the Contracting Officer, f.o.b. origin freight shipments which do not have a security classification shall move on prepaid commercial bills of lading or other shipping documents to domestic destinations, including air and water terminals. Weight of individual shipments shall be governed by carrier restrictions but shall not exceed 150 pounds by any form of commercial air or 1,000 pounds by other commercial carriers. The Government will reimburse the Contractor for reasonable freight charges.

(b) The Contractor shall annotate the commercial bill of lading as required by the clause of this contract entitled “Commercial Bill of Lading Notations.”

(c) The Contractor shall consolidate prepaid shipments in accordance with procedures established by the cognizant transportation office. The Contractor is authorized to combine Government prepaid shipments with the Contractor’s commercial shipments for delivery to one or more consignees and the Government will reimburse its pro rata share of the total

freight costs. The Contractor shall provide a copy of the commercial bill of lading promptly to each consignee. Quantities shall not be divided into mailable lots for the purpose of avoiding movement by other modes of transportation.

(d) Transportation charges will be billed as a separate item on the invoice for each shipment made. A copy of the pertinent bill of lading, shipment receipt, or freight bill shall accompany the invoice unless otherwise specified in the contract.

(e) Loss and damage claims will be processed by the Government.

(End of clause)

52.247-66 Returnable Cylinders.

As prescribed in 47.305-17, insert the following clause:

RETURNABLE CYLINDERS (MAY 1994)

(a) Cylinder, referred to in this clause, is a pressure vessel designed for pressures higher than 40 psia and having a circular cross section excluding a portable tank, multi-tank car tank, cargo tank or tank car.

(b) Returnable cylinders shall remain the Contractor's property but shall be loaned without charge to the Government for a period of ____ days [*Contracting Officer shall insert number of days*] (hereafter referred to as loan period) following the day of delivery to the f.o.b. point specified in the contract. Any cylinder not returned within the loan period shall be charged a daily rental beginning with the first day after the loan period expires, to and including the day the cylinders are delivered to the Contractor (if the original delivery was f.o.b. origin) or are delivered or made available for delivery to the Contractor's designated carrier (if the original delivery was f.o.b. destination). The Government shall pay the Contractor a rental of \$_____ [*Contracting Officer shall insert dollar amount for rental, after evaluation of offers*] per cylinder, per day, computed separately for cylinders by type, size, and capacity and for each point of delivery named in the contract. No rental shall accrue to the Contractor in excess of replacement value per cylinder specified in paragraph (c) of this clause.

(c) For each cylinder lost or damaged beyond repair while in the Government's possession, the Government shall pay to the Contractor the replacement value, less the allocable rental paid for that cylinder as follows:

[*Contracting Officer shall insert the cylinder types, sizes, capacities, and associated replacement values.*] These cylinders shall become Government property.

(d) If any lost cylinder is located within _____ [*Contracting Officer shall insert number of days*] calendar days after payment by the Government, it may be returned to the Contractor by the Government, and the Contractor shall

pay to the Government an amount equal to the replacement value, less rental computed in accordance with paragraph (b) of this clause, beginning at the expiration of the loan period specified in paragraph (b) of this clause, and continuing to the date on which the cylinder was delivered to the Contractor.

(End of clause)

52.247-67 Submission of Commercial Transportation Bills to the General Services Administration for Audit.

As prescribed in 47.104-4(c), insert the following clause:

SUBMISSION OF COMMERCIAL TRANSPORTATION BILLS TO THE GENERAL SERVICES ADMINISTRATION FOR AUDIT (JUNE 1997)

(a)(1) In accordance with paragraph (a)(2) of this clause, the Contractor shall submit to the General Services Administration (GSA) for audit, legible copies of all paid freight bills/invoices, commercial bills of lading (CBL's), passenger coupons, and other supporting documents for transportation services on which the United States will assume freight charges that were paid—

(i) By the Contractor under a cost-reimbursement contract; and

(ii) By a first-tier subcontractor under a cost-reimbursement subcontract thereunder.

(2) Cost-reimbursement Contractors shall only submit for audit those CBL's with freight shipment charges exceeding \$50.00. Bills under \$50.00 shall be retained on-site by the Contractor and made available for GSA on-site audits. This exception only applies to freight shipment bills and is not intended to apply to bills and invoices for any other transportation services.

(b) The Contractor shall forward copies of paid freight bills/invoices, CBL's, passenger coupons, and supporting documents as soon as possible following the end of the month, in one package to the:

General Services Administration
ATTN: FWA
1800 F Street, NW
Washington, DC 20405.

The Contractor shall include the paid freight bills/invoices, CBL's, passenger coupons, and supporting documents for first-tier subcontractors under a cost-reimbursement contract. If the inclusion of the paid freight bills/invoices, CBL's, passenger coupons, and supporting documents for any subcontractor in the shipment is not practicable, the documents may be forwarded to GSA in a separate package.

(c) Any original transportation bills or other documents requested by GSA shall be forwarded promptly by the Contractor to GSA. The Contractor shall ensure that the name of the contracting agency is stamped or written on the face of the bill before sending it to GSA.

(d) A statement prepared in duplicate by the Contractor shall accompany each shipment of transportation documents. GSA will acknowledge receipt of the shipment by signing and returning the copy of the statement. The statement shall show—

- (1) The name and address of the Contractor;
- (2) The contract number including any alpha-numeric prefix identifying the contracting office;

(3) The name and address of the contracting office;

(4) The total number of bills submitted with the statement; and

(5) A listing of the respective amounts paid or, in lieu of such listing, an adding machine tape of the amounts paid showing the Contractor's voucher or check numbers.

(End of clause)

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52.248-1 Value Engineering.

As prescribed in 48.201, insert the following clause:

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) of this clause.

(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.

(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

* The Contracting Office may increase the Contractor's sharing rate to as high as 75 percent for each VECP.
 ** Same sharing arrangement as the contract's profit or fee adjustment formula.
 *** The Contracting Office may increase the Contractor's sharing rate to as high as 50 percent for each VECP.

(g) *Calculating net acquisition savings.* (1) Acquisition savings are realized when (i) the cost or price is reduced on the instant contract, (ii) reductions are negotiated in concurrent contracts, (iii) future contracts are awarded, or (iv) agreement is reached on a lump-sum payment for future contract savings (see paragraph (i)(4) of this clause). 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 paragraph (h)(5) of this clause. 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 _____, shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations.

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

(End of clause)

Alternate I (Apr 1984). If the contracting officer selects a mandatory value engineering program requirement, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(a) *General.* The Contractor shall (1) engage in a value engineering program, and submit value engineering progress reports, as specified in the Schedule and (2) submit to the Contracting Officer any resulting value engineering change proposals (VECP's). In addition to being paid as the Schedule specifies for this mandatory program, the Contractor shall share in any net acquisition savings realized from accepted VECP's, in accordance with the program requirement sharing rates in paragraph (f) of this clause.

Alternate II (Feb 2000). If the contracting officer selects both a value engineering incentive and mandatory value engineering program requirement, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(a) *General.* For those contract line items designated in the Schedule as subject to the value engineering program requirement, the Contractor shall (1) engage in a value engineering program, and submit value engineering progress reports, as specified in the Schedule and (2) submit to the Contracting Officer any resulting VECP's. In addition to being paid as the Schedule specifies for this mandatory program, the Contractor shall share in any net acquisition savings realized from VECP's accepted under the program, in accordance with the program requirement sharing rates in paragraph (f) of this clause. For

remaining areas of the contract, the Contractor is encouraged to develop, prepare, and submit VECP's voluntarily; for VECP's accepted under these remaining areas, the incentive sharing rates apply. The decision on which rate applies is a unilateral decision made solely at the discretion of the Government.

Alternate III (Apr 1984). When the head of the contracting activity determines that the cost of calculating and tracking collateral savings will exceed the benefits to be derived in a contract calling for a value engineering incentive, delete paragraph (j) from the basic clause and redesignate the remaining paragraphs accordingly.

52.248-2 Value Engineering—Architect-Engineer.

As prescribed in 48.201(f), insert the following clause:

VALUE ENGINEERING—ARCHITECT-ENGINEER (MAR 1990)

(a) *General.* The Contractor shall (1) perform value engineering (VE) services and submit progress reports as specified in the Schedule; and (2) submit to the Contracting Officer any resulting value engineering proposals (VEP's). Value engineering activities shall be performed concurrently with, and without delay to, the schedule set forth in the contract. The services shall include VE evaluation and review and study of design documents immediately following completion of the 35 percent design state or at such stages as the Contracting Officer may direct. Each separately priced line item for VE services shall define specifically the scope of work to be accomplished and may include VE studies of items other than design documents. The Contractor shall be paid as the contract specifies for this effort, but shall not share in savings which may result from acceptance and use of VEP's by the Government.

(b) *Definitions.* "Life cycle cost," as used in this clause, is the sum of all costs over the useful life of a building, system or product. It includes the cost of design, construction, acquisition, operation, maintenance, and salvage (resale) value, if any.

"Value engineering," as used in this clause, means an organized effort to analyze the functions of systems, equipment, facilities, services, and supplies for the purpose of achieving the essential functions at the lowest life cycle cost consistent with required performance, reliability, quality, and safety.

"Value engineering proposal," as used in this clause, means, in connection with an A-E contract, a change proposal developed by employees of the Federal Government or contractor value engineering personnel under contract to an agency to provide value engineering services for the contract or program.

(c) *Submissions.* After award of an architect-engineering contract the contractor shall—

(1) Provide the Government with a fee breakdown schedule for the VE services (such as criteria review, task

team review, and bid package review) included in the contract schedule;

(2) Submit, for approval by the Contracting Officer, a list of team members and their respective resumes representing the engineering disciplines required to complete the study effort, and evidence of the team leader's qualifications and engineering discipline. Subsequent changes or substitutions to the approved VE team shall be submitted in writing to the Contracting Officer for approval; and

(3) The team leader shall be responsible for pre-study work assembly and shall edit, reproduce, and sign the final report and each VEP. All VEP's, even if submitted earlier as an individual submission, shall be contained in the final report.

(d) *VEP preparation.* As a minimum, the contractor shall include the following information in each VEP:

(1) A description of the difference between the existing and proposed design, the comparative advantages and disadvantages of each, a justification when an item's function is being altered, the effect of the change on system or facility performance, and any pertinent objective test data.

(2) A list and analysis of design criteria or specifications that must be changed if the VEP is accepted.

(3) A separate detailed estimate of the impact on project cost of each VEP, if accepted and implemented by the Government.

(4) A description and estimate of costs the Government may incur in implementing the VEP, such as design change cost and test and evaluation cost.

(5) A prediction of any effects the proposed change may have on life cycle cost.

(6) The effect the VEP will have on design or construction schedules.

(e) *VEP acceptance.* Approved VEP's shall be implemented by bilateral modification to this contract.

(End of clause)

52.248-3 Value Engineering—Construction.

As prescribed in 48.202, insert the following clause:

VALUE ENGINEERING—CONSTRUCTION (FEB 2000)

(a) *General.* The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The Contractor shall share in any instant contract savings realized from accepted VECP's, in accordance with paragraph (f) of this clause.

(b) *Definitions.* "Collateral costs," as used in this clause, means agency costs of operation, maintenance, logistic support, or Government-furnished property.

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

“Contractor’s development and implementation costs,” as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

“Government costs,” as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistic support. The term does not include the normal administrative costs of processing the VECP.

“Instant contract savings,” as used in this clause, means the estimated reduction in Contractor cost of performance resulting from acceptance of the VECP, minus allowable Contractor’s development and implementation costs, including subcontractors’ development and implementation costs (see paragraph (h) of this clause).

“Value engineering change proposal (VECP)” means a proposal that—

(1) Requires a change to this, the instant contract, to implement; and

(2) Results in reducing the contract price or estimated cost without impairing essential functions or characteristics; *provided*, that it does not involve a change—

(i) In deliverable end item quantities only; or

(ii) To the contract type only.

(c) *VECP preparation.* As a minimum, the Contractor shall include in each VECP the information described in paragraphs (c)(1) through (7) 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 that proposed, the comparative advantages and disadvantages of each, a justification when an item’s function or characteristics are being altered, and the effect of the change on the end item’s performance.

(2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) A separate, detailed cost estimate for (i) the affected portions of the existing contract requirement and (ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor’s allowable development and implementation costs, including any amount attributable to subcontracts under paragraph (h) of this clause.

(4) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(5) A prediction of any effects the proposed change would have on collateral costs to the agency.

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

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

(d) *Submission.* The Contractor shall submit VECP’s to the Resident Engineer at the worksite, with a copy to the Contracting Officer.

(e) *Government action.* (1) The Contracting Officer will notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer will notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECP’s expeditiously; however, it 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. The Contracting Officer may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.

(f) *Sharing—* (1) *Rates.* The Government’s share of savings is determined by subtracting Government costs from instant contract savings and multiplying the result by—

(i) 45 percent for fixed-price contracts; or

(ii) 75 percent for cost-reimbursement contracts.

(2) *Payment.* Payment of any share due the Contractor for use of a VECP on this contract shall be authorized by a modification to this contract to—

(i) Accept the VECP;

(ii) Reduce the contract price or estimated cost by the amount of instant contract savings; and

(iii) Provide the Contractor’s share of savings by adding the amount calculated to the contract price or fee.

(g) *Collateral savings.* If a VECP is accepted, the Contracting Officer will increase the instant contract amount by 20 percent of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price or estimated cost, at the time the VECP is accepted, or \$100,000, whichever is greater. The Contracting Officer is the sole determiner of the amount of collateral savings.

(h) *Subcontracts.* The Contractor shall include an appropriate value engineering clause in any subcontract of \$50,000 or more and may include one in subcontracts of lesser value. In computing any adjustment in this contract's price under paragraph (f) of this clause, the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs clearly resulting from a VECP accepted by the Government under this contract, but shall exclude any value engineering incentive payments to a subcontractor. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; *provided*, that these payments shall not reduce the Government's share of the savings resulting from the VECP.

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

These data, furnished under the Value Engineering—Construction clause of contract _____, shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations.

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

(End of clause)

Alternate I (Apr 1984). When the head of the contracting activity determines that the cost of calculating and tracking collateral savings will exceed the benefits to be derived in a construction contract, delete paragraph (g) from the basic clause and redesignate the remaining paragraphs accordingly.

52.249-1 Termination for Convenience of the Government (Fixed-Price) (Short Form).

As prescribed in 49.502(a)(1), insert the following clause in solicitations and contracts when a fixed-price contract is contemplated and the contract amount is expected to be \$100,000 or less, except (a) if use of the clause at 52.249-4, Termination for Convenience of the Government (Services) (Short Form) is appropriate, (b) in contracts for research and development work with an educational or nonprofit institution on a no-profit basis, (c) in contracts for architect-engineer services, or (d) if one of the clauses prescribed or cited at 49.505(a), (b), or (e), is appropriate:

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SHORT FORM) (APR 1984)

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the rights, duties, and obligations of the parties, including compensation to the Contractor, shall be in accordance with Part 49 of the Federal Acquisition Regulation in effect on the date of this contract.

(End of clause)

Alternate I (Apr 1984). If the contract is for dismantling, demolition, or removal of improvements, designate the basic clause as paragraph (a) and add the following paragraph (b):

(b) Upon receipt of the termination notice, if title to property is vested in the Contractor under this contract, it shall revert in the Government regardless of any other clause of the contract, except for property that the Contractor (a) disposed of by bona fide sale or (b) removed from the site.

52.249-2 Termination for Convenience of the Government (Fixed-Price).

As prescribed in 49.502(b)(1)(i), insert the following clause:

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (MAY 2004)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

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

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facil-

ities, except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.

(6) As directed by the Contracting Officer, transfer title and deliver to the Government—

(i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and

(ii) The completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government.

(7) Complete performance of the work not terminated.

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

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

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

(d) After expiration of the plant clearance period as defined in Subpart 49.001 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will

accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

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

(f) Subject to paragraph (e) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (f) or paragraph (g) of this clause, exclusive of costs shown in paragraph (g)(3) of this clause, may not exceed the total contract price as reduced by (1) the amount of payments previously made and (2) the contract price of work not terminated. The contract shall be modified, and the Contractor paid the agreed amount. Paragraph (g) of this clause shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(g) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (f) of this clause:

(1) The contract price for completed supplies or services accepted by the Government (or sold or acquired under paragraph (b)(9) of this clause) not previously paid for, adjusted for any saving of freight and other charges.

(2) The total of—

(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under paragraph (g)(1) of this clause;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are

properly chargeable to the terminated portion of the contract if not included in subdivision (g)(2)(i) of this clause; and

(iii) A sum, as profit on subdivision (g)(2)(i) of this clause, determined by the Contracting Officer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subdivision (g)(2)(iii) and shall reduce the settlement to reflect the indicated rate of loss.

(3) The reasonable costs of settlement of the work terminated, including—

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

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

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

(h) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair value, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to a buyer.

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

(j) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (e), (g), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal or request for equitable adjustment within the time provided in paragraph (e) or (l), respectively, and failed to request a time extension, there is no right of appeal.

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

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

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

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

(l) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable

adjustment under this clause shall be requested within 90 days from the effective date of termination unless extended in writing by the Contracting Officer.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

(End of clause)

Alternate I (Sept 1996). If the contract is for construction, substitute the following paragraph (g) for paragraph (g) of the basic clause:

(g) If the Contractor and Contracting Officer fail to agree on the whole amount to be paid the Contractor because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined as follows, but without duplication of any amounts agreed upon under paragraph (f) of this clause:

(1) For contract work performed before the effective date of termination, the total (without duplication of any items) of—

(i) The cost of this work;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (g)(1)(i) of this clause; and

(iii) A sum, as profit on subdivision (g)(1)(i) of this clause, determined by the Contracting Officer under 49.202 of

the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subdivision (g)(1)(iii) and shall reduce the settlement to reflect the indicated rate of loss.

(2) The reasonable costs of settlement of the work terminated, including—

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

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

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

Alternate II (Sept 1996). If the contract is with an agency of the U.S. Government or with State, local, or foreign governments or their agencies, and if the Contracting Officer determines that the requirement to pay interest on excess partial payments is inappropriate, delete paragraph (m)(2) of the basic clause.

Alternate III (Sept 1996). If the contract is for construction and with an agency of the U.S. Government or with State, local, or foreign governments or their agencies, substitute the following paragraph (g) for paragraph (g) of the basic clause. Paragraph (m)(2) may be deleted from the basic clause if the Contracting Officer determines that the requirement to pay interest on excess partial payments is inappropriate.

(g) If the Contractor and Contracting Officer fail to agree on the whole amount to be paid the Contractor because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined as follows, but without duplication of any amounts agreed upon under paragraph (f) of this clause:

(1) For contract work performed before the effective date of termination, the total (without duplication of any items) of—

(i) The cost of this work;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (g)(1)(i) of this clause; and

(iii) A sum, as profit on subdivision (g)(1)(i) of this clause, determined by the Contracting Officer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subdivision (iii) and shall reduce the settlement to reflect the indicated rate of loss.

(2) The reasonable costs of settlement of the work terminated, including—

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

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

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

52.249-3 Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements).

As prescribed in 49.502(b)(2), insert the following clause:

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (DISMANTLING, DEMOLITION, OR REMOVAL OF IMPROVEMENTS) (MAY 2004)

(a) The Government may terminate performance of work under this contract, in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date. Upon receipt of the notice, if title to property is vested in the Contractor under this contract, it shall revert in the Government regardless of any other clause of this contract, except for property that the Contractor disposed of by bona fide sale or removed from the site.

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

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.

(6) As directed by the Contracting Officer, transfer title and deliver to the Government—

(i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and

(ii) The completed or partially completed plans, drawings, information, and other property that, if the contract has been completed, would be required to be furnished to the Government.

(7) Complete performance of the work not terminated.

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

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

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

(d) After expiration of the plant clearance period as defined in Subpart 49.001 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

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

allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(f) Subject to paragraph (e) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (f) or paragraph (g) of this clause, exclusive of settlement costs, may not exceed the total contract price as reduced by (1) the amount of payments previously made and (2) the contract price of work not terminated. The contract shall be amended and the Contractor paid the agreed amount. Paragraph (g) of this clause shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(g) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (f) of this clause:

(1) For contract work performed before the effective date of termination, the total (without duplication of any items) of—

(i) The cost of this work;

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

(iii) A sum, as profit on subdivision (g)(1)(i) of this clause, determined by the Contracting Officer under section 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subdivision (iii) and shall reduce the amount of the settlement to reflect the indicated rate of loss.

(2) The reasonable costs of settlement of the work terminated, including—

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

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

(iii) Preservation and protection of property under paragraph (b)(8) of this clause.

(h) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair

value as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to a buyer.

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

(j) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (e), (g), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (e) or (l) 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 (e), (g), 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 the provisions of this clause and not recovered by or credited to the Government.

(l) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 90 days from the effective date of termination unless extended in writing by the Contracting Officer.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against cost incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in

the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

(End of clause)

Alternate I (Sept 1996). If the contract is with an agency of the U.S. Government or with State, local, or foreign governments or their agencies, and if the contracting officer determines that the requirement to pay interest on excess partial payments is inappropriate, delete paragraph (m)(2) from the basic clause.

52.249-4 Termination for Convenience of the Government (Services) (Short Form).

As prescribed in 49.502(c), insert the following clause in solicitations and contracts for services, regardless of value, when a fixed-price contract is contemplated and the Contracting Officer determines that because of the kind of services required, the successful offeror will not incur substantial charges in preparation for and in carrying out the contract, and would, if terminated for the convenience of the Government, limit termination settlement charges to services rendered before the date of termination:

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (SERVICES) (SHORT FORM) (APR 1984)

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Government shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

(End of clause)

52.249-5 Termination for Convenience of the Government (Educational and Other Nonprofit Institutions).

As prescribed in 49.502(d), insert the following clause:

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT
(EDUCATIONAL AND OTHER NONPROFIT INSTITUTIONS)
(SEPT 1996)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

(b) After receipt of a Notice of Termination and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations:

(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 applicable subcontracts and cancel or divert applicable commitments covering personal services that extend beyond the effective date of termination.

(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 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; 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 any information and items that, if the contract had been completed, would have been required to be furnished, including—

(i) Materials or equipment produced, in process, or acquired for the work terminated; and

(ii) Completed or partially completed plans, drawings, and information.

(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, termination inventory other than that retained by the Government under paragraph (b)(6) of this clause; *provided, however*, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments

to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

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

(d) After 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. If the Contractor fails to submit the termination settlement 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.

(e) Subject to paragraph (d) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. This amount may include reasonable cancellation charges incurred by the Contractor and any reasonable loss on outstanding commitments for personal services that the Contractor is unable to cancel; *provided*, that the Contractor exercised reasonable diligence in diverting such commitments to other operations. The contract shall be amended and the Contractor paid the agreed amount.

(f) The cost principles and procedures in Subpart 31.3 of the Federal Acquisition Regulation (FAR), in effect on the date of the contract, shall govern all costs claimed, agreed to, or determined under this clause; however, if the Contractor is not an educational institution, and is a nonprofit organization under Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Nonprofit Organizations," July 8, 1980, those cost principles shall apply; *provided*, that if the Contractor is a nonprofit institution listed in Attachment C of OMB Circular A-122, the cost principles at FAR 31.2 for commercial organizations shall apply to such contractor.

(g) The Government may, under the terms and conditions it prescribes, make partial payments against costs incurred by the Contractor for the terminated portion of this contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(h) The Contractor has the right of appeal as provided under the Disputes clause, except that if the Contractor failed to submit the termination settlement proposal within the time

provided in paragraph (d) of this clause and failed to request a time extension, there is no right of appeal.

(End of clause)

52.249-6 Termination (Cost-Reimbursement).

As prescribed in 49.503(a)(1), insert the following clause:

TERMINATION (COST-REIMBURSEMENT) (MAY 2004)

(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 paragraph (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 of costs and/or fee to be paid because of the termination of work, the Contracting Officer shall determine, on the basis of information available, the amount, if any, due the Contractor, and shall pay that amount, which shall include the following:

(1) All costs reimbursable under this contract, not previously paid, for the performance of this contract before the effective date of the termination, and those costs that may continue for a reasonable time with the approval of or as directed by the Contracting Officer; however, the Contractor shall discontinue those costs as rapidly as practicable.

(2) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in paragraph (h)(1) of this clause.

(3) The reasonable costs of settlement of the work terminated, including—

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

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

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory. If the termination is for default, no amounts for the preparation of the Contractor's termination settlement proposal may be included.

(4) A portion of the fee payable under the contract, determined as follows:

(i) If the contract is terminated for the convenience of the Government, the settlement shall include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination proposals, less previous payments for fee.

(ii) If the contract is terminated for default, the total fee payable shall be such proportionate part of the fee as the total number of articles (or amount of services) delivered to and accepted by the Government is to the total number of arti-

cles (or amount of services) of a like kind required by the contract.

(5) If the settlement includes only fee, it will be determined under paragraph (h)(4) of this clause.

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

(j) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (f), (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) The Contractor and Contracting Officer must agree to any equitable adjustment in fee for the continued portion of the contract when there is a partial termination. The Contracting Officer shall amend the contract to reflect the agreement.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later

date determined by the Contracting Officer because of the circumstances.

(n) The provisions of this clause relating to fee are inapplicable if this contract does not include a fee.

(End of clause)

Alternate I (Sept 1996). If the contract is for construction, substitute the following paragraph (h)(4) for paragraph (h)(4) of the basic clause:

(4) A portion of the fee payable under the contract determined as follows:

(i) If the contract is terminated for the convenience of the Government, the settlement shall include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination settlement proposals, less previous payments for fee.

(ii) If the contract is terminated for default, the total fee payable shall be such proportionate part of the fee as the actual work in place is to the total work in place required by the contract.

Alternate II (Sept 1996). If the contract is with an agency of the U.S. Government or with State, local, or foreign governments or their agencies, and if the contracting officer determines that the requirement to pay interest on excess partial payments is inappropriate, delete paragraph (m)(2) from the basic clause.

Alternate III (Sept 1996). If the contract is for construction with an agency of the U.S. Government or with State, local, or foreign governments or their agencies, the following paragraph (h)(4) shall be substituted for paragraph (h)(4) of the basic clause. Paragraph (m)(2) may be deleted from the basic clause if the contracting officer determines that the requirement to pay interest on excess partial payments is inappropriate.

(4) A portion of the fee payable under the contract determined as follows:

(i) If the contract is terminated for the convenience of the Government, the settlement shall include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination settlement proposals, less previous payments for fee.

(ii) If the contract is terminated for default, the total fee payable shall be such proportionate part of the fee as the actual work in place is to the total work in place required by the contract.

Alternate IV (Sept 1996). If the contract is a time-and-material or labor-hour contract, substitute the following paragraphs (h) and (l) for paragraphs (h) and (l) of the basic clause:

(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 deter-

mine, 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 paragraph (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.

* * * * *

(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.

Alternate V (Sept 1996). If the contract is a time-and-material or labor-hour contract with an agency of the U.S. Govern-

ment or with State, local or foreign governments or their agencies, substitute the following paragraphs (h) and (l) for paragraphs (h) and (l) of the basic clause. Paragraph (m)(2) may be deleted from the basic clause if the contracting officer determines that the requirement to pay interest on excess partial payments is inappropriate.

(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 paragraph (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.

* * * * *

(l) If the termination is partial, the Contractor may file with the Contracting Officer a proposal for an equitable adjustment of the 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.

52.249-7 Termination (Fixed-Price Architect-Engineer).

As prescribed in 49.503(b), insert the following clause in solicitations and contracts for architect-engineer services when a fixed-price contract is contemplated:

TERMINATION (FIXED-PRICE ARCHITECT-ENGINEER) (APR 1984)

(a) The Government may terminate this contract in whole or, from time to time, in part, for the Government's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall—

(1) Immediately discontinue all services affected (unless the notice directs otherwise); and

(2) Deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

(b) If the termination is for the convenience of the Government, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

(c) If the termination is for failure of the Contractor to fulfill the contract obligations, the Government may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Government.

(d) If, after termination for failure to fulfill contract obligations, it is determined that the Contractor had not failed, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(e) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

52.249-8 Default (Fixed-Price Supply and Service).

As prescribed in 49.504(a)(1), insert the following clause:

DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984)

(a)(1) The Government may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to—

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The Government's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Government for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (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.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

Alternate I (Apr 1984). If the contract is for transportation or transportation-related services, delete paragraph (f) of the basic clause, redesignate the remaining paragraphs accordingly, and substitute the following paragraphs (a) and (e) for paragraphs (a) and (e) of the basic clause:

(a)(1) The Government may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to—

(i) Pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The Government's right to terminate this contract under subdivisions (a)(1)(ii) and (iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(e) If this contract is terminated while the Contractor has possession of Government goods, the Contractor shall, upon direction of the Contracting Officer, protect and preserve the goods until surrendered to the Government or its agent. The Contractor and Contracting Officer shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be a dispute under the Disputes clause.

52.249-9 Default (Fixed-Price Research and Development).

As prescribed in 49.504(b), insert the following clause:

DEFAULT (FIXED-PRICE RESEARCH AND DEVELOPMENT)
(APR 1984)

(a)(1) The Government may, subject to paragraphs (c) and (d) of this clause, by written Notice of Default to the Contractor, terminate this contract in whole or in part if the Contractor fails to—

(i) Perform the work under the contract within the time specified in this contract or any extension;

(ii) Prosecute the work so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The Government's right to terminate this contract under subdivisions (a)(1)(ii) and (iii) of this clause may be exercised if the Contractor does not cure such failure within 10 days (or more, if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, work similar to the work terminated, and the Contractor will be liable to the Government for any excess costs for the similar work. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (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.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule or other performance requirements.

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any (1) completed or partially completed work not previously delivered to, and accepted by, the Government and (2) other property, including contract rights, specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also

protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay the contract price, if separately stated, for completed work it has accepted and the amount agreed upon by the Contractor and the Contracting Officer for (1) completed work for which no separate price is stated, (2) partially completed work, (3) other property described above that it accepts, and (4) the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss from outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

52.249-10 Default (Fixed-Price Construction).

As prescribed in 49.504(c)(1), insert the following clause:

DEFAULT (FIXED-PRICE CONSTRUCTION) (APR 1984)

(a) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if—

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include—

(i) Acts of God or of the public enemy,

- (ii) Acts of the Government in either its sovereign or contractual capacity,
- (iii) Acts of another Contractor in the performance of a contract with the Government,
- (iv) Fires,
- (v) Floods,
- (vi) Epidemics,
- (vii) Quarantine restrictions,
- (viii) Strikes,
- (ix) Freight embargoes,
- (x) Unusually severe weather, or
- (xi) Delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Government.

(d) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

Alternate I (Apr 1984). If the contract is for dismantling, demolition, or removal of improvements, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(a)(1) If the Contractor refuses or fails to prosecute the work, or any separable part, with the diligence that will insure its completion within the time specified in this contract, including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work or the part of the work that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work.

(2) If title to property is vested in the Contractor under this contract, it shall revert in the Government regardless of any other clause of this contract, except for property that the Contractor has disposed of by bona fide sale or removed from the site.

(3) The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's

refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

Alternate II (Apr 1984). If the contract is to be awarded during a period of national emergency, paragraph (b)(1) below may be substituted for paragraph (b)(1) of the basic clause:

(1) The delay in completing the work arises from causes other than normal weather beyond the control and without the fault or negligence of the Contractor. Examples of such causes include—

- (i) Acts of God or of the public enemy,
- (ii) Acts of the Government in either its sovereign or contractual capacity,
- (iii) Acts of another Contractor in the performance of a contract with the Government,
- (iv) Fires,
- (v) Floods,
- (vi) Epidemics,
- (vii) Quarantine restrictions,
- (viii) Strikes,
- (ix) Freight embargoes,
- (x) Unusually severe weather, or
- (xi) Delays of subcontractors or suppliers at any tier arising from causes other than normal weather beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

Alternate III (Apr 1984). If the contract is for dismantling, demolition, or removal of improvements and is to be awarded during a period of national emergency, substitute the following paragraph (a) for paragraph (a) of the basic clause. The following paragraph (b)(1) may be substituted for paragraph (b)(1) of the basic clause:

(a)(1) If the Contractor refuses or fails to prosecute the work, or any separable part, with the diligence that will insure its completion within the time specified in this contract, including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work or the part of the work that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work.

(2) If title to property is vested in the Contractor under this contract, it shall revert in the Government regardless of any other clause of this contract, except for property that the Contractor has disposed of by bona fide sale or removed from the site.

(3) The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if—

(1) The delay in completing the work arises from causes other than normal weather beyond the control and without the fault or negligence of the Contractor. Examples of such causes include—

- (i) Acts of God or of the public enemy,
- (ii) Acts of the Government in either its sovereign or contractual capacity,
- (iii) Acts of another Contractor in the performance of a contract with the Government,
- (iv) Fires,
- (v) Floods,
- (vi) Epidemics,
- (vii) Quarantine restrictions,
- (viii) Strikes,
- (ix) Freight embargoes,
- (x) Unusually severe weather, or
- (xi) Delays of subcontractors or suppliers at any tier arising from causes other than normal weather beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

52.249-11 Termination of Work (Consolidated Facilities or Facilities Acquisition).

As prescribed in 49.505(a), insert the following clause:

TERMINATION OF WORK (CONSOLIDATED FACILITIES OR FACILITIES ACQUISITION) (MAY 2004)

(a) The Government may terminate performance of work under this contract in whole, or from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations regardless of any delay in determining any item of reimbursable cost under this clause:

- (1) Stop work as specified in the notice.
- (2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
- (3) Terminate all subcontracts to the extent they relate to the work terminated.
- (4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or pay any termination settlement proposal arising out of those terminations.

(5) With the 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; the 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; and

(ii) The completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government.

(7) Complete performance of the work not terminated.

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

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

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

(d) After expiration of the plant clearance period as defined in Subpart 49.001 of the Federal Acquisition Regulation, the Contractor may submit a list, to the Contracting Officer 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 these items or enter into an agreement for their storage. Within 15 days, the Government shall 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.

(e) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in

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

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

(g) If the Contractor and the Contracting Officer fail to agree on the whole amount of costs 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) All costs reimbursable under this contract, not previously paid, for the performance of this contract before the effective date of the termination, and part of those costs that may continue for a reasonable time with the approval of or as directed by the Contracting Officer; however, the Contractor shall discontinue those costs as rapidly as practicable.

(2) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract, if not included in paragraph (g)(1) of this clause.

(3) The reasonable costs of settlement of the work terminated, including—

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

(ii) The termination and settlement of subcontracts; and

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

(h) 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.

(i) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (e) or (g) of this clause, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (e)

of this clause, 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 (e) or (g) 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.

(j) 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.

(k)(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.

(l) Any related contract of the Contractor may be equitably adjusted if it provides for such an adjustment and if it is affected by a Notice of Termination under this clause. The Government shall not be liable to the Contractor for damages or loss of profits because of any Notice of Termination issued under this clause.

(End of clause)

Alternate I (Sept 1996). If the contract is with an agency of the U.S. Government or with State, local, or foreign governments or their agencies, and if the contracting officer determines that the requirement to pay interest on excess partial payments is inappropriate, delete paragraph (k)(2) from the basic clause.

52.249-12 Termination (Personal Services).

As prescribed in 49.505(b), insert the following clause in solicitations and contracts for personal services (see Part 37):

TERMINATION (PERSONAL SERVICES) (APR 1984)

The Government may terminate this contract at any time upon at least 15 days' written notice by the Contracting Officer to the Contractor. The Contractor, with the written consent of the Contracting Officer, may terminate this contract upon at least 15 days' written notice to the Contracting Officer.

(End of clause)

52.249-13 Failure to Perform.

As prescribed in 49.505(c), insert the following clause in facilities contracts except facilities use contracts with non-profit educational institutions:

FAILURE TO PERFORM (APR 1984)

(a) Subject to the Excusable Delays clause (if included in this contract), if the Contractor fails to perform this contract under its terms, the Contracting Officer shall give the Contractor written notice stating the failure. Thereafter, regardless of any other provision of this contract, the Contractor shall not be entitled to an equitable adjustment under either this contract or any related contract, to the extent the equitable adjustment arises from the Contractor's failure to perform or from any reasonable remedial action taken by the Contracting Officer based upon the failure.

(b) The failure of the Government to insist, in one or more instances, upon the performance of any term of this contract is not a waiver of the Government's right to future performance of such term, and the Contractor's obligation for future performance of such term shall continue in effect.

(c) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

52.249-14 Excusable Delays.

As prescribed in 49.505(d), insert the following clause in solicitations and contracts for supplies, services, construction, and research and development on a fee basis whenever a cost-reimbursement contract is contemplated. Also insert the clause in time-and-material contracts, labor-hour contracts, consolidated facilities contracts, and facilities acquisition contracts. When used in construction contracts, substitute the words "completion time" for "delivery schedule" in the last sentence of the clause. When used in facilities contracts, substitute the words "termination of work" for "termination" in the last sentence of the clause.

EXCUSABLE DELAYS (APR 1984)

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

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

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

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

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

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

(End of clause)

52.250-1 Indemnification Under Public Law 85-804.

As prescribed in 50.403-3, insert the following clause in contracts whenever the approving official determines that the contractor shall be indemnified against unusually hazardous or nuclear risks (also see 50.403-2(c)):

INDEMNIFICATION UNDER PUBLIC LAW 85-804
(APR 1984)

(a) "Contractor's principal officials," as used in this clause, means directors, officers, managers, superintendents, or other representatives supervising or directing—

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

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

(3) A separate and complete major industrial operation in connection with the performance of this contract.

(b) Under Public Law 85-804 (50 U.S.C 1431-1435) and Executive Order 10789, as amended, and regardless of any

other provisions of this contract, the Government shall, subject to the limitations contained in the other paragraphs of this clause, indemnify the Contractor against—

(1) Claims (including reasonable expenses of litigation or settlement) by third persons (including employees of the Contractor) for death; personal injury; or loss of, damage to, or loss of use of property;

(2) Loss of, damage to, or loss of use of Contractor property, excluding loss of profit; and

(3) Loss of, damage to, or loss of use of Government property, excluding loss of profit.

(c) This indemnification applies only to the extent that the claim, loss, or damage (1) arises out of or results from a risk defined in this contract as unusually hazardous or nuclear and (2) is not compensated for by insurance or otherwise. Any such claim, loss, or damage, to the extent that it is within the deductible amounts of the Contractor's insurance, is not covered under this clause. If insurance coverage or other financial protection in effect on the date the approving official authorizes use of this clause is reduced, the Government's liability under this clause shall not increase as a result.

(d) When the claim, loss, or damage is caused by willful misconduct or lack of good faith on the part of any of the Contractor's principal officials, the Contractor shall not be indemnified for—

(1) Government claims against the Contractor (other than those arising through subrogation); or

(2) Loss or damage affecting the Contractor's property.

(e) With the Contracting Officer's prior written approval, the Contractor may, in any subcontract under this contract, indemnify the subcontractor against any risk defined in this contract as unusually hazardous or nuclear. This indemnification shall provide, between the Contractor and the subcontractor, the same rights and duties, and the same provisions for notice, furnishing of evidence or proof, and Government settlement or defense of claims as this clause provides. The Contracting Officer may also approve indemnification of subcontractors at any lower tier, under the same terms and conditions. The Government shall indemnify the Contractor against liability to subcontractors incurred under subcontract provisions approved by the Contracting Officer.

(f) The rights and obligations of the parties under this clause shall survive this contract's termination, expiration, or completion. The Government shall make no payment under this clause unless the agency head determines that the amount is just and reasonable. The Government may pay the Contractor or subcontractors, or may directly pay parties to whom the Contractor or subcontractors may be liable.

(g) The Contractor shall—

(1) Promptly notify the Contracting Officer of any claim or action against, or any loss by, the Contractor or any subcontractors that may be reasonably be expected to involve indemnification under this clause;

(2) Immediately furnish to the Government copies of all pertinent papers the Contractor receives;

(3) Furnish evidence or proof of any claim, loss, or damage covered by this clause in the manner and form the Government requires; and

(4) Comply with the Government's directions and execute any authorizations required in connection with settlement or defense of claims or actions.

(h) The Government may direct, control, or assist in settling or defending any claim or action that may involve indemnification under this clause.

(End of clause)

Alternate I (Apr 1984). In cost-reimbursement contracts, add the following paragraph (i) to the basic clause:

(i) The cost of insurance (including self-insurance programs) covering a risk defined in this contract as unusually hazardous or nuclear shall not be reimbursed except to the extent that the Contracting Officer has required or approved this insurance. The Government's obligations under this clause are—

(1) Excepted from the release required under this contract's clause relating to allowable cost; and

(2) Not affected by this contract's Limitation of Cost or Limitation of Funds clause.

52.251-1 Government Supply Sources.

As prescribed in 51.107, insert the following clause in solicitations and contracts when the contracting officer may authorize the contractor to acquire supplies or services from a Government supply source:

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.

(End of clause)

Alternate I (Apr 1984). If a facilities contract is contemplated, delete the last sentence from the basic clause.

52.251-2 Interagency Fleet Management System Vehicles and Related Services.

As prescribed in 51.205, insert the following clause:

INTERAGENCY FLEET MANAGEMENT SYSTEM VEHICLES AND RELATED SERVICES (JAN 1991)

The Contracting Officer may issue the Contractor an authorization to obtain interagency fleet management system (IFMS) vehicles and related services for use in the performance of this contract. The use, service, and maintenance of interagency fleet management system vehicles and the use of related services by the Contractor shall be in accordance with 41 CFR 101-39 and 41 CFR 101-38.301-1.

(End of clause)

52.252-1 Solicitation Provisions Incorporated by Reference.

As prescribed in 52.107(a), insert the following provision:

SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

This solicitation incorporates one or more solicitation provisions 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. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

[Insert one or more Internet addresses]

(End of provision)

52.252-2 Clauses Incorporated by Reference.

As prescribed in 52.107(b), insert the following clause:

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):

[Insert one or more Internet addresses]

(End of clause)

52.252-3 Alterations in Solicitation.

As prescribed in 52.107(c), insert the following provision in solicitations in order to revise or supplement, as necessary, other parts of the solicitation that apply to the solicitation

phase only, except for any provision authorized for use with a deviation. Include clear identification of what is being altered.

ALTERATIONS IN SOLICITATION (APR 1984)

Portions of this solicitation are altered as follows:

(End of provision)

52.252-4 Alterations in Contract.

As prescribed in 52.107(d), insert the following clause in solicitations and contracts in order to revise or supplement, as necessary, other parts of the contract, or parts of the solicitation that apply after contract award, except for any clause authorized for use with a deviation. Include clear identification of what is being altered.

ALTERATIONS IN CONTRACT (APR 1984)

Portions of this contract are altered as follows:

(End of clause)

52.252-5 Authorized Deviations in Provisions.

As prescribed in 52.107(e), insert the following provision in solicitations that include any FAR or supplemental provision with an authorized deviation. Whenever any FAR or supplemental provision is used with an authorized deviation, the contracting officer shall identify it by the same number, title, and date assigned to the provision when it is used without deviation, include regulation name for any supplemental provision, except that the contracting officer shall insert “(DEVIATION)” after the date of the provision.

AUTHORIZED DEVIATIONS IN PROVISIONS (APR 1984)

(a) The use in this solicitation of any Federal Acquisition Regulation (48 CFR Chapter 1) provision with an authorized deviation is indicated by the addition of “(DEVIATION)” after the date of the provision.

(b) The use in this solicitation of any _____ *[insert regulation name]* (48 CFR Chapter _____) provision with an authorized deviation is indicated by the addition of “(DEVIATION)” after the name of the regulation.

(End of provision)

52.252-6 Authorized Deviations in Clauses.

As prescribed in 52.107(f), insert the following clause in solicitations and contracts that include any FAR or supple-

mental clause with an authorized deviation. Whenever any FAR or supplemental clause is used with an authorized deviation, the contracting officer shall identify it by the same number, title, and date assigned to the clause when it is used without deviation, include regulation name for any supplemental clause, except that the contracting officer shall insert “(DEVIATION)” after the date of the clause.

AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the date of the clause.

(b) The use in this solicitation or contract of any _____. [*insert regulation name*] (48 CFR _____) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the name of the regulation.

(End of clause)

52.253-1 Computer Generated Forms.

As prescribed in FAR 53.111, insert the following clause:

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.

(End of clause)

Subpart 52.3—Provision and Clause Matrix**52.300 Scope of subpart.**

The matrix in this subpart contains a column for each principal type and/or purpose of contract (see 52.101(e)).

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52.301 Solicitation provisions and contract clauses (Matrix).

KEY:	
<u>Type of Contract:</u>	
P or C	= Provision or Clause
IBR	= Is Incorporation by Reference Authorized? (See FAR 52.102)
UCF	= Uniform Contract Format Section, when Applicable
FP SUP	= Fixed-Price Supply
CR SUP	= Cost-Reimbursement Supply
FP R&D	= Fixed-Price Research & Development
CR R&D	= Cost Reimbursement Research & Development
FP SVC	= Fixed-Price Service
CR SVC	= Cost Reimbursement Service
FP CON	= Fixed-Price Construction
CR CON	= Cost Reimbursement Construction
T&M LH	= Time & Material/Labor Hours
LMV	= Leasing of Motor Vehicles
COM SVC	= Communication Services
DDR	= Dismantling, Demolition, or Removal of Improvements
A&E	= Architect-Engineering
FAC	= Facilities
IND DEL	= Indefinite Delivery
TRN	= Transportation
SAP	= Simplified Acquisition Procedures (excluding micro-purchase)
UTL SVC	= Utility Services
CI	= Commercial Items
<u>Contract Purpose:</u>	
R	= Required
A	= Required when Applicable
O	= Optional
✓	= Revision

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.202-1 Definitions.	2.201	C	Yes	I	R	R	A	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	
52.203-2 Certificate of Independent Price Determination.	3.103-1	P	No	K	A		A		A		A			A	A	A	A	A	A	A	A	A	
52.203-3 Gratuities.	3.202	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.203-5 Covenant Against Contingent Fees.	3.404	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	
52.203-6 Restrictions on Subcontractor Sales to the Government.	3.503-2	C	Yes	I	R	R			R	R									R			R	
Alternate I	3.503-2	C	Yes																				R
52.203-7 Anti-Kickback Procedures.	3.502-3	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	
52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity.	3.104-9(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.203-10 Price or Fee Adjustment for Illegal or Improper Activity.	3.104-9(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.	3.808(a)	P	Yes	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.203-12 Limitation on Payments to Influence Certain Federal Transactions.	3.808(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.204-1 Approval of Contract.	4.103	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																						
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI	
52.204-2 Security Requirements.	4.404(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Alternate I	4.404(b)	C	Yes	I					A															
Alternate II	4.404(c)	C	Yes	I						A	A						A	A						
52.204-3 Taxpayer Identification.	4.905	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.204-4 Printed or Copied Double-Sided on Recycled Paper.	4.303	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A	
52.204-5 Women-Owned Business (Other Than Small Business)	4.603(b)	P	Yes	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A		
52.204-6 Data Universal Numbering System (DUNS) Number.	4.603(a)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.204-7 Central Contractor Registration.	4.1104	C	Yes	I	A	A	A	A	A	A	A	A	a	A	A	A	A	A	A	A	a	A	A	A
52.204-8 Annual Representations and Certifications	4.1202	P	No	K	A	A	A	A	A	A	A	A	a	a		a	a	a	A	a	a	a		
52.207-1 Notice of Cost Comparison (Sealed-Bid).	7.305(a)	P	Yes	L	A		A		A		A			A	A	A				A				
52.207-2 Notice of Cost Comparison (Negotiated).	7.305(b)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A		A		
52.207-3 Right of First Refusal of Employment.	7.305(c)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A		A		
52.207-4 Economic Purchase Quantity—Supplies.	7.203	P	No	K	A	A													A		A			
52.207-5 Option to Purchase Equipment.	7.404	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.208-4 Vehicle Lease Payments.	8.1104(a)	C	Yes	I										A								A		
52.208-5 Condition of Leased Vehicles.	8.1104(b)	C	Yes	I										A								A		
52.208-6 Marking of Leased Vehicles.	8.1104(c)	C	Yes	I										A								A		
52.208-7 Tagging of Leased Vehicles.	8.1104(d)	C	Yes	I										A								A		
52.208-8 Required Sources for Helium and Helium Usage Data.	8.505	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.208-9 Contractor Use of Mandatory Sources of Supply or Services.	8.004	C	Yes	I	A	A													A		A			
52.209-1 Qualification Requirements.	9.206-2	C	No	I	A	A			A	A				A					A		A			
52.209-3 First Article Approval— Contractor Testing.	9.308-1(a)(1) and (b)(1)	C	Yes	I	A	O								A					A		A			
Alternate I	9.308-1(a)(2) and (b)(2)	C	Yes	I	A	O								A					A		A			
Alternate II	9.308-2(a)(3) and (b)(3)	C	Yes	I	A	O								A					A		A			

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.209-4 First Article Approval— Government Testing.	9.308-2(a)(1) and (b)(1)	C	Yes	I	A	O								A					A		A		
Alternate I	9.308-2(a)(1) and (b)(2)	C	Yes	I	A	O								A					A		A		
Alternate II	9.308-2(a)(1) and (b)(3)	C	Yes	I	A	O								A					A		A		
52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters.	9.409(a)	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
52.209-6 Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.	9.409(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
52.211-1 Availability of Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29.	11.204(a)	P	No	L	A	A	A	A	A	A	A			A	A			A	A		A		
52.211-2 Availability of Specifications Listed in the DoD Index of Specifications and Standards (DoDISS) and Descriptions Listed in the Acquisition Management Systems and Data Requirements Control List, DoD 5010.12-L.	11.204(b)	P	No	L	A	A	A	A	A	A	A			A	A			A	A		A		
52.211-3 Availability of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.	11.204(c)	P	No	L	A	A	A	A	A	A	A			A	A			A	A		A		
52.211-4 Availability for Examination of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Index Descriptions.	11.204(d)	P	No	L	A	A	A	A	A	A	A			A	A			A	A	A	A		
52.211-5 Material Requirements.	11.304	C	Yes	I	R	R															A		
52.211-6 Brand Name or Equal.	11.107(a)	P	Yes	L	A	A							A						A		A		
52.211-7 Alternatives to Government-Unique Standards.	11.107(b)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.211-8 Time of Delivery.	11.404(a)(2)	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
Alternate I	11.404(a)(2)	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
Alternate II	11.404(a)(2)	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
Alternate III	11.404(a)(2)	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.211-9 Desired and Required Time of Delivery.	11.404(a)(3)	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	
Alternate I	11.404(a)(3)	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	
Alternate II	11.404(a)(3)	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	
Alternate III	11.404(a)(3)	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	
52.211-10 Commencement, Prosecution, and Completion of Work.	11.404(b)	C	Yes								R												
Alternate I	11.404(b)	C	Yes								R												
52.211-11 Liquidated Damages—Supplies, Services, or Research and Development.	11.503(a)	C	Yes	F	O		O		O					O								O	O
52.211-12 Liquidated Damages—Construction.	11.503(b)	C	Yes								O	O										O	
52.211-13 Time Extensions.	11.503(c)	C	Yes								A	A										A	
52.211-14 Notice of Priority Rating for National Defense Use.	11.604(a)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.211-15 Defense Priority and Allocation Requirements.	11.604(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.211-16 Variation in Quantity.	11.703(a)	C	Yes	F	A				A					A						A		A	
52.211-17 Delivery of Excess Quantities.	11.703(b)	C	Yes	F	O									O						O		O	
52.211-18 Variation in Estimated Quantity.	11.703(c)	C	Yes								A											A	
52.212-1 Instructions to Offerors—Commercial Items.	12.301(b)(1)	P	Yes	NA	A		A		A		A			A	A	A	A	A	A	A	A	A	R
52.212-2 Evaluation—Commercial Items.	12.301(c)(1)	P	No	NA	O		O		O		O			O	O	O	O	O	O	O	O	O	O
52.212-3 Offeror Representations and Certifications—Commercial Items.	12.301(b)(2)	P	No	NA	A		A		A		A			A	A	A	A	A	A	A	A	A	R
Alternate I	12.301(b)(2)	P	No	NA	A		A		A		A			A	A	A	A	A	A	A	A	A	A
Alternate II	12.301(b)(2)	P	No	NA	A		A		A		A			A	A	A	A	A	A	A	A	A	A
52.212-4 Contract Terms and Conditions—Commercial Items.	12.301(b)(3)	C	Yes	NA	A		A		A		A			A	A	A	A	A	A	A	A	A	R
52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders— Commercial Items	12.301(b)(4)	C	No	NA	A		A		A		A			A	A	A	A	A	A	A	A	A	R
Alternate I	12.301(b)(4)	C	No	NA	A		A		A		A			A	A	A	A	A	A	A	A	Z	R
52.213-1 Fast Payment Procedure.	13.404	C	Yes		A									A								A	
52.213-2 Invoices.	13.302-5(b)	C	Yes																			A	
52.213-3 Notice to Supplier.	13.302-5(c)	C	Yes																			A	

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52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).	13.302-5(d)	C	Yes																		A		
52.214-3 Amendments to Invitations for Bids.	14.201-6(b)(1)	P	Yes	L	A			A		A				A	A	A			A	A		A	
52.214-4 False Statements in Bids.	14.201-6(b)(2)	P	Yes	L	A			A		A				A	A	A			A	A		A	
52.214-5 Submission of Bids.	14.201-6(c)(1)	P	Yes	L	A			A		A				A	A	A			A	A		A	
52.214-6 Explanation to Prospective Bidders.	14.201-6(c)(2)	P	Yes	L	A			A		A				A	A	A			A	A		A	
52.214-7 Late Submissions, Modifications, and Withdrawals of Bids.	14.201-6(c)(3)	P	Yes	L	A			A		A				A	A	A			A	A		A	
52.214-10 Contract Award—Sealed Bidding.	14.201-6(e)	P	Yes	L	A			A						A	A	A			A	A		A	
52.214-12 Preparation of Bids.	14.201-6(f)	P	Yes	L	A			A						A	A	A			A	A		A	
52.214-13 Telegraphic Bids.	14.201-6(g)(1)	P	Yes	L	A			A		A				A	A	A			A	A		A	
Alternate I	14.201-6(g)(2)	P	Yes	L	A																		A
52.214-14 Place of Performance—Sealed Bidding.	14.201-6(h)	P	No	K	A			A						A	A	A			A	A		A	
52.214-15 Period for Acceptance of Bids.	14.201-6(i)	P	Yes	L	A			A						A	A	A			A	A		A	
52.214-16 Minimum Bid Acceptance Period.	14.201-6(j)	P	No	K	A			A						A	A	A			A	A		A	
52.214-18 Preparation of Bids—Construction.	14.201-6(l)	P	Yes							A													
52.214-19 Contract Award—Sealed Bidding—Construction.	14.201-6(m)	P	Yes							A						A							
52.214-20 Bid Samples.	14.201-6(o)(1)	P	Yes	L	A			A						A					A				
Alternate I	14.201-6(o)(2)(i)	P	Yes	L	A			A						A					A				
Alternate II	14.201-6(o)(2)(ii)	P	Yes	L	A			A						A					A				
52.214-21 Descriptive Literature.	14.201-6(p)(1)	P	Yes	L	A			A						A					A				
Alternate I	14.201-6(p)(2)	P	No	L	A			A						A					A				
52.214-22 Evaluation of Bids for Multiple Awards.	14.201-6(q)	P	Yes	M	A			A		A				A	A	A			A	A			
52.214-23 Late Submissions, Modifications, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding.	14.201-6(r)	P	Yes	L	A		A	A		A				A	A	A			A				
52.214-24 Multiple Technical Proposals.	14.201-6(s)	P	Yes	M	A		A	A		A				A					A				
52.214-25 Step Two of Two-Step Sealed Bidding.	14.201-6(t)	P	Yes	L	A			A		A				A	A	A							

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		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.214-26 Audit and Records—Sealed Bidding.	14.201-7(a)	C	Yes	I	A			A		A			A	A	A			A	A				
52.214-27 Price Reduction for Defective Cost or Pricing Data—Modifications—Sealed Bidding.	14.201-7(b)(1)	C	Yes	I	A			A		A			A	A	A			A	A				
52.214-28 Subcontractor Cost or Pricing Data—Modifications—Sealed Bidding.	14.201-7(c)(1)	C	Yes	I	A			A		A			A	A	A			A	A				
52.214-29 Order of Precedence—Sealed Bidding.	14.201-7(d)	C	Yes	I	A			A		A			A	A	A			A	A				
52.214-31 Facsimile Bids.	14.201-6(v)	P	Yes	L	A			A					A	A	A			A	A			A	
52.214-34 Submission of Offers in the English Language.	14.201-6(w)	P	Yes		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.214-35 Submission of Offers in U.S. Currency.	14.201-6(x)	P	Yes		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.215-1 Instructions to Offerors—Competitive.	15.209(a)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A		A
Alternate I	15.209(a)(1)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A		A
Alternate II	15.209(a)(2)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A		A
52.215-2 Audit and Records—Negotiation.	15.209(b)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A					A		A
Alternate I	15.209(b)(2)	C	Yes	I														R					
Alternate II	15.209(b)(3)	C	Yes	I		A		A		A		A											
Alternate III	15.209(b)(4)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A
52.215-3 Request for Information or Solicitation for Planning Purposes.	15.209(c)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
52.215-5 Facsimile Proposals.	15.209(e)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
52.215-6 Place of Performance.	15.209(f)	P	No	K	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A		
52.215-8 Order of Precedence—Uniform Contract Format.	15.209(h)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A		A
52.215-9 Changes or Additions to Make-or-Buy Program.	15.408(a)	C	Yes	I	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A		A
Alternate I	15.408(a)(1)	C	Yes	I	A	A	A	A	A	A													
Alternate II	15.408(a)(2)	C	Yes	I	A	A	A	A	A	A													
52.215-10 Price Reduction for Defective Cost or Pricing Data.	15.408(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A
52.215-11 Price Reduction for Defective Cost or Pricing Data—Modifications.	15.408(c)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A
52.215-12 Subcontractor Cost or Pricing Data.	15.408(d)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A
52.215-13 Subcontractor Cost or Pricing Data—Modifications.	15.408(e)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A

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		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.215-14 Integrity of Unit Prices.	15.408(f)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate I	15.408(f)(2)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.215-15 Pension Adjustments and Asset Reversions.	15.408(g)	C	Yes	I	A	A	A	A	A	A	A	A	A	A		A	A	A	A		A		
52.215-16 Facilities Capital Cost of Money.	15.408(h)	P	Yes	L	A	A	A	A	A	A	A	A	A	A		A	A	A	A		A		
52.215-17 Waiver of Facilities Capital Cost of Money.	15.408(i)	C	Yes	I	A	A	A	A	A	A	A	A	A	A		A	A	A	A		A		
52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions.	15.408(j)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A		
52.215-19 Notification of Ownership Changes.	15.408(k)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A		
52.215-20 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data.	15.408(l)	P	No	L	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	
Alternate I	15.408(l)	P	No	L	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
Alternate II	15.408(l)	P	No	L	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	
Alternate III	15.408(l)	P	No	L	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	
Alternate IV	15.408(l)	P	No	L	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	
52.215-21 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data—Modifications.	15.408(m)	C	Yes	I	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	
Alternate I	15.408(m)	C	Yes	I	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	
Alternate II	15.408(m)	C	Yes	I	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	
Alternate III	15.408(m)	C	Yes	I	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	
Alternate IV	15.408(m)	C	Yes	I	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	
52.216-1 Type of Contract.	16.105	P	No	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.216-2 Economic Price Adjustment—Standard Supplies.	16.203-4(a)	C	No	I	O									O					O				
52.216-3 Economic Price Adjustment—Semistandard Supplies.	16.203-4(b)	C	No	I	O								O						O				
52.216-4 Economic Price Adjustment—Labor and Material.	16.203-4(c)	C	Yes	I	O				O		O		O	O	O	O	O	O					
52.216-5 Price Redetermination—Prospective.	16.205-4	C	Yes	I			A		A		A		A	A	A	A	A	A	A				
52.216-6 Price Redetermination—Retroactive.	16.206-4	C	Yes	I			A		A		A		A	A		A		A	A				
52.216-7 Allowable Cost and Payment.	16.307(a)	C	Yes	I		A		A		A		A	A	A	A	A		A	A				
Alternate I	16.307(a)(2)	C	Yes	I								A											
52.216-8 Fixed Fee.	16.307(b)	C	Yes	I		A		A		A			A	A	A	A	A	A	A				

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52.216-9 Fixed Fee—Construction.	16.307(c)	C	Yes								A												
52.216-10 Incentive Fee.	16.307(d)	C	Yes	I		A		A		A			A		A	A			A	A			
52.216-11 Cost Contract—No Fee.	16.307(e)(1)	C	Yes	I		A		A		A		A	A	A	A		A	A	A				
Alternate I	16.307(e)(2)	C	Yes	I				A															
52.216-12 Cost-Sharing Contract—No Fee.	16.307(f)(1)	C	Yes	I		A		A		A				A	A	A	A	A	A				
Alternate I	16.307(f)(2)	C	Yes	I				A															
52.216-13 Allowable Cost and Payment—Facilities.	16.307(g)(1)	C	Yes	I														A					
Alternate I	16.307(g)(2)	C	Yes	I														O					
52.216-14 Allowable Cost and Payment—Facilities Use.	16.307(h)	C	Yes	I														A					
52.216-15 Predetermined Indirect Cost Rates.	16.307(i)	C	Yes	I				A															
52.216-16 Incentive Price Revision—Firm Target.	16.405(a)	C	Yes	I	A		A		A		A		A	A	A	A	A		A				
Alternate I	16.405(a)	C	Yes	I	A				A				A	A	A				A				
52.216-17 Incentive Price Revision—Successive Targets.	16.405(b)	C	Yes	I	A		A		A		A		A	A	A	A	A		A				
Alternate I	16.405(b)	C	Yes	I	A		A		A				A	A	A				A				
52.216-18 Ordering.	16.506(a)	C	Yes	I															A				
52.216-19 Order Limitations.	16.506(b)	C	Yes	I															A				
52.216-20 Definite Quantity.	16.506(c)	C	Yes	I															A				
52.216-21 Requirements.	16.506(d)(1)	C	Yes	I															A				
Alternate I	16.506(d)(2)	C	Yes	I															A				
Alternate II	16.506(d)(3)	C	Yes	I															A				
Alternate III	16.506(d)(4)	C	Yes	I															A				
Alternate IV	16.506(d)(5)	C	Yes	I															A				
52.216-22 Indefinite Quantity.	16.506(e)	C	Yes	I															A				
52.216-23 Execution and Commencement of Work. (See Note 1.)	16.603-4(b)(1)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.216-24 Limitation of Government Liability. (See Note 1.)	16.603-4(b)(2)	C	No	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
52.216-25 Contract Definitization. (See Note 1.)	16.603-4(b)(3)	C	No	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Alternate I (See Note 1.)	16.603-4(b)(3)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.216-26 Payments of Allowable Costs Before Definitization. (See Note 1.)	16.603-4(c)	C	Yes	I		A		A		A		A			A	A	A	A	A				
52.216-27 Single or Multiple Awards.	16.506(f)	P	Yes	L																A			
52.216-28 Multiple Awards for Advisory and Assistance Services.	16.506(g)	P	Yes	L																A			

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52.217-2 Cancellation Under Multiyear Contracts.	17.109(a)	C	Yes	I	A			A					A						A				
52.217-3 Evaluation Exclusive of Options.	17.208(a)	P	Yes	M	A	A		A	A			A	A						A	A			
52.217-4 Evaluation of Options Exercised at Time of Contract Award.	17.208(b)	P	Yes	M	A	A		A	A			A	A						A	A			
52.217-5 Evaluation of Options.	17.208(c)	P	Yes	M	A	A		A	A			A	A						A	A			
52.217-6 Option for Increased Quantity.	17.208(d)	C	Yes	I	A			A											A	A			
52.217-7 Option for Increased Quantity—Separately Priced Line Item.	17.208(e)	C	Yes	I	A	A						A	A						A				
52.217-8 Option to Extend Services.	17.208(f)	C	Yes	I				A	A			A							A	A			
52.217-9 Option to Extend the Term of the Contract.	17.208(g)	C	Yes	I				A	A			A							A	A			
52.219-1 Small Business Program Representations.	19.308(a)(1)	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	19.308(a)(2)	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.219-2 Equal Low Bids.	19.308(c)	P	No	K	A			A		A				A	A	A			A	A		A	
52.219-3 Notice of Total HUBZone Set-Aside.	19.1308(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.219-4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns.	19.1308(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A	A	A
52.219-5 Very Small Business Set-Aside.	19.905	C	Yes		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	19.905(a)	C	Yes		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate II	19.905(b)	C	Yes		A	A	A	A									A	A	A		A	A	A
52.219-6 Notice of Total Small Business Set-Aside.	19.508(c)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate I	19.508(c)	C	Yes	I	A									A								A	
Alternate II	19.508(c)	C	Yes	I	A									A								A	
52.219-7 Notice of Partial Small Business Set-Aside.	19.508(d)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
Alternate I	19.508(d)	C	Yes	I	A									A									
Alternate II	19.508(d)	C	Yes	I	A									A									
52.219-8 Utilization of Small Business Concerns.	19.708(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
52.219-9 Small Business Subcontracting Plan.	19.708(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A
Alternate I	19.708(b)(1)	C	Yes	I	A		A		A		A			A		A			A	A		A	
Alternate II	19.708(b)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																				
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC
52.219-10 Incentive Subcontracting Program.	19.708(c)(1)	C	Yes	I	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
52.219-11 Special 8(a) Contract Conditions. (See Note 2.)	19.811-3(a)	C	Yes	I																		
52.219-12 Special 8(a) Subcontract Conditions. (See Note 2.)	19.811-3(b)	C	No	I																		
52.219-14 Limitations on Subcontracting. (See Note 2.)	19.508(e) or 19.811-3(e)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.219-16 Liquidated Damages— Subcontracting Plan.	19.708(b)(2)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.219-17 Section 8(a) Award. (See Note 2.)	19.811-3(c)	C	No	I																		
52.219-18 Notification of Competition Limited to Eligible 8(a) Concerns. (See Note 2.)	19.811-3(d)	C	No	I																		
Alternate I (See Note 2.)	19.811-3(d)(1)	C	No	I																		
Alternate II (See Note 2.)	19.811-3(d)(2)	C	No	I																		
52.219-19 Small Business Concern Representation for the Small Business Competitiveness Demonstration Program.	19.1008(a)	P	No	K	A	A			A	A	A	A	A				A		A		A	
52.219-20 Notice of Emerging Small Business Set-Aside.	19.1008(b)	P	No	K																	A	
52.219-21 Small Business Size Representation for Targeted Industry Categories under the Small Business Competitiveness Demonstration Program.	19.1008(c)	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.219-22 Small Disadvantaged Business Status.	19.308(b)	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	19.308(b)	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.219-23 Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.	19.1104	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	19.1104	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate II	19.1104	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.219-24 Small Disadvantaged Business Participation Program— Targets.	19.1204(a)	P	Yes	L	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
52.219-25 Small Disadvantaged Business Participation Program— Disadvantaged Status and Reporting.	19.1204(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

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		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.219-26 Small Disadvantaged Business Participation Program— Incentive Subcontracting.	19.1204(c)	C	Yes	I	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
52.219-27 Notice of Total Service-Disabled Veteran-Owned Small Business Set Aside.	19.1407	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.222-1 Notice to the Government of Labor Disputes.	22.103-5(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.222-2 Payment for Overtime Premiums.	22.103-5(b)	C	Yes	I		A		A		A		A		A	A	A		A	A				
52.222-3 Convict Labor.	22.202	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.222-4 Contract Work Hours and Safety Standards Act—Overtime Compensation.	22.305	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A		A	A	A			A	
52.222-6 Davis-Bacon Act.	22.407(a)	C	Yes	I						A	A											A	
52.222-7 Withholding of Funds.	22.407(a)	C	Yes	I						A	A												
52.222-8 Payrolls and Basic Records.	22.407(a)	C	Yes	I						A	A												
52.222-9 Apprentices and Trainees.	22.407(a)	C	Yes	I						A	A												
52.222-10 Compliance with Copeland Act Requirements.	22.407(a)	C	Yes	I						A	A												
52.222-11 Subcontracts (Labor Standards).	22.407(a)	C	Yes	I						A	A												
52.222-12 Contract Termination— Debarment.	22.407(a)	C	Yes	I						A	A											A	
52.222-13 Compliance with Davis-Bacon and Related Act Regulations.	22.407(a)	C	Yes	I						A	A											A	
52.222-14 Disputes Concerning Labor Standards.	22.407(a)	C	Yes	I						A	A											A	
52.222-15 Certification of Eligibility.	22.407(a)	C	Yes	I						A	A											A	
52.222-16 Approval of Wage Rates.	22.407(b)	C	Yes	I							A												
52.222-17 Labor Standards for Construction Work—Facilities Contracts.	22.407(d)	C	Yes	I													A						
52.222-18 Certification Regarding Knowledge of Child Labor for Listed End Products.	22.1505(a)	P	No	K	A	A															A		A
52.222-19 Child Labor—Cooperation with Authorities and Remedies.	22.1505(b)	C	Yes	I	A	A															A		A
52.222-20 Walsh-Healey Public Contracts Act.	22.610	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.222-21 Prohibition of Segregated Facilities.	22.810(a)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.222-22 Previous Contracts and Compliance Reports.	22.810(a)(2)	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.222-23 Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction.	22.810(b)	P	Yes								A	A									A		
52.222-24 Preaward On-Site Equal Opportunity Compliance Evaluation.	22.810(c)	P	Yes	L	A	A	A	A	A	A			A	A	A	A	A	A	A	A		A	
52.222-25 Affirmative Action Compliance.	22.810(d)	P	No	K	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A	A	
52.222-26 Equal Opportunity.	22.810(e)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate I	22.810(e)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.222-27 Affirmative Action Compliance Requirements for Construction.	22.810(f)	C	Yes								A	A									A		
52.222-29 Notification of Visa Denial.	22.810(g)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.222-30 Davis-Bacon Act—Price Adjustment (None or Separately Specified Method).	22.407(e)	C									A	A											
52.222-31 Davis Bacon Act—Price Adjustment (Percentage Method).	22.407(f)	C									A	A											
52.222-32 Davis-Bacon Act—Price Adjustment (Actual Method).	22.407(g)	C									A	A											
52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans.	22.1310(A)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate I	22.1308(a)(2)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.222-36 Affirmative Action for Workers with Disabilities.	22.1408(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate I	22.1408(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans.	22.1308(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.222-38 Compliance with Veterans' Employment Reporting Requirements.	22.1310(c)	P	Yes	K	A	A	A	A	A	A	a	A	A	A	A	A	A	A	A	A	A	A	
52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees.	22.1605	c	No	I	A	A	a	a	a	a	a	a	a	a	a	a	a	a	a	a		a	

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		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.222-41 Service Contract Act of 1965, As Amended.	22.1006(a)	C	Yes	I					A	A			A		A	A	A			A	A		
52.222-42 Statement of Equivalent Rates for Federal Hires.	22.1006(b)	C	No	I					A	A			A		A	A	A			A	A		
52.222-43 Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts).	22.1006(c)(1)	C	Yes	I					A				A		A	A	A			A	A		
52.222-44 Fair Labor Standards Act and Service Contract Act—Price Adjustment.	22.1006(c)(2)	C	Yes	I					A				A		A	A	A			A	A		
52.222-46 Evaluation of Compensation for Professional Employees.	22.1103	P	Yes	L					A	A													
52.222-47 SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA).	22.1006(d) 22.1012-3(d)(1)	C	Yes	I					A	A			A		A	A				A	A		
52.222-48 Exemption from Application of Service Contract Act Provisions for Contracts for Maintenance, Calibration, and/or Repair of Certain InformationTechnology, Scientific and Medical and/or Office and Business Equipment—Contractor Certification.	22.1006(e)(1)	C	Yes	I					A	A			A								A		
52.222-49 Service Contract Act—Place of Performance Unknown.	22.1006(f) 22.1009-4(c)	C	Yes	I					A	A			A		A	A				A	A		
52.223-3 Hazardous Material Identification and Material Safety Data.	23.303	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	23.303(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.223-4 Recovered Material Certification.	23.406(a)	P	Yes	K	A	A	A	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A
52.223-5 Pollution Prevention and Right-to-Know Information.	23.1005	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	23.1005(b)	C	Yes	I	A	A	A	A	A	A	A	a	a	a	a	a	a	a	a	a	a	a	a
Alternate II	23.1005(c)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	a	A	A	A	a	A	A	A	a
52.223-6 Drug-Free Workplace.	23.505	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.223-7 Notice of Radioactive Materials.	23.602	C	No	I	A	A	A	A	A	A	A	A	A			A		A	A		A		
52.223-9 Estimate of Percentage of Recovered Material Content for EPA Designated Products.	23.406(b)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A
Alternate I	23.406(b)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A

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		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.223-10 Waste Reduction Program.	23.705	C	Yes	I					A	A							A						
52.223-11 Ozone-Depleting Substances.	23.804(a)	C	No	I	A	A													A		A		
52.223-12 Refrigeration Equipment and Air Conditioners.	23.804(b)	C	Yes	I					A	A			A				A			A		A	
52.223-13 Certification of Toxic Chemical Release Reporting.	23.906(a)	P	No	K	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R		R
52.223-14 Toxic Chemical Release Reporting.	23.906(b)	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R		R
52.224-1 Privacy Act Notification.	24.104(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
52.224-2 Privacy Act.	24.104(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
52.225-1 Buy American Act—Supplies.	25.1101(a)(1)	C	Yes	I	A	A	A	A	A	A			A	A	A					A		A	A
52.225-2 Buy American Act Certificate.	25.1101(a)(2)	P	No	K	A	A	A	A	A	A			A	A	A					A		A	
52.225-3 Buy American Act—Free Trade Agreements—Israeli Trade Act.	25.1101(b)(1)(i)	C	Yes	I	A	A							A	A						A		A	A
Alternate I	25.1101(b)(1)(ii)	C	Yes	I	A	A							A	A						A		A	A
Alternate II	25.1101(b)(1)(iii)	C	Yes	I	A	A							A	A						A		A	A
52.225-4 Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate.	25.1101(b)(2)(i)	P	No	K	A	A							A	A						A		A	
Alternate I	25.1101(b)(2)(ii)	P	No	K	A	A							A	A						A		A	
Alternate II	25.1101(b)(2)(iii)	P	No	K	A	A							A	A						A		A	
52.225-5 Trade Agreements.	25.1101(c)(1)	C	Yes	I	A	A														A		A	A
52.225-6 Trade Agreements Certificate.	25.1101(c)(2)	P	No	K	A	A														A		A	
52.225-7 Waiver of Buy American Act for Civil Aircraft and Related Articles.	25.1101(d)	P	Yes	L	A	A	A	A												A		A	A
52.225-8 Duty-Free Entry.	25.1101(e)	C	Yes	I	A	A	A	A					A	A	A					A		A	A
52.225-9 Buy American Act—Construction Materials.	25.1102(a)	C	No																				
52.225-10 Notice of Buy American Act Requirement—Construction Materials.	25.1102(b)(1)	P	No																				
Alternate I	25.1102(b)(2)	P	No																				
52.225-11 Buy American Act—Construction Materials under Trade Agreements.	25.1102(c)	C	No																				
Alternate I	25.1102(c)(3)	C	No																				
52.225-12 Notice of Buy American Act Requirement—Construction Materials under Trade Agreements.	25.1102(d)(1)	P	No																				
Alternate I	25.1102(d)(2)	P	No																				
Alternate II	25.1102(d)(3)	P	No																				

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.225-13 Restrictions on Certain Foreign Purchases.	25.1103(a)	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
52.225-14 Inconsistency Between English Version and Translation of Contract.	25.1103(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.225-15 Sanctioned European Union Country End Products.	25.1103(c)	C	Yes	I	A	A															A		
52.225-16 Sanctioned European Union Country Services.	25.1103(c)	C	Yes	I			R	R	A	A	A	A			A	A	A	A	A	R	A	A	A
52.225-17 Evaluation of Foreign Currency Offers.	25.1103(d)	P	Yes	M	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.	26.104	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
52.226-2 Historically Black College or University and Minority Institution Representation.	26.304	P	No	K	A	A	A	A	A	A			A		A					A		A	
52.227-1 Authorization and Consent.	27.201-2(a)	C	Yes	I	A	A			A		A	A			A	A	A	A	A		O		
Alternate I	27.201-2(b)	C	Yes	I			A	A			A	A			A		A	A					
Alternate II	27.201-2(c)	C	Yes	I			A				A												
52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement.	27.202-2	C	Yes	I	A	A																	
52.227-3 Patent Indemnity.	27.203-1(b) 27.203-2(a) 27.203-4(a)(2)	C	Yes	I	A	A			A	A										A			
Alternate I	27.203-2(b)	C	Yes	I	A	A			A	A										A			
Alternate II	27.203-2(b)	C	Yes	I	A	A			A	A					A					A			
Alternate III	27.203-2(c)	C	Yes	I											A						A		
52.227-4 Patent Indemnity—Construction Contracts.	27.203-5	C	Yes								A	A				A							
Alternate I	27.203-5	C	Yes								O	O				O							
52.227-5 Waiver of Indemnity.	27.203-6	C	Yes	I	A	A	A	A	A	A	A	A				A		A	A				
52.227-6 Royalty Information.	27.204-2	P	No	K	A	A	A	A	A	A	A	A				A		A	A				
Alternate I	27.204-2	P	No	K											A			A					
52.227-7 Patents—Notice of Government Licensee.	27.204-3(c)	P	No	K	A	A	A	A	A	A	A	A				A	A		A	A			
52.227-9 Refund of Royalties.	27.206-2	C	Yes	I	A		A		A		A				A	A		A	A				
52.227-10 Filing of Patent Applications—Classified Subject Matter.	27.207-2	C	Yes	I	A	A	A	A	A	A	A	A			A	A		A	A				

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.227-11 Patent Rights—Retention by the Contractor (Short Form).	27.303(a)	C	Yes	I			A	A			A	A					A						
Alternate I	27.303(a)(3)	C	Yes	I			A	A			A	A					A						
Alternate II	27.303(a)(3)	C	Yes	I			A	A			A	A					A						
Alternate III	27.303(a)(4)	C	Yes	I			A	A			A	A											
Alternate IV	27.303(a)(5)	C	Yes	I			A	A			A	A											
52.227-12 Patent Rights—Retention by the Contractor (Long Form).	27.303(b)	C	Yes	I			A	A			A	A					A						
Alternate I	27.303(b)(2)	C	Yes	I			A	A			A	A					A						
Alternate II	27.303(b)(2)	C	Yes	I			A	A			A	A					A						
52.227-13 Patent Rights—Acquisition by the Government.	27.303(c)	C	Yes	I			A	A			A	A					A						
Alternate I	27.303(c)(3)	C	Yes	I			A	A			A	A					A						
Alternate II	27.303(c)(3)	C	Yes	I			A	A			A	A					A						
52.227-14 Rights in Data—General.	27.409(a)(1)	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A		
Alternate I	27.409(b)	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A		
Alternate II	27.409(c) & (g)	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A		
Alternate III	27.409(d) & (g)	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A		
Alternate IV	27.409(e)	C	Yes	I	O	O	A	A	O	O			O	O	O	O		O	O	O	O		
Alternate V	27.409(f)	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A		
52.227-15 Representation of Limited Rights Data and Restricted Computer Software.	27.409(g)	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.227-16 Additional Data Requirements.	27.409(h)	C	Yes	I			A	A														A	
52.227-17 Rights in Data—Special Works.	27.409(i)	C	Yes	I	A	A	A	A	A	A	O	O	A		A		O					A	
52.227-18 Rights in Data—Existing Works.	27.409(j)	C	Yes	I	A	A	A	A	A	A			A		A		A		A			A	
52.227-19 Commercial Computer Software—Restricted Rights.	27.409(k)	C	Yes	I	A				A						A							A	
52.227-20 Rights in Data—SBIR Program.	27.409(l)	C	Yes	I			A	A															
52.227-21 Technical Data Declaration, Revision, and Withholding of Payment—Major Systems.	27.409(q)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.227-22 Major System—Minimum Rights.	27.409(r)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.227-23 Rights to Proposal Data (Technical).	27.409(s)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.228-1 Bid Guarantee.	28.101-2	P	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

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52.228-2 Additional Bond Security.	28.106-4	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.228-3 Workers' Compensation Insurance (Defense Base Act).	28.309(a)	C	Yes	I					A	A	A	A	A				A						
52.228-4 Workers' Compensation and War-Hazard Insurance Overseas.	28.309(b)	C	Yes	I					A	A	A	A	A				A						
52.228-5 Insurance—Work on a Government Installation.	28.310	C	Yes	I	A		A		A		A	A		A	A	A	A		A				
52.228-7 Insurance—Liability to Third Persons.	28.311-1	C	Yes	I		A		A		A				A			A	A					
52.228-8 Liability and Insurance—Leased Motor Vehicles.	28.312	C	Yes	I									R								A		
52.228-9 Cargo Insurance.	28.313(a)	C	Yes	I																A	A		
52.228-10 Vehicular and General Public Liability Insurance.	28.313(b)	C	Yes	I																A			
52.228-11 Pledges of Assets.	28.203-6	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.228-12 Prospective Subcontractor Requests for Bonds.	28.106-4(b)	C	Yes	I						A	A	A				A							
52.228-13 Alternative Payment Protections.	28.102-3(b)	C	Yes	I						A	A	A				A							
52.228-14 Irrevocable Letter of Credit.	28.204-4	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.228-15 Performance and Payment Bonds—Construction.	28.102-3(a)	C	Yes	I						A	A					A							
52.228-16 Performance and Payment Bonds—Other Than Construction.	28.103-4	C	No	I	A	A	A	A	A	A			A	A	A		A	A	A	A		A	
Alternate I	28.103-4	C	No	I	A	A	A	A	A	A			A	A	A		A	A	A	A		A	
52.229-1 State and Local Taxes.	29.401-1	C	Yes	I																	A		
52.229-2 North Carolina State and Local Sales and Use Tax.	29.401-2	C	Yes	I							A	A											
Alternate I	29.401-2	C	Yes	I					A	A													
52.229-3 Federal, State, and Local Taxes.	29.401-3	C	Yes	I	A		A		A		A		A	A	A	A	A	A	A	A			
52.229-4 Federal, State, and Local Taxes (State and Local Adjustments).	29.401-3	C	Yes	I	A		A		A		A		A	A	A	A	A	A	A	A			
52.229-6 Taxes—Foreign Fixed-Price Contracts.	29.402-1(a)	C	Yes	I	A		A		A		A		A	A	A	A	A	A	A	A			
52.229-7 Taxes—Fixed-Price Contracts with Foreign Governments.	29.402-1(b)	C	Yes	I	A		A		A		A		A	A	A	A	A	A	A	A	A		
52.229-8 Taxes—Foreign Cost-Reimbursement Contracts.	29.402-2(a)	C	Yes	I		A		A		A		A		A	A	A	A	A	A	A			
52.229-9 Taxes—Cost-Reimbursement Contracts with Foreign Governments.	29.402-2(b)	C	Yes	I		A		A		A		A		A	A	A	A	A	A	A			

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52.229-10 State of New Mexico Gross Receipts and Compensating Tax.	29.401-4(b)	C	Yes	I		A		A		A		A	A	A	A	A	A	A	A	A			
52.230-1 Cost Accounting Standards Notices and Certification.	30.201-3	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
Alternate I	30.201-3(b)	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
52.230-2 Cost Accounting Standards.	30.201-4(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
52.230-3 Disclosure and Consistency of Cost Accounting Practices.	30.201-4(b)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
52.230-4 Consistency in Cost Accounting Practices.	30.201-4(c)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
52.230-5 Cost Accounting Standards— Educational Institution.	30.301-4(e)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
52.230-6 Administration of Cost Accounting Standards.	30.201-4(d)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
52.232-1 Payments.	32.111(a)(1)	C	Yes	I	R				R						A						A	A	
52.232-2 Payments under Fixed-Price Research and Development Contracts.	32.111(a)(2)	C	Yes	I			R																
52.232-3 Payments under Personal Service Contracts.	32.111(a)(3)	c	Yes	I					a	a													
52.232-4 Payments under Transportation Contracts and Transportation-Related Services Contracts.	32.111(a)(4)	C	Yes	I																	R	A	
52.232-5 Payments under Fixed-Price Construction Contracts.	32.111(a)(5)	C	Yes							R													
52.232-6 Payment under Communication Service Contracts with Common Carriers.	32.111(a)(6)	C	Yes	I										A							A		
52.232-7 Payments under Time-and-Materials and Labor-Hour Contracts.	32.111(b)	C	Yes	I									A										
Alternate I	32.111(b)	C	Yes	I									A										
Alternate II	32.111(b)	C	Yes	I									A										
52.232-8 Discounts for Prompt Payment.	32.111(c)(1)	C	Yes	I	A				A				A	A							A		
52.232-9 Limitation on Withholding of Payments.	32.111(c)(2)	C	Yes	I	A	A	A	A	A	A			A	A									
52.232-10 Payments under Fixed-Price Architect-Engineer Contracts.	32.111(d)(1)	C	Yes														A						
52.232-11 Extras.	32.111(d)(2)	C	Yes	I	A				A					A							A	A	A

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52.232-12 Advance Payments.	32.412(a)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate I	32.412(b)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate II	32.412(c)	C	No	I		A		A		A		A		A		A		A		A		A	
Alternate III	32.412(d)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate IV	32.412(e)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate V	32.412(f)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.232-13 Notice of Progress Payments.	32.502-3(a)	P	Yes	L	A		A		A					A	A		A	A	A	A			
52.232-14 Notice of Availability of Progress Payments Exclusively for Small Business Concerns.	32.502-3(b)(2)	P	Yes	L	A		A		A		A			A	A			A	A	A			
52.232-15 Progress Payments Not Included.	32.502-3(c)	P	Yes	M	A		A		A					A	A			A	A	A			
52.232-16 Progress Payments.	32.502-4(a)	C	Yes	I	A		A		A		A	A		A	A			A	A	A	A		
Alternate I	32.502-4(b)	C	Yes	I	A		A		A		A	A		A	A			A	A	A	A		
Alternate II (See Note 1.)	32.502-4(c)	C	Yes	I																			
Alternate III	32.502-4(d)	C	Yes	I																A			
52.232-17 Interest.	32.617(a) and (b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.232-18 Availability of Funds.	32.705-1(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.232-19 Availability of Funds for the Next Fiscal Year.	32.705-1(b)	C	Yes	I					A	A									A			A	
52.232-20 Limitation of Cost.	32.705-2(a)	C	Yes	I		A		A		A				A	A	A		A	A	A		A	
52.232-21 Limitation of Cost (Facilities).	32.705-2(b)	C	Yes	I														R					
52.232-22 Limitation of Funds.	32.705-2(c)	C	Yes	I		A		A		A				A	A	A		A	A	A			
52.232-23 Assignment of Claims.	32.806(a)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate I	32.806(a)(2)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.232-24 Prohibition of Assignment of Claims.	32.806(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.232-25 Prompt Payment.	32.908(c)	C	Yes	I	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A	A	
Alternate I	32.908(c)(3)	C	Yes	I				A		A			A	A	A	A	A	A	A	A	A	A	
52.232-26 Prompt Payment for Fixed-Price Architect-Engineer Contracts.	32.908(a)	C	Yes	I														A					
52.232-27 Prompt Payment for Construction Contracts.	32.908(b)	C	Yes	I							R	R											
52.232-28 Invitation to Propose Performance-Based Payments.	32.1005(b)(1)	P	No	L	A		A		A		A						A	A	A	A	A	A	
Alternate I	32.1005(b)(2)	P	No	L	A		A		A		A						A	A	A	A	A	A	
52.232-29 Terms for Financing of Purchases of Commercial Items.	32.206(b)(2)	C	No	I	A				A													A	

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52.232-30 Installment Payments for Commercial Items.	32.206(g)	C	Yes	I	A				A														A
52.232-31 Invitation to Propose Financing Terms.	32.205(b) 32.206	P	No	L	A				A														
52.232-32 Performance-Based Payments.	32.1005	C	No	I	A				A														
52.232-33 Payment by Electronic Funds Transfer—Central Contractor Registration.	32.1110(a), (a)(1), (b), and (e)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.232-34 Payment by Electronic Funds Transfer—Other than Central Contractor Registration.	32.1110(a), (a)(2), (b), and (e)(2)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.232-35 Designation of Office for Government Receipt of Electronic Funds Transfer Information.	32.1110(c)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.232-36 Payment by Third Party.	32.1110(d) and (e)(3)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.232-37 Multiple Payment Arrangements.	32.1110(e)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.232-38 Submission of Electronic Funds Transfer Information with Offer.	32.1110(g)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.233-1 Disputes.	33.215	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate I	33.215	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.233-2 Service of Protest.	33.106(a)	P	No	L	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R		R	
52.233-3 Protest after Award.	33.106(b)	C	Yes	I	R		R		R		R		R	R	A	R	A	A	R	A	R	R	
Alternate I	33.106(b)	C	Yes	I		R		R		R		R		A		A	A		A		A		
52.233-4 Applicable Law for Breach of Contract Claim.	33.215(b)	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
52.234-1 Industrial Resources Developed Under Defense Production Act Title III.	34.104	C	N	I	A	A	A	A															
52.236-1 Performance of Work by the Contractor.	36.501(b)	C	Yes																				
52.236-2 Differing Site Conditions.	36.502	C	Yes														A					O	
52.236-3 Site Investigation and Conditions Affecting the Work.	36.503	C	Yes														A					O	
52.236-4 Physical Data.	36.504	C	No																			A	
52.236-5 Material and Workmanship.	36.505	C	Yes																			A	
52.236-6 Superintendence by the Contractor.	36.506	C	Yes														A					O	
52.236-7 Permits and Responsibilities.	36.507	C	Yes														A					A	
52.236-8 Other Contracts.	36.508	C	Yes														A					O	

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					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI	
52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements.	36.509	C	Yes								A						A					O		
52.236-10 Operations and Storage Areas.	36.510	C	Yes								A						A					O		
52.236-11 Use and Possession Prior to Completion.	36.511	C	Yes								A											O		
52.236-12 Cleaning Up.	36.512	C	Yes								A						A					O		
52.236-13 Accident Prevention.	36.513	C	Yes								A						A					O		
Alternate I	36.513	C	Yes								A						A					O		
52.236-14 Availability and Use of Utility Services.	36.514	C	Yes								A						A					A		
52.236-15 Schedules for Construction Contracts.	36.515	C	Yes								O													
52.236-16 Quantity Surveys.	36.516	C	Yes								O											O		
Alternate I	36.516	C	Yes								O													
52.236-17 Layout of Work.	36.517	C	Yes								A											A		
52.236-18 Work Oversight in Cost-Reimbursement Construction Contracts.	36.518	C	Yes										R											
52.236-19 Organization and Direction of the Work.	36.519	C	Yes										R											
52.236-21 Specifications and Drawings for Construction.	36.521	C	Yes								A						A					O		
Alternate I	36.521	C	Yes								A						A					O		
Alternate II	36.521	C	Yes								A						A					O		
52.236-22 Design Within Funding Limitations.	36.609-1(c)	C	Yes															A				O		
52.236-23 Responsibility of the Architect-Engineer Contractor.	36.609-2(b)	C	Yes															A						
52.236-24 Work Oversight in Architect-Engineer Contracts.	36.609-3	C	Yes															A						
52.236-25 Requirements for Registration of Designers.	36.609-4	C	Yes															A						
52.236-26 Preconstruction Conference.	36.522	C	Yes	I							A						A							
52.236-27 Site Visit (Construction).	36.523	P	Yes	L							A						A							
Alternate I	36.523	P	Yes	L							A						A							
52.236-28 Preparation of Proposals—Construction.	36.520	P	Yes	K							R	R												
52.237-1 Site Visit.	37.110(a)	P	Yes	L			A	A	A	A				A	A	A	A	A	A	A	A	A	A	A

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52.237-2 Protection of Government Buildings, Equipment, and Vegetation.	37.110(b)	C	Yes	I			A	A	A	A			A	A	A	A	A	A	A	A	A	A	
52.237-3 Continuity of Services.	37.110(c)	C	Yes	I					O	O												O	
52.237-4 Payment by Government to Contractor.	37.304(a)	C	Yes	I												A						A	
Alternate I	37.304(a)	C	Yes	I												A						A	
52.237-5 Payment by Contractor to Government.	37.304(b)	C	Yes	I												A						A	
52.237-6 Incremental Payment by Contractor to Government.	37.304(c)	C	Yes	I												A						A	
52.237-7 Indemnification and Medical Liability Insurance.	37.403	C	Yes	I					A	A			A							A		O	
52.237-8 Restriction on Severance Payments to Foreign Nationals.	37.113-2(a)	P	Yes	K		A		A		A			A	A	A	A	A			A	A		
52.237-9 Waiver of Limitation on Severance Payments to Foreign Nationals.	37.113-2(b)	C	Yes	I		A		A		A			A	A	A	A	A			A	A		
52.237-10 Identification of Uncompensated Overtime.	37.115-3	P	Yes	L					A	A			A										
52.239-1 Privacy or Security Safeguards. (See Note 4.)	39.107	C	Yes	I	A	A	A	A	A	A			A					A	A			A	A
52.241-1 Electric Service Territory Compliance Representation.	41.501(b)	P	No	K																		A	A
52.241-2 Order of Precedence— Utilities.	41.501(c)(1)	C	Yes	I																		O	R
52.241-3 Scope of Duration of Contract.	41.501(c)(2)	C	No	I																		O	R
52.241-4 Change in Class of Service.	41.501(c)(3)	C	Yes	I																		O	R
52.241-5 Contractor's Facilities.	41.501(c)(4)	C	Yes	I																		O	R
52.241-6 Service Provisions.	41.501(c)(5)	C	No	I																		O	R
52.241-7 Change in Rates or Terms and Conditions of Service for Regulated Services.	41.501(d)(1)	C	No	I																		O	A
52.241-8 Change in Rates or Terms and Conditions of Service for Unregulated Services.	41.501(d)(2)	C	No	I																		O	A
52.241-9 Connection Charge.	41.501(d)(3)	C	No	I																		O	A
Alternate I	41.501(d)(3)	C	No	I																		O	A
52.241-10 Termination Liability.	41.501(d)(4)	C	No	I																		O	A
52.241-11 Multiple Service Locations.	41.501(d)(5)	C	Yes	I																		O	A
52.241-12 Nonrefundable, Nonrecurring Service Charge.	41.501(d)(6)	C	No	I																		O	A
52.241-13 Capital Credits.	41.501(d)(7)	C	No	I																		O	A

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.242-1 Notice of Intent to Disallow Costs.	42.802	C	Yes	I	A	R	A	R	A	R	A	R	A	A	A	A	A	R	A	A		A	
52.242-2 Production Progress Reports.	42.1107(a)	C	Yes	I	A	A	A	A	A	A		A	A				A		A				
52.242-3 Penalties for Unallowable Costs.	42.709-6	C	Yes	I		A		A		A		A	A	A	A	A			A	A			
52.242-4 Certification of Final Indirect Costs.	42.703-2(f)	C	Yes	I		A		A		A		A	A	A	A	A			A	A			
52.242-10 F.o.b. Origin—Government Bills of Lading or Prepaid Postage.	42.1404-2(a)	C	Yes	I	A	A	A	A	A	A			A	A	A		A	A	A		A		
52.242-11 F.o.b. Origin—Government Bills of Lading or Indicia Mail.	42.1404-2(b)	C	Yes	I	A	A	A	A	A	A			A	A	A		A	A	A		A		
52.242-12 Report of Shipment (REPSHIP).	42.1406-2	C	Yes	I	A	A	A	A	A	A			A	A	A		A	A	A		A		
52.242-13 Bankruptcy.	42.903	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	O	R	
52.242-14 Suspension of Work.	42.1305(a)	C	Yes								A						A				A		
52.242-15 Stop-Work Order.	42.1305(b)(1)	C	Yes	F	O	O	O	O	O	O				O							O		
Alternate I	42.1305(b)(2)	C	Yes	F		O		O		O				O									
52.242-16 Stop-Work Order—Facilities.	42.1305(c)	C	Yes	F														A					
52.242-17 Government Delay of Work.	42.1305(d)	C	Yes	F	A				O					A							A		
52.243-1 Changes—Fixed Price.	43.205(a)(1)	C	Yes	I	R									R						A	A		
Alternate I	43.205(a)(2)	C	Yes	I					A												A	A	
Alternate II	43.205(a)(3)	C	Yes	I					A												A		
Alternate III	43.205(a)(4)	C	Yes	I					A								A						
Alternate IV	43.205(a)(5)	C	Yes	I																A	A		
Alternate V	43.205(a)(6)	C	Yes	I			O														O		
52.243-2 Changes—Cost Reimbursement.	43.205(b)(1)	C	Yes	I		R																	
Alternate I	43.205(b)(2)	C	Yes	I						A													
Alternate II	43.205(b)(3)	C	Yes	I						A													
Alternate III	43.205(b)(4)	C	Yes	I								A											
Alternate IV	43.205(b)(5)	C	Yes	I														A					
Alternate V	43.205(b)(6)	C	Yes	I			O																
52.243-3 Changes—Time-and-Materials or Labor-Hours.	43.205(c)	C	Yes	I									R										
52.243-4 Changes.	43.205(d)	C	Yes	I							A						R						
52.243-5 Changes and Changed Conditions.	43.205(e)	C	Yes	I							A										A		
52.243-6 Change Order Accounting.	43.205(f)	C	Yes	I	O	O	O	O						O									
52.243-7 Notification of Changes.	43.107	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	O	

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.244-2 Subcontracts. (See Note 1.)	44.204(a)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate I (See Note 1.)	44.204(a)(2)(i)	C	Yes	I		A		A		A		A		A		A		A		A		A	
Alternate II (See Note 1.)	44.204(a)(2)(ii)	C	Yes	I		A		A		A		A		A		A		A		A		A	
52.244-4 Subcontractors and Outside Associates and Consultants (Architect-Engineer Services).	44.204(b)	C	Yes	I													A						
52.244-5 Competition in Subcontracting.	44.204(c)	C	Yes	I	A	A	A	A	A	A		A		A		A	A	A		A		A	
52.244-6 Subcontracts for Commercial Items.	44.403	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
52.245-1 Property Records.	45.106(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.245-2 Government Property (Fixed-Price Contracts).	45.106(b)(1)	C	Yes	I	A		A		A		A			A		A		A		A		A	A
Alternate I	45.106(b)(2)	C	Yes	I	A		A		A					A		A				A		A	A
Alternate II	45.106(b)(3)	C	Yes	I			A									A							
52.245-3 Identification of Government-Furnished Property.	45.106(c)	C	Yes	I						A												A	
52.245-4 Government-Furnished Property (Short Form).	45.106(d)	C	Yes	I	O		O		O		O		O	O		O			O		O	O	
52.245-5 Government Property (Cost-Reimbursement, Time-and-Material or Labor-Hour Contracts).	45.106(f)(1)	C	Yes	I		A		A		A		A	A			A			A			A	
Alternate I	45.106(f)(2)	C	Yes	I				A															
52.245-6 Liability for Government Property (Demolition Services Contracts).	45.106(g)	C	Yes	I												R						A	
52.245-7 Government Property (Consolidated Facilities).	45.302-6(a)	C	Yes	I																		A	
52.245-8 Liability for the Facilities.	45.302-6(b)	C	Yes	I																		A	
52.245-9 Use and Charges.	45.302-6(c)	C	Yes	I	A		A		A		A			A		A						A	
52.245-10 Government Property (Facilities Acquisition).	45.302-6(d)	C	Yes	I																		A	
52.245-11 Government Property (Facilities Use).	45.302-6(e)(1)	C	Yes	I																		A	
Alternate I	45.302-6(e)(2)	C	Yes	I																		A	
52.245-12 Contract Purpose (Nonprofit Educational Institutions).	45.302-7(a)	C	Yes	I																		O	
52.245-13 Accountable Facilities (Nonprofit Educational Institutions).	45.302-7(b)	C	Yes	I																		O	
52.245-14 Use of Government Facilities.	45.302-7(c)	C	Yes	I																		O	
52.245-15 Transfer of Title to the Facilities.	45.302-7(d)	C	Yes																			O	

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		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.245-16 Facilities Equipment Modernization.	45.302-7(e)	C	Yes	I														O					
52.245-17 Special Tooling.	45.306-5	C	Yes	I	A		A		A					A		A			A		A		
52.245-18 Special Test Equipment.	45.307-3	C	Yes	I	A	A	A	A			A			A							A		
52.245-19 Government Property Furnished "As Is."	45.308-2	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A			A		A		
52.246-1 Contractor Inspection Requirements.	46.301	C	Yes																			A	
52.246-2 Inspection of Supplies— Fixed-Price.	46.302	C	Yes	E	A		A		A					A						A		O	
Alternate I	46.302	C	Yes	E	A		A		A					A									
Alternate II	46.302	C	Yes	E	A				A					A									
52.246-3 Inspection of Supplies— Cost-Reimbursement.	46.303	C	Yes	E		A		A		A													
52.246-4 Inspection of Services— Fixed-Price.	46.304	C	Yes	E	A		A		A				A	A						A		O	
52.246-5 Inspection of Services— Cost-Reimbursement.	46.305	C	Yes	E		A		A		A													
52.246-6 Inspection— Time-and-Material and Labor-Hour.	46.306	C	Yes	E									R										
Alternate I	46.306	C	Yes	E									A									O	
52.246-7 Inspection of Research and Development—Fixed Price.	46.307(a)	C	Yes	E			A															O	
52.246-8 Inspection of Research and Development—Cost Reimbursement.	46.308	C	Yes	E				A															
Alternate I	46.308	C	Yes	E				A															
52.246-9 Inspection of Research and Development (Short Form).	46.309	C	Yes	E			A	A														O	
52.246-10 Inspection of Facilities.	46.310	C	Yes	E														R					
52.246-11 Higher-Level Contract Quality Requirement.	46.311	C	Yes	E	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.246-12 Inspection of Construction.	46.312	C	Yes								A	A										O	
52.246-13 Inspection—Dismantling, Demolition, or Removal of Improvements.	46.313	C	Yes													R						A	
52.246-14 Inspection of Transportation.	46.314	C	Yes	E																	A	A	
52.246-15 Certificate of Conformance.	46.315	C	Yes	E	A	A	A	A	A	A				A						A		A	
52.246-16 Responsibility for Supplies.	46.316	C	Yes	E	A		A		A					A								O	

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.246-17 Warranty of Supplies of a Noncomplex Nature.	46.710(a)(1)	C	Yes	I	O									O					O				
Alternate I	46.710(a)(2)	C	Yes	I	O									O					O				
Alternate II	46.710(a)(3)	C	Yes	I	O									O					O				
Alternate III	46.710(a)(4)	C	Yes	I	O									O					O				
Alternate IV	46.710(a)(5)	C	Yes	I	O									O					O				
Alternate V	46.710(a)(6)	C	Yes	I	O									O					O				
52.246-18 Warranty of Supplies of a Complex Nature.	46.710(b)(1)	C	Yes	I	O			O						O					O				
Alternate I [Reserved]																							
Alternate II	46.710(b)(2)	C	Yes	I	O			O						O					O				
Alternate III	46.710(b)(3)	C	Yes	I	O			O						O					O				
Alternate IV	46.710(b)(4)	C	Yes	I	O			O						O					O				
52.246-19 Warranty of Systems and Equipment under Performance Specifications or Design Criteria.	46.710(c)(1)	C	Yes	I	O			O		O				O									
Alternate I	46.710(c)(2)	C	Yes	I	O			O		O				O									
Alternate II	46.710(c)(3)	C	Yes	I	O			O		O				O									
Alternate III	46.710(c)(4)	C	Yes	I	O			O		O				O									
52.246-20 Warranty of Services.	46.710(d)	C	Yes	I						O					O					O	O		
52.246-21 Warranty of Construction.	46.710(e)(1)	C	Yes																			O	
Alternate I	46.710(e)(2)	C	Yes												O							O	
52.246-23 Limitation of Liability.	46.805	C	Yes	I	A	A	A	A						A						A		O	
52.246-24 Limitation of Liability—High-Value Items.	46.805(a)	C	Yes	I	A	A	A	A						A						A			
Alternate I	46.805(a)	C	Yes	I	A	A	A	A						A	A					A			
52.246-25 Limitation of Liability—Services.	46.805(a)(4)	C	Yes	I				A	A	A	A								A	A	A	O	A
52.247-1 Commercial Bill of Lading Notations.	47.104-4	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	O	A
52.247-2 Permits, Authorities, or Franchises.	47.207-1(a)	C	No	I																	A	A	
52.247-3 Capability to Perform a Contract for the Relocation of a Federal Office.	47.207-1(b)(1)	C	Yes	I																	A	A	
Alternate I	47.207-1(b)(2)	C	Yes	I																		A	
52.247-4 Inspection of Shipping and Receiving Facilities.	47.207-1(c)	P	Yes	L																		A	
52.247-5 Familiarization with Conditions.	47.207-1(d)	C	Yes	I																		A	A
52.247-6 Financial Statement.	47.207-1(e)	P	Yes	L																		A	A

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																		
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.247-7 Freight Excluded.	47.207-3(d)(2)	C	Yes	I																A	A		
52.247-8 Estimated Weights or Quantities Not Guaranteed.	47.207-3(e)(2)	C	Yes	I																A	A		
52.247-9 Agreed Weight—General Freight.	47.207-4(a)(1)	C	Yes	I																A	A		
52.247-10 Net Weight—General Freight.	47.207-4(a)(2)	C	Yes	I																A	A		
52.247-11 Net Weight—Household Goods or Office Furniture.	47.207-4(b)	C	Yes	I																A	A		
52.247-12 Supervision, Labor, or Materials.	47.207-5(b)	C	Yes	I																A	A		
52.247-13 Accessorial Services—Moving Contracts.	47.207-5(c)	C	Yes	I																A	A		
52.247-14 Contractor Responsibility for Receipt of Shipment.	47.207-5(d)	C	Yes	I																A	A		
52.247-15 Contractor Responsibility for Loading and Unloading.	47.207-5(e)	C	Yes	I																A	A		
52.247-16 Contractor Responsibility for Returning Undelivered Freight.	47.207-5(f)	C	Yes	I																A	A		
52.247-17 Charges.	47.207-6(a)(2)	C	Yes	I																A	A		
52.247-18 Multiple Shipments.	47.207-6(c)(5)(i)	C	Yes	I																A	A		
52.247-19 Stopping in Transit for Partial Uploading.	47.207-6(c)(5)(ii)	C	No	I																A	A		
52.247-20 Estimated Quantities or Weights for Evaluation of Offers.	47.207-6(c)(6)	P	Yes	M																A	A		
52.247-21 Contractor Liability for Personal Injury and/or Property Damage.	47.207-7(c)	C	Yes	I																A	A		
52.247-22 Contractor Liability for Loss of and/or Damage to Freight Other Than Household Goods.	47.207-7(d)	C	Yes	I																A	A		
52.247-23 Contractor Liability for Loss of and/or Damage to Household Goods.	47.207-7(e)	C	Yes	I																A	A		
52.247-24 Advance Notification by the Government.	47.207-8(a)(1)	C	Yes	I																A	A		
52.247-25 Government-Furnished Equipment With or Without Operators.	47.207-8(a)(2)(i)	C	Yes	I																A	A		
52.247-26 Government Direction and Marking.	47.207-8(a)(3)	C	Yes	I																A	A		
52.247-27 Contract Not Affected by Oral Agreement.	47.207-8(b)	C	Yes	I																A	A		
52.247-28 Contractor's Invoices.	47.207-9(c)	C	Yes	I																A	A		
52.247-29 F.o.b. Origin.	47.303-1(c)	C	Yes	F	A										A					A		A	

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		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.247-30 F.o.b. Origin, Contractor's Facility.	47.303-2(c)	C	Yes	F	A									A					A		A		
52.247-31 F.o.b. Origin, Freight Allowed.	47.303-3(c)	C	Yes	F	A									A					A		A		
52.247-32 F.o.b. Origin, Freight Prepaid.	47.303-4(c)	C	Yes	F	A									A					A		A		
52.247-33 F.o.b. Origin, with Differentials.	47.303-5(c)	C	No	F	A								A						A		A		
52.247-34 F.o.b. Destination.	47.303-6(c)	C	Yes	F	A									A					A		A		
52.247-35 F.o.b. Destination, within Consignee's Premises.	47.303-7(c)	C	Yes	F	A									A					A		A		
52.247-36 F.a.s. Vessel, Port of Shipment.	47.303-8(c)	C	Yes	F	A									A					A		A		
52.247-37 F.o.b. Vessel, Port of Shipment.	47.303-9(c)	C	Yes	F	A									A					A		A		
52.247-38 F.o.b. Inland Carrier, Point of Exportation.	47.303-10(c)	C	Yes	F	A									A					A		A		
52.247-39 F.o.b. Inland Point, Country of Importation.	47.303-11(c)	C	Yes	F	A									A					A		A		
52.247-40 Ex Dock, Pier, or Warehouse, Port of Importation.	47.303-12(c)	C	Yes	F	A									A					A		A		
52.247-41 C.&f. Destination.	47.303-13(c)	C	Yes	F	A									A					A		A		
52.247-42 C.i.f. Destination.	47.303-14(c)	C	Yes	F	A									A					A		A		
52.247-43 F.o.b. Designated Air Carrier's Terminal, Point of Exportation.	47.303-15(c)	C	Yes	F	A									A					A		A		
52.247-44 F.o.b. Designated Air Carrier's Terminal, Point of Importation.	47.303-16(c)	C	Yes	F	A									A					A		A		
52.247-45 F.o.b. Origin and/or F.o.b. Destination Evaluation.	47.305-2(b)	P	Yes	L	A									A					A		A		
52.247-46 Shipping Point(s) Used in Evaluation of F.o.b. Origin Offers.	47.305-3(b)(4)(ii)	P	Yes	L	A									A					A		A		
52.247-47 Evaluation—F.o.b. Origin.	47.305-3(f)(2)	P	Yes	M	A									A					A		A		
52.247-48 F.o.b. Destination—Evidence of Shipment.	47.305-4(c)	C	Yes	F	A									A					A		A		
52.247-49 Destination Unknown.	47.305-5(b)(2)	P	Yes	M	A									A					A		A		
52.247-50 No Evaluation of Transportation Costs.	47.305-5(c)(1)	P	Yes	M	A									A					A		A		
52.247-51 Evaluation of Export Offers.	47.305-6(e)	P	No	M	A									A					A		A		
Alternate I	47.305-6(e)(1)	P	No	M	A									A					A		A		
Alternate II	47.305-6(e)(2)	P	No	M	A									A					A		A		
Alternate III	47.305-6(e)(3)	P	No	M	A									A					A		A		

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.247-52 Clearance and Documentation Requirements—Shipments to DOD Air or Water Terminal Transshipment Points.	47.305-6(f)(2)	C	Yes	F	A						A			A					A		A		
52.247-53 Freight Classification Description.	47.305-9(b)(1)	P	No	K	A									A					A		A		
52.247-55 F.o.b. Point for Delivery of Government-Furnished Property.	47.305-12(a)(2)	C	Yes	F	A									A					A		A		
52.247-56 Transit Arrangements.	47.305-13(a)(3)(ii)	P	No	M	A									A					A				
52.247-57 Transportation Transit Privilege Credits.	47.305-13(b)(4)	C	No	F	A									A					A		A		
52.247-58 Loading, Blocking, and Bracing of Freight Car Shipments.	47.305-15(a)(2)	C	Yes	F	A									A					A		A		
52.247-59 F.o.b. Origin—Carload and Truckload Shipments.	47.305-16(a)	C	Yes	F	A									A					A		A		
52.247-60 Guaranteed Shipping Characteristics.	47.305-16(b)(1)	C	No	F	A									A					A				
52.247-61 F.o.b. Origin—Minimum Size of Shipments.	47.305-16(c)	C	Yes	F	A									A					A		A		
52.247-62 Specific Quantities Unknown.	47.305-16(d)(2)	C	No	F	A									A					A		A		
52.247-63 Preference for U.S.-Flag Air Carriers.	47.405	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels.	47.507(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A		A	A	A		A	
Alternate I	47.507(a)(2)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A		A	A	A		A	
Alternate II	47.507(a)(3)	C		I							A	A											
52.247-65 F.o.b. Origin, Prepaid Freight—Small Package Shipments.	47.303-17(f)	C	Yes	F	A									A					A		A		
52.247-66 Returnable Cylinders.	47.305-17	C	No	I	A				A		A				A				A				
52.247-67 Submission of Commercial Transportation Bills to the General Services Administration for Audit.	47.104-4(c)	C	No	I		A		A	A	A		A	A			A			A	A	A		
52.248-1 Value Engineering.	48.201	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A		A	
Alternate I	48.201(c)	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A		A	
Alternate II	48.201(d)	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A		A	
Alternate III	48.201(e)(1)	C	Yes	I	A	A	A	A	A	A			A	A	A	A	A	A	A	A		A	
52.248-2 Value Engineering Program—Architect-Engineer.	48.201(f)	C	Yes															A					
52.248-3 Value Engineering—Construction.	48.202	C	Yes								A	A											
Alternate I	48.202	C	Yes								A	A											

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.249-1 Termination for Convenience of the Government (Fixed-Price) (Short Form).	49.502(a)(1)	C	Yes	I	A		A		A				A	A		A			A	A	A	A	
Alternate I	49.502(a)(2)	C	Yes	I												A							
52.249-2 Termination for Convenience of the Government (Fixed-Price).	49.502(b)(1)(i)	C	Yes	I	A		A		A				A	A					A	A		A	
Alternate I	49.502(b)(1)(ii)	C	Yes	I						A													
Alternate II	49.502(b)(1)(iii)	C	Yes	I	A		A		A				A	A					A	A		A	
Alternate III	49.502(b)(1)(iii)	C	Yes	I						A													
52.249-3 Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements).	49.502(b)(2)	C	Yes	I												A							
Alternate I	49.502(b)(2)	C	Yes	I												A							
52.249-4 Termination for Convenience of the Government (Services) (Short Form).	49.502(c)	C	Yes	I					A												A	A	
52.249-5 Termination for Convenience of the Government (Educational and Other Nonprofit Institutions).	49.502(d)	C	Yes	I			A	A													A		
52.249-6 Termination (Cost-Reimbursement).	49.503(a)(1)	C	Yes	I		A		A		A				A	A	A		A	A	A		A	
Alternate I	49.503(a)(2)	C	Yes									A											
Alternate II	49.503(a)(3)	C	Yes	I		A		A		A				A	A	A		A	A	A		A	
Alternate III	49.503(a)(3)	C	Yes									A											
Alternate IV	49.503(a)(4)	C	Yes	I									A										
Alternate V	49.503(a)(4)	C	Yes	I									A										
52.249-7 Termination (Fixed-Price Architect-Engineer).	49.503(b)	C	Yes															A			A		
52.249-8 Default (Fixed-Price Supply and Service).	49.504(a)(1)	C	Yes	I	A				A					A							O	A	
Alternate I	49.504(a)(2)	C	Yes	I																	A	O	
52.249-9 Default (Fixed-Price Research and Development).	49.504(b)	C	Yes	I			A														O		
52.249-10 Default (Fixed-Price Construction).	49.504(c)(1)	C	Yes							A											O		
Alternate I	49.504(c)(2)	C	Yes													A					O		
Alternate II	49.504(c)(3)	C	Yes								O										O		
Alternate III	49.504(c)(3)	C	Yes													A					O		

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.249-11 Termination of Work (Consolidated Facilities or Facilities Acquisition).	49.505(a)	C	Yes	I														A					
Alternate I	49.505(a)	C	Yes	I														A					
52.249-12 Termination (Personal Services).	49.505(b)	C	Yes	I					A	A											A		
52.249-13 Failure to Perform.	49.505(c)	C	Yes	I														A					
52.249-14 Excusable Delays.	49.505(d)	C	Yes	I		A		A		A			A					A			A		
52.250-1 Indemnification under Public Law 85-804.	50.403-3	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	50.403-3	C	Yes	I		A		A		A		A		A	A	A	A	A	A	A	A	A	A
52.251-1 Government Supply Sources.	51.107	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A	A	A	A
Alternate I	51.107	C	Yes	I														A					
52.251-2 Interagency Fleet Management System Vehicles and Related Services.	51.205	C	Yes	I		A		A		A		A					A						
52.252-1 Solicitation Provisions Incorporated by Reference.	52.107(a)	P	No	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A
52.252-2 Clauses Incorporated by Reference.	52.107(b)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.252-3 Alterations in Solicitation.	52.107(c)	P	No	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.252-4 Alterations in Contract.	52.107(d)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.252-5 Authorized Deviations in Provisions.	52.107(e)	P	No	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.252-6 Authorized Deviations in Clauses.	52.107(f)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.253-1 Computer Generated Forms.	53.111	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

NOTE 1:

The following clauses are prescribed for use in letter contracts:

- 52.216-23, Execution and Commencement of Work.
- 52.216-24, Limitation of Government Liability.
- 52.216-25, Contract Definitization.
- 52.216-25, Contract Definitization, Alternate I.

- 52.216-26, Payments of Allowable Costs Before Definitization.
- 52.232-16, Progress Payments, Alternate II.
- 52.244-2, Subcontracts (Cost-Reimbursement and Letter Contracts).
- 52.244-2, Subcontracts (Cost-Reimbursement and Letter Contracts), Alternate I.

Further instructions concerning provisions and clauses for letter contracts are set forth in 16.603-4(a).

NOTE 2:

The following clauses are prescribed for use in Small Business Administration 8(a) contracts:

52.219-11, Special 8(a) Contract Conditions.

52.219-12, Special 8(a) Subcontract Conditions.

52.219-14, Limitations on Subcontracting.

52.219-17, Section 8(a) Award.

52.219-18, Notification of Competition Limited to Eligible 8(a) Concerns.

52.219-18, Alternate I

52.219-18, Alternate II

NOTE 3:

FAR provisions and clauses not identified on the matrix may be used in contracts for commercial items consistent with the procedures and limitations in FAR 12.302.

NOTE 4:

The following clause is prescribed for use in Information Technology Management Reform Act (ITMRA) contracts:

52.239-1, Privacy or Security Safeguards. "A".

PART 53—FORMS

Sec.

53.000	Scope of part.	53.222	Application of labor laws to Government acquisitions (SF's 99, 308, 1093, 1413, 1444, 1445, 1446, WH-347).
53.001	Definitions.		
Subpart 53.1—General			
53.100	Scope of subpart.	53.223	[Reserved]
53.101	Requirements for use of forms.	53.224	[Reserved]
53.102	Current editions.	53.225	[Reserved]
53.103	Exceptions.	53.226	[Reserved]
53.104	Overprinting.	53.227	[Reserved]
53.105	Computer generation.	53.228	Bonds and insurance.
53.106	Special construction and printing.	53.229	Taxes (SF's 1094, 1094-A).
53.107	Obtaining forms.	53.230	[Reserved]
53.108	Recommendations concerning forms.	53.231	[Reserved]
53.109	Forms prescribed by other regulations.	53.232	Contract financing (SF 1443).
53.110	Continuation sheets.	53.233	[Reserved]
53.111	Contract clause.	53.234	[Reserved]
Subpart 53.2—Prescription of Forms			
53.200	Scope of subpart.	53.235	Research and development contracting (SF 298).
53.201	Federal acquisition system.	53.236	Construction and architect-engineer contracts.
53.201-1	Contracting authority and responsibilities (SF 1402).	53.236-1	Construction.
53.202	[Reserved]	53.236-2	Architect-engineer services (SF's 252, 330, and 1421).
53.203	[Reserved]	53.237	[Reserved]
53.204	Administrative matters.	53.238	[Reserved]
53.204-1	Safeguarding classified information within industry (DD Form 254, DD Form 441).	53.239	[Reserved]
53.204-2	[Reserved]	53.240	[Reserved]
53.205	Publicizing contract actions.	53.241	[Reserved]
53.205-1	Paid advertisements.	53.242	Contract administration.
53.206	[Reserved]	53.242-1	Novation and change-of-name agreements (SF 30).
53.207	[Reserved]	53.243	Contract modifications (SF 30).
53.208	[Reserved]	53.244	[Reserved]
53.209	Contractor qualifications.	53.245	Government property.
53.209-1	Responsible prospective contractors.	53.246	[Reserved]
53.210	[Reserved]	53.247	Transportation (U.S. Government Bill of Lading).
53.211	[Reserved]	53.248	[Reserved]
53.212	Acquisition of commercial items.	53.249	Termination of contracts.
53.213	Simplified acquisition procedures (SF's 18, 30, 44, 1165, 1449, and OF's 336, 347, and 348).	53.250	[Reserved]
53.214	Sealed bidding.	53.251	Contractor use of Government supply sources (OF 347).
53.215	Contracting by negotiation.	Subpart 53.3—Illustration of Forms	
53.215-1	Solicitation and receipt of proposals.	53.300	Scope of subpart.
53.216	Types of contracts.	53.301	Standard forms.
53.216-1	Delivery orders and orders under basic ordering agreements (OF 347).	53.302	Optional forms.
53.217	[Reserved]	53.303	Agency forms.
53.218	[Reserved]	53.301-18	SF 18, Request for Quotation.
53.219	Small business programs.	53.301-24	SF 24, Bid Bond.
53.220	[Reserved]	53.301-25	SF 25, Performance Bond.
53.221	[Reserved]	53.301-25-A	SF 25-A, Payment Bond.
		53.301-25-B	SF 25-B, Continuation Sheet (For SF's 24, 25, and 25-A).
		53.301-26	SF 26, Award/Contract.
		53.301-28	SF 28, Affidavit of Individual Surety.

53.301-30	SF 30, Amendment of Solicitation/Modification of Contract.		Contract Work Hours and Safety Standards Act).
53.301-33	SF 33, Solicitation, Offer and Award.	53.301-1094	SF 1094, U.S. Tax Exemption Form.
53.301-34	SF 34, Annual Bid Bond.	53.301-1094A	SF 1094A, Tax Exemption Forms Accountability Record.
53.301-35	SF 35, Annual Performance Bond.		
53.301-44	SF 44, Purchase Order—Invoice—Voucher.	53.301-1165	SF 1165, Receipt for Cash—Subvoucher.
53.301-98	SF 98, Notice of Intention to Make a Service Contract and Response to Notice.	53.301-1402	SF 1402, Certificate of Appointment.
		53.301-1403	SF 1403, Preaward Survey of Prospective Contractor (General).
53.301-98a	SF 98a, Notice of Intention to Make a Service Contract and Response to Notice (Attachment A).	53.301-1404	SF 1404, Preaward Survey of Prospective Contractor—Technical.
53.301-99	SF 99, Notice of Award of Contract.	53.301-1405	SF 1405, Preaward Survey of Prospective Contractor—Production.
53.301-120	SF 120, Report of Excess Personal Property.	53.301-1406	SF 1406, Preaward Survey of Prospective Contractor—Quality Assurance.
53.301-120-A	SF 120-A, Continuation Sheet (Report of Excess Personal Property).	53.301-1407	SF 1407, Preaward Survey of Prospective Contractor—Financial Capability.
53.301-126	SF 126, Report of Personal Property for Sale.	53.301-1408	SF 1408, Preaward Survey of Prospective Contractor—Accounting System.
53.301-126-A	SF 126-A, Report of Personal Property for Sale (Continuation Sheet).	53.301-1409	SF 1409, Abstract of Offers.
53.301-252	SF 252, Architect-Engineer Contract.	53.301-1410	SF 1410, Abstract of Offers—Continuation.
53.301-273	SF 273, Reinsurance Agreement for a Miller Act Performance Bond.	53.301-1413	SF 1413, Statement and Acknowledgment.
53.301-274	SF 274, Reinsurance Agreement for a Miller Act Payment Bond.	53.301-1414	SF 1414, Consent of Surety.
53.301-275	SF 275, Reinsurance Agreement in Favor of the United States.	53.301-1415	SF 1415, Consent of Surety and Increase of Penalty.
53.301-294	SF 294, Subcontracting Report for Individual Contracts.	53.301-1416	SF 1416, Payment Bond for Other Than Construction Contracts.
53.301-295	SF 295, Summary Subcontract Report.	53.301-1418	SF 1418, Performance Bond for Other Than Construction Contracts.
53.301-298	SF 298, Report Documentation Page.	53.301-1420	SF 1420, Performance Evaluation—Construction Contracts.
53.301-308	SF 308, Request for Wage Determination and Response to Request.	53.301-1421	SF 1421, Performance Evaluation (Architect-Engineer).
53.301-330	Architect-Engineer Qualifications.	53.301-1423	SF 1423, Inventory Verification Survey.
53.301-1034	SF 1034, Public Voucher for Purchases and Services Other Than Personal.	53.301-1424	SF 1424, Inventory Disposal Report.
53.301-1034A	SF 1034A, Public Voucher for Purchases and Services Other Than Personal—Memorandum Copy.	53.301-1427	SF 1427, Inventory Schedule A—Continuation Sheet (Metals in Mill Product Form).
53.301-1035	SF 1035, Public Voucher for Purchases and Services Other Than Personal, Continuation Sheet.	53.301-1428	SF 1428, Inventory Schedule.
53.301-1035A	SF 1035A, Public Voucher for Purchases and Services Other Than Personal—Memorandum, Continuation Sheet.	53.301-1429	SF 1429, Inventory Schedule—Continuation Sheet.
		53.301-1435	SF 1435, Settlement Proposal (Inventory Basis).
53.301-1093	SF 1093, Schedule of Withholdings Under the Davis-Bacon Act and/or the	53.301-1436	SF 1436, Settlement Proposal (Total Cost Basis).

		Forms Authorized for Local Reproduction	
53.301-1437	SF 1437, Settlement Proposal for Cost-Reimbursement Type Contracts.	SF LLL	Disclosure of Lobbying Activities
53.301-1438	SF 1438, Settlement Proposal (Short Form).	SF LLL-A	Disclosure of Lobbying Activities—Continuation Sheet
53.301-1439	SF 1439, Schedule of Accounting Information.	SF 18	Request for Quotation
53.301-1440	SF 1440, Application for Partial Payment.	SF 24	Bid Bond
53.301-1442	SF 1442, Solicitation, Offer, and Award (Construction, Alteration, or Repair).	SF 25	Performance Bond
53.301-1443	SF 1443, Contractor's Request for Progress Payment.	SF 25A	Payment Bond
53.301-1444	SF 1444, Request for Authorization of Additional Classification and Rate.	SF 25B	SF 25-B, Continuation Sheet (For SF's 24, 25, and 25-A)
53.301-1445	SF 1445, Labor Standards Interview.	SF 28	Affidavit of Individual Surety
53.301-1446	SF 1446, Labor Standards Investigation Summary Sheet.	SF 33	Solicitation, Offer and Award
53.301-1447	SF 1447, Solicitation/Contract.	SF 34	Annual Bid Bond
53.301-1449	SF 1449, Solicitation/Contract/Order for Commercial Items.	SF 35	Annual Performance Bond
53.302-17	Optional Form 17, Offer Label.	SF 273	Reinsurance Agreement for a Miller Act Performance Bond
53.302-90	Optional Form 90, Release of Lien on Real Property.	SF 274	Reinsurance Agreement for a Miller Act Payment Bond
53.302-91	Optional Form 91, Release of Personal Property from Escrow.	SF 275	Reinsurance Agreement in Favor of the United States
53.302-307	Optional Form 307, Contract Award.	SF 294	Subcontracting Report for Individual Contracts
53.302-308	Optional Form 308, Solicitation and Offer—Negotiated Acquisition.	SF 295	Summary Subcontract Report
53.302-309	Optional Form 309, Amendment of Solicitation.	SF 308	Request for Wage Determination and Response to Request
53.302-312	Optional Form 312, Small Disadvantaged Business Participation Report.	SF 330	Architect-Engineer Qualifications
53.302-336	Optional Form 336, Continuation Sheet.	SF 1403	Preaward Survey of Prospective Contractor (General)
53.302-347	Optional Form 347, Order for Supplies or Services.	SF 1404	Preaward Survey of Prospective Contractor—Technical
53.302-348	Optional Form 348, Order for Supplies or Services Schedule—Continuation.	SF 1405	Preaward Survey of Prospective Contractor—Production
53.302-1419	Optional Form 1419, Abstract of Offers—Construction.	SF 1406	Preaward Survey of Prospective Contractor—Quality Assurance
53.302-1419A	Optional Form 1419A, Abstract of Offers—Construction, Continuation Sheet.	SF 1407	Preaward Survey of Prospective Contractor—Financial Capability
53.303-DD-254	Department of Defense DD Form 254, Contract Security Classification Specification.	SF 1408	Preaward Survey of Prospective Contractor—Accounting System
53.303-DD-441	Department of Defense DD Form 441, Security Agreement.	SF 1409	Abstract of Offers
53.303-WH-347	Department of Labor Form WH-347, Payroll (For Contractor's Optional Use).	SF 1410	Abstract of Offers—Continuation.
		SF 1414	Consent of Surety
		SF 1415	Consent of Surety and Increase of Penalty
		SF 1416	Payment Bond for Other Than Construction Contracts
		SF 1418	Performance Bond for Other Than Construction Contracts
		SF 1420	Performance Evaluation—Construction Contracts
		SF 1423	Inventory Verification Survey
		SF 1424	Inventory Disposal Report
		SF 1427	Inventory Schedule A—Continuation Sheet (Metals in Mill Product Form)

SF 1428	Inventory Schedule	SF 1449	Solicitation/Contract/Order for Commercial Items
SF 1429	Inventory Schedule—Continuation Sheet	OF 90	Release of Lien on Real Property
SF 1435	Settlement Proposal (Inventory Basis)	OF 91	Release of Personal Property from Escrow
SF 1436	Settlement Proposal (Total Cost Basis)	OF 307	Contract Award
SF 1437	Settlement Proposal for Cost-Reimbursement Type Contracts	OF 308	Solicitation and Offer—Negotiated Acquisition
SF 1438	Settlement Proposal (Short Form)	OF 309	Amendment of Solicitation
SF 1439	Schedule of Accounting Information	OF 312	Small Disadvantaged Business Participation Report
SF 1440	Application for Partial Payment	OF 347	Order for Supplies or Services
SF 1445	Labor Standards Interview		
SF 1446	Labor Standards Investigation Summary Sheet		

53.000 Scope of part.

This part—

- (a) Prescribes standard forms (SF's) and references optional forms (OF's) and agency-prescribed forms for use in acquisition;
- (b) Contains requirements and information generally applicable to the forms; and
- (c) Illustrates the forms.

53.001 Definitions.

“Exception,” as used in this part, means an approved departure from the established design, content, printing specifications, or conditions for use of any standard form.

Subpart 53.1—General

53.100 Scope of subpart.

This subpart contains requirements and information generally applicable to the forms prescribed in this regulation.

53.101 Requirements for use of forms.

The requirements for use of the forms prescribed or referenced in this part are contained in Parts 1 through 52, where the subject matter applicable to each form is addressed. The specific location of each requirement is identified in Subpart 53.2.

53.102 Current editions.

The form prescriptions in Subpart 53.2 and the illustrations in Subpart 53.3 contain current edition dates. Contracting officers shall use the current editions unless otherwise authorized under this regulation.

53.103 Exceptions.

Agencies shall not—

- (a) Alter a standard form prescribed by this regulation; or
- (b) Use for the same purpose any form other than the standard form prescribed by this regulation without receiving in advance an exception to the form.

53.104 Overprinting.

Standard and optional forms (obtained as required by 53.107) may be overprinted with names, addresses, and other uniform entries that are consistent with the purpose of the form and that do not alter the form in any way. Exception approval for overprinting is not needed.

53.105 Computer generation.

(a) Agencies may computer-generate the Standard and Optional Forms prescribed in the FAR without exception approval (see 53.103), provided—

(1) The form is in an electronic format that complies with Federal Information Processing Standard Number 161; or

(2) There is no change to the name, content, or sequence of the data elements, and the form carries the Standard or Optional Form number and edition date.

(b) The forms prescribed by this Part may be computer generated by the public. Unless prohibited by agency regulations, forms prescribed by agency FAR supplements may also be computer generated by the public. Computer generated forms shall either comply with Federal Information Processing Standard Number 161 or shall retain the name, content, or sequence of the data elements, and shall carry the Standard or Optional Form or agency number and edition date (see 53.111).

53.106 Special construction and printing.

Contracting offices may request exceptions (see 53.103) to standard forms for special construction and printing. Examples of common exceptions are as follows:

STANDARD FORMS	SPECIAL CONSTRUCTION AND PRINTING
(a) SF 18—	(1) With vertical lines omitted (for listing of supplies and services, unit, etc.); (2) As reproducible masters; and/or (3) In carbon interleaved pads or sets.
(b) SF's 26, 30, 33, 1447—	As die-cut stencils or reproducible masters.
(c) SF 44—	(1) With serial numbers and contracting office name and address; and/or (2) On special weight of paper and with the type of construction, number of sets per book, 2 and number of parts per set as specified by the contracting officer. (Executive agencies may supplement the administrative instructions on the inside front cover of the book.)
(d) SF 1442—	(1) As die-cut stencils or reproducible masters; and/or (2) With additional wording as required by the executive agency. (However, the sequence and wording of the items appearing on the prescribed form should not be altered.

53.107 Obtaining forms.

(a) Executive agencies shall obtain standard and optional forms from the General Services Administration (GSA) by using GSA Supply Catalog—Office Products (see 41 CFR 101-26.302). Standard forms adapted for computer preparation (see 53.105) or with special construction and

printing (see 53.106) that are not available from GSA may be ordered directly from the Government Printing Office (GPO).

(b) Contractors and other parties may obtain standard and optional forms from the Superintendent of Documents, GPO, Washington, DC 20402. Standard and optional forms not available from the Superintendent of Documents may be obtained from the prescribing agency.

(c) Agency forms may be obtained from the prescribing agency.

53.108 Recommendations concerning forms.

Users of this regulation may recommend new forms or the revision, elimination, or consolidation of the forms prescribed or referenced in this regulation. Recommendations from within an executive agency shall be submitted to the cognizant council in accordance with agency procedures. Recommendations from other than executive agencies should be submitted directly to the FAR Secretariat.

53.109 Forms prescribed by other regulations.

Certain forms referred to in Subpart 53.2 are prescribed in other regulations and are specified by the FAR for use in

acquisition. For each of these forms, the prescribing agency is identified by means of a parenthetical notation after the form number. For example, SF 1165, which is prescribed by the General Accounting Office (GAO), is identified as SF 1165 (GAO).

53.110 Continuation sheets.

Except as may be otherwise indicated in the FAR, all standard forms prescribed by the FAR may be continued on (a) plain paper of similar specification, or (b) specially constructed continuation sheets (*e.g.*, OF 336). Continuation sheets shall be annotated in the upper right-hand corner with the reference number of the document being continued and the serial page number.

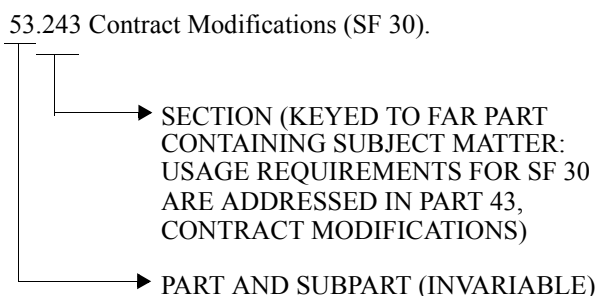
53.111 Contract clause.

Contracting officers shall insert the clause at 52.253-1, Computer Generated Forms, in solicitations and contracts that require the contractor to submit data on Standard or Optional Forms prescribed by this regulation; and, unless prohibited by agency regulations, forms prescribed by agency supplements.

Subpart 53.2—Prescription of Forms

53.200 Scope of subpart.

This subpart prescribes standard forms and references optional forms and agency-prescribed forms for use in acquisition. Consistent with the approach used in Subpart 52.2, this subpart is arranged by subject matter, in the same order as, and keyed to, the parts of the FAR in which the form usage requirements are addressed. For example, forms addressed in FAR Part 14, Sealed Bidding, are treated in this subpart in section 53.214, Sealed Bidding; forms addressed in FAR Part 43, Contract Modifications, are treated in this subpart in section 53.243, Contract modifications. The following example illustrates how the subjects are keyed to the parts in which they are addressed:



53.201 Federal acquisition system.

53.201-1 Contracting authority and responsibilities (SF 1402).

SF 1402 (10/83), Certificate of Appointment. SF 1402 is prescribed for use in appointing contracting officers, as specified in 1.603-3.

53.202 [Reserved]

53.203 [Reserved]

53.204 Administrative matters.

53.204-1 Safeguarding classified information within industry (DD Form 254, DD Form 441).

The following forms, which are prescribed by the Department of Defense, shall be used by agencies covered by the Defense Industrial Security Program if contractor access to classified information is required, as specified in Subpart 4.4 and the clause at 52.204-2:

(a) *DD Form 254 (Department of Defense (DoD)), Contract Security Classification Specification.* (See 4.403(c)(1).)

(b) *DD Form 441 (DoD), Security Agreement.* (See paragraph (b) of the clause at 52.204-2.)

53.204-2 [Reserved]

53.205 Publicizing contract actions.

53.205-1 Paid advertisements.

SF 1449, prescribed in 53.212, shall be used to place orders for paid advertisements as specified in 5.503.

53.206 [Reserved]

53.207 [Reserved]

53.208 [Reserved]

53.209 Contractor qualifications.

53.209-1 Responsible prospective contractors.

The following forms are prescribed for use in conducting preaward surveys of prospective contractors, as specified in 9.106-1, 9.106-2, and 9.106-4:

(a) *SF 1403 (Rev. 9/88), Preaward Survey of Prospective Contractor (General).* SF 1403 is authorized for local reproduction.

(b) *SF 1404 (Rev. 9/88), Preaward Survey of Prospective Contractor—Technical.* SF 1404 is authorized for local reproduction.

(c) *SF 1405 (Rev. 9/88), Preaward Survey of Prospective Contractor—Production.* SF 1405 is authorized for local reproduction.

(d) *SF 1406 (Rev. 11/97), Preaward Survey of Prospective Contractor—Quality Assurance.* SF 1406 is authorized for local reproduction.

(e) *SF 1407 (Rev. 9/88), Preaward Survey of Prospective Contractor—Financial Capability.* SF 1407 is authorized for local reproduction.

(f) *SF 1408 (Rev. 9/88), Preaward Survey of Prospective Contractor—Accounting System.* SF 1408 is authorized for local reproduction.

53.210 [Reserved]

53.211 [Reserved]

53.212 Acquisition of commercial items.

SF 1449 (Rev. 4/02), Solicitation/Contract/Order for Commercial Items. SF 1449 is prescribed for use in solicitations and contracts for commercial items. Agencies may prescribe additional detailed instructions for use of the form.

53.213 Simplified acquisition procedures (SF's 18, 30, 44, 1165, 1449, and OF's 336, 347, and 348).

The following forms are prescribed as stated in this section for use in simplified acquisition procedures, orders under

existing contracts or agreements, and orders from required sources of supplies and services:

(a) *SF 18 (Rev. 6/95), Request for Quotations, or SF 1449 (Rev. 4/02), Solicitation/Contract/Order for Commercial Items.* SF 18 is prescribed for use in obtaining price, cost, delivery, and related information from suppliers as specified in 13.307(b). SF 1449, as prescribed in 53.212, or other agency forms/automated formats, may also be used to obtain price, cost, delivery, and related information from suppliers as specified in 13.307(b).

(b) *SF 30 (Rev. 10/83), Amendment of Solicitation/ Modification of Contract.* SF 30, prescribed in 53.243, may be used for modifying purchase orders, as specified in 13.307(c)(3).

(c) *SF 44 (Rev. 10/83), Purchase Order Invoice Voucher.* SF 44 is prescribed for use in simplified acquisition procedures, as specified in 13.306.

(d) *SF 1165 (6/83 Ed.), Receipt for Cash-Subvoucher.* SF 1165 (GAO) may be used for imprest fund purchases, as specified in 13.307(e).

(e) *OF 336 (4/86 Ed.), Continuation Sheet.* OF 336, prescribed in 53.214(h), may be used as a continuation sheet in solicitations, as specified in 13.307(c)(1).

(f) *SF 1449, (Rev. 4/02) Solicitation/Contract/Order for Commercial Items prescribed in 53.212, OF 347 (Rev. 6/95), Order for Supplies or Services, and OF 348 (10/83 Ed.), Order for Supplies or Services—Schedule Continuation.* SF 1449, OF's 347 and 348 (or approved agency forms/automated formats) may be used as follows:

(1) To accomplish acquisitions under simplified acquisition procedures, as specified in 13.307.

(2) To establish blanket purchase agreements (BPA's), as specified in 13.303-2, and to make purchases under BPA's, as specified in 13.303-5.

(3) To issue orders under basic ordering agreements, as specified in 16.703(d)(2)(i).

(4) As otherwise specified in this chapter (e.g., see 5.503(a)(2), 8.406-1, 36.701(b), and 51.102(e)(3)(ii)).

53.214 Sealed bidding.

The following forms are prescribed for use in contracting by sealed bidding (except for construction and architect-engineer services):

(a) *SF 26 (4/85), Award/Contract.* SF 26 is prescribed for use in awarding sealed bid contracts for supplies or services in which bids were obtained on SF 33, Solicitation, Offer and Award, as specified in 14.408-1(d)(1). Pending issuance of a new edition of the form, the reference in "block 1" should be amended to read "15 CFR 700."

(b) *SF 30, Amendment of Solicitation/Modification of Contract.* SF 30, prescribed in 53.243, shall be used in amending invitations for bids, as specified in 14.208(a).

(c) *SF 33 (Rev. 9/97), Solicitation, Offer and Award.* SF 33 is prescribed for use in soliciting bids for supplies or services

and for awarding the contracts that result from the bids, as specified in 14.201-2(a)(1), unless award is accomplished by SF 26.

(d) *SF 1447 (5/88 Ed.), Solicitation/Contract.* SF 1447 is prescribed for use in soliciting supplies or services and for awarding contracts that result from the bids. It shall be used when the simplified contract format is used (see 14.201-9) and may be used in place of the SF 26 or SF 33 with other solicitations and awards. Agencies may prescribe additional detailed instructions for use of the form.

(e) [Reserved]

(f) *SF 1409 (Rev. 9/88), Abstract of Offers, and SF 1410 (9/88), Abstract of Offers—Continuation.* SF 1409 and SF 1410 are prescribed for use in recording bids, as specified in 14.403(a).

(g) *OF 17 (Rev. 12/93), Offer Label.* OF 17 may be furnished with each invitation for bids to facilitate identification and handling of bids, as specified in 14.202-3(b).

(h) *OF 336 (Rev. 3/86), Continuation Sheet.* OF 336 may be used as a continuation sheet in solicitations, as specified in 14.201-2(b).

53.215 Contracting by negotiation.

53.215-1 Solicitation and receipt of proposals.

The following forms are prescribed, as stated in the following paragraphs, for use in contracting by negotiation (except for construction, architect-engineer services, or acquisitions made using simplified acquisition procedures):

(a) *SF 26 (Rev. 4/85), Award/Contract.* SF 26, prescribed in 53.214(a), may be used in entering into negotiated contracts in which the signature of both parties on a single document is appropriate, as specified in 15.509.

(b) *SF 30 (Rev. 10/83), Amendment of Solicitation/Modification of Contract.* SF 30, prescribed in 53.243, may be used for amending requests for proposals and for amending requests for information, as specified in 15.210(b).

(c) *SF 33 (Rev. 9/97), Solicitation, Offer and Award.* SF 33, prescribed in 53.214(c), may be used in connection with the solicitation and award of negotiated contracts. Award of such contracts may be made by either OF 307, SF 33, or SF 26, as specified in 53.214(c) and 15.509.

(d) *OF 17 (Rev. 12/93), Offer Label.* OF 17 may be furnished with each request for proposals to facilitate identification and handling of proposals, as specified in 15.210(c).

(e) *OF 307 (Rev. 9/97), Contract Award.* OF 307 may be used to award negotiated contracts as specified in 15.509.

(f) *OF 308 (Rev. 9/97), Solicitation and Offer-Negotiated Acquisition.* OF 308 may be used to support solicitation of negotiated contracts as specified in 15.210(a). Award of such contracts may be made by OF 307, as specified in 15.509.

(g) *OF 309 (Rev. 9/97), Amendment of Solicitation*. OF 309 may be used to amend solicitations of negotiated contracts, as specified in 15.210(b).

53.216 Types of contracts.

53.216-1 Delivery orders and orders under basic ordering agreements (OF 347).

OF 347, Order for Supplies or Services. OF 347, prescribed in 53.213(f) (or an approved agency form), may be used to place orders under indefinite delivery contracts and basic ordering agreements, as specified in 16.703(d)(2)(i).

53.217 [Reserved]

53.218 [Reserved]

53.219 Small business programs.

The following standard forms are prescribed for use in reporting small, small disadvantaged and women-owned small business subcontracting data, as specified in Part 19:

(a) *SF 294 (Rev. 10/01), Subcontracting Report for Individual Contracts*. (See 19.704(a)(10).) SF 294 is authorized for local reproduction.

(b) *SF 295 (Rev. 10/01), Summary Subcontract Report*. (See 19.704(a)(10).) SF 295 is authorized for local reproduction.

(c) *OF 312 (10/00), Small Disadvantaged Business Participation Report*. (See Subpart 19.12.)

53.220 [Reserved]

53.221 [Reserved]

53.222 Application of labor laws to Government acquisitions (SF's 99, 308, 1093, 1413, 1444, 1445, 1446, WH-347).

The following forms are prescribed as stated below, for use in connection with the application of labor laws:

(a) [Reserved]

(b) *SF 99 (DOL), Notice of Award of Contract*.

(c) *SF 308 (DOL) (5/85 Ed.), Request for Determination and Response to Request*. (See 22.404-3(a) and (b).)

(d) *SF 1093 (GAO) (10/71 Ed.), Schedule of Withholdings under the Davis-Bacon Act and/or the Contract Work Hours and Safety Standards Act*. (See 22.406-9(c)(1).)

(e) *SF 1413 (Rev. 6/89), Statement and Acknowledgment*. SF 1413 is prescribed for use in obtaining contractor acknowledgment of inclusion of required clauses in subcontracts, as specified in 22.406-5. Pending issuance of a new edition of the form, the "prescribed by" reference at the bottom right of the form is revised to read "53.222(e)."

(f) *SF 1444 (10/87 Ed.), Request for Authorization of Additional Classification and Rate*. (See 22.406-3(a) and 22.1019.)

(g) *SF 1445 (Rev. 12/96), Labor Standards Interview*. (See 22.406-7(b).)

(h) *SF 1446 (10/87 Ed.), Labor Standards Investigation Summary Sheet*. (See 22.406-8(d).)

(i) *Form WH-347 (DOL), Payroll (For Contractor's Optional Use)*. (See 22.406-6(a).)

53.223 [Reserved]

53.224 [Reserved]

53.225 [Reserved]

53.226 [Reserved]

53.227 [Reserved]

53.228 Bonds and insurance.

The following standard forms are prescribed for use for bond and insurance requirements, as specified in Part 28:

(a) *SF 24 (Rev. 10/98) Bid Bond*. (See 28.106-1.) SF 24 is authorized for local reproduction.

(b) *SF 25 (Rev. 5/96) Performance Bond*. (See 28.106-1(b).) SF 25 is authorized for local reproduction.

(c) *SF 25-A (Rev. 10/98) Payment Bond*. (See 28.106-1(c).) SF 25-A is authorized for local reproduction.

(d) *SF 25-B (Rev. 10/83), Continuation Sheet (For Standard Forms 24, 25, and 25-A)*. (See 28.106-1(c).)

(e) *SF 28 (Rev. 6/03) Affidavit of Individual Surety*. (See 28.106-1(e) and 28.203(b).) SF 28 is authorized for local reproduction.

(f) *SF 34 (Rev. 1/90), Annual Bid Bond*. (See 28.106-1(f).) SF 34 is authorized for local reproduction.

(g) *SF 35 (Rev. 1/90), Annual Performance Bond*. (See 28.106-1.) SF 35 is authorized for local reproduction.

(h) *SF 273 (Rev. 10/98) Reinsurance Agreement for a Miller Act Performance Bond*. (See 28.106-1(h) and 28.202-1(a)(4).) SF 273 is authorized for local reproduction.

(i) *SF 274 (Rev. 10/98) Reinsurance Agreement for a Miller Act Payment Bond*. (See 28.106-1(i) and 28.202-1(a)(4).) SF 274 is authorized for local reproduction.

(j) *SF 275 (Rev. 10/98) Reinsurance Agreement in Favor of the United States*. (See 28.106-1(j) and 28.202-1(a)(4).) SF 275 is authorized for local reproduction.

(k) *SF 1414 (Rev. 10/93), Consent of Surety*. SF 1414 is authorized for local reproduction.

(l) *SF 1415 (Rev. 7/93), Consent of Surety and Increase of Penalty*. (See 28.106-1(l).) SF 1415 is authorized for local reproduction.

(m) *SF 1416 (Rev. 10/98) Payment Bond for Other than Construction Contracts.* (See 28.106-1(m).) SF 1416 is authorized for local reproduction.

(n) *SF 1418 (Rev. 2/99) Performance Bond For Other Than Construction Contracts.* (See 28.106-1(n).) SF 1418 is authorized for local reproduction.

(o) *OF 90 (Rev. 1/90), Release of Lien on Real Property.* (See 28.106-1(o) and 28.203-5(a).) OF 90 is authorized for local reproduction.

(p) *OF 91 (1/90 Ed.), Release of Personal Property from Escrow.* (See 28.106-1(p) and 28.203-5(a).) OF 91 is authorized for local reproduction.

53.229 Taxes (SF's 1094, 1094-A).

SF 1094 (Rev. 12/96), U.S. Tax Exemption Form, and SF 1094-A (Rev. 12/96), Tax Exemption Forms Accountability Record. SF's 1094 and 1094-A are prescribed for use in establishing exemption from State or local taxes, as specified in 29.302(b).

53.230 [Reserved]

53.231 [Reserved]

53.232 Contract financing (SF 1443).

SF 1443 (10/82), Contractor's Request for Progress Payment. SF 1443 is prescribed for use in obtaining contractors' requests for progress payments, as specified in 32.503-1.

53.233 [Reserved]

53.234 [Reserved]

53.235 Research and development contracting (SF 298).

SF 298 (2/89), Report Documentation Page. SF 298 is prescribed for use in submitting scientific and technical reports to contracting officers and to technical information libraries, as specified in 35.010.

53.236 Construction and architect-engineer contracts.

53.236-1 Construction.

The following forms are prescribed, as stated below, for use in contracting for construction, alteration, or repair, or dismantling, demolition, or removal of improvements.

(a) *SF 1420 (10/83 Ed.), Performance Evaluation—Construction Contracts.* SF 1420 is prescribed for use in evaluating and reporting on the performance of construction contractors within approved dollar thresholds and as otherwise specified in 36.701(d).

(b) [Reserved]

(c) [Reserved]

(d) *SF 1442 (4/85 Ed.), Solicitation, Offer and Award (Construction, Alteration, or Repair).* SF 1442 is prescribed for use in soliciting offers and awarding contracts expected to exceed the simplified acquisition threshold for—

(1) Construction, alteration, or repair; or

(2) Dismantling, demolition, or removal of improvements (and may be used for contracts within the simplified acquisition threshold), as specified in 36.701(a).

(e) *OF 347 (Rev. 6/95), Order for Supplies or Services.* OF 347, prescribed in 53.213(f) (or an approved agency form), may be used for contracts under the simplified acquisition threshold for—

(1) Construction, alteration, or repair; or

(2) Dismantling, demolition, or removal of improvements, as specified in 36.701(b).

(f) *OF 1419 (11/88 Ed.), Abstract of Offers—Construction, and OF 1419A (11/88 Ed.), Abstract of Offers—Construction, Continuation Sheet.* OF's 1419 and 1419A are prescribed for use in recording bids (and may be used for recording proposal information), as specified in 36.701(c).

53.236-2 Architect-engineer services (SF's 252, 330, and 1421).

The following forms are prescribed for use in contracting for architect-engineer and related services:

(a) *SF 252 (Rev. 10/83), Architect-Engineer Contract.* SF 252 is prescribed for use in awarding fixed-price contracts for architect-engineer services, as specified in 36.702(a). Pending issuance of a new edition of the form, Block 8, Negotiation Authority, is deleted.

(b) *SF 330 (6/04), Architect-Engineer Qualifications.* SF 330 is prescribed for use in obtaining information from architect-engineer firms regarding their professional qualifications, as specified in 36.702(b)(1) and (b)(2).

(c) *SF 1421 (10/83 Ed.), Performance Evaluation (Architect-Engineer).* SF 1421 is prescribed for use in evaluating and reporting on the performance of architect-engineer contractors within approved dollar thresholds and as otherwise specified in 36.702(c).

53.237 [Reserved]

53.238 [Reserved]

53.239 [Reserved]

53.240 [Reserved]

53.241 [Reserved]

53.242 Contract administration.**53.242-1 Novation and change-of-name agreements (SF 30).**

SF 30, Amendment of Solicitation/Modification of Contract. SF 30, prescribed in 53.243, shall be used in connection with novation and change of name agreements, as specified in 42.1203(h).

53.243 Contract modifications (SF 30).

SF 30 (Rev. 10/83), Amendment of Solicitation/ Modification of Contract. SF 30 is prescribed for use in amending invitation for bids, as specified in 14.208; modifying purchase and delivery orders, as specified in 13.302-3; and modifying contracts, as specified in 42.1203(h), 43.301, 49.602-5, and elsewhere in this regulation. The form may also be used to amend solicitations for negotiated contracts, as specified in 15.210(b). Pending the publication of a new edition of the form, Instruction (b), Item 3 (effective date), is revised in paragraphs (3) and (5) as follows:

(b) Item 3 (effective date).

* * * * *

(3) For a modification issued as a confirming notice of termination for the convenience of the Government, the effective date of the confirming notice shall be the same as the effective date of the initial notice.

* * * * *

(5) For a modification confirming the termination contracting officer's previous letter determination of the amount due in settlement of a contract termination for convenience, the effective date shall be the same as the effective date of the previous letter determination.

53.244 [Reserved]**53.245 Government property.**

The following forms are prescribed, as specified in this section, for use in reporting, reutilization, and disposal of Government property and in accounting for this property:

(a) *SF 120 (GSA), Report of Excess Personal Property, and SF 120-A (GSA), Continuation Sheet (Report of Excess Personal Property).* (See 45.602-3 and 41 CFR 102-36.215.)

(b) *SF 126 (GSA), Report of Personal Property for Sale, and SF 126-A (GSA), Report of Personal Property for Sale (Continuation Sheet).* (See FPMR 101-45.303 (41 CFR 101-45.303).)

(c) *SF 1423 (Rev. 5/2004), Inventory Verification Survey.* (See 45.602-1(b)(1) and 45.606-3.)

(d) *SF 1424 (Rev. 5/2004), Inventory Disposal Report (See 45.605).* SF 1424 is authorized for local reproduction.

(e) *SF 1428 (Rev. 5/2004), Inventory Disposal Schedule, and SF 1429 (Rev. 5/2004), Inventory Disposal Schedule—Continuation Sheet.* (See 45.602-1, 49.303-2, 52.245-2(i), 52.245-5(i), and 53.249(b).) SF's 1428 and 1429 are authorized for local reproduction.

53.246 [Reserved]**53.247 Transportation (U.S. Government Bill of Lading).**

The U.S. Government Bill of Lading, prescribed in 41 CFR 101-41.304, shall be used for transportation of property, as specified in 47.103.

53.248 [Reserved]**53.249 Termination of contracts.**

(a) The following forms are prescribed for use in connection with the termination of contracts, as specified in Subpart 49.6:

(1) *SF 1034 (GAO), Public Voucher for Purchases and Services Other than Personal.* (See 49.302(a).)

(2) *SF 1435 (Rev. 9/97), Settlement Proposal (Inventory Basis).* (See 49.602-1(a).) Standard Form 1435 is authorized for local reproduction.

(3) *SF 1436 (Rev. 5/2004), Settlement Proposal (Total Cost Basis).* (See 49.602-1(b).) Standard Form 1436 is authorized for local reproduction.

(4) *SF 1437 (Rev. 9/97), Settlement Proposal for Cost-Reimbursement Type Contracts.* (See 49.602-1(c) and 49.302.) Standard Form 1437 is authorized for local reproduction.

(5) *SF 1438 (Rev. 5/2004), Settlement Proposal (Short Form).* (See 49.602-1(d).) Standard Form 1438 is authorized for local reproduction.

(6) *SF 1439 (Rev. 7/89), Schedule of Accounting Information.* (See 49.602-3.) Standard Form 1439 is authorized for local reproduction.

(7) *SF 1440 (Rev. 7/89), Application for Partial Payment.* (See 49.602-4.) Standard Form 1440 is authorized for local reproduction.

(b) *SF 1428 (Rev. 5/2004), Inventory Disposal Schedule, and Standard Form 1429 (Rev. 5/2004), Inventory Disposal Schedule—Continuation Sheet,* shall be used to support termination settlement proposals listed in paragraph (a) of this section, as specified in 49.602-2.

53.250 [Reserved]

**53.251 Contractor use of Government supply sources
(OF 347).**

OF 347, Order for Supplies or Services. OF 347, prescribed in 53.213(f), may be used by contractors when requisitioning from the VA, as specified in 51.102(e)(3)(ii).

Subpart 53.3—Illustration of Forms**53.300 Scope of subpart.**

This subpart contains illustrations of forms used in acquisitions.

53.301 Standard forms.

This section illustrates the standard forms that are specified by the FAR for use in acquisitions. The forms are illustrated in numerical order. The subsection numbers correspond with the standard form numbers (*e.g.*, Standard Form 18 appears as 53.301-18).

53.302 Optional forms.

This section illustrates the optional forms that are specified by the FAR for use in acquisitions. The numbering system is as indicated in 53.301.

53.303 Agency forms.

This section illustrates agency forms that are specified by the FAR for use in acquisitions. The forms are arranged numerically by agency. The numbering system is as indicated in 53.301.

* * * * *

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Standard Form 18

REQUEST FOR QUOTATION (THIS IS NOT AN ORDER)		THIS RFO <input type="checkbox"/> IS <input type="checkbox"/> IS NOT A SMALL BUSINESS SET-ASIDE		PAGE OF PAGES	
1. REQUEST NO.	2. DATE ISSUED	3. REQUISITION/PURCHASE REQUEST NO.	4. CERT. FOR NAT. DEF. UNDER BDSA REG. 2 AND/OR DMS REG. 1	RATING	
5a. ISSUED BY			6. DELIVER BY (Date)		
5b. FOR INFORMATION CALL (NO COLLECT CALLS)					
NAME		TELEPHONE NUMBER		<input type="checkbox"/> FOB DESTINATION <input type="checkbox"/> OTHER <small>(See Schedule)</small>	
AREA CODE		NUMBER		9. DESTINATION	
8. TO:					
a. NAME		b. COMPANY		b. STREET ADDRESS	
c. STREET ADDRESS					
c. CITY					
d. CITY		e. STATE		f. ZIP CODE	
d. STATE		e. ZIP CODE			
10. PLEASE FURNISH QUOTATIONS TO THE ISSUING OFFICE IN BLOCK 5a ON OR BEFORE CLOSE OF BUSINESS (Date)			IMPORTANT: This is a request for information, and quotations furnished are not offers. If you are unable to quote, please so indicate on this form and return it to the address in Block 5a. This request does not commit the Government to pay any costs incurred in the preparation of the submission of this quotation or to contract for supplies or service. Supplies are of domestic origin unless otherwise indicated by quoter. Any representations and/or certifications attached to this Request for Quotation must be completed by the quoter.		
11. SCHEDULE (Include applicable Federal, State and local taxes)					
ITEM NO.	SUPPLIES/ SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
(a)	(b)	(c)	(d)	(e)	(f)
12. DISCOUNT FOR PROMPT PAYMENT			a. 10 CALENDAR DAYS (%)	b. 20 CALENDAR DAYS (%)	c. 30 CALENDAR DAYS (%)
					d. CALENDAR DAYS
					NUMBER
					PERCENTAGE
NOTE: Additional provisions and representations <input type="checkbox"/> are <input type="checkbox"/> are not attached.					
13. NAME AND ADDRESS OF QUOTER			14. SIGNATURE OF PERSON AUTHORIZED TO SIGN QUOTATION		15. DATE OF QUOTATION
a. NAME OF QUOTER					
b. STREET ADDRESS			16. SIGNER		
c. COUNTY			a. NAME (Type or print)		b. TELEPHONE
					AREA CODE
d. CITY		e. STATE	f. ZIP CODE	c. TITLE (Type or print)	
				NUMBER	

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Previous edition not usable

FormFlow/Delrina Inc.

STANDARD FORM 18 (REV. 6-95)
Prescribed by GSA-FAR (48 CFR) 53.215-1(a)

Standard Form 24

BID BOND <i>(See instruction on reverse)</i>				DATE BOND EXECUTED <i>(Must not be later than bid opening date)</i>		OMB NO.: 9000-0045		
Public reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.								
PRINCIPAL <i>(Legal name and business address)</i>						TYPE OF ORGANIZATION <i>(“X” one)</i>		
						<input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> CORPORATION		
						STATE OF INCORPORATION		
SURETY(IES) <i>(Name and business address)</i>								
PENAL SUM OF BOND				BID IDENTIFICATION				
PERCENT OF BID PRICE	AMOUNT NOT TO EXCEED				BID DATE	INVITATION NO.		
	MILLION(S)	THOUSAND(S)	HUNDRED(S)	CENTS				
				FOR <i>(Construction, Supplies, or Services)</i>				
OBLIGATION:								
<p>We, the Principal and Surety(ies) are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.</p>								
CONDITIONS:								
The Principal has submitted the bid identified above.								
THEREFORE:								
<p>The above obligation is void if the Principal - (a) upon acceptance by the Government of the bid identified above, within the period specified therein for acceptance (sixty (60) days if no period is specified), executes the further contractual documents and gives the bond(s) required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms by the principal; or (b) in the event of failure to execute such further contractual documents and give such bonds, pays the Government for any cost of procuring the work which exceeds the amount of the bid.</p>								
<p>Each Surety executing this instrument agrees that its obligation is not impaired by any extension(s) of the time for acceptance of the bid that the Principal may grant to the Government. Notice to the surety(ies) of extension(s) are waived. However, waiver of the notice applies only to extensions aggregating not more than sixty (60) calendar days in addition to the period originally allowed for acceptance of the bid.</p>								
WITNESS:								
The Principal and Surety(ies) executed this bid bond and affixed their seals on the above date.								
PRINCIPAL								
SIGNATURE(S)	1.		2.		3.		<i>Corporate Seal</i>	
	<i>(Seal)</i>		<i>(Seal)</i>		<i>(Seal)</i>			
NAME(S) & TITLE(S) <i>(Typed)</i>	1.		2.		3.			
INDIVIDUAL SURETY(IES)								
SIGNATURE(S)	1.				2.			
	<i>(Seal)</i>				<i>(Seal)</i>			
NAME(S) <i>(Typed)</i>	1.				2.			
CORPORATE SURETY(IES)								
SURETY A	NAME & ADDRESS				STATE OF INC.	LIABILITY LIMIT (\$)		<i>Corporate Seal</i>
	SIGNATURE(S)	1.			2.			
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.			2.			
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition is usable								
STANDARD FORM 24 (REV. 10-98) Prescribed by GSA - FAR (48 CFR) 53.228(a)								

Standard Form 24 (Back)

SURETY B	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT (\$)	<i>Corporate Seal</i>
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY C	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT (\$)	<i>Corporate Seal</i>
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY D	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT (\$)	<i>Corporate Seal</i>
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY E	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT (\$)	<i>Corporate Seal</i>
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY F	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT (\$)	<i>Corporate Seal</i>
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY G	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT (\$)	<i>Corporate Seal</i>
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		

INSTRUCTIONS

1. This form is authorized for use when a bid guaranty is required. Any deviation from this form will require the written approval of the Administrator of General Services.
2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.
3. The bond may express penal sum as a percentage of the bid price. In these cases, the bond may state a maximum dollar limitation (e.g., (e.g., 20% of the bid price but the amount not to exceed _____ dollars).
4. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitation listed therein. where more than one corporate surety is involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designed "SURETY(IES)" on the face of the form, insert only the letter identification of the sureties.

(b) Where individual sureties are involved, a completed Affidavit of Individual surety (Standard Form 28), for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning its financial capability.
5. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal"; and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.
6. Type the name and title of each person signing this bond in the space provided.
7. In its application to negotiated contracts, the terms "bid" and "bidder" shall include "proposal" and "offeror."

Standard Form 25

PERFORMANCE BOND <i>(See instructions on reverse)</i>		DATE BOND EXECUTED <i>(Must be same or later than date of contract)</i>		OMB No.: 9000-0045	
Public reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405					
PRINCIPAL <i>(Legal name and business address)</i>			TYPE OF ORGANIZATION <i>("X" one)</i>		
			<input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> CORPORATION STATE OF INCORPORATION _____		
SURETY(IES) <i>(Name(s) and business address(es))</i>			PENAL SUM OF BOND		
			MILLION(S)	THOUSAND(S)	HUNDRED(S)
			CONTRACT DATE		CONTRACT NO.
OBLIGATION:					
<p>We, the Principal and Surety(ies), are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.</p>					
CONDITIONS:					
The Principal has entered into the contract identified above.					
THEREFORE:					
The above obligation is void if the Principal -					
(a)(1) Performs and fulfills all the undertakings, covenants, terms, conditions, and agreements of the contract during the original term of the contract and any extensions thereof that are granted by the Government, with or without notice to the Surety(ies), and during the life of any guaranty required under the contract, and (2) performs and fulfills all the undertakings, covenants, terms conditions, and agreements of any and all duly authorized modifications of the contract that hereafter are made. Notice of those modifications to the Surety(ies) are waived.					
(b) Pays to the Government the full amount of the taxes imposed by the Government, if the said contract is subject to the Miller Act, (40 U.S.C. 270a-270e), which are collected, deducted, or withheld from wages paid by the Principal in carrying out the construction contract with respect to which this bond is furnished.					
WITNESS:					
The Principal and Surety(ies) executed this performance bond and affixed their seals on the above date.					
PRINCIPAL					
SIGNATURE(S)	1.	2.	3.	Corporate Seal	
	(Seal)		(Seal)		
NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.	3.		
INDIVIDUAL SURETY(IES)					
SIGNATURE(S)	1.	2.	(Seal)		
	(Seal)				
NAME(S) <i>(Typed)</i>	1.	2.			
CORPORATE SURETY(IES)					
SURETY A	NAME & ADDRESS	STATE OF INC.		LIABILITY LIMIT	
				\$	
	SIGNATURE(S)	1.	2.	Corporate Seal	
NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.			
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition not usable					
STANDARD FORM 25 (REV. 5-96) Prescribed by GSA-FAR (48 CFR) 53.228(b)					

Standard Form 25 (Back)

CORPORATE SURETY(IES) (Continued)					
SURETY B	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY C	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY D	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY E	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY F	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY G	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		

BOND PREMIUM	▶	RATE PER THOUSAND (\$)	TOTAL (\$)
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INSTRUCTIONS

1. This form is authorized for use in connection with Government contracts. Any deviation from this form will require the written approval of the Administrator of General Services.
2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.
3. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitation listed therein. Where more than one corporate surety is involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designated "SURETY(IES)" on the face of the form, insert only the letter identification of the sureties.
 - (b) Where individual sureties are involved, a completed Affidavit of Individual Surety (Standard Form 28) for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning their financial capability.
4. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal", and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.
5. Type the name and title of each person signing this bond in the space provided.

Standard Form 25A

PAYMENT BOND <i>(See instructions on reverse)</i>		DATE BOND EXECUTED <i>(Must be same or later than date of contract)</i>		OMB No.: 9000-0045	
Public reporting burden for this collection of information is estimate to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405					
PRINCIPAL <i>(Legal name and business address)</i>			TYPE OF ORGANIZATION <i>("X" one)</i>		
			<input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> CORPORATION		
			STATE OF INCORPORATION		
SURETY(IES) <i>(Name(s) and business address(es))</i>			PENAL SUM OF BOND		
			MILLION(S)	THOUSAND(S)	HUNDRED(S)
					CENTS
			CONTRACT DATE		CONTRACT NO.

OBLIGATION:

We, the Principal and Surety(ies), are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The above obligation is void if the Principal promptly makes payment to all persons having a direct relationship with the Principal or a subcontractor of the Principal for furnishing labor, material or both in the prosecution of the work provided for in the contract identified above, and any authorized modifications of the contract that subsequently are made. Notice of those modifications to the Surety(ies) are waived.

WITNESS:

The Principal and Surety(ies) executed this payment bond and affixed their seals on the above date.

PRINCIPAL				
SIGNATURE(S)	1.	2.	3.	Corporate Seal
	(Seal)	(Seal)	(Seal)	
NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.	3.	
INDIVIDUAL SURETY(IES)				
SIGNATURE(S)	1.	2.		
	(Seal)	(Seal)		
NAME(S) <i>(Typed)</i>	1.	2.		
CORPORATE SURETY(IES)				
SURETY A	NAME & ADDRESS	STATE OF INC.	LIABILITY LIMIT	Corporate Seal
			\$	
	SIGNATURE(S)	1.	2.	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.	

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Previous edition is usable

STANDARD FORM 25A (REV. 10-98)
Prescribed by GSA-FAR (48 CFR) 53.2228(c)

Standard Form 25A (Back)

CORPORATE SURETY(IES) (Continued)					
SURETY B	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY C	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY D	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY E	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY F	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY G	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		

INSTRUCTIONS

1. This form, for the protection of persons supplying labor and material, is used when a payment bond is required under the Act of August 24, 1935, 49 Stat. 793 (40 U.S.C. 270a-270e). Any deviation from this form will require the written approval of the Administrator of General Services.
2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.
3. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitation listed therein. Where more than one corporate surety is involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designated "SURETY(IES)" on the face of the form, insert only the letter identification of the sureties.
 - (b) Where individual sureties are involved, a completed Affidavit of Individual Surety (Standard Form 28) for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning their financial capability.
4. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal", and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.
5. Type the name and title of each person signing this bond in the space provided.

Standard Form 25B

CONTINUATION SHEET <i>(For Standard Forms 24, 25, and 25A)</i>						
NAME OF PRINCIPAL <i>(Legal name and business address)</i>			TYPE OF BOND <input type="checkbox"/> BID <input type="checkbox"/> PERFORMANCE <input type="checkbox"/> PAYMENT			
			FURNISHED IN CONNECTION WITH - DATED -			
CORPORATE SURETY(IES)						
SURETY H	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY I	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY J	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY K	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY L	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY M	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY N	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY O	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			

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STANDARD FORM 25B (REV. 10-83)
Prescribed by GSA - FAR (48 CFR) 53.228(d)

Standard Form 25B (Back)

CORPORATE SURETY(IES) (Continued)						
SURETY P	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY Q	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY R	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY S	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY T	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY U	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY V	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY W	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY X	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
SURETY Y	Name & Address			STATE OF INC.	LIABILITY LIMIT \$	<i>Corporate Seal</i>
	Signature(s)	1.	2.			
	Name(s) & Title(s) <i>(Typed)</i>	1.	2.			

STANDARD FORM 25B BACK (REV. 10-83)

Standard Form 26

AWARD/CONTRACT		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350)		RATING	PAGE OF PAGES		
2. CONTRACT (Proc. Inst. Ident.) NO.		3. EFFECTIVE DATE		4. REQUISITION/PURCHASE REQUEST/PROJECT NO.			
5. ISSUED BY		CODE	6. ADMINISTERED BY (If other than Item 5)		CODE		
7. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)				8. DELIVERY <input type="checkbox"/> FOB ORIGIN <input type="checkbox"/> OTHER (See below)			
				9. DISCOUNT FOR PROMPT PAYMENT			
10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN				ITEM			
CODE		FACILITY CODE					
11. SHIP TO/MARK FOR		CODE	12. PAYMENT WILL BE MADE BY		CODE		
13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c)) <input type="checkbox"/> 41 U.S.C. 253(c) ()			14. ACCOUNTING AND APPROPRIATION DATA				
15A. ITEM NO.	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT		
15G. TOTAL AMOUNT OF CONTRACT					\$		
16. TABLE OF CONTENTS							
(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
	A	SOLICITATION/CONTRACT FORM			I	CONTRACT CLAUSES	
	B	SUPPLIES OR SERVICES AND PRICES/COSTS		PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.			
	C	DESCRIPTION/SPECS./WORK STATEMENT			J	LIST OF ATTACHMENTS	
	D	PACKAGING AND MARKING		PART IV - REPRESENTATIONS AND INSTRUCTIONS			
	E	INSPECTION AND ACCEPTANCE			K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
	F	DELIVERIES OR PERFORMANCE			L	INSTRS., CONDS., AND NOTICES TO OFFERORS	
	G	CONTRACT ADMINISTRATION DATA			M	EVALUATION FACTORS FOR AWARD	
	H	SPECIAL CONTRACT REQUIREMENTS					
17. <input type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ 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 condition 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 document is necessary.			
19A. NAME AND TITLE OF SIGNER (Type or print)				20A. NAME OF CONTRACTING OFFICER			
19B. NAME OF CONTRACTOR		19C. DATE SIGNED		20B. UNITED STATES OF AMERICA			
BY _____ (Signature of person authorized to sign)				20C. DATE SIGNED			
				BY _____ (Signature of Contracting Officer)			

NSN 7540-01-152-8069
Previous edition is unusable

STANDARD FORM 26 (REV. 4-85)
Prescribed by GSA - FAR (48 CFR) 53.214(a)

Standard Form 28

AFFIDAVIT OF INDIVIDUAL SURETY <i>(See instructions on reverse)</i>		OMB No.: 9000-0001
Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Regulatory Secretariat (MVA), Office of Acquisition Policy, GSA, Washington, DC 20405.		
STATE OF	SS.	
COUNTY OF		
I, the undersigned, being duly sworn, depose and say that I am: (1) the surety to the attached bond(s); (2) a citizen of the United States; and of full age and legally competent. I also depose and say that, concerning any stocks or bonds included in the assets listed below, that there are no restrictions on the resale of these securities pursuant to the registration provisions of Section 5 of the Securities Act of 1933. I recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Sections 1001 and 494. This affidavit is made to induce the United States of America to accept me as surety on the attached bond.		
1. NAME <i>(First, Middle, Last) (Type or Print)</i>		2. HOME ADDRESS <i>(Number, Street, City, State, ZIP Code)</i>
3. TYPE AND DURATION OF OCCUPATION		4. NAME AND ADDRESS OF EMPLOYER <i>(If Self-employed, so State)</i>
5. NAME AND ADDRESS OF INDIVIDUAL SURETY BROKER USED <i>(If any) (Number, Street, City, State, ZIP Code)</i>		6. TELEPHONE NUMBER HOME - BUSINESS -
7. THE FOLLOWING IS A TRUE REPRESENTATION OF THE ASSETS I HAVE PLEDGED TO THE UNITED STATES IN SUPPORT OF THE ATTACHED BOND:		
(a) Real estate <i>(Include a legal description, street address and other identifying description; the market value; attach supporting certified documents including recorded lien, evidence of title and the current tax assessment of the property. For market value approach, also provide a current appraisal.)</i>		
(b) Assets other than real estate <i>(describe the assets, the details of the escrow account, and attach certified evidence thereof).</i>		
8. IDENTIFY ALL MORTGAGES, LIENS, JUDGEMENTS, OR ANY OTHER ENCUMBRANCES INVOLVING SUBJECT ASSETS INCLUDING REAL ESTATE TAXES DUE AND PAYABLE.		
9. IDENTIFY ALL BONDS, INCLUDING BID GUARANTEES, FOR WHICH THE SUBJECT ASSETS HAVE BEEN PLEDGED WITHIN 3 YEARS PRIOR TO THE DATE OF EXECUTION OF THIS AFFIDAVIT.		
DOCUMENTATION OF THE PLEDGED ASSET MUST BE ATTACHED.		
10. SIGNATURE		11. BOND AND CONTRACT TO WHICH THIS AFFIDAVIT RELATES <i>(Where appropriate)</i>
12. SUBSCRIBED AND SWORN TO BEFORE ME AS FOLLOWS:		
a. DATE OATH ADMINISTERED		b. CITY AND STATE <i>(Or other jurisdiction)</i>
MONTH	DAY YEAR	
c. NAME AND TITLE OF OFFICIAL ADMINISTERING OATH <i>(Type or print)</i>		d. SIGNATURE
		e. MY COMMISSION EXPIRES
		Official Seal
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition is not usable		STANDARD FORM 28 (REV. 6/2003) Prescribed by GSA-FAR (48 CFR) 53.228(e)

Standard Form 28 (Back)

INSTRUCTIONS

1. Individual sureties on bonds executed in connection with Government contracts must complete and submit this form with the bond. (See 48 CFR 28.203, 53.228(e).) The surety must have the completed form notarized.
2. No corporation, partnership, or other unincorporated association or firm, as such, is acceptable as an individual surety. Likewise, members of a partnership are not acceptable as sureties on bonds that a partnership or an association, or any co-partner or member thereof, is the principal obligor. However, stockholders of corporate principals are acceptable provided (a) their qualifications are independent of their stockholdings or financial interest therein, and (b) that the fact is expressed in the affidavit of justification. An individual surety will not include any financial interest in assets connected with the principal on the bond that this affidavit supports.
3. United States citizenship is a requirement for individual sureties for contracts and bonds when the contract is awarded in the United States. However, when the Contracting Officer is located in an outlying area or a foreign country, the individual surety is only required to be a permanent resident of the area or country in which the contracting officer is located.
4. All signatures of the affidavit submitted must be originals. Affidavits bearing reproduced signatures are not acceptable. An authorized person must sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of a firm, partnership, or joint venture, or an officer of the corporation involved.

Standard Form 30

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			1. CONTRACT ID CODE	PAGE	OF	PAGES
2. AMENDMENT/MODIFICATION NO.		3. EFFECTIVE DATE		4. REQUISITION/PURCHASE REQ. NO.		5. PROJECT NO. (If applicable)
6. ISSUED BY		CODE	7. ADMINISTERED BY (If other than Item 6)		CODE	
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)			(X)	9A. AMENDMENT OF SOLICITATION NO.		
				9B. DATED (SEE ITEM 11)		
				10A. MODIFICATION OF CONTRACT/ORDER NO.		
				10B. DATED (SEE ITEM 11)		
CODE		FACILITY CODE				
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS						
<input type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers <input type="checkbox"/> is extended, <input type="checkbox"/> is not extended. Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment your desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.						
12. ACCOUNTING AND APPROPRIATION DATA (If required)						
13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.						
CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.					
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).					
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:					
	D. OTHER (Specify type of modification and authority)					
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.						
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)						
Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.						
15A. NAME AND TITLE OF SIGNER (Type or print)			16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)			
15B. CONTRACTOR/OFFEROR		15C. DATE SIGNED	16B. UNITED STATES OF AMERICA		16C. DATE SIGNED	
(Signature of person authorized to sign)			(Signature of Contracting Officer)			
NSN 7540-01-152-8070 Previous edition unusable			STANDARD FORM 30 (REV. 10-83) Prescribed by GSA FAR (48 CFR) 53.243			

Standard Form 30 (Back)

INSTRUCTIONS

Instructions for items other than those that are self-explanatory, are as follows:

- (a) Item 1 (Contract ID Code). Insert the contract type identification code that appears in the title block of the contract being modified.
- (b) Item 3 (Effective date).
- (1) For a solicitation amendment, change order, or administrative change, the effective date shall be the issue date of the amendment, change order, or administrative change.
 - (2) For a supplemental agreement, the effective date shall be the date agreed to by the contracting parties.
 - (3) For a modification issued as an initial or confirming notice of termination for the convenience of the Government, the effective date and the modification number of the confirming notice shall be the same as the effective date and modification number of the initial notice.
 - (4) For a modification converting a termination for default to a termination for the convenience of the Government, the effective date shall be the same as the effective date of the termination for default.
 - (5) For a modification confirming the contracting officer's determination of the amount due in settlement of a contract termination, the effective date shall be the same as the effective date of the initial decision.
- (c) Item 6 (Issued By). Insert the name and address of the issuing office. If applicable, insert the appropriate issuing office code in the code block.
- (d) Item 8 (Name and Address of Contractor). For modifications to a contract or order, enter the contractor's name, address, and code as shown in the original contract or order, unless changed by this or a previous modification.
- (e) Item 9, (Amendment of Solicitation No. - Dated), and 10, (Modification of Contract/Order No. - Dated). Check the appropriate box and in the corresponding blanks insert the number and date of the original solicitation, contract, or order.
- (f) Item 12 (Accounting and Appropriation Data). When appropriate, indicate the impact of the modification on each affected accounting classification by inserting one of the following entries.
- (1) Accounting classification _____
Net increase \$ _____
 - (2) Accounting classification _____
Net decrease \$ _____
- NOTE: If there are changes to multiple accounting classifications that cannot be placed in block 12, insert an asterisk and the words "See continuation sheet".
- (g) Item 13. Check the appropriate box to indicate the type of modification. Insert in the corresponding blank the authority under which the modification is issued. Check whether or not contractor must sign this document. (See FAR 43.103.)
- (h) Item 14 (Description of Amendment/Modification).
- (1) Organize amendments or modifications under the appropriate Uniform Contract Format (UCF) section headings from the applicable solicitation or contract. The UCF table of contents, however, shall not be set forth in this document
 - (2) Indicate the impact of the modification on the overall total contract price by inserting one of the following entries:
 - (i) Total contract price increased by \$ _____
 - (ii) Total contract price decreased by \$ _____
 - (iii) Total contract price unchanged.
 - (3) State reason for modification.
 - (4) When removing, reinstating, or adding funds, identify the contract items and accounting classifications.
 - (5) When the SF 30 is used to reflect a determination by the contracting officer of the amount due in settlement of a contract terminated for the convenience of the Government, the entry in Item 14 of the modification may be limited to --
 - (i) A reference to the letter determination; and
 - (ii) A statement of the net amount determined to be due in settlement of the contract.
 - (6) Include subject matter or short title of solicitation/contract where feasible.
- (i) Item 16B. The contracting officer's signature is not required on solicitation amendments. The contracting officer's signature is normally affixed last on supplemental agreements.

STANDARD FORM 30 (REV. 10-83) BACK

Standard Form 33

SOLICITATION, OFFER AND AWARD		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING	PAGE OF PAGES		
2. CONTRACT NUMBER	3. SOLICITATION NUMBER	4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFP)		5. DATE ISSUED	6. REQUISITION/PURCHASE NUMBER		
7. ISSUED BY		CODE	8. ADDRESS OFFER TO (If other than Item 7)				
NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".							
SOLICITATION							
9. Sealed offers in original and _____ copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in _____ until _____ local time _____ (Hour) _____ (Date)							
CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.							
10. FOR INFORMATION CALL:	A. NAME		B. TELEPHONE (NO COLLECT CALLS)		C. E-MAIL ADDRESS		
			AREA CODE	NUMBER	EXT.		
11. TABLE OF CONTENTS							
(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
		PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES	
	A	SOLICITATION/CONTRACT FORM			I	CONTRACT CLAUSES	
	B	SUPPLIES OR SERVICES AND PRICES/COSTS			PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.		
	C	DESCRIPTION/SPECS./WORK STATEMENT			J	LIST OF ATTACHMENTS	
	D	PACKAGING AND MARKING			PART IV - REPRESENTATIONS AND INSTRUCTIONS		
	E	INSPECTION AND ACCEPTANCE			K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
	F	DELIVERIES OR PERFORMANCE			L	INSTRS., CONDS., AND NOTICES TO OFFERORS	
	G	CONTRACT ADMINISTRATION DATA			M	EVALUATION FACTORS FOR AWARD	
	H	SPECIAL CONTRACT REQUIREMENTS					
OFFER (Must be fully completed by offeror)							
NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.							
12. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.							
13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)		<input type="checkbox"/> 10 CALENDAR DAYS (%)		<input type="checkbox"/> 20 CALENDAR DAYS (%)		<input type="checkbox"/> 30 CALENDAR DAYS (%)	
14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):		AMENDMENT NO.	DATE	AMENDMENT NO.	DATE		
15A. NAME AND ADDRESS OF OFFEROR		CODE	FACILITY	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)			
15B. TELEPHONE NUMBER		15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.		17. SIGNATURE		18. OFFER DATE	
AREA CODE	NUMBER	EXT.					
AWARD (To be completed by Government)							
19. ACCEPTED AS TO ITEMS NUMBERED		20. AMOUNT		21. ACCOUNTING AND APPROPRIATION			
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c)) <input type="checkbox"/> 41 U.S.C. 253(c) ()				23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)		ITEM	
24. ADMINISTERED BY (If other than Item 7)		CODE	25. PAYMENT WILL BE MADE BY		CODE		
26. NAME OF CONTRACTING OFFICER (Type or print)				27. UNITED STATES OF AMERICA		28. AWARD DATE	
				(Signature of Contracting Officer)			
IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice.							
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition is unusable				STANDARD FORM 33 (REV. 9-97) Prescribed by GSA - FAR (48 CFR) 53.214(c)			

Standard Form 34

ANNUAL BID BOND <i>(See instructions on reverse)</i>	DATE BOND EXECUTED	OMB No.: 9000-0045 Expires: 12/31/92
Public reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0045), Washington, DC 20503.		
PRINCIPAL <i>(Legal name and business address)</i>	TYPE OF ORGANIZATION <i>(“X” one)</i> <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> JOINT <input type="checkbox"/> CORPORATION <hr/> STATE OF INCORPORATION	
SURETY(IES) <i>(Name, business address, and State of Incorporation)</i>		
AGENCY TO WHICH BIDS ARE TO BE SUBMITTED	BIDS TO BE SUBMITTED DURING FISCAL YEAR ENDING <p style="text-align: center;">September 30, 19 _____</p>	
OBLIGATION: We, the Principal and surety(ies), are firmly bound to the United States of America (hereinafter called the Government) in the penal sum or sums that is sufficient to indemnify the Government in case of the default of the principal as provided herein. For payment of the penal sum or sums, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally.		
CONDITION: The Principal contemplates submitting bids from time to time during the fiscal year shown above to the department or agency named above for furnishing supplies or services to the Government. The Principal desires that all of those bids submitted for opening during the fiscal year be covered by a single bond instead of by a separate bid bond for each bid.		
THEREFORE: The above obligation is void and of no effect if the principal - (a) upon acceptance by the Government of any such bid within the period specified therein for acceptance (sixty (60) days if no period is specified), executes the further contractual documents and gives the bond(s) required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of forms by him/her; or (b) in the event of failure to execute the further contractual documents and give the bond(s), pays the Government for any cost of acquiring the work which exceeds the amount of the bid.		
WITNESS: The Principal and Surety(ies) executed this bid bond and affixed their seals on the above date.		
SIGNATURES	NAMES AND TITLES <i>(Typed)</i>	
PRINCIPAL		
1. _____ (Seal)	1. _____ 2. _____ 3. _____ (Seal)	Corporate Seal
INDIVIDUAL SURETIES		
1. _____ (Seal)	1. _____ 2. _____ (Seal)	
CORPORATE SURETY		
1. _____ 2. _____	1. _____ 2. _____	Corporate Seal
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition is usable		
STANDARD FORM 34 (REV. 1-90) Prescribed by GSA - FAR (48 CFR) 53.228(f)		

Standard Form 34 (Back)

INSTRUCTIONS

1. This form is authorized for use in the acquisition of supplies and services, excluding construction, in lieu of Standard Form 24 (Bid Bond). Any deviation from this form will require the written approval of the Administrator of General Services.
2. Insert the full legal name and business address of the Principal in the space designed "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.
3. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitation listed therein.

(b) Where individual sureties are involved, a completed Affidavit of Individual Surety (Standard Form 28), for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning its financial capability.
4. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal", and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.
5. Type the name and title of each person signing this bond in the space provided.
6. In its application to negotiated contracts, the terms "bid" and "bidder" shall include "proposal" and "offeror."

Standard Form 35

ANNUAL PERFORMANCE BOND <small>(See Instructions on reverse)</small>	DATE BOND EXECUTED	OMB NO.: 9000-0045 Expires: 09/30/98																				
<small>Public reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0045), Washington, DC 20503.</small>																						
PRINCIPAL (Legal name and business address)	TYPE OF ORGANIZATION ("X" one) <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> CORPORATION STATE OF INCORPORATION																					
SURETY(IES) (Name(s) and business address(es))	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th colspan="4" style="text-align:center;">PENAL SUM OF BOND</th> </tr> <tr> <td style="width:25%;">MILLION(S)</td> <td style="width:25%;">THOUSAND(S)</td> <td style="width:25%;">HUNDRED(S)</td> <td style="width:25%;">CENTS</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <th colspan="4" style="text-align:center;">FISCAL YEAR ENDING</th> </tr> <tr> <td colspan="4" style="text-align:center;">September 30, 19_____</td> </tr> </table>		PENAL SUM OF BOND				MILLION(S)	THOUSAND(S)	HUNDRED(S)	CENTS					FISCAL YEAR ENDING				September 30, 19_____			
PENAL SUM OF BOND																						
MILLION(S)	THOUSAND(S)	HUNDRED(S)	CENTS																			
FISCAL YEAR ENDING																						
September 30, 19_____																						
AGENCY REPRESENTING THE GOVERNMENT																						
<p>OBLIGATION:</p> <p>We, the Principal and Surety(ies) are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally.</p> <p>CONDITIONS:</p> <p>The Principal contemplates entering into contracts, from time to time during the fiscal year shown above, with the Government department or agency shown above, for furnishing supplies or services to the Government. The Principal desires that all of those contracts be covered by one bond instead of by a separate performance bond for each contract.</p> <p>THEREFORE:</p> <p>The above obligation is void if the Principal - (a) performs and fulfills all the undertakings, covenants, terms, conditions, and agreements of any and all of those contracts entered into during the original term and any extensions granted by the Government with or without notice to the surety(ies) and during the life of any guaranty required under the contracts; and (b) performs and fulfills all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of those contracts, that subsequently are made. Notice of those modifications to the surety(ies) is waived.</p> <p>WITNESS:</p> <p>The Principal and Surety(ies) executed this performance bond and affixed their seals on the above date.</p>																						
SIGNATURES	NAMES AND TITLES (Typed)																					
PRINCIPAL																						
1.	1.	Corporate Seal																				
(Seal)	2.																					
2.	(Seal)																					
3.	3.																					
(Seal)																						
INDIVIDUAL SURETIES																						
1.	1.																					
(Seal)	2.																					
2.	(Seal)																					
CORPORATE SURETY																						
1.	1.	Corporate Seal																				
2.	2.																					
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition not usable																						
STANDARD FORM 35 (REV. 1-90) Prescribed by GSA - FAR (48 CFR) 53.228(g)																						

Standard Form 35 (Back)

INSTRUCTIONS

1. This form is authorized for use in the acquisition of supplies and services, excluding construction, in lieu of Standard Form 25 (Performance Bond). Any deviation from this form will require the written approval of the Administrator of General Services.
2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.
3. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitation listed therein.

(b) Where individual sureties are involved, a completed Affidavit of Individual Surety (Standard Form 28), for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning its financial capability.
4. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal"; and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.
5. Type the name and title of each person signing this bond in the space provided.
6. In its application to negotiated contracts, the terms "bid" and "bidder" shall include "proposal" or "offeror".

Standard Form 44

U.S. GOVERNMENT

PURCHASE ORDER—INVOICE—VOUCHER

Anyone who finds this booklet, please notify:

OFFICE:

TELEPHONE NUMBER:

SECRET

NSN 7540-01-152-8068
PREVIOUS EDITION USABLE
44-108

STANDARD FORM 44 (Rev. 10-83)
PRESCRIBED BY GSA,
FAR (48 CFR) 53.213(c)

Standard Form 44a

INSTRUCTIONS

(This form is for official Government use only)

1. Filling in the Form

(a) All copies of the form must be legible. To insure legibility, indelible pencil or ball-point pen should be used. SELLER'S NAME AND ADDRESS MUST BE PRINTED.

(b) Items ordered will be individually listed. General descriptions such as "hardware" are not acceptable. Show discount terms.

(c) Enter project reference or other identifying description in space captioned "PURPOSE." Also, enter proper accounting information, if known.

2. Distributing Copies

Copy No. 1—Give to seller for use as the invoice or as an attachment to his commercial invoice.

Copy No. 2—Give to seller for use as a record of the order.

Copy No. 3—

(1) On over-the-counter transactions where delivery has been made, complete receiving report section and forward this copy to the proper administrative office.

(2) On other than completed over-the-counter transactions, forward this copy to location specified for delivery. (Upon delivery, receiving report section is to be completed and this copy then forwarded to the proper administrative office.)

Copy No. 4—Retain in the book, unless otherwise instructed.

3. When Paying Cash at Time of Purchase

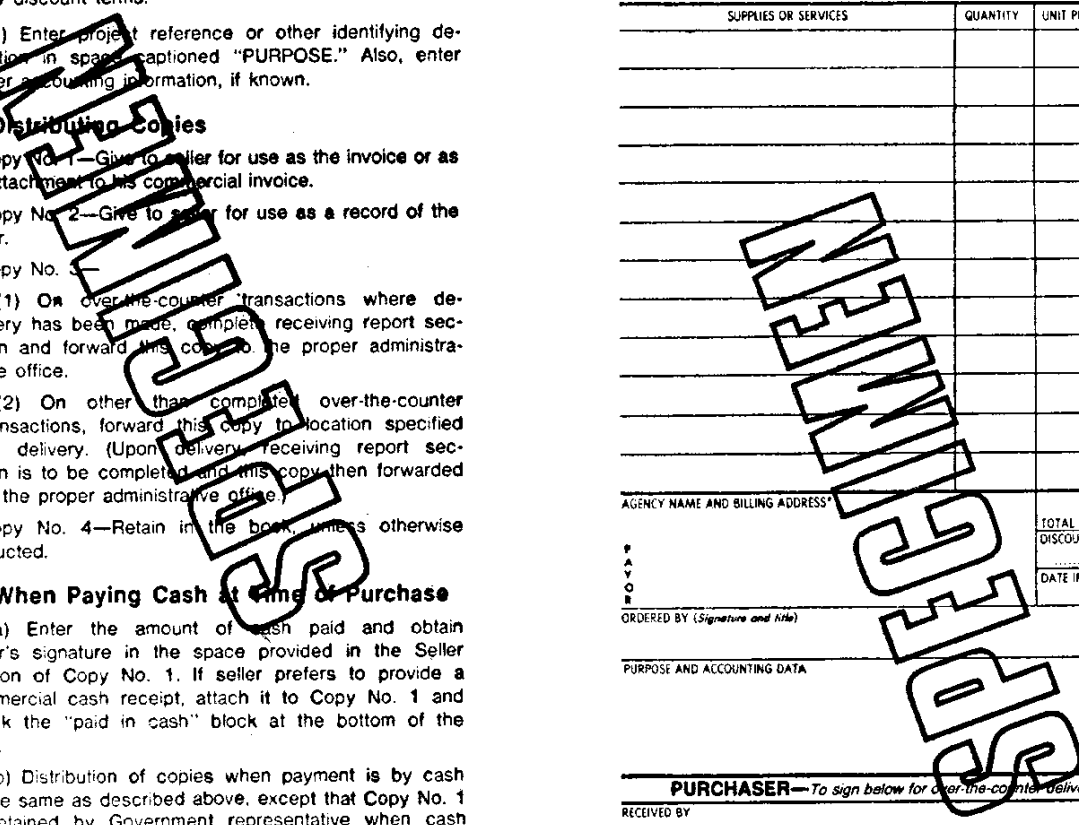
(a) Enter the amount of cash paid and obtain seller's signature in the space provided in the Seller section of Copy No. 1. If seller prefers to provide a commercial cash receipt, attach it to Copy No. 1 and check the "paid in cash" block at the bottom of the form.

(b) Distribution of copies when payment is by cash is the same as described above, except that Copy No. 1 is retained by Government representative when cash payment is made. Copy No. 1 is used thereafter in accordance with agency instructions pertaining to handling receipts for cash payment.

U.S. GOVERNMENT

PURCHASE ORDER—INVOICE—VOUCHER

DATE OF ORDER		ORDER NO.	
PRINT NAME AND ADDRESS OF SELLER (Number, Street, City, and State)*			
PAYEE			
FURNISH SUPPLIES OR SERVICES TO (Name and address)*			
SUPPLIES OR SERVICES	QUANTITY	UNIT PRICE	AMOUNT
AGENCY NAME AND BILLING ADDRESS*		TOTAL DISCOUNT TERMS % DAYS DATE INVOICE RECEIVED	
ORDERED BY (Signature and title)		PAYOR	
PURPOSE AND ACCOUNTING DATA			
PURCHASER —To sign below for over-the-counter delivery of items			
RECEIVED BY			
TITLE	DATE		
SELLER —Please read instructions on Copy 2			
<input type="checkbox"/> PAYMENT RECEIVED \$.....	<input type="checkbox"/> PAYMENT REQUESTED \$.....		
NO FURTHER INVOICE NEED BE SUBMITTED			
SELLER	DATE		
BY (Signature)			
I certify that this account is correct and proper for payment in the amount of		DIFFERENCES	
\$		ACCOUNT VERIFIED: CORRECT FOR	
(Authorized certifying officer) BY			
PAID BY <input type="checkbox"/> CASH	DATE PAID	VOUCHER NO.	
OR (Check No.)			



* PLEASE INCLUDE ZIP CODE 1. SELLER'S INVOICE (See Instructions on Copy 2) STANDARD FORM 44a (Rev. 10-83) PRESCRIBED BY GSA, FAR (48 CFR) 53.213(c)

Standard Form 98

<p>STANDARD FORM 98 Rev. Feb. 1973 U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION</p>	<p>NOTICE OF INTENTION TO MAKE A SERVICE CONTRACT AND RESPONSE TO NOTICE <i>(See Instructions on Reverse)</i></p>	<p>A. NOTICE NO. A</p>																		
<p>MAIL TO:</p> <div style="border: 1px solid black; padding: 10px; margin: 10px auto; width: 80%;"> <p style="text-align: center;">Administrator Wage and Hour Division U.S. Department of Labor Washington, D.C. 20210</p> </div>	<p>2. Estimated solicitation date <i>(use numerals)</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Month</td> <td style="width: 33%;">Day</td> <td style="width: 33%;">Year</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table> <p>3. Estimated date bids or proposals to be opened or negotiations begun <i>(use numerals)</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Month</td> <td style="width: 33%;">Day</td> <td style="width: 33%;">Year</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table> <p>4. Date contract performance to begin <i>(use numerals)</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Month</td> <td style="width: 33%;">Day</td> <td style="width: 33%;">Year</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>		Month	Day	Year				Month	Day	Year				Month	Day	Year			
Month	Day	Year																		
Month	Day	Year																		
Month	Day	Year																		
<p>5. PLACE(S) OF PERFORMANCE</p>	<p>6. SERVICES TO BE PERFORMED <i>(describe)</i></p>																			
<p style="font-size: 48px; opacity: 0.5; letter-spacing: 10px;">SAMPLE ONLY</p>																				
<p>7. INFORMATION ABOUT PERFORMANCE</p> <p>A. <input type="checkbox"/> Services not performed by a contractor B. <input type="checkbox"/> Services not performed by Federal employees C. <input type="checkbox"/> Services not presently being performed</p>																				
<p>8. IF BOX A IN ITEM 7 IS MARKED, COMPLETE ITEM 8 AS APPLICABLE</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">a. Name and address of incumbent contractor</td> <td style="width: 50%; padding: 5px;">b. Number(s) of any wage determination(s) in incumbent's contract</td> </tr> <tr> <td style="height: 30px;"> </td> <td> </td> </tr> <tr> <td style="padding: 5px;">c. Name(s) of union(s) if services are being performed under collective bargaining agreement(s). <i>Important:</i> Attach copies of current applicable collective bargaining agreements</td> <td rowspan="2" style="padding: 5px; vertical-align: top;"> <p style="text-align: center;">RESPONSE TO NOTICE <i>(by Department of Labor)</i></p> <p>A. <input type="checkbox"/> The attached wage determination(s) listed below apply to procurement.</p> <p>_____</p> <p>_____</p> <p>B. <input type="checkbox"/> As of this date, no wage determination applicable to the specified locality and classes of employees is in effect.</p> <p>C. <input type="checkbox"/> From information supplied, the Service Contract Act does not apply <i>(see attached explanation)</i>.</p> <p>D. <input type="checkbox"/> Notice returned for additional information <i>(see attached explanation)</i>.</p> <p>Signed: _____ <i>(U.S. Department of Labor)</i></p> <p>_____ <i>(Date)</i></p> </td> </tr> <tr> <td style="height: 30px;"> </td> </tr> </table>			a. Name and address of incumbent contractor	b. Number(s) of any wage determination(s) in incumbent's contract			c. Name(s) of union(s) if services are being performed under collective bargaining agreement(s). <i>Important:</i> Attach copies of current applicable collective bargaining agreements	<p style="text-align: center;">RESPONSE TO NOTICE <i>(by Department of Labor)</i></p> <p>A. <input type="checkbox"/> The attached wage determination(s) listed below apply to procurement.</p> <p>_____</p> <p>_____</p> <p>B. <input type="checkbox"/> As of this date, no wage determination applicable to the specified locality and classes of employees is in effect.</p> <p>C. <input type="checkbox"/> From information supplied, the Service Contract Act does not apply <i>(see attached explanation)</i>.</p> <p>D. <input type="checkbox"/> Notice returned for additional information <i>(see attached explanation)</i>.</p> <p>Signed: _____ <i>(U.S. Department of Labor)</i></p> <p>_____ <i>(Date)</i></p>												
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TYPE OR PRINT NAME	TELEPHONE NO.																			
<p>10. TYPE OR PRINT NAME AND TITLE OF PERSON TO WHOM RESPONSE IS TO BE SENT AND NAME AND ADDRESS OF DEPARTMENT OR AGENCY, BUREAU, DIVISION, ETC.</p> <div style="border: 1px solid black; padding: 10px; margin: 10px auto; width: 80%;"> <p> </p> </div>																				

Standard Form 98 (Back)

GENERAL EXPLANATION

The amended Service Contract Act requires the Secretary of Labor to issue wage determinations applicable to employees engaged in the performance of service contracts in excess of \$2,500. Standard Form 98, Notice of Intention to Make a Service Contract, with Attachment A, provides an orderly procedure for a contracting agency to request such a wage determination and for the Department of Labor to respond. Any questions as to whether a notice is required in a particular procurement situation should be resolved by reference to Title 29, Part 4, Code of Federal Regulations, or by submission of the question to the Department of Labor.

Under normal circumstances the Department of Labor will respond to a notice within 30 days of receipt. If there is urgent need for more expeditious handling, this should be explained when the notice is submitted. In the event the necessary response is not received by the contracting agency on a timely basis, the Department of Labor should be contacted.

In any case where section 4(c) of the Act requires adherence to compensation provisions of a collective bargaining agreement applicable under a predecessor contract and the agency desires to request a hearing on the issue of substantial variance between the wages and fringe benefits provided under such agreement and those prevailing in the locality, the request should be submitted with the notice of intent, in accordance with the provisions of 29 CFR 4.10, and sufficiently far in advance of the need for the wage determination to allow time for appropriate action as provided in that section of the regulations.

The notice is divided along functional lines: (1) that part which must be completed by the contracting agency, Items 2 through 10 of the basic form and Items 11 through 14 of the attachment; and (2) the Response to Notice to be completed by the Department of Labor. The basic form and its attachment are provided in quadruplicate sets with carbon copies. The original and two copies of the basic form and one copy of each of the attachments used (with snapper carbons removed and forms fastened together) are to be sent to the address printed on the last form. One copy of the basic form and one copy of the attachment are to be retained by the contracting agency.

INSTRUCTIONS- AGENCY PORTION OF NOTICE

Entries on Basic Form

Item 1--This number is preprinted on the basic form for identification and control purposes. Refer to this number when contacting the Department of Labor about the notice.

Item 2--Enter the estimated solicitation date.

Item 3--Enter the date the bids or proposals are expected to be opened or the negotiations started.

Item 4--Enter the date contract performance is expected to begin.

Item 5--The entry as to place of performance depends on a variety of factors. If the place of performance is fixed, as with a contract for janitorial services at a particular installation, enter the appropriate city, county and State. If performance is to be at several known places, attach a list. If the contract is for transportation services between points, enter the city, county and State of origin and of destination. If the place of performance may be anywhere, depending on who is awarded the contract (as, for example, certain laundry contracts), enter "unknown." If necessary for clarity, attach a brief explanation of the entry in Item 5.

Item 6--Describe the services to be performed in such a manner that it will be clear what type or types of services are called for by the contract. In many instances simple entries will suffice: "Janitorial services at Headquarters Building, Fort Sill," "Food service and kitchen police service at Enlisted Mess, Camp A.P. Hill," "Laundry and drycleaning services for Base Hospital, Eglin AFB," "Garbage collection at Ft. Hood." Unusual types of services must be described in more detail.

Item 7--Mark the appropriate box.

Item 8--It is very important under the amended Service Contract Act that appropriate entries be made in Item 8 if Box A of Item 7 has been marked.

- Enter the name and address of the incumbent contractor.
- Enter the number(s) of any wage determination(s) made part of the incumbent's contract. For example: 71-69 (Rev. 3) and 69-43 (Rev. 4).
- Enter the name(s) of union(s) if any of the services are being performed by the incumbent contractor under collective bargaining agreement(s). If an entry is required in c., a copy of all current applicable collective bargaining agreements must be furnished with the notice. The notice will be returned without action by the Department of Labor if this is not done.

Item 9--It is often necessary for the Department of Labor to get in touch with the contracting official who submitted the notice in order to clarify particular points and expedite a response. The name of this official should be printed or typed in the space provided and he should sign his name above. The telephone number, including area code, should be entered. Enter the date the notice is submitted.

Item 10--Print or type this entry in the space provided within the brackets. This is used by the Department of Labor to identify the contracting agency and for mailing purposes.

ENTRIES ON ATTACHMENT A

Item 11--Enter the notice number found in Item 1 of the basic form.

Item 12--Enter the classes of service employees to be employed in performing the contract. A simple entry may suffice: "Janitor," "Window cleaner," "Automotive mechanic," "Guard," "Stenographer," "Typist," "Warehouseman," "File clerk." Where more complex jobs are involved, it will expedite handling to use a few lines below the entry for a class to describe briefly what the employee will do--a sort of capsule job description. The entries in Item 12 are crucial as they enable the Department of Labor to "match" the job to be performed against existing wage determinations or available wage payment data.

Item 13--Enter the number of employees to be employed in each class listed in Item 12. Do not omit this figure even though it may be necessary to use a rough estimate.

Item 14--The amended Service Contract Act (section 2(a)(5)) requires the contracting agency to include in the contract: "A statement of the rates that would be paid by the Federal agency to the various classes of service employees if section 5341 of Title 5, United States Code, were applicable to them." The Secretary of Labor is required to give "due consideration" to such rates in making wage and fringe benefit determinations.

For purposes of the entries in Item 14, assume that each class of employees listed in Item 12 is to be Federally employed; that is, to be employed directly as "wage board" or "collar" employees by the contracting agency and who, if so employed, would receive wages as provided in 5 U.S.C. Code 5341. Enter the hourly wage rate that each such class would be paid. The agency's personnel office may be of help in determining the appropriate hourly rate.

While the "statement" is a part of the contract, it must include both the hourly wage and fringe benefits that would be paid the various classes; it is not necessary to furnish fringe benefit information as part of the notice. In giving "due consideration" to the fringe benefits that would be paid, the Department of Labor will consult the formula previously made available to all contracting agencies for use in preparing the "statement" required to be made part of the contract.

INSTRUCTIONS- RESPONSE PORTION OF NOTICE

(Completed by Department of Labor)

The original copy of the basic form and the original copy of the attachment will be returned to the contracting agency with appropriate entries by the Department of Labor in that portion of the basic form reserved for Response to Notice.

- If this box is marked, the wage determination(s) applicable will be listed by number and attached. The wage rates and fringe benefits reflected in the attached wage determination(s) are applicable to the procurement and must be made part of the contract. (If wage rates and fringe benefits are not provided in the wage determination(s) for particular classes of service employees to be employed on the contract, conforming action must be taken as provided in Title 29, Part 4, section 4.6(b)(2), Code of Federal Regulations.)
- If this box is marked, no wage determination applicable to the specified locality and classes of employees is in effect. However, successor contractors may not pay less than the collectively bargained wage rates and fringe benefits, including any prospective increases, applicable to employees of the predecessor contractor except where, upon a hearing, it is found that such wage rates and fringe benefits are substantially at variance with those that prevail in the locality. In no case may an employee be paid less than the minimum wage under section 6(a)(1) of the Fair Labor Standards Act.
- From time to time the Department of Labor receives a notice with respect to a proposed contract which, on the basis of the information supplied by the contracting agency, is not subject to the Service Contract Act. If box C is marked, an explanation will be attached.
- This box will be marked if the notice must be returned for additional information. An explanation will be attached so that the contracting agency will know what action to take.

ADDITIONAL WAGE DATA

The Department of Labor welcomes any wage rate and fringe benefits data the contracting agency may submit in connection with a notice, as well as any explanatory information that will assist in understanding the proposed procurement.

Standard Form 99

Standard Form 99 Revised May 1965 DEPARTMENT OF LABOR Wage and Hour and Public Contracts Divisions 99-104		This notice of award is required pursuant to Article 201-3201 of Regulations Part 201, Issued under 41 U.S.C. 35-45	
NOTICE OF AWARD OF CONTRACT			
1. Department or Agency		2. Branch, Bureau, Division, etc.	
3. Address (Street) (City) (State) (ZIP code)			4. Contract No.
5. Contractor (Name)			6. Invitation for Bids No.
7. Address (Street) (City) (State) (ZIP code)			8. Manufacturer (check one) Dealer
9. To be manufactured or supplied by: (other establishments subject to Act)			
(a) (Firm name) (Street)		(City) (State) (ZIP code)	
(b)			
(c)			
(d)			
10. Commodity description (Indicate also Federal Supply Class No.)			
11. Amount of Contract		12. Date of Award	13. Completion Date
14. Date Form WH-12 and Poster PC-13 mailed			

Standard Form 120

STANDARD FORM 120 REV. APRIL 1957 GEN. SERV. ADMIN. FPMR (41 CFR) 101-43.311		REPORT OF EXCESS PERSONAL PROPERTY		1. REPORT NO.	2. DATE MAILED	3. TOTAL COST \$	
4. TYPE OF REPORT <i>(Check one only of "a," "b," "c," or "d")</i>		a. ORIGINAL	c. PARTIAL	<i>(Also check "e" and/or "f" if appropriate)</i>		e. OVERSEAS	
		b. CORRECTED	d. TOTAL W/D			f. CONTRACTORS INV	
5. TO (Name and Address of Agency to which report is made) THRU				6. APPROPR. OR FUND TO BE REIMBURSED (If any)			
7. FROM (Name and Address of Reporting Agency)				8. REPORT APPROVED BY (Name and Title)			
9. FOR FURTHER INFORMATION CONTACT (Title, Address and Telephone No.)				10. AGENCY APPROVAL (If applicable)			
11. SEND PURCHASE ORDERS OR DISPOSAL INSTRUCTIONS TO (Title, Address and Telephone No.)				12. GSA CONTROL NO.			
13. FSC GROUP NO.	14. LOCATION OF PROPERTY (If location is to be abandoned, give date)		15. REIM.REQD		16. AGENCY CONTROL NO.	17. SURPLUS RELEASE DATE	
			YES	NO			
EXCESS PROPERTY LIST							
ITEM NO. (a)	DESCRIPTION (b)	COND (c)	UNIT (d)	NUMBER OF UNITS (e)	ACQUISITION COST		FAIR VALUE % (h)
					PER UNIT (f)	TOTAL (g)	

Standard Form 120A

STANDARD FORM 120-A APRIL 1957 GEN. SERV. ADMIN. FPRM (41 CFR) 101-43.311					CONTINUATION SHEET <i>(Report of Excess Personal Property)</i>			PAGE _____	
FROM (Name and Address of Reporting Agency)				REPORT NO.		AGENCY CONTROL NO.			
EXCESS PROPERTY LIST (Continued)									
ITEM NO. (a)	DESCRIPTION (b)	COND (c)	UNIT (d)	NUMBER OF UNITS (e)	ACQUISITION COST		FAIR VALUE % (h)		
					PER UNIT (f)	TOTAL (g)			
STANDARD FORM 120A APRIL 1957 EDITION									

Standard Form 126

REPORT OF PERSONAL PROPERTY FOR SALE						PAGE	OF
1. FROM (NAME, ADDRESS AND ZIP CODE OF OWNING AGENCY)			2. REPORT NO.	3. DATE			
			4. FSC GROUP	5. TOTAL ACQUISITION COST			
6. PUBLIC MAY INSPECT PROPERTY BY CONTACTING (NAME, ADDRESS, ZIP CODE AND TELEPHONE NO.)			7. PROPERTY LOCATED AT				
8. TO • General Services Administration •			9. LOADING BY GOV'T a. ACTIVITY WILL LOAD FOR PURCHASER <input type="checkbox"/> (1) YES <input type="checkbox"/> (2) NO b. EXTENT (IF CHECKED "YES")				
			10. PROPERTY IS EXCHANGE/SALE <input type="checkbox"/> a. YES <input type="checkbox"/> b. NO		11. PROPERTY IS REIMBURSABLE <input type="checkbox"/> a. YES <input type="checkbox"/> b. NO		
12. SEND EXECUTED SALES DOCUMENTS TO (NAME, ADDRESS AND ZIP CODE)			13. DEPOSIT PROCEEDS TO (APPROPRIATE FUND SYMBOL AND TITLE)				
			14. STATION DEPOSIT SYMBOL OR STATION ACCOUNT NUMBER				
15. UTILIZATION AND DONATION SCREENING REQUIREMENTS COMPLETED. PROPERTY IS AVAILABLE FOR SALE			BY (SIGNATURE AND TITLE)				
16. PROPERTY LIST (USE CONTINUATION SHEET, IF NECESSARY)							
ITEM NO. (a)	ITEM NO. ASSIGNED BY GSA (b)	COMMERCIAL DESCRIPTION AND CONDITION (c)	UNIT (d)	NUMBER OF UNITS (e)	ACQUISITION COST		
					PER UNIT (f)	TOTAL (g)	
17. RECEIPT OF PROPERTY AT GSA SALES SITE OR CENTER ACKNOWLEDGED				18. RECEIPT OF REPORTS IS HEREBY ACKNOWLEDGED			
SIGNATURE AND TITLE			DATE	SIGNATURE AND TITLE			DATE
FOR GSA INTERNAL USE ONLY							
19. SALE NO.		20. TYPE OF SALE		21. INSPECTION DATES		22. BID OPENING DATE AND TIME	

STANDARD FORM 126 (REV. 7-78)
Prescribed by GSA, FPMR (41 CFR)
101-45.303

Standard Form 126A

Standard Form 126-A February 1965 Prescribed by General Services Administration FPMR (41 CFR) 101-45.303		REPORT OF PERSONAL PROPERTY FOR SALE (CONTINUATION SHEET)			PAGE	OF	PAGES
1. FROM (Name and address of owning agency. Please include ZIP Code)				FSC GROUP	REPORT NO.		
PROPERTY LIST							
ITEM NO. (a)	ITEM NO. ASSIGNED BY GSA (b)	COMMERCIAL DESCRIPTION AND CONDITION (c)	UNIT (d)	NUMBER OF UNITS (e)	ACQUISITION COST		
					PER UNIT (f)	TOTAL (g)	

Standard Form 252

ARCHITECT-ENGINEER CONTRACT	1. CONTRACT NO.
	2. DATE OF CONTRACT
3a. NAME OF ARCHITECT-ENGINEER	3b. TELEPHONE NO. <i>(Include Area Code)</i>
3c. ADDRESS OF ARCHITECT-ENGINEER <i>(Include ZIP Code)</i>	
4. DEPARTMENT OR AGENCY AND ADDRESS <i>(Include ZIP Code)</i>	
5. PROJECT TITLE AND LOCATION	
6. CONTRACT FOR <i>(General description of services to be provided)</i>	
7. CONTRACT AMOUNT <i>(Express in words and figures)</i>	
8. NEGOTIATION AUTHORITY	
9. ADMINISTRATIVE, APPROPRIATION, AND ACCOUNTING DATA	
NSN 7540-00-181-8326 PREVIOUS EDITION NOT USABLE	STANDARD FORM 252 (REV. 10-83) Prescribed by GSA - FAR (48 CFR) 53.236-2(a)

Standard Form 252 (Back)

10. The United States of America (called the Government) represented by the Contracting Officer executing this contract, and the Architect-Engineer agree to perform this contract in strict accordance with the clauses and the documents identified as follows, all of which are made a part of this contract:

If the parties to this contract are comprised of more than one legal entity, each entity shall be jointly and severally liable under this contract. The parties hereto have executed this contract as of the date recorded in Item 2.

SIGNATURES		NAMES AND TITLES <i>(Typed)</i>
11. ARCHITECT-ENGINEER OR OTHER PROFESSIONAL SERVICES CONTRACTOR		
A		
B		
C		
D		
12. THE UNITED STATES OF AMERICA		
		Contracting Officer

STANDARD FORM 252 (REV. 10-83) BACK

Standard Form 273

REINSURANCE AGREEMENT FOR A MILLER ACT PERFORMANCE BOND (See instructions on reverse)		OMB No.: 9000-0045	
Public reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.			
1. DIRECT WRITING COMPANY*		1A. DATE DIRECT WRITING COMPANY EXECUTES THIS AGREEMENT	
		1B. STATE OF INCORPORATION	
2. REINSURING COMPANY		2A. AMOUNT OF THIS REINSURANCE (\$)	
		2B. DATE REINSURING COMPANY EXECUTES THIS AGREEMENT	
		2C. STATE OF INCORPORATION	
3. DESCRIPTION OF CONTRACT		4. DESCRIPTION OF BOND	
3A. AMOUNT OF CONTRACT		4A. PENAL SUM OF BOND	
3B. CONTRACT DATE	3C. CONTRACT NO.	4B. DATE OF BOND	4C. BOND NO.
3D. DESCRIPTION OF CONTRACT		4D. PRINCIPAL*	
3E. CONTRACTING AGENCY		4E. STATE OF INCORPORATION <i>(If Corporate Principal)</i>	

AGREEMENT:

(a) The Direct Writing Company named above is bound as surety to the United States of America on the performance bond described above, wherein the above described is the principal, for the protection of the United States on the contract described above. The contract is for the construction, alteration, or repair of a public building or public work of the United States and the performance bond was furnished to the United States under the Act of August 24, 1935, as amended (40 U.S.C. 270a-280e), known as the Miller Act. The Direct Writing Company has applied to the Reinsuring Company named above to be reinsured and countersecured in the amount shown opposite the name of the Reinsuring Company (referred to as the "Amount of this Reinsurance"), or for whatever amount less than the "Amount of this Reinsurance" the Direct Writing Company is liable to pay under or by virtue of the performance bond.

(b) For a sum mutually agreed upon, paid by the Direct Writing Company to the Reinsuring Company which acknowledges its receipt, the parties to this Agreement covenant and agree to the terms and conditions of this agreement.

TERMS AND CONDITIONS:

(a) The purpose and intent of this agreement is to guarantee and indemnify the United States against loss under the performance and to the extent of the "Amount of this Reinsurance," or any sum less than the "Amount of this Reinsurance" that is owing and unpaid by the Direct Writing Company to the United States under the performance bond.

(b) If the Direct Writing Company fails to pay any default under the performance bond equal to or in excess of the "Amount of this Reinsurance," the Reinsuring Company covenants and agrees to pay to the United States, the obligee on the performance bond, the "Amount of this Reinsurance." If the Direct Writing Company fails to pay to the United States any default for a sum less than the "Amount of this Reinsurance" the Reinsuring Company covenants and agrees to pay to the United States the full amount of the default, or so much thereof that is not paid to the United States by the Direct Writing Company.

(c) If there is a default on the performance bond for the "Amount of this Reinsurance," or more, the Reinsuring Company and the Direct Writing Company hereby covenant and agree, that the United States may bring suit against the Reinsuring Company for the "Amount of this Reinsurance" or, in the case the amount of the default is for less than the "Amount of this Reinsurance," for the full amount of the default.

WITNESS:

The Direct Writing Company and the Reinsuring Company, respectively, have caused this Agreement to be signed and impressed with their respective corporate seals by offices possessing power to sign this instrument, and to be duly attested by officers empowered thereto, on the day and date above written opposite their respective names.

*Items 1, 2, 4D - Furnish legal name, business address and ZIP Code. (Over)

AUTHORIZED FOR LOCAL REPRODUCTION Previous edition is usable	STANDARD FORM 273 (REV. 10-98) Prescribed by GSA - FAR (48 CFR) 53.228(h)
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Standard Form 273 (Back)

5. DIRECT WRITING COMPANY		
5A(1) SIGNATURE	(2) ATTEST: SIGNATURE	<i>Corporate Seal</i>
5B(1) NAME AND TITLE (<i>Typed</i>)	(2) NAME AND TITLE (<i>Typed</i>)	
6. REINSURING COMPANY		
6A(1) SIGNATURE	(2) ATTEST: SIGNATURE	<i>Corporate Seal</i>
6B(1) NAME AND TITLE (<i>Typed</i>)	(2) NAME AND TITLE (<i>Typed</i>)	
INSTRUCTIONS		
<p>This form is to be used in cases where it is desired to cover the excess of a Direct Writing Company's underwriting limitation by reinsurance instead of co-insurance on Miller Act performance bonds running to the United States. See FAR (48 CFR) 28.202-1 and 53.228(h).</p> <p>Execute and file this form as follows:</p> <p>Original and copies (as specified by the bond-approving officer), signed and sealed, shall accompany the bond or be filed within the time period shown in the bid or proposal.</p> <p>One carbon copy, signed and sealed, shall accompany the Direct Writing Company's quarterly Schedule of Excess Risks filed with the Department of the Treasury.</p> <p>Other copies may be prepared for the use of the Direct Writing Company and Reinsuring Company. Each Reinsuring Company should use a separate form.</p>		
STANDARD FORM 273 (REV. 10-98) BACK		

Standard Form 274

REINSURANCE AGREEMENT FOR A MILLER ACT PAYMENT BOND <i>(See instruction on reverse)</i>		OMB No.: 9000-0045	
Public reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.			
1. DIRECT WRITING COMPANY*		1A. DATE DIRECT WRITING COMPANY EXECUTES THIS AGREEMENT	
		1B. STATE OF INCORPORATION	
2. REINSURING COMPANY*		2A. AMOUNT OF THIS REINSURANCE \$	
		2B. DATE REINSURING COMPANY EXECUTES THIS AGREEMENT	
		2C. STATE OF INCORPORATION	
3. DESCRIPTION OF CONTRACT		4. DESCRIPTION OF BOND	
3A. AMOUNT OF CONTRACT		4A. PENAL SUM OF BOND	
3B. CONTRACT DATE	3C. CONTRACT NO.	4B. DATE OF BOND	4C. BOND NO.
3D. DESCRIPTION OF CONTRACT		4D. PRINCIPAL*	
3E. CONTRACTING AGENCY		4E. STATE OF INCORPORATION <i>(If Corporate Principal)</i>	
<p>AGREEMENT:</p> <p>(a) The Direct Writing Company named above is bound as a surety on the payment bond described above, wherein the above described is the principal, for the protection of all persons supplying labor and material on the contract described above, which is for the construction, alteration, or repair of a public building or public work of the United States. The payment bond is for the use of persons supplying labor or material, and is furnished to the United States under the Act of August 24, 1935, as amended (40 U.S.C. 270a-270e), known as the Miller Act. The Direct Writing Company has applied to the Reinsuring Company named above to be reinsured and counter-secured in the amount above opposite the name of the Reinsuring Company (referred to as "Amount of this Reinsurance"), or for whatever amount less than the "Amount of this Reinsurance" the Direct Writing Company is liable to pay under or by virtue of the payments bond.</p> <p>(b) For a sum mutually agreed upon, paid by the Direct Writing Company to the Reinsuring Company which acknowledges its receipt, the parties to this Agreement covenant and agree to the terms and conditions of this agreement.</p> <p>TERMS AND CONDITIONS:</p> <p>The purpose and intent of this agreement is (a) to guarantee and indemnify the persons who have furnished or supplied labor or material in the prosecution of the work provided for in the contract referred to above (hereinafter referred to as "laborers and materialmen," the term "materialmen" including persons having a direct contractual relation with a subcontractor but no contractual relationship expressed or implied with the contractor who has furnished the said payment bond) against loss under the payment bond to the extent of the "Amount of this Reinsurance," or for any sum less than the "Amount of this Reinsurance," that is owing and unpaid by the Direct Writing Company to the "laborers and materialmen" on the payment bond; and (b) to make the "laborers and materialmen" obligees under this Reinsurance Agreement to the same extent as if their respective names were written herein.</p> <p>THEREFORE:</p> <p>1. The Reinsuring Company covenants and agrees -</p> <p>(a) To pay the "Amount of this Reinsurance" to the "laborers and materialmen" in the event of the Direct Writing Company's failure to pay to the "laborers and materialmen" any default under the payment bond equal to or in excess of the "Amount of this Reinsurance"; and</p> <p>(b) To pay (1) the full amount to the "laborers and materialmen," or (2) the amount not paid to them by the Direct Writing Company; in case the Direct Writing Company fails to pay the "laborers and materialmen" any default under the payment bond less than the "Amount of this Reinsurance."</p>			
*Items 1, 2, 4D - Furnish legal name, business address and ZIP Code.		<i>(Over)</i>	
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Standard Form 274 (Back)

2. The Reinsuring Company and the Direct Writing Company covenant and agree that, in the case of default on the payment bond for the "Amount of this Reinsurance," or more, the persons given a "right of action" or a "right to sue" on the payment bond by section 2(a) of the Miller Act (40 U.S.C. 270b(a)) may bring suit against the Reinsuring Company in the United States District Court for the district in which the contract described above is to be performed and executed for the "Amount of this Reinsurance" or, if the amount of the default is for less than the "Amount of this Reinsurance," for whatever the full amount of the default may be. The Reinsuring Company further covenants and agrees to comply with all requirements necessary to give such court jurisdiction, and to consent to determination of matters arising under this Reinsurance Agreement in accordance with the law and practice of the court. It is expressly understood by the parties that the rights, powers, and privileges given in this paragraph to persons are in addition to or supplemental to or in accordance with other rights, powers, and privileges which they might have under the statutes of the United States, any States, or the other laws of either, and should not be construed as limitations.

3. The Reinsuring Company and the Direct Writing Company further covenant and agree that the Reinsuring Company designates the process agent, appointed by the Direct Writing Company in the district in which the contract is to be performed and executed, as an agent to accept service of process in any suit instituted on this Reinsurance Agreement, and that the process agent shall send, by registered mail, to the Reinsuring Company at its principal place of business shown above, a copy of the process.

4. The Reinsuring Company and the Direct Writing Company further covenant and agree that this Reinsurance Agreement is an integral part of the payment bond.

WITNESS:

The Direct Writing Company and the Reinsuring Company, respectively, have caused this Agreement to be signed and impressed with their respective corporate seals by officers possessing the power to sign this instrument, and to be duly attested to by officers empowered thereto, on the day and date in Item 1A written opposite their respective names.

5. DIRECT WRITING COMPANY

5A.(1) SIGNATURE	(2) ATTEST SIGNATURE	<i>Corporate Seal</i>
5B.(1) NAME AND TITLE <i>(Typed)</i>	(2) NAME AND TITLE <i>(Typed)</i>	

6. REINSURING COMPANY

6A.(1) SIGNATURE	(2) ATTEST SIGNATURE	<i>Corporate Seal</i>
6B.(1) NAME AND TITLE <i>(Typed)</i>	(2) NAME AND TITLE <i>(Typed)</i>	

INSTRUCTIONS

This form is to be used in cases where it is desired to cover the excess of a Direct Writing Company's underwriting limitation by reinsurance instead of co-insurance on Miller Act payment bonds running to the United States. See FAR (48 CFR) 28.202-1 and 53.228(i).

Execute and file this form as follows:

Original and copies (as specified by the bond-approving officer), signed and sealed, shall accompany the bond or be filed within the time period shown in the bid or proposal.

One carbon copy, signed and sealed, shall accompany the Direct Writing Company's quarterly Schedule of Excess Risks filed with the Department of Treasury.

Other copies may be prepared for the use of the Direct Writing Company and Reinsuring Company. Each Reinsuring Company should use a separate form.

Standard Form 275

REINSURANCE AGREEMENT IN FAVOR OF THE UNITED STATES <i>(See instructions on reverse)</i>		OMB No.: 9000-0045
Public reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.		
1. DIRECT WRITING COMPANY*	1A. DATE DIRECT WRITING COMPANY EXECUTES THIS AGREEMENT	
	1B. STATE OF INCORPORATION	
2. REINSURING COMPANY*	2A. AMOUNT OF THIS REINSURANCE (\$)	
	2B. DATE REINSURING COMPANY EXECUTES THIS AGREEMENT	
	2C. STATE OF INCORPORATION	
3. DESCRIPTION OF BOND		
3A. DESCRIPTION OF BOND <i>(Type, purpose etc.) (If associated with contract number, date, amount, etc., include name of Government agency involved.)</i>	3B. PENAL SUM OF BOND \$	
	3C. DATE OF BOND	3D. BOND NO.
	3E. PRINCIPAL*	
	3F. STATE OF INCORPORATION <i>(If Corporate Principal)</i>	
AGREEMENT:		
<p>(a) The Direct Writing Company named above is bound as surety to the United States of America, on the bond described above, wherein the above-named is the principal. The bond is given for the protection of the United States and the Direct Writing Company has applied to the above Reinsuring Company to be reinsured and counter-secured in the amount shown opposite the name of the Reinsuring Company (referred to as the "Amount of this Reinsurance"), or for whatever amount less than the "Amount of this Reinsurance" the Direct Writing Company is liable to pay under or by virtue of the bond.</p> <p>(b) For a sum mutually agreed upon, paid by the Direct Writing Company to the Reinsuring Company which acknowledges its receipt, the parties to this Agreement covenant and agree to the terms and conditions of this agreement.</p>		
TERMS AND CONDITIONS:		
<p>The purpose and intent of this agreement is to guarantee and indemnify the United States against loss under the bond to the extent of the "Amount of this Reinsurance," or for any less sum than the "Amount of this Reinsurance," that is owing and unpaid by the Direct Writing Company to the United States.</p>		
THEREFORE:		
<p>1. If the Direct Writing Company fails to pay any default under the bond equal to or in excess of the "Amount of this Reinsurance," the Reinsuring Company covenants and agrees to pay to the United States, the obligee on the bond, the "Amount of this Reinsurance." If the Direct Writing Company fails to pay to the United States any default for a sum less than the "Amount of this Reinsurance," the Reinsuring Company covenants and agrees to pay to the United States the full amount of the default, or so much thereof that is not paid to the United States by the Direct Writing Company.</p> <p>2. The Reinsuring Company further covenants and agrees that in case of default on the bond for the "Amount of this Reinsurance," or more, the United States may sue the Reinsuring Company for the "Amount of this Reinsurance" or for the full amount of the default when the default is less than the "Amount of this Reinsurance."</p>		
WITNESS		
<p>The Direct Writing Company and the Reinsuring Company, respectively, have caused this Agreement to be signed and impressed with their respective corporate seals by officers possessing power to sign this instrument, and to be duly attested to by officers empowered thereto, on the day and date above -- written opposite their respective names.</p>		
		<i>(Over)</i>
*Items 1, 2, 3E - Furnish legal name, business address and ZIP Code.		
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Standard Form 275 (Back)

4. DIRECT WRITING COMPANY		
4A.(1). SIGNATURE	(2). ATTEST: SIGNATURE	
4B.(1). NAME AND TITLE <i>(Typed)</i>	4B.(2). NAME AND TITLE <i>(Typed)</i>	<i>Corporate Seal</i>
5. REINSURING COMPANY		
5A.(1). SIGNATURE	(2). ATTEST: SIGNATURE	
5B.(1). NAME AND TITLE <i>(Typed)</i>	5B.(2). NAME AND TITLE <i>(Typed)</i>	<i>Corporate Seal</i>

INSTRUCTIONS

This form is to be used in cases where it is desired to cover the excess of a Direct Writing Company's underwriting limitation by reinsurance instead of co-insurance on bonds running to the United States except Miller Act Performance and Payment Bonds. See FAR (48 CFR) 28.202-1 and 53.228(j) and 31 CFR 223.11(b)(1). If this form is used to reinsure a bid bond, the "Penal Sum of Bond" and "Amount of this Reinsurance" may be expressed as percentage of the bid provided the actual amounts will not exceed the companies' respective underwriting limitations.

Execute and file this form as follows:

Original and copies (as specified by the bond-approving officer), signed and sealed, shall accompany the bond or be filed within the time period shown in the bid or proposal.

One carbon copy, signed and sealed, shall accompany the Direct Writing Company's quarterly Schedule of Excess Risks filed with the Department of Treasury.

Other copies may be prepared for the use of the Direct Writing Company and Reinsuring Company. Each Reinsuring Company should use a separate form.

STANDARD FORM 275 (REV. 10-98) BACK

Standard Form 294

SUBCONTRACTING REPORT FOR INDIVIDUAL CONTRACTS <i>(See instructions on reverse)</i>			OMB No.: 9000-0006 Expires: 04/30/2004	
Public reporting burden for this collection of information is estimated to average 9 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVP), Acquisition Policy Division, GSA, Washington, DC 20405.				
1. CORPORATION, COMPANY OR SUBDIVISION COVERED			3. DATE SUBMITTED	
a. COMPANY NAME				
b. STREET ADDRESS			4. REPORTING PERIOD FROM INCEPTION OF CONTRACT THRU:	
c. CITY			<input type="checkbox"/> MAR 31	<input type="checkbox"/> SEPT 30
d. STATE			YEAR	
e. ZIP CODE				
2. CONTRACTOR IDENTIFICATION NUMBER			5. TYPE OF REPORT	
			<input type="checkbox"/> REGULAR <input type="checkbox"/> FINAL <input type="checkbox"/> REVISED	
6. ADMINISTERING ACTIVITY <i>(Please check applicable box)</i>				
<input type="checkbox"/> ARMY	<input type="checkbox"/> GSA	<input type="checkbox"/> NASA		
<input type="checkbox"/> NAVY	<input type="checkbox"/> DOE	<input type="checkbox"/> OTHER FEDERAL AGENCY <i>(Specify)</i>		
<input type="checkbox"/> AIR FORCE	<input type="checkbox"/> DEFENSE CONTRACT MANAGEMENT AGENCY			
7. REPORT SUBMITTED AS <i>(Check one and provide appropriate number)</i>			8. AGENCY OR CONTRACTOR AWARDDING CONTRACT	
<input type="checkbox"/> PRIME CONTRACTOR	PRIME CONTRACT NUMBER	a. AGENCY'S OR CONTRACTOR'S NAME		
<input type="checkbox"/> SUBCONTRACTOR	SUBCONTRACT NUMBER	b. STREET ADDRESS		
9. DOLLARS AND PERCENTAGES IN THE FOLLOWING BLOCKS:			c. CITY	
<input type="checkbox"/> DO INCLUDE INDIRECT COSTS	<input type="checkbox"/> DO NOT INCLUDE INDIRECT COSTS	d. STATE		e. ZIP CODE
SUBCONTRACT AWARDS				
TYPE	CURRENT GOAL		ACTUAL CUMULATIVE	
	WHOLE DOLLARS	PERCENT	WHOLE DOLLARS	PERCENT
10a. SMALL BUSINESS CONCERNS <i>(Include SDB, WOSB, HBCU/MI, HUBZone SB, and VOSB (Including Service-Disabled VOSB)) (Dollar Amount and Percent of 10c)</i>				
10b. LARGE BUSINESS CONCERNS <i>(Dollar Amount and Percent of 10c.)</i>				
10c. TOTAL <i>(Sum of 10a and 10b.)</i>		100.0%		100.0%
11. SMALL DISADVANTAGED BUSINESS (SDB) CONCERNS <i>(Include HBCU/MI) (Dollar Amount and Percent of 10c.)</i>				
12. WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS <i>(Dollar Amount and Percent of 10c.)</i>				
13. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) AND MINORITY INSTITUTIONS (MI) <i>(If applicable) (Dollar Amount and Percent of 10c.)</i>				
14. HUBZone SMALL BUSINESS (HUBZone SB) CONCERNS <i>(Dollar Amount and Percent of 10c.)</i>				
15. VETERAN-OWNED SMALL BUSINESS CONCERNS <i>(Including Service-Disabled Veteran-Owned SB Concerns) (Dollar Amount and Percent of 10c.)</i>				
16. SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERNS <i>(Dollar Amount and Percent of 10c.)</i>				
17. REMARKS				
18a. NAME OF INDIVIDUAL ADMINISTERING SUBCONTRACTING PLAN			18b. TELEPHONE NUMBER	
			AREA CODE	NUMBER
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition is not usable			STANDARD FORM 294 (REV. 10/2001) Prescribed by GSA-FAR (48 CFR) 53.219(a)	

Standard Form 294 (Page 2)

GENERAL INSTRUCTIONS

1. This report is not required from small businesses.

2. This report is not required for commercial items for which a commercial plan has been approved, nor from large businesses in the Department of Defense (DOD) **Test Program for Negotiation of Comprehensive Subcontracting Plans**. The Summary Subcontract Report (SF 295) is required for contractors operating under one of these two conditions and should be submitted to the Government in accordance with the instructions on that form.

3. This form collects subcontract award data from prime contractors/subcontractors that: (a) hold one or more contracts over \$500,000 (over \$1,000,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), Women-Owned Small Business (WOSB), HUBZone Small Business (HUBZone SB), Veteran-Owned Small Business (VOSB) and Service-Disabled Veteran-Owned Small Business concerns under a subcontracting plan. For the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, this form also collects subcontract award data for Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).

4. This report is required for each contract containing a subcontracting plan and must be submitted to the administrative contracting officer (ACO) or contracting officer if no ACO is assigned, semi-annually during contract performance for the periods ended March 31st and September 30th. **A separate report is required for each contract at contract completion.** Reports are due 30 days after the close of each reporting period unless otherwise directed by the contracting officer. **Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or since the previous report.**

5. Only subcontracts involving performance in the U.S. or its outlying areas should be included in this report.

6. **Purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor are not included in this report.**

7. Subcontract award data reported on this form by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. **Credit cannot be taken for awards made to lower tier subcontractors.**

SPECIFIC INSTRUCTIONS

BLOCK 2: For the Contractor Identification Number, enter the nine-digit Data Universal Numbering System (DUNS) number that identifies the specific contractor establishment. If there is no DUNS number available that identifies the exact name and address entered in Block 1, contact Dun and Bradstreet Information Services at 1-800-333-0505 to get one free of charge over the telephone. Be prepared to provide the following information: (1) Company name; (2) Company address; (3) Company telephone number; (4) Line of business; (5) Chief executive officer/key manager; (6) Date the company was started; (7) Number of people employed by the company; and; (8) Company affiliation.

BLOCK 4: Check only one. Note that all subcontract award data reported on this form represents activity since the inception of the contract through the date indicated in this block.

BLOCK 5: Check whether this report is a "Regular," "Final," and/or "Revised" report. **A "Final" report should be checked only if the contractor has completed the contract or subcontract reported in Block 7.** A "Revised" report is a change to a report previously submitted for the same period.

BLOCK 6: Identify the department or agency administering the majority of subcontracting plans.

BLOCK 7: Indicate whether the reporting contractor is submitting this report as a prime contractor or subcontractor and the prime contract or subcontract number.

BLOCK 8: Enter the name and address of the Federal department or agency awarding the contract or the prime contractor awarding the subcontract.

BLOCK 9: Check the appropriate block to indicate whether indirect costs are included in the dollar amounts in blocks 10a through 14. To ensure comparability between the goal and actual columns, the contractor may include indirect costs in the actual column only if the subcontracting plan included indirect costs in the goal.

BLOCKS 10a through 16: Under "Current Goal," enter the dollar and percent goals in each category (SB, SDB, WOSB, VOSB, service-disabled VOSBs, and HUBZone SB) from the subcontracting plan approved for this contract. (If the original goals agreed upon at contract award have been revised as a result of contract modifications, enter the original goals in Block 16. The amounts entered in Blocks 10a through 15 should reflect the revised goals.) Under "Actual Cumulative," enter actual subcontract achievements (dollar and percent) from the inception of the contract through the date of the report shown in Block 4. In cases where indirect costs are included, the amounts should include both direct awards and an appropriate prorated portion of indirect awards.

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs, WOSBs, VOSBs, service-disabled VOSBs, and HUBZone SBs. **For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.**

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs).

BLOCK 10c: Report on this line the total of all subcontracts awarded under this contract (the sum of lines 10a and 10b).

BLOCKS 11 through 16: Each of these items is a subcategory of Block 10a. **Note that in some cases the same dollars may be reported in more than one block (e. g., SDBs owned by women or veterans).**

BLOCK 11: Report all subcontracts awarded to SDBs (including women-owned, veteran-owned, service-disabled VOSBs, and HUBZone SB SDBs). For DOD, NASA, and Coast Guard contracts, include subcontract awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to Women-Owned firms (including SDBs, VOSB's, service-disabled VOSBs, and HUBZone SBs owned by women).

BLOCK 13 (For contracts with DoD, NASA, and Coast Guard): Report all subcontracts with HBCUs/MIs. Complete the column under "Current Goal" only when the subcontracting plan establishes a goal.

BLOCK 14: Report all subcontracts awarded to HUBZone SBs (including women-owned, veteran-owned, service-disabled VOSBs, and SDB HUBZone SBs).

BLOCK 15: Report all subcontracts awarded to VOSBs including service-disabled VOSBs (include VOSBs that are also SDBs, WOSBs and HUBZone SBs.).

BLOCK 16: Report all subcontracts awarded to service-disabled veteran-owned SB concerns that are also SDBs, WOSBs, and HUBZone SBs.

BLOCK 17: Enter a short narrative explanation if (a) SB, SDB, WOSB, VOSBs, Service-Disabled VOSBs, or HUBZone SB accomplishments fall below that which would be expected using a straight-line projection of goals through the period of contract performance; or (b) if this is a final report, any one of the three goals was not met.

DEFINITIONS

1. Direct Subcontract Awards are those that are identified with the performance of one or more specific Government contract(s).

2. Indirect costs are those which, because of incurrence for common or joint purposes, are not identified with specific Government contracts; these awards are related to Government contract performance but remain for allocation after direct awards have been determined and identified to specific Government contracts.

Standard Form 294 (Page 3)

DISTRIBUTION OF THIS REPORT**For the Awarding Agency or Contractor:**

The original copy of this report should be provided to the contracting officer at the agency or contractor identified in Block 8. For contracts with DOD, a copy should also be provided to the Defense Contract Management Agency (DCMA) at the cognizant Defense Contract Management Area Operations (DCMAO) office.

For the Small Business Administration (SBA):

A copy of this report must be provided to the cognizant Commercial Market Representative (CMR) at the time of a compliance review. It is NOT necessary to mail the SF 294 to SBA unless specifically requested by the CMR.

Standard Form 295

SUMMARY SUBCONTRACT REPORT <i>(See instructions on reverse)</i>			OMB No.: 9000-0007 Expires: 09/30/2003	
Public reporting burden for this collection of information is estimated to average 15.9 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVP), Acquisition Policy Division, GSA, Washington, DC 20405.				
1. CORPORATION, COMPANY OR SUBDIVISION COVERED			3. DATE SUBMITTED	
a. COMPANY NAME			4. REPORTING PERIOD: YEAR <input type="checkbox"/> OCT 1 - MAR 31 <input type="checkbox"/> OCT 1 - SEPT 30	
b. STREET ADDRESS				
c. CITY	d. STATE	e. ZIP CODE		
2. CONTRACTOR IDENTIFICATION NUMBER			5. TYPE OF REPORT <input type="checkbox"/> REGULAR <input type="checkbox"/> FINAL <input type="checkbox"/> REVISED	
6. ADMINISTERING ACTIVITY <i>(Please check applicable box)</i>				
<input type="checkbox"/> ARMY	<input type="checkbox"/> DEFENSE CONTRACT MANAGEMENT AGENCY	<input type="checkbox"/> DOE		
<input type="checkbox"/> NAVY	<input type="checkbox"/> NASA	<input type="checkbox"/> OTHER FEDERAL AGENCY <i>(Specify)</i>		
<input type="checkbox"/> AIR FORCE	<input type="checkbox"/> GSA			
7. REPORT SUBMITTED AS <i>(Check one)</i>		8. TYPE OF PLAN		
<input type="checkbox"/> PRIME CONTRACTOR	<input type="checkbox"/> INDIVIDUAL	IF PLAN IS A COMMERCIAL PLAN, SPECIFY THE PERCENTAGE OF THE DOLLARS ON THIS REPORT ATTRIBUTABLE TO THIS AGENCY.		
<input type="checkbox"/> SUBCONTRACTOR	<input type="checkbox"/> COMMERCIAL PRODUCTS			
<input type="checkbox"/> BOTH				
9. CONTRACTOR'S MAJOR PRODUCTS OR SERVICE LINES				
a				b
CUMULATIVE FISCAL YEAR SUBCONTRACT AWARDS <i>(Report cumulative figures for reporting period in Block 4)</i>				
TYPE		WHOLE DOLLARS	PERCENT (To nearest tenth of a %)	
10a. SMALL BUSINESS CONCERNS <i>(Include SDB, WOSB, HBCU/MI, HUBZone SB, and VOSB (including Service-Disabled VOSB)) (Dollar Amount and Percent of 10c.)</i>				
10b. LARGE BUSINESS CONCERNS <i>(Dollar Amount and Percent of 10c.)</i>				
10c. TOTAL <i>(Sum of 10a and 10b.)</i>			100.0%	
11. SMALL DISADVANTAGED BUSINESS (SDB) CONCERNS <i>(Include HBCU/MI) (Dollar Amount and Percent of 10c.)</i>				
12. WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS <i>(Dollar Amount and Percent of 10c.)</i>				
13. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) AND MINORITY INSTITUTIONS (MI) <i>(If applicable) (Dollar Amount and Percent of 10c.)</i>				
14. HUBZONE SMALL BUSINESS (HUBZone SB) CONCERNS <i>(Dollar Amount and Percent of 10c.)</i>				
15. VETERAN-OWNED SMALL BUSINESS (VOSB) CONCERNS <i>(Including Service-Disabled VOSB Concerns) (Dollar Amount and Percent of 10c.)</i>				
16. SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERNS <i>(Dollar Amount and Percent of 10c.)</i>				
17. REMARKS				
18. CONTRACTOR'S OFFICIAL WHO ADMINISTERS SUBCONTRACTING PROGRAM				
a. NAME		b. TITLE		c. TELEPHONE NUMBER
				AREA CODE NUMBER
19. CHIEF EXECUTIVE OFFICER				
a. NAME		c. SIGNATURE		
b. TITLE		d. DATE		

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STANDARD FORM 295 (REV. 10-2001)
Prescribed by GSA - FAR (48 CFR) 53.219(b)

Standard Form 295 (Back)

GENERAL INSTRUCTIONS

- This report is not required from small businesses.
- This form collects subcontract award data from prime contractors/subcontractors that: (a) hold one or more contracts over \$500,000 (over \$1,000,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), Women-Owned Small Business (WOSB), Veteran-Owned Small Business (VOSB), Service-Disabled Veteran-Owned Small Business, and HUBZone Small Business (HUBZone SB) concerns under a subcontracting plan. For the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, this form also collects subcontract award data for Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).
- This report must be submitted semi-annually (for the six months ended March 31st and the twelve months ended September 30th) for contracts with the Department of Defense (DOD) and annually (for the twelve months ended September 30th) for contracts with civilian agencies, except for contracts covered by an approved Commercial Plan (see special instructions in right-hand column). Reports are due 30 days after the close of each reporting period.
- This report may be submitted on a corporate, company, or subdivision (e.g., plant or division operating on a separate profit center) basis, unless otherwise directed by the agency awarding the contract.
- If a prime contractor/subcontractor is performing work for more than one Federal agency, **a separate report shall be submitted to each agency covering only that agency's contracts**, provided at least one of that agency's contracts is over \$500,000 (over \$1,000,000 for construction of a public facility) and contains a subcontracting plan. (Note that DOD is considered to be a single agency; see next instruction.)
- For DOD, a consolidated report should be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DOD prime contractors.** However, DOD contractors involved in construction and related maintenance and repair must submit a separate report for each DOD component.
- Only subcontracts involving performance in the U.S. or its outlying areas should be included in this report.
- Purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor are not included in this report.**
- Subcontract award data reported on this form by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. **Credit cannot be taken for awards made to lower tier subcontractors.**
- See special instructions in right-hand column for Commercial Plans.

SPECIFIC INSTRUCTIONS

BLOCK 2: For the Contractor Identification Number, enter the nine-digit Data Universal Numbering System (DUNS) number that identifies the specific contractor establishment. If there is no DUNS number available that identifies the exact name and address entered in Block 1, contact Dun and Bradstreet Information Services at 1-800-333-0505 to get one free of charge over the telephone. Be prepared to provide the following information: (1) Company name; (2) Company address; (3) Company telephone number; (4) Line of business; (5) Chief executive officer/key manager; (6) Date the company was started; (7) Number of people employed by the company; and (8) Company affiliation.

BLOCK 4: Check only one. Note that March 31 represents the six months from October 1st and that September 30th represents the twelve months from October 1st. Enter the year of the reporting period.

BLOCK 5: Check whether this report is a "Regular," "Final," and/or "Revised" report. **A "Final" report should be checked only if the contractor has completed all the contracts containing subcontracting plans awarded by the agency to which it is reporting.** A "Revised" report is a change to a report previously submitted for the same period.

BLOCK 6: Identify the department or agency administering the majority of subcontracting plans.

BLOCK 7: This report encompasses all contracts with the Federal Government for the agency to which it is submitted, including subcontracts received from other large businesses that have contracts with the same agency. Indicate in this block whether the contractor is a prime contractor, subcontractor, or both (check only one).

BLOCK 8: Check only one. Check "Commercial Plan" only if this report is under an approved Commercial Plan. For a Commercial Plan, the contractor must specify the percentage of dollars in Blocks 10a through 15b attributable to the agency to which this report is being submitted.

BLOCK 9: Identify the major product or service lines of the reporting organization.

BLOCKS 10a through 16: These entries must include all subcontract awards resulting from contracts or subcontracts, regardless of dollar amount, received from the agency to which this report is submitted. If reporting as a subcontractor, report all subcontracts awarded under prime contracts. Amounts must include both direct awards and an appropriate prorated portion of indirect awards. (The indirect portion is based on the percentage of work being performed

for the organization to which thereop is being submitted in relation to other work being performed by the prime contractor/subcontractor.) Do not include awards made in support of commercial business unless "Commercial" is checked in Block 8 (see Special Instructions for Commercial Plans in right hand column). Report only those dollars subcontracted this fiscal year for the period indicated in Block 4.

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs, WOSBs, VOSBs, Service-Disabled VOSBs, and HUBZone SBs. For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs).

BLOCK 10c: Report on this line the grand total of all subcontracts (the sum of lines 10a and 10b).

BLOCKS 11 through 16: Each of these items is a subcategory of Block 10a. Note that in some cases the same dollars may be reported in more than one block (e.g., SDBs owned by women); likewise subcontracts to HBCUs or MIs should be reported on both Block 11 and 13.

BLOCK 11: Report all subcontracts awarded to SDBs (including women-owned, veteran-owned, service-disabled VOSBs, and HUBZone SB SDBs). For DOD, NASA, and Coast Guard contracts, include subcontract awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to WOSB firms (including SDBs, VOSBs, service-disabled VOSBs, and HUBZone SBs owned by women).

BLOCK 13: (For contracts with DOD, NASA, and Coast Guard): Enter the dollar value of all subcontracts with HBCUs/MIs.

BLOCK 14: Report all subcontracts awarded to HUBZone SBs (including women-owned, veteran-owned, service-disabled VOSBs, and SDB HUBZone SBs).

BLOCK 15: Report all subcontracts awarded to VOSBs (including women-owned, SDB, and HUBZone SB VOSBs).

BLOCK 16: Report all subcontracts awarded to service disabled VOSBs (including Service-Disabled Veteran Owned Small Business Concerns that are SDBs, WOSBs, and HUBZone SBs). These subcontracts should also be reported in Block 15.

SPECIAL INSTRUCTIONS FOR COMMERCIAL PLANS

1. This report is due on October 30th each year for the previous fiscal year ended September 30th.

2. The annual report submitted by reporting organizations that have an approved company-wide annual subcontracting plan for commercial items shall include all subcontracting activity under commercial plans in effect during the year and **shall be submitted in addition to the required reports for other-than-commercial items, if any.**

3. Enter in Blocks 10a through 15b the total of all subcontract awards under the contractor's Commercial Plan. **Show in Block 8 the percentage of this total that is attributable to the agency to which this report is being submitted.** This report must be submitted to each agency from which contracts for commercial items covered by an approved Commercial Plan were received.

DEFINITIONS

1. Direct Subcontract Awards are those that are identified with the performance of one or more specific Government contract(s).

2. Indirect Subcontract Awards are those which, because of incurrence for common or joint purposes, are not identified with specific Government contracts; these awards are related to Government contract performance but remain for allocation after direct awards have been determined and identified to specific Government contracts.

SUBMITTAL ADDRESSES FOR ORIGINAL REPORT

For DOD Contractors, send reports to the cognizant contract administration office as stated in the contract.

For Civilian Agency Contractors, send reports to awarding agency:

- NASA: Forward reports to NASA, Office of Procurement (HS), Washington, DC 20546
- OTHER FEDERAL DEPARTMENTS OR AGENCIES: Forward report to the OSD/BU Director unless otherwise provided for in instructions by the Department or Agency.

FOR ALL CONTRACTORS:

SMALL BUSINESS ADMINISTRATION (SBA): Send "info copy" to the cognizant Commercial Market Representative (CMR) at the address provided by SBA. Call SBA Headquarters in Washington, DC at (202) 205-6475 for correct address if unknown.

Standard Form 298

REPORT DOCUMENTATION PAGE			<i>Form Approved OMB No. 0704-0188</i>		
<p>The public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0188), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.</p> <p>PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS.</p>					
1. REPORT DATE (DD-MM-YYYY)		2. REPORT TYPE		3. DATES COVERED (From - To)	
4. TITLE AND SUBTITLE			5a. CONTRACT NUMBER		
			5b. GRANT NUMBER		
			5c. PROGRAM ELEMENT NUMBER		
6. AUTHOR(S)			5d. PROJECT NUMBER		
			5e. TASK NUMBER		
			5f. WORK UNIT NUMBER		
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)			8. PERFORMING ORGANIZATION REPORT NUMBER		
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)			10. SPONSOR/MONITOR'S ACRONYM(S)		
			11. SPONSOR/MONITOR'S REPORT NUMBER(S)		
12. DISTRIBUTION/AVAILABILITY STATEMENT					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT	18. NUMBER OF PAGES	19a. NAME OF RESPONSIBLE PERSON
a. REPORT	b. ABSTRACT	c. THIS PAGE			19b. TELEPHONE NUMBER (Include area code)

Standard Form 298 (Rev. 8/98)
Prescribed by ANSI Std. Z39.18

Standard Form 298 (Back)

INSTRUCTIONS FOR COMPLETING SF 298

- 1. REPORT DATE.** Full publication date, including day, month, if available. Must cite at least the year and be Year 2000 compliant, e.g. 30-06-1998; xx-06-1998; xx-xx-1998.
- 2. REPORT TYPE.** State the type of report, such as final, technical, interim, memorandum, master's thesis, progress, quarterly, research, special, group study, etc.
- 3. DATES COVERED.** Indicate the time during which the work was performed and the report was written, e.g., Jun 1997 - Jun 1998; 1-10 Jun 1996; May - Nov 1998; Nov 1998.
- 4. TITLE.** Enter title and subtitle with volume number and part number, if applicable. On classified documents, enter the title classification in parentheses.
- 5a. CONTRACT NUMBER.** Enter all contract numbers as they appear in the report, e.g. F33615-86-C-5169.
- 5b. GRANT NUMBER.** Enter all grant numbers as they appear in the report, e.g. AFOSR-82-1234.
- 5c. PROGRAM ELEMENT NUMBER.** Enter all program element numbers as they appear in the report, e.g. 61101A.
- 5d. PROJECT NUMBER.** Enter all project numbers as they appear in the report, e.g. 1F665702D1257; ILIR.
- 5e. TASK NUMBER.** Enter all task numbers as they appear in the report, e.g. 05; RF0330201; T4112.
- 5f. WORK UNIT NUMBER.** Enter all work unit numbers as they appear in the report, e.g. 001; AFAPL30480105.
- 6. AUTHOR(S).** Enter name(s) of person(s) responsible for writing the report, performing the research, or credited with the content of the report. The form of entry is the last name, first name, middle initial, and additional qualifiers separated by commas, e.g. Smith, Richard, J, Jr.
- 7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES).** Self-explanatory.
- 8. PERFORMING ORGANIZATION REPORT NUMBER.** Enter all unique alphanumeric report numbers assigned by the performing organization, e.g. BRL-1234; AFWL-TR-85-4017-Vol-21-PT-2.
- 9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES).** Enter the name and address of the organization(s) financially responsible for and monitoring the work.
- 10. SPONSOR/MONITOR'S ACRONYM(S).** Enter, if available, e.g. BRL, ARDEC, NADC.
- 11. SPONSOR/MONITOR'S REPORT NUMBER(S).** Enter report number as assigned by the sponsoring/ monitoring agency, if available, e.g. BRL-TR-829; -215.
- 12. DISTRIBUTION/AVAILABILITY STATEMENT.** Use agency-mandated availability statements to indicate the public availability or distribution limitations of the report. If additional limitations/ restrictions or special markings are indicated, follow agency authorization procedures, e.g. RD/FRD, PROPIN, ITAR, etc. Include copyright information.
- 13. SUPPLEMENTARY NOTES.** Enter information not included elsewhere such as: prepared in cooperation with; translation of; report supersedes; old edition number, etc.
- 14. ABSTRACT.** A brief (approximately 200 words) factual summary of the most significant information.
- 15. SUBJECT TERMS.** Key words or phrases identifying major concepts in the report.
- 16. SECURITY CLASSIFICATION.** Enter security classification in accordance with security classification regulations, e.g. U, C, S, etc. If this form contains classified information, stamp classification level on the top and bottom of this page.
- 17. LIMITATION OF ABSTRACT.** This block must be completed to assign a distribution limitation to the abstract. Enter UU (Unclassified Unlimited) or SAR (Same as Report). An entry in this block is necessary if the abstract is to be limited.

Standard Form 308

<p style="text-align: center;">Request For Wage Determination And Response to Request <i>(Davis Bacon Act as Amended and Related Statutes)</i></p> <p>FOR DEPARTMENT OF LABOR USE</p> <p>Response To Request <input type="checkbox"/> Use area determination issued for this area</p> <p><input type="checkbox"/> The attached decision noted below is applicable to this project</p> <p>Decision Number _____</p> <p>Date of Decision _____</p> <p>Expires _____</p> <p>Supersedes Decision Number _____</p> <p>Approved _____</p>	<p style="text-align: center;">U.S. Department of Labor Employment Standards Administration Wage and Hour Division</p> <p style="text-align: center;">Mail Your Request To: U.S. Department of Labor Employment Standards Administration Branch of Construction Contract Wage Determinations Washington, D.C. 20210</p> <p>Requesting Officer <i>(Typed name and signature)</i> _____</p> <p>Department, Agency, or Bureau _____ Phone Number _____</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Date of Request _____</td> <td style="width: 50%;">Estimated Advertising Date _____</td> </tr> <tr> <td>Prior Decision Number <i>(if any)</i> _____</td> <td>Estimated \$ Value of Contract <input type="checkbox"/> Under 1/2 Mil <input type="checkbox"/> 1 to 5 Mil <input type="checkbox"/> 1/2 to 1 Mil <input type="checkbox"/> Over 5 Mil </td> </tr> </table> <p>Address to which wage determination should be mailed. <i>(Print or type)</i></p> <div style="border: 1px solid black; width: 100%; height: 40px; margin-bottom: 5px;"></div> <p style="text-align: right;">Location of Project <i>(City, County, State, ZIP Code)</i></p> <div style="border: 1px solid black; width: 100%; height: 40px; margin-bottom: 5px;"></div> <p style="text-align: right;">Description of Work <i>(Be specific) (Print or type)</i></p>	Date of Request _____	Estimated Advertising Date _____	Prior Decision Number <i>(if any)</i> _____	Estimated \$ Value of Contract <input type="checkbox"/> Under 1/2 Mil <input type="checkbox"/> 1 to 5 Mil <input type="checkbox"/> 1/2 to 1 Mil <input type="checkbox"/> Over 5 Mil	<p>CHECK OR LIST CRAFTS NEEDED <i>(Attach continuation sheet if needed)</i></p> <p>Asbestos workers _____</p> <p>Boilermakers _____</p> <p>Bricklayers _____</p> <p>Carpenters _____</p> <p>Cement masons _____</p> <p>Electricians _____</p> <p>Glaziers _____</p> <p>Ironworkers _____</p> <p>Laborers <i>(Specify classes)</i> _____</p> <p>_____</p> <p>_____</p> <p>Lathers _____</p> <p>Marble & tile setters, terrazzo _____</p> <p>Painters _____</p> <p>Piledrivers _____</p> <p>Plasterers _____</p> <p>Plumbers _____</p> <p>Roofers _____</p> <p>Sheet metal workers _____</p> <p>Soft floor layers _____</p> <p>Steamfitters _____</p> <p>Welders-rate for craft _____</p> <p>Truck drivers _____</p> <p>Power equipment operators <i>(Specify types)</i> _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Other Crafts _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
Date of Request _____	Estimated Advertising Date _____					
Prior Decision Number <i>(if any)</i> _____	Estimated \$ Value of Contract <input type="checkbox"/> Under 1/2 Mil <input type="checkbox"/> 1 to 5 Mil <input type="checkbox"/> 1/2 to 1 Mil <input type="checkbox"/> Over 5 Mil					

Standard Form 308 (Rev. May 1985)
U.S. Department of Labor - 29 CFR Part 1

AUTHORIZED FOR LOCAL REPRODUCTION

Standard Form 330

ARCHITECT-ENGINEER QUALIFICATIONS

OMB No.: 9000-0157
Expires: 12/31/2006

Public reporting burden for this collection of information is estimated to average a total of 29 hours per response (25 hours for Part 1 and 4 hours for Part 2), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVA), Regulatory and Federal Assistance Publications Division, GSA, Washington, DC 20405.

PURPOSE

Federal agencies use this form to obtain information from architect-engineer (A-E) firms about their professional qualifications. Federal agencies select firms for A-E contracts on the basis of professional qualifications as required by the Brooks A-E Act (40 U.S.C. 1101 - 1104) and Part 36 of the Federal Acquisition Regulation (FAR).

The Brooks A-E Act requires the public announcement of requirements for A-E services (with some exceptions provided by other statutes), and the selection of at least three of the most highly qualified firms based on demonstrated competence and professional qualifications according to specific criteria published in the announcement. The Act then requires the negotiation of a contract at a fair and reasonable price starting first with the most highly qualified firm.

The information used to evaluate firms is from this form and other sources, including performance evaluations, any additional data requested by the agency, and interviews with the most highly qualified firms and their references.

GENERAL INSTRUCTIONS

Part I presents the qualifications for a specific contract.

Part II presents the general qualifications of a firm or a specific branch office of a firm. Part II has two uses:

1. An A-E firm may submit Part II to the appropriate central, regional or local office of each Federal agency to be kept on file. A public announcement is not required for certain contracts, and agencies may use Part II as a basis for selecting at least three of the most highly qualified firms for discussions prior to requesting submission of Part I. Firms are encouraged to update Part II on file with agency offices, as appropriate, according to FAR Part 36. If a firm has branch offices, submit a separate Part II for each branch office seeking work.

2. Prepare a separate Part II for each firm that will be part of the team proposed for a specific contract and submitted with Part I. If a firm has branch offices, submit a separate Part II for each branch office that has a key role on the team.

INDIVIDUAL AGENCY INSTRUCTIONS

Individual agencies may supplement these instructions. For example, they may limit the number of projects or number of

pages submitted in Part I in response to a public announcement for a particular project. Carefully comply with any agency instructions when preparing and submitting this form. Be as concise as possible and provide only the information requested by the agency.

DEFINITIONS

Architect-Engineer Services: Defined in FAR 2.101.

Branch Office: A geographically distinct place of business or subsidiary office of a firm that has a key role on the team.

Discipline: Primary technical capabilities of key personnel, as evidenced by academic degree, professional registration, certification, and/or extensive experience.

Firm: Defined in FAR 36.102.

Key Personnel: Individuals who will have major contract responsibilities and/or provide unusual or unique expertise.

SPECIFIC INSTRUCTIONS

Part I - Contract-Specific Qualifications

Section A. Contract Information.

1. **Title and Location.** Enter the title and location of the contract for which this form is being submitted, exactly as shown in the public announcement or agency request.

2. **Public Notice Date.** Enter the posted date of the agency's notice on the Federal Business Opportunity website (FedBizOpps), other form of public announcement or agency request for this contract.

3. **Solicitation or Project Number.** Enter the agency's solicitation number and/or project number, if applicable, exactly as shown in the public announcement or agency request for this contract.

Section B. Architect-Engineer Point of Contact.

4-8. **Name, Title, Name of Firm, Telephone Number, Fax (Facsimile) Number and E-mail (Electronic Mail) Address.** Provide information for a representative of the prime contractor or joint venture that the agency can contact for additional information.

Standard Form 330 (Page 2 of Instructions)

Section C. Proposed Team.

9-11. Firm Name, Address, and Role in This Contract. Provide the contractual relationship, name, full mailing address, and a brief description of the role of each firm that will be involved in performance of this contract. List the prime contractor or joint venture partners first. If a firm has branch offices, indicate each individual branch office that will have a key role on the team. The named subcontractors and outside associates or consultants must be used, and any change must be approved by the contracting officer. (See FAR Part 52 Clause "Subcontractors and Outside Associates and Consultants (Architect-Engineer Services)".) Attach an additional sheet in the same format as Section C if needed.

Section D. Organizational Chart of Proposed Team.

As an attachment after Section C, present an organizational chart of the proposed team showing the names and roles of all key personnel listed in Section E and the firm they are associated with as listed in Section C.

Section E. Resumes of Key Personnel Proposed for This Contract.

Complete this section for each key person who will participate in this contract. Group by firm, with personnel of the prime contractor or joint venture partner firms first. The following blocks must be completed for each resume:

12. Name. Self-explanatory.

13. Role in This Contract. Self-explanatory.

14. Years Experience. Total years of relevant experience (block 14a), and years of relevant experience with current firm, but not necessarily the same branch office (block 14b).

15. Firm Name and Location. Name, city and state of the firm where the person currently works, which must correspond with one of the firms (or branch office of a firm, if appropriate) listed in Section C.

16. Education. Provide information on the highest relevant academic degree(s) received. Indicate the area(s) of specialization for each degree.

17. Current Professional Registration. Provide information on current relevant professional registration(s) in a State or possession of the United States, Puerto Rico, or the District of Columbia according to FAR Part 36.

18. Other Professional Qualifications. Provide information on any other professional qualifications relating to this contract, such as education, professional registration, publications, organizational memberships, certifications, training, awards, and foreign language capabilities.

19. Relevant Projects. Provide information on up to five projects in which the person had a significant role that demonstrates the person's capability relevant to her/his proposed role in this contract. These projects do not necessarily have to be any of the projects presented in Section F for the project team if the person was not involved in any of those projects or the person worked on other projects that were more relevant than the team projects in Section F. Use the check box provided to indicate if the project was performed with any office of the current firm. If any of the professional services or construction projects are not complete, leave Year Completed blank and indicate the status in Brief Description and Specific Role (block (3)).

Section F. Example Projects Which Best Illustrate Proposed Team's Qualifications for This Contract.

Select projects where multiple team members worked together, if possible, that demonstrate the team's capability to perform work similar to that required for this contract. Complete one Section F for each project. Present ten projects, unless otherwise specified by the agency. Complete the following blocks for each project:

20. Example Project Key Number. Start with "1" for the first project and number consecutively.

21. Title and Location. Title and location of project or contract. For an indefinite delivery contract, the location is the geographic scope of the contract.

22. Year Completed. Enter the year completed of the professional services (such as planning, engineering study, design, or surveying), and/or the year completed of construction, if applicable. If any of the professional services or the construction projects are not complete, leave Year Completed blank and indicate the status in Brief Description of Project and Relevance to This Contract (block 24).

23a. Project Owner. Project owner or user, such as a government agency or installation, an institution, a corporation or private individual.

23b. Point of Contact Name. Provide name of a person associated with the project owner or the organization which contracted for the professional services, who is very familiar with the project and the firm's (or firms') performance.

23c. Point of Contact Telephone Number
Self-explanatory.

24. Brief Description of Project and Relevance to This Contract. Indicate scope, size, cost, principal elements and special features of the project. Discuss the relevance of the example project to this contract. Enter any other information requested by the agency for each example project.

Standard Form 330 (Page 3 of Instructions)

25. Firms from Section C Involved with This Project. Indicate which firms (or branch offices, if appropriate) on the project team were involved in the example project, and their roles. List in the same order as Section C.

Section G. Key Personnel Participation in Example Projects.

This matrix is intended to graphically depict which key personnel identified in Section E worked on the example projects listed in Section F. Complete the following blocks (see example below).

26. and 27. Names of Key Personnel and Role in This Contract. List the names of the key personnel and their proposed roles in this contract in the same order as they appear in Section E.

28. Example Projects Listed in Section F. In the column under each project key number (see block 29) and for each key person, place an "X" under the project key number for participation in the same or similar role.

29. Example Projects Key. List the key numbers and titles of the example projects in the same order as they appear in Section F.

Section H. Additional Information.

30. Use this section to provide additional information specifically requested by the agency or to address selection criteria that are not covered by the information provided in Sections A-G.

Section I. Authorized Representative.

31. and 32. Signature of Authorized Representative and Date. An authorized representative of a joint venture or the prime contractor must sign and date the completed form. Signing attests that the information provided is current and factual, and that all firms on the proposed team agree to work on the project. Joint ventures selected for negotiations must make available a statement of participation by a principal of each member of the joint venture.

33. Name and Title. Self-explanatory.

SAMPLE ENTRIES FOR SECTION G (MATRIX)

26. NAMES OF KEY PERSONNEL (From Section E, Block 12)	27. ROLE IN THIS CONTRACT (From Section E, Block 13)	28. EXAMPLE PROJECTS LISTED IN SECTION F (Fill in "Example Projects Key" section below first, before completing table. Place "X" under project key number for participation in same or similar role.)												
		1	2	3	4	5	6	7	8	9	10			
Jane A. Smith	Chief Architect	X		X										
Joseph B. Williams	Chief Mech. Engineer	X	X	X	X									
Tara C. Donovan	Chief Elec. Engineer	X	X		X									

29. EXAMPLE PROJECTS KEY

NO.	TITLE OF EXAMPLE PROJECT (FROM SECTION F)	NO.	TITLE OF EXAMPLE PROJECT (FROM SECTION F)
1	Federal Courthouse, Denver, CO	6	XYZ Corporation Headquarters, Boston, MA
2	Justin J. Wilson Federal Building, Baton Rouge, LA	7	Founder's Museum, Newport RI

Standard Form 330 (Page 4 of Instructions)

Part II - General Qualifications

See the "General Instructions" on page 1 for firms with branch offices. Prepare Part II for the specific branch office seeking work if the firm has branch offices.

1. Solicitation Number. If Part II is submitted for a specific contract, insert the agency's solicitation number and/or project number, if applicable, exactly as shown in the public announcement or agency request.

2a-2e. Firm (or Branch Office) Name and Address. Self-explanatory.

3. Year Established. Enter the year the firm (or branch office, if appropriate) was established under the current name.

4. DUNS Number. Insert the Data Universal Numbering System number issued by Dun and Bradstreet Information Services. Firms must have a DUNS number. See FAR Part 4.6.

5. Ownership.

a. Type. Enter the type of ownership or legal structure of the firm (sole proprietor, partnership, corporation, joint venture, etc.).

b. Small Business Status. Refer to the North American Industry Classification System (NAICS) code in the public announcement, and indicate if the firm is a small business according to the current size standard for that NAICS code (for example, Engineering Services (part of NAICS 541330), Architectural Services (NAICS 541310), Surveying and Mapping Services (NAICS 541370)). The small business categories and the internet website for the NAICS codes appear in FAR Part 19. Contact the requesting agency for any questions. Contact your local U.S. Small Business Administration office for any questions regarding Business Status.

6a-6c. Point of Contact. Provide this information for a representative of the firm that the agency can contact for additional information. The representative must be empowered to speak on contractual and policy matters.

7. Name of Firm. Enter the name of the firm if Part II is prepared for a branch office.

8a-8c. Former Firm Names. Indicate any other previous names for the firm (or branch office) during the last six years. Insert the year that this corporate name change was

effective and the associated DUNS Number. This information is used to review past performance on Federal contracts.

9. Employees by Discipline. Use the relevant disciplines and associated function codes shown at the end of these instructions and list in the same numerical order. After the listed disciplines, write in any additional disciplines and leave the function code blank. List no more than 20 disciplines. Group remaining employees under "Other Employees" in column b. Each person can be counted only once according to his/her primary function. If Part II is prepared for a firm (including all branch offices), enter the number of employees by disciplines in column c(1). If Part II is prepared for a branch office, enter the number of employees by discipline in column c(2) and for the firm in column c(1).

10. Profile of Firm's Experience and Annual Average Revenue for Last 5 Years. Complete this block for the firm or branch office for which this Part II is prepared. Enter the experience categories which most accurately reflect the firm's technical capabilities and project experience. Use the relevant experience categories and associated profile codes shown at the end of these instructions, and list in the same numerical order. After the listed experience categories, write in any unlisted relevant project experience categories and leave the profile codes blank. For each type of experience, enter the appropriate revenue index number to reflect the professional services revenues received annually (averaged over the last 5 years) by the firm or branch office for performing that type of work. A particular project may be identified with one experience category or it may be broken into components, as best reflects the capabilities and types of work performed by the firm. However, do not double count the revenues received on a particular project.

11. Annual Average Professional Services Revenues of Firm for Last 3 Years. Complete this block for the firm or branch office for which this Part II is prepared. Enter the appropriate revenue index numbers to reflect the professional services revenues received annually (averaged over the last 3 years) by the firm or branch office. Indicate Federal work (performed directly for the Federal Government, either as the prime contractor or subcontractor), non-Federal work (all other domestic and foreign work, including Federally-assisted projects), and the total. If the firm has been in existence for less than 3 years, see the definition for "Annual Receipts" under FAR 19.101.

12. Authorized Representative. An authorized representative of the firm or branch office must sign and date the completed form. Signing attests that the information provided is current and factual. Provide the name and title of the authorized representative who signed the form.

Standard Form 330 (Page 5 of Instructions)

List of Disciplines (Function Codes)

Code	Description	Code	Description
01	Acoustical Engineer	32	Hydraulic Engineer
02	Administrative	33	Hydrographic Surveyor
03	Aerial Photographer	34	Hydrologist
04	Aeronautical Engineer	35	Industrial Engineer
05	Archeologist	36	Industrial Hygienist
06	Architect	37	Interior Designer
07	Biologist	38	Land Surveyor
08	CADD Technician	39	Landscape Architect
09	Cartographer	40	Materials Engineer
10	Chemical Engineer	41	Materials Handling Engineer
11	Chemist	42	Mechanical Engineer
12	Civil Engineer	43	Mining Engineer
13	Communications Engineer	44	Oceanographer
14	Computer Programmer	45	Photo Interpreter
15	Construction Inspector	46	Photogrammetrist
16	Construction Manager	47	Planner: Urban/Regional
17	Corrosion Engineer	48	Project Manager
18	Cost Engineer/Estimator	49	Remote Sensing Specialist
19	Ecologist	50	Risk Assessor
20	Economist	51	Safety/Occupational Health Engineer
21	Electrical Engineer	52	Sanitary Engineer
22	Electronics Engineer	53	Scheduler
23	Environmental Engineer	54	Security Specialist
24	Environmental Scientist	55	Soils Engineer
25	Fire Protection Engineer	56	Specifications Writer
26	Forensic Engineer	57	Structural Engineer
27	Foundation/Geotechnical Engineer	58	Technician/Analyst
28	Geodetic Surveyor	59	Toxicologist
29	Geographic Information System Specialist	60	Transportation Engineer
30	Geologist	61	Value Engineer
31	Health Facility Planner	62	Water Resources Engineer

Standard Form 330 (Page 6 of Instructions)

List of Experience Categories (Profile Codes)

Code	Description	Code	Description
A01	Acoustics, Noise Abatement	E01	Ecological & Archeological Investigations
A02	Aerial Photography; Airborne Data and Imagery Collection and Analysis	E02	Educational Facilities; Classrooms
A03	Agricultural Development; Grain Storage; Farm Mechanization	E03	Electrical Studies and Design
A04	Air Pollution Control	E04	Electronics
A05	Airports; Navajds; Airport Lighting; Aircraft Fueling	E05	Elevators; Escalators; People-Movers
A06	Airports; Terminals and Hangars; Freight Handling	E06	Embassies and Chanceries
A07	Arctic Facilities	E07	Energy Conservation; New Energy Sources
A08	Animal Facilities	E08	Engineering Economics
A09	Anti-Terrorism/Force Protection	E09	Environmental Impact Studies, Assessments or Statements
A10	Asbestos Abatement	E10	Environmental and Natural Resource Mapping
A11	Auditoriums & Theaters	E11	Environmental Planning
A12	Automation; Controls; Instrumentation	E12	Environmental Remediation
		E13	Environmental Testing and Analysis
B01	Barracks; Dormitories	F01	Fallout Shelters; Blast-Resistant Design
B02	Bridges	F02	Field Houses; Gyms; Stadiums
C01	Cartography	F03	Fire Protection
C02	Cemeteries (<i>Planning & Relocation</i>)	F04	Fisheries; Fish ladders
C03	Charting: Nautical and Aeronautical	F05	Forensic Engineering
C04	Chemical Processing & Storage	F06	Forestry & Forest products
C05	Child Care/Development Facilities		
C06	Churches; Chapels	G01	Garages; Vehicle Maintenance Facilities; Parking Decks
C07	Coastal Engineering	G02	Gas Systems (Propane; Natural, Etc.)
C08	Codes; Standards; Ordinances	G03	Geodetic Surveying: Ground and Airborne
C09	Cold Storage; Refrigeration and Fast Freeze	G04	Geographic Information System Services: Development, Analysis, and Data Collection
C10	Commercial Building (<i>low rise</i>); Shopping Centers	G05	Geospatial Data Conversion: Scanning, Digitizing, Compilation, Attributing, Scribing, Drafting
C11	Community Facilities	G06	Graphic Design
C12	Communications Systems; TV; Microwave	H01	Harbors; Jetties; Piers, Ship Terminal Facilities
C13	Computer Facilities; Computer Service	H02	Hazardous Materials Handling and Storage
C14	Conservation and Resource Management	H03	Hazardous, Toxic, Radioactive Waste Remediation
C15	Construction Management	H04	Heating; Ventilating; Air Conditioning
C16	Construction Surveying	H05	Health Systems Planning
C17	Corrosion Control; Cathodic Protection; Electrolysis	H06	Highrise; Air-Rights-Type Buildings
C18	Cost Estimating; Cost Engineering and Analysis; Parametric Costing; Forecasting	H07	Highways; Streets; Airfield Paving; Parking Lots
C19	Cryogenic Facilities	H08	Historical Preservation
D01	Dams (<i>Concrete; Arch</i>)	H09	Hospital & Medical Facilities
D02	Dams (<i>Earth; Rock</i>); Dikes; Levees	H10	Hotels; Motels
D03	Desalinization (<i>Process & Facilities</i>)	H11	Housing (<i>Residential, Multi-Family; Apartments; Condominiums</i>)
D04	Design-Build - Preparation of Requests for Proposals	H12	Hydraulics & Pneumatics
D05	Digital Elevation and Terrain Model Development	H13	Hydrographic Surveying
D06	Digital Orthophotography		
D07	Dining Halls; Clubs; Restaurants		
D08	Dredging Studies and Design		

Standard Form 330 (Page 7 of Instructions)

List of Experience Categories (Profile Codes)

Code	Description	Code	Description
I01	Industrial Buildings; Manufacturing Plants	P09	Product, Machine Equipment Design
I02	Industrial Processes; Quality Control	P10	Pneumatic Structures, Air-Support Buildings
I03	Industrial Waste Treatment	P11	Postal Facilities
I04	Intelligent Transportation Systems	P12	Power Generation, Transmission, Distribution
I05	Interior Design; Space Planning	P13	Public Safety Facilities
I06	Irrigation; Drainage		
J01	Judicial and Courtroom Facilities	R01	Radar; Sonar; Radio & Radar Telescopes
L01	Laboratories; Medical Research Facilities	R02	Radio Frequency Systems & Shieldings
L02	Land Surveying	R03	Railroad; Rapid Transit
L03	Landscape Architecture	R04	Recreation Facilities (Parks, Marinas, Etc.)
L04	Libraries; Museums; Galleries	R05	Refrigeration Plants/Systems
L05	Lighting (Interior; Display; Theater, Etc.)	R06	Rehabilitation (Buildings; Structures; Facilities)
L06	Lighting (Exteriors; Streets; Memorials; Athletic Fields, Etc.)	R07	Remote Sensing
M01	Mapping Location/Addressing Systems	R08	Research Facilities
M02	Materials Handling Systems; Conveyors; Sorters	R09	Resources Recovery; Recycling
M03	Metallurgy	R10	Risk Analysis
M04	Microclimatology; Tropical Engineering	R11	Rivers; Canals; Waterways; Flood Control
M05	Military Design Standards	R12	Roofing
M06	Mining & Mineralogy	S01	Safety Engineering; Accident Studies; OSHA Studies
M07	Missile Facilities (Silos; Fuels; Transport)	S02	Security Systems; Intruder & Smoke Detection
M08	Modular Systems Design; Pre-Fabricated Structures or Components	S03	Seismic Designs & Studies
N01	Naval Architecture; Off-Shore Platforms	S04	Sewage Collection, Treatment and Disposal
N02	Navigation Structures; Locks	S05	Soils & Geologic Studies; Foundations
N03	Nuclear Facilities; Nuclear Shielding	S06	Solar Energy Utilization
O01	Office Buildings; Industrial Parks	S07	Solid Wastes; Incineration; Landfill
O02	Oceanographic Engineering	S08	Special Environments; Clean Rooms, Etc.
O03	Ordnance; Munitions; Special Weapons	S09	Structural Design; Special Structures
P01	Petroleum Exploration; Refining	S10	Surveying; Platting; Mapping; Flood Plain Studies
P02	Petroleum and Fuel (Storage and Distribution)	S11	Sustainable Design
P03	Photogrammetry	S12	Swimming Pools
P04	Pipelines (Cross-Country - Liquid & Gas)	S13	Storm Water Handling & Facilities
P05	Planning (Community, Regional, Areawide and State)	T01	Telephone Systems (<i>Rural; Mobile; Intercom, Etc.</i>)
P06	Planning (Site, Installation, and Project)	T02	Testing & Inspection Services
P07	Plumbing & Piping Design	T03	Traffic & Transportation Engineering
P08	Prisons & Correctional Facilities	T04	Topographic Surveying and Mapping
		T05	Towers (<i>Self-Supporting & Guyed Systems</i>)
		T06	Tunnels & Subways

Standard Form 330 (Page 8 of Instructions)

List of Experience Categories (Profile Codes)

Code	Description
U01	Unexploded Ordnance Remediation
U02	Urban Renewals; Community Development
U03	Utilities (Gas and Steam)
V01	Value Analysis; Life-Cycle Costing
W01	Warehouses & Depots
W02	Water Resources; Hydrology; Ground Water
W03	Water Supply; Treatment and Distribution
W04	Wind Tunnels; Research/Testing Facilities Design
Z01	Zoning; Land Use Studies

Standard Form 330 (Page 1)

ARCHITECT - ENGINEER QUALIFICATIONS

PART I - CONTRACT-SPECIFIC QUALIFICATIONS

A. CONTRACT INFORMATION

1. TITLE AND LOCATION *(City and State)*

2. PUBLIC NOTICE DATE

3. SOLICITATION OR PROJECT NUMBER

B. ARCHITECT-ENGINEER POINT OF CONTACT

4. NAME AND TITLE

5. NAME OF FIRM

6. TELEPHONE NUMBER

7. FAX NUMBER

8. E-MAIL ADDRESS

C. PROPOSED TEAM

(Complete this section for the prime contractor and all key subcontractors.)

	<i>(Check)</i>			9. FIRM NAME	10. ADDRESS	11. ROLE IN THIS CONTRACT
	PRIME	J-V PARTNER	SUBCONTRACTOR			
a.				<input type="checkbox"/> CHECK IF BRANCH OFFICE		
b.				<input type="checkbox"/> CHECK IF BRANCH OFFICE		
c.				<input type="checkbox"/> CHECK IF BRANCH OFFICE		
d.				<input type="checkbox"/> CHECK IF BRANCH OFFICE		
e.				<input type="checkbox"/> CHECK IF BRANCH OFFICE		
f.				<input type="checkbox"/> CHECK IF BRANCH OFFICE		

D. ORGANIZATIONAL CHART OF PROPOSED TEAM

(Attached)

Standard Form 330 (Page 2)

E. RESUMES OF KEY PERSONNEL PROPOSED FOR THIS CONTRACT
(Complete one Section E for each key person.)

12. NAME	13. ROLE IN THIS CONTRACT	14. YEARS EXPERIENCE	
		a. TOTAL	b. WITH CURRENT FIRM
15. FIRM NAME AND LOCATION <i>(City and State)</i>			
16. EDUCATION <i>(DEGREE AND SPECIALIZATION)</i>		17. CURRENT PROFESSIONAL REGISTRATION <i>(STATE AND DISCIPLINE)</i>	
18. OTHER PROFESSIONAL QUALIFICATIONS <i>(Publications, Organizations, Training, Awards, etc.)</i>			

19. RELEVANT PROJECTS

a.	(1) TITLE AND LOCATION <i>(City and State)</i>	(2) YEAR COMPLETED	
	(3) BRIEF DESCRIPTION <i>(Brief scope, size, cost, etc.)</i> AND SPECIFIC ROLE	PROFESSIONAL SERVICES	CONSTRUCTION <i>(If applicable)</i>
		<input type="checkbox"/> Check if project performed with current firm	
b.	(1) TITLE AND LOCATION <i>(City and State)</i>	(2) YEAR COMPLETED	
	(3) BRIEF DESCRIPTION <i>(Brief scope, size, cost, etc.)</i> AND SPECIFIC ROLE	PROFESSIONAL SERVICES	CONSTRUCTION <i>(If applicable)</i>
		<input type="checkbox"/> Check if project performed with current firm	
c.	(1) TITLE AND LOCATION <i>(City and State)</i>	(2) YEAR COMPLETED	
	(3) BRIEF DESCRIPTION <i>(Brief scope, size, cost, etc.)</i> AND SPECIFIC ROLE	PROFESSIONAL SERVICES	CONSTRUCTION <i>(If applicable)</i>
		<input type="checkbox"/> Check if project performed with current firm	
d.	(1) TITLE AND LOCATION <i>(City and State)</i>	(2) YEAR COMPLETED	
	(3) BRIEF DESCRIPTION <i>(Brief scope, size, cost, etc.)</i> AND SPECIFIC ROLE	PROFESSIONAL SERVICES	CONSTRUCTION <i>(If applicable)</i>
		<input type="checkbox"/> Check if project performed with current firm	
e.	(1) TITLE AND LOCATION <i>(City and State)</i>	(2) YEAR COMPLETED	
	(3) BRIEF DESCRIPTION <i>(Brief scope, size, cost, etc.)</i> AND SPECIFIC ROLE	PROFESSIONAL SERVICES	CONSTRUCTION <i>(If applicable)</i>
		<input type="checkbox"/> Check if project performed with current firm	

Standard Form 330 (Page 3)

F. EXAMPLE PROJECTS WHICH BEST ILLUSTRATE PROPOSED TEAM'S QUALIFICATIONS FOR THIS CONTRACT <i>(Present as many projects as requested by the agency, or 10 projects, if not specified. Complete one Section F for each project.)</i>		20. EXAMPLE PROJECT KEY NUMBER	
21. TITLE AND LOCATION <i>(City and State)</i>	22. YEAR COMPLETED		
	PROFESSIONAL SERVICES	CONSTRUCTION <i>(If applicable)</i>	
23. PROJECT OWNER'S INFORMATION			
a. PROJECT OWNER	b. POINT OF CONTACT NAME	c. POINT OF CONTACT TELEPHONE NUMBER	
24. BRIEF DESCRIPTION OF PROJECT AND RELEVANCE TO THIS CONTRACT <i>(Include scope, size, and cost)</i>			
25. FIRMS FROM SECTION C INVOLVED WITH THIS PROJECT			
a.	(1) FIRM NAME	(2) FIRM LOCATION <i>(City and State)</i>	(3) ROLE
b.	(1) FIRM NAME	(2) FIRM LOCATION <i>(City and State)</i>	(3) ROLE
c.	(1) FIRM NAME	(2) FIRM LOCATION <i>(City and State)</i>	(3) ROLE
d.	(1) FIRM NAME	(2) FIRM LOCATION <i>(City and State)</i>	(3) ROLE
e.	(1) FIRM NAME	(2) FIRM LOCATION <i>(City and State)</i>	(3) ROLE
f.	(1) FIRM NAME	(2) FIRM LOCATION <i>(City and State)</i>	(3) ROLE

Standard Form 330 (Page 5)

H. ADDITIONAL INFORMATION

30. PROVIDE ANY ADDITIONAL INFORMATION REQUESTED BY THE AGENCY. ATTACH ADDITIONAL SHEETS AS NEEDED.

I. AUTHORIZED REPRESENTATIVE
The foregoing is a statement of facts.

31. SIGNATURE

32. DATE

33. NAME AND TITLE

Standard Form 1034

Standard Form 1034 Revised October 1987 Department of the Treasury 1 TFM 4-2000		PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL				VOUCHER NO.		
U.S. DEPARTMENT, BUREAU, OR ESTABLISHMENT AND LOCATION				DATE VOUCHER PREPARED		SCHEDULE NO.		
				CONTRACT NUMBER AND DATE		PAID BY		
				REQUISITION NUMBER AND DATE				
PAYEE'S NAME AND ADDRESS				DATE INVOICE RECEIVED				
				DISCOUNT TERMS				
				PAYEE'S ACCOUNT NUMBER				
				GOVERNMENT B/L NUMBER				
SHIPPED FROM		TO		WEIGHT				
NUMBER AND DATE OF ORDER	DATE OF DELIVERY OR SERVICE	ARTICLES OR SERVICES <i>(Enter description, item number of contract or Federal supply schedule, and other information deemed necessary)</i>	QUANTITY	UNIT PRICE		AMOUNT (1)		
				COST	PER			
(Use continuation sheet(s) if necessary)						TOTAL		
PAYMENT:		APPROVED FOR		EXCHANGE RATE		DIFFERENCES		
<input type="checkbox"/> PROVISIONAL <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL <input type="checkbox"/> PROGRESS <input type="checkbox"/> ADVANCE		= \$		= \$1.00				
		BY 2						
		TITLE		Amount verified; correct for <i>(Signature or initials)</i>				
Pursuant to authority vested in me, I certify that this voucher is correct and proper for payment.								
(Date)		(Authorized Certifying Officer) 2				(Title)		
ACCOUNTING CLASSIFICATION								
PAID BY	CHECK NUMBER		ON ACCOUNT OF U.S. TREASURY		CHECK NUMBER		ON (Name of bank)	
	CASH		DATE		PAYEE 3			
1 When stated in foreign currency, insert name of currency. 2 If the ability to certify and authority to approve are combined in one person, one signature only is necessary; otherwise the approving officer will sign in the space provided, over his official title. 3 When a voucher is receipted in the name of a company or corporation, the name of the person writing the company or corporate name, as well as the capacity in which he signs, must appear. For example: "John Doe Company, per John						PER		
						TITLE		
Previous edition usable. NSN 7540-00-900-2234								
PRIVACY ACT STATEMENT The information requested on this form is required under the provisions of 31 U.S.C. 82b and 82c, for the purpose of disbursing Federal money. The information requested is to identify the particular creditor and the amounts to be paid. Failure to furnish this information will hinder discharge of the payment obligation.								

Standard Form 1034A

Standard Form 1034A Revised October 1987 Department of the Treasury 1 TFM 4-2000		PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL				VOUCHER NO.		
U.S. DEPARTMENT, BUREAU, OR ESTABLISHMENT AND LOCATION			DATE VOUCHER PREPARED			SCHEDULE NO.		
			CONTRACT NUMBER AND DATE			PAID BY		
			REQUISITION NUMBER AND DATE					
<div style="display: flex; justify-content: space-between;"> <div style="border: 1px solid black; padding: 5px;"> PAYEE'S NAME AND ADDRESS </div> <div style="border: 1px solid black; padding: 5px;"> DATE INVOICE RECEIVED </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="border: 1px solid black; padding: 5px;"> DISCOUNT TERMS </div> <div style="border: 1px solid black; padding: 5px;"> PAYEE'S ACCOUNT NUMBER </div> </div>						GOVERNMENT B/L NUMBER		
SHIPPED FROM		TO		WEIGHT		GOVERNMENT B/L NUMBER		
NUMBER AND DATE OF ORDER	DATE OF DELIVERY OR SERVICE	ARTICLES OR SERVICES <i>(Enter description, item number of contract or Federal supply schedule, and other information deemed necessary)</i>	QUAN-TITY	UNIT PRICE		AMOUNT		
				COST	PER	(1)		
(Use continuation sheet(s) if necessary)			(Payee must NOT use the space below)			TOTAL		
PAYMENT: <input type="checkbox"/> PROVISIONAL <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL <input type="checkbox"/> PROGRESS <input type="checkbox"/> ADVANCE		DIFFERENCES _____ _____ _____ Amount verified; correct for <i>(Signature or initials)</i>						
MEMORANDUM								
ACCOUNTING CLASSIFICATION								
PAID BY	CHECK NUMBER		ON ACCOUNT OF U.S. TREASURY		CHECK NUMBER		ON <i>(Name of bank)</i>	
	CASH		DATE					
	\$							
PRIVACY ACT STATEMENT The information requested on this form is required under the provisions of 31 U.S.C. 82b and 82c, for the purpose of disbursing Federal money. The information requested is to identify the particular creditor and the amounts to be paid. Failure to furnish this information will hinder discharge of the payment obligation.								

Previous edition usable

Standard Form 1035

<p>Standard Form 1035 (EG) September 1973 4 Treasury FRM 2000 1035-110</p>		<p>PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL</p> <p><i>CONTINUATION SHEET</i></p>				<p>VOUCHER NO.</p> <hr/> <p>SCHEDULE NO.</p> <hr/> <p>SHEET NO.</p>	
<p>U.S. DEPARTMENT, BUREAU, OR ESTABLISHMENT</p>							
NUMBER AND DATE OF ORDER	DATE OF DELIVERY OR SERVICE	ARTICLES OR SERVICES <small>(Enter description, item number of contract or Federal supply schedule, and other information deemed necessary)</small>	QUAN-TITY	UNIT PRICE		AMOUNT	
				COST	PER		

Designed using Perform Pro, WHS/DIOR, Aug 96

Standard Form 1035A

Standard Form No. 1035-A September 1973 4 Treasury FRM 2000 1035-209-01		PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL MEMORANDUM CONTINUATION SHEET				VOUCHER NO. SCHEDULE NO. SHEET NO.	
U.S. DEPARTMENT, BUREAU, OR ESTABLISHMENT							
NUMBER AND DATE OF ORDER	DATE OF DELIVERY OR SERVICE	ARTICLES OR SERVICES <i>(Enter description, item number of contract or Federal supply schedule, and other information deemed necessary)</i>	QUAN- TITY	UNIT PRICE		AMOUNT	
				COST	PER		

Standard Form 1093

SCHEDULE OF WITHHOLDINGS UNDER THE DAVIS-BACON ACT (40 U.S.C. 276a) AND/OR THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C.327-333)

TO THE CLAIMS DIVISION
U.S. GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

Contractor or subcontractor charged
with violations

Prime contractor

Contract No., (Date)

Report concerning irregularities transmitted to--
..... (Date)

Deducted from amounts otherwise due the contractor, for deposit to the account "05X6022," covering wages due the employees whose names, social security numbers, and current addresses are listed on the attached schedule, are withholdings pursuant to the following laws:

Davis-Bacon Act \$

Contract Work Hours and Safety Standards Act \$

Total \$

Forwarded herewith is check No., dated

for \$

.....
(Disbursing officer or other administrative official)

Standard Form 1093
October 1971
4 GAO 46

Standard Form 1094

Book No.

UNITED STATES TAX EXEMPTION FORMS
NSN 7540-01-152-9080
PREVIOUS EDITION NOT USABLE

These Are Accountable Forms

Standard Form 1094

In case this book of United States Tax Exemption Forms is
lost, finder will please put band or string around cover and
mail to:

GENERAL SERVICES ADMINISTRATION
FEDERAL SUPPLY SERVICE
GENERAL PRODUCTS COMMODITY CENTER
ATTN: 7FXM
819 TAYLOR STREET
FORT WORTH TX 76102

Standard Form 1094

<p>U.S. TAX EXEMPTION FORM</p> <p>Read the instructions on the reverse side.</p>	<p>DEPARTMENT, AGENCY, OR OFFICE</p>	<p>SERIAL NO.</p>	<p>QUANTITY</p>	<p>UNIT PRICE (\$)</p>
<p>ITEM PURCHASED FOR EXCLUSIVE USE OF THE U.S. GOVERNMENT (Describe)</p>				
<p>VENDOR FROM WHICH PURCHASED</p>	<p>NAME</p> <p>ADDRESS (No., Street, City, State, and ZIP Code)</p>	<p>A tax exemption form has not previously been issued and the described item(s) has (have) been delivered and invoiced pursuant to:</p>	<p>AMOUNT OF TAX EXCLUDED (\$)</p>	
<p>The information on this form is true and correct to the best of my knowledge and belief.</p>		<p>STATE</p> <p>LOCAL</p>	<p>FOR ADMINISTRATIVE OFFICE</p>	
<p>PURCHASER'S SIGNATURE, OFFICE TITLE, AND ADDRESS</p> <p style="text-align: center;">▲</p>		<p>P.O. OR CONTRACT NO.</p>	<p>D.O. SYMBOL NO.</p>	
<p>SIGNATURE AND TITLE OF VENDOR'S REPRESENTATIVE</p> <p style="text-align: center;">▲</p>		<p>DATES</p>	<p>VOUCHER NO.</p>	
<p>DATE</p>		<p>DATE</p>	<p>DATE:</p>	
<p>STANDARD FORM 1094 (REV. 12-96) Prescribed by GSA-FAR (48 CFR) 53.229</p>				

Standard Form 1094 (Back)

INSTRUCTIONS

1. This form will be used to establish the Government's exemption or immunity from State or Local taxes whenever no other evidence is available.
2. This form shall NOT be used for:
 - (a) Purchases of quarters or subsistence made by employees in travel status.
 - (b) Expenses incident to use of a privately owned motor vehicle for which a mileage allowance has been authorized, or
 - (c) Merchandise purchased which is subject only to Federal Tax.
3. If the spaces provided on the face of this form are inadequate, attach a separate statement containing the required information.
4. If both State and local taxes are involved, use a separate form for each tax. The form will be provided to the vendor when the prices exclude State or local tax.
5. The serial number of each form prepared will be shown on the payment voucher.

THE FRAUDULENT USE OF THIS FORM FOR THE PURPOSE OF OBTAINING EXCEPTION FROM OR ADJUSTMENT OF TAXES IS PROHIBITED.

STANDARD FORM 1094 (REV.12-96) BACK

Standard Form 1094A

TAX EXEMPTION FORMS ACCOUNTABILITY RECORD		To be used for convenience of the issuing agency for maintaining a control record of tax exemption forms issued.			
TAX EXEMPTION FORMS IN THIS BOOK NUMBERED	FROM ▲	THROUGH	TAX EXEMPTION FORMS RETURNED UNUSED FOR REISSUE	FROM ▲	THROUGH
ISSUED TO		REISSUED TO			
NAME					
TITLE					
OFFICE DESIGNATION					
ISSUING OFFICER	SIGNATURE	DATE ISSUED	ISSUING OFFICER	SIGNATURE	DATE ISSUED
TITLE AND OFFICE DESIGNATION		TITLE AND OFFICE DESIGNATION			

STANDARD FORM 1094A (REV. 12-96)
Prescribed by GSA-FAR (48 CFR) 53.229

Standard Form 1094A (Back)

FORM NO.	DATE	Mark "X" in appropriate column to indicate type of tax		TAX EXCLUDED (Amount \$)	STATE	LOCAL	TRANSACTION REFERENCE
		VENDOR NAME AND ADDRESS	ITEM PURCHASED				
							Voucher No.:
							Voucher Date:
							PO/Cont. No.:
							Voucher No.:
							Voucher Date:
							PO/Cont. No.:
							Voucher No.:
							Voucher Date:
							PO/Cont. No.:
							Voucher No.:
							Voucher Date:
							PO/Cont. No.:

STANDARD FORM 1094A (REV. 12-96) BACK
 Prescribed by GSA-FAR (48 CFR) 53.229

Standard Form 1165

RECEIPT FOR CASH—SUBVOUCHER
(To be used when invoice is not available)

Standard Form 1165
7 GAO-5100
1165-705

SUBVOUCHER No. _____
DATE _____

Received in cash from _____ and _____ (\$ _____) for the following:

QUANTITY	ARTICLES OR SERVICES	AMOUNT

Vendor _____
Address _____

By _____ (Signature of Vendor/Agent)
Title _____
(DO NOT SIGN IN DUPLICATE)

PURPOSE (Project, etc.) _____
APPROPRIATION AND ACCOUNTING CLASSIFICATION _____

INTERIM RECEIPT FOR CASH

DATE _____

Received of Imprest Fund Cashier \$ _____ for which I hold myself accountable to the United States.

(Signature)

NOTE TO SIGNER
Be sure this receipt is marked "VOID" and returned to you when the transaction is completed or the funds returned to the Cashier.

Standard Form 1402

CERTIFICATION OF APPOINTMENT

Under authority vested in the undersigned and in conformance with Subpart 1.6 of the Federal Acquisition Regulation

is appointed

Contracting Officer

for the

United States of America

Subject to the limitations contained in the Federal Acquisition Regulation and to the following:

Unless sooner terminated, this appointment is effective as long as the appointee is assigned to:

_____ (Organization)

_____ (Agency/Department)

_____ (Signature and Title)

_____ (Date) _____ (No.)

NSN 7540-01-152-5812

STANDARD FORM 1402 (10-83)
Prescribed by GSA - FAR (48 CFR) 53.201-1

Standard Form 1403

PREAWARD SURVEY OF PROSPECTIVE CONTRACTOR (GENERAL)		1. SERIAL NO. <i>(For surveying activity use)</i>	OMB NO.: 9000-0011 Expires: 10/31/97						
Public reporting burden for this collection of information is estimated to average 24 hours per response, including the time for reviewing instructions, searching existing datasources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition and Regulatory Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0011), Washington, DC 20503.									
SECTION I - REQUEST <i>(For Completion by Contracting Office)</i>									
2. NAME AND ADDRESS OF SURVEYING ACTIVITY		3. SOLICITATION NO.	4. TOTAL OFFERED PRICE \$						
		5. TYPE OF CONTRACT							
6A. NAME AND ADDRESS OF SECONDARY SURVEY ACTIVITY <i>(For surveying activity use)</i>		7A. NAME AND ADDRESS OF PROSPECTIVE CONTRACTOR							
6B. TELEPHONE NO. <i>(Include AUTOVON, WATS, or FTS, if available)</i>		7B. FIRM'S CONTACT	7C. TELEPHONE NO. <i>(with area code)</i>						
8. WILL CONTRACTING OFFICE PARTICIPATE IN SURVEY? <input type="checkbox"/> YES <input type="checkbox"/> NO		13. NAME AND ADDRESS OF PARENT COMPANY <i>(If applicable)</i>							
9. DATE OF REQUEST		10. DATE REPORT REQUIRED							
11. PROSPECTIVE CONTRACTOR REPRESENT THAT IT <input type="checkbox"/> IS, <input type="checkbox"/> IS NOT A SMALL BUSINESS CONCERN.									
12. WALSH-HEALY CON ACT <i>(Check applicable box(es))</i>		A. IS NOT APPLICABLE		14A. PLANT AND LOCATION <i>(If different from Item 7, above)</i>					
		B. IS APPLICABLE AND PROSPECTIVE CONTRACTOR REPRESENTS HIS CLASSIFICATION AS: <input type="checkbox"/> MANUFACTURER <input type="checkbox"/> REGULAR DEALER <input type="checkbox"/> OTHER <i>(Specify)</i>							
15A. NAME OF REQUESTING ACTIVITY CONTRACTING OFFICER		14B. POINT OF CONTACT	14C. TELEPHONE NO. <i>(with area code)</i>						
15B. SIGNATURE		16A. NAME OF CONTACT POINT AT REQUESTING ACTIVITY <i>(If different from Item 15A)</i>							
15C. TELEPHONE NO. <i>(Include AUTOVAN, WATS or FTS, if available)</i>									
17. RETURN PREAWARD SURVEY TO THIS ADDRESS:		16B. TELEPHONE NO. <i>(Include AUTOVON, WATS, or FTS, if available)</i>							
ATTN:									
SECTION II - DATA <i>(For Completion by Contracting Office)</i>									
18A. ITEM NO.	18B. NATIONAL STOCK NUMBER (NEW) AND NOMENCLATURE	18C. TOTAL QUANTITY	18D. UNIT PRICE	18E. DELIVERY SCHEDULE					
				(a)	(b)	(c)	(d)	(e)	
		SOLICITED							
		OFFERED	\$						
		SOLICITED							
		OFFERED	\$						
		SOLICITED							
		OFFERED	\$						
		SOLICITED							
		OFFERED	\$						
		SOLICITED							
		OFFERED	\$						
		SOLICITED							
		OFFERED	\$						
		SOLICITED							
		OFFERED	\$						

AUTHORIZATION FOR LOCAL REPRODUCTION
Previous edition is usable.

STANDARD FORM 1403 (REV. 9-88)
Prescribed by GSA FAR (48 CFR) 53.209-1(a)

Standard Form 1403 (Back)

SECTION III - FACTORS TO BE INVESTIGATED

19. MAJOR FACTORS	CHK. (a)	SAT. (b)	UN-SAT. (c)	20. OTHER FACTORS <i>(Provide specific requirements in Remarks)</i>	CHK. (a)	SAT. (b)	UN-SAT. (c)
A. TECHNICAL CAPABILITY				A. GOVERNMENT PROPERTY CONTROL			
B. PRODUCTION CAPABILITY				B. TRANSPORTATION			
C. QUALITY ASSURANCE CAPABILITY				C. PACKAGING			
D. FINANCIAL CAPABILITY				D. SECURITY			
E. ACCOUNTING SYSTEM				E. SAFETY			
21. IS THIS A SHORT FORM PREAWARD REPORT? <i>(For completion by surveying activity)</i>				F. ENVIRONMENTAL/ENERGY CONSIDERATION			
<input type="checkbox"/> YES <input type="checkbox"/> NO				G. FLIGHT OPERATIONS/FLIGHT SAFETY			
22. IS A FINANCIAL ASSISTANCE PAYMENT PROVISION IN THE SOLICITATION? <i>(For completion by contracting activity)</i>				H. OTHER <i>(Specify)</i>			
<input type="checkbox"/> YES <input type="checkbox"/> NO							
23. REMARKS <i>(For Contracting Activity Use)</i>							

SECTION IV - SURVEYING ACTIVITY RECOMMENDATIONS

24. RECOMMEND <input type="checkbox"/> A. COMPLETE AWARD <input type="checkbox"/> B. PARTIAL AWARD <i>(Quantity _____)</i> <input type="checkbox"/> C. NO AWARD	25A. NAME AND TITLE OF SURVEY APPROVING OFFICIAL	25B. TELEPHONE NO.
	25C. SIGNATURE	25D. DATE

STANDARD FORM 1403 (REV. 9-88) BACK

Standard Form 1404

PREAWARD SURVEY OF PROSPECTIVE CONTRACTOR TECHNICAL		SERIAL NO. (For surveying activity use)	OMB NO.: 9000-0011 Expires: 10/31/97		
		PROSPECTIVE CONTRACTOR			
Public reporting burden for this collection of information is estimated to average 24 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition and Regulatory Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0011), Washington, DC 20503.					
1. RECOMMENDED					
<input type="checkbox"/> a. COMPLETE AWARD <input type="checkbox"/> b. PARTIAL AWARD (Quantity: _____) <input type="checkbox"/> c. NO AWARD					
2. NARRATIVE (Include the following information concerning key personnel who will be involved with the prospective contract: (1) Names, qualifications/experience and length of affiliation with prospective contractor; (2) Evaluate technical capabilities with respect to the requirements of the proposed contract or item classifications); (3) Description of any technical capabilities which the prospective contractor lacks. Comment on the prospective contractor's efforts to obtain the needed technical capabilities.)					
IF CONTINUATION SHEETS ATTACHED - MARK HERE <input type="checkbox"/>					
3. FIRM HAS AND/OR UNDERSTANDS (Give explanation for any items marked "NO" in 2. Narrative)					
a. SPECIFICATIONS		<input type="checkbox"/> YES <input type="checkbox"/> NO	b. EXHIBITS		<input type="checkbox"/> YES <input type="checkbox"/> NO
c. DRAWINGS		<input type="checkbox"/> YES <input type="checkbox"/> NO	d. TECHNICAL DATA REQUIREMENTS		<input type="checkbox"/> YES <input type="checkbox"/> NO
4. SURVEY MADE BY	a. SIGNATURE AND OFFICE (Include typed or printed name)		b. TELEPHONE NO. (include area code)	c. DATE SIGNED	
5. SURVEY REVIEWING OFFICIAL	a. SIGNATURE AND OFFICE (Include typed or printed name)		b. TELEPHONE NO. (include area code)	c. DATE REVIEWED	
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition is usable.			STANDARD FORM 1404 (REV. 9-88) Prescribed by GSA - FAR (48 CFR) 53.209-1(b)		

Standard Form 1405

<p>PREAWARD SURVEY OF PROSPECTIVE CONTRACTOR PRODUCTION</p>	<p>SERIAL NO. <i>(For surveying activity use)</i></p>	<p>OMB No.: 9000-0011 Expires: 09/30/91</p>
<p>PROSPECTIVE CONTRACTOR</p>		
<p>Public reporting burden for this collection of information is estimated to average 24 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition and Regulatory Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0011), Washington, DC 20503.</p>		
<p>SECTION I - RECOMMENDATION</p>		
<p>1. RECOMMENDED</p> <p> <input type="checkbox"/> COMPLETE AWARD <input type="checkbox"/> b. PARTIAL AWARD <i>(Quantity: _____)</i> <input type="checkbox"/> c. NO AWARD </p>		
<p>2. NARRATIVE <i>(Cite those sections of this report which substantiate the recommendations. List any other backup information in this space or on attached sheet if necessary. Identify any formal systems reviews and state results.)</i></p>		
<p>IF CONTINUATION SHEETS ATTACHED - MARK HERE <input type="checkbox"/></p>		
<p>3. SURVEY MADE BY</p>	<p>a. SIGNATURE AND OFFICE <i>(Include typed or printed name)</i></p>	<p>b. TELEPHONE NUMBER <i>(Include are code)</i></p> <p>c. DATE SIGNED</p>
<p>4. SURVEY REVIEWING OFFICIAL</p>	<p>a. SIGNATURE AND OFFICE <i>(Include typed or printed name)</i></p>	<p>b. TELEPHONE NUMBER <i>(Include are code)</i></p> <p>c. DATE REVIEWED</p>
<p>AUTHORIZED FOR LOCAL REPRODUCTION Previous edition not usable</p>		<p>STANDARD FORM 1405 (REV. 9-88) Prescribed by GSA-FAR (48 CFR) 53.209-1(c)</p>

Standard Form 1405 (Page 2)

SECTION II - PLANT FACILITIES										
1. SIZE OF TRACT			4. DESCRIPTION AND TYPE OF BUILDING(S)							
2. SQUARE FEET UNDER ROOF		3. NO. OF BUILDINGS	<input type="checkbox"/> OWNED <input type="checkbox"/> LEASED <i>(Give expiration date)</i>							
5. SPACE				6. MISCELLANEOUS PLANT OBSERVATIONS						
TYPE		SQUARE FEET	ADE- QUATE	INADE- QUATE	<i>(Explain any items marked "NO" on an attached sheet.)</i>			YES	NO	
MANUFACTURING	a. TOTAL MANUFACTURING SPACE				a. GOOD HOUSEKEEPING MAINTAINED					
	b. SPACE AVAILABLE FOR OFFERED ITEM				b. POWER AND FUEL SUPPLY ADEQUATE TO MEET PRODUCTION					
	c. TOTAL STORAGE SPACE				c. ALTERNATE POWER AND FUEL SOURCE AVAILABLE					
STORAGE	d. FOR INSPECTION LOTS				d. ADEQUATE MATERIAL HANDLING EQUIPMENT AVAILABLE					
	e. FOR SHIPPING QUANTITIES				e. TRANSPORTATION FACILITIES AVAILABLE FOR SHIPPING PRODUCT					
	f. SPACE AVAILABLE FOR OFFERED ITEM				f. OTHER <i>(Specify)</i>					
	g. AMOUNT OF STORAGE THAT CAN BE CONVERTED FOR MANUFACTURING, IF REQUIRED				g.					
					h.					
SECTION III - PRODUCTION EQUIPMENT										
LIST MAJOR EQUIPMENT REQUIRED <i>(Include GFP and annotate it as such)</i>		QUANTITY REQUIRED FOR PROPOSED CONTRACT	TOTAL QTY. REQD. DURING LIFE OF PROPOSED CONTRACT	QUANTITY ON HAND	CONDI- TION			QUANTITY SHORT* <i>(Col. (c) minus (d))</i>	SOURCE, IF NOT ON HAND	VERIFIED DELIVERY DATE
(a)		(b)	(c)	(d)	(e)			(f)	(g)	(h)
1.	MANUFACTURING				G	F	P			
	SPECIAL TOOLING									
3.	SPECIAL TEST									
*Coordinateshortageinformationfor financialimplications.										
STANDARD FORM 1405 (REV. 9-88) PAGE 2										

Standard Form 1405 (Page 3)

SECTION IV - MATERIALS, PURCHASED PARTS AND SUBCONTRACTS						
1. PARTS/MATERIALS/SUBCONTRACTS WITH LONGEST LEAD TIME OR CRUCIAL ITEMS						
DESCRIPTION (a)	SOURCE (b)			VERIFIED DELIVERY DATE TO MEET PROD. (c)		
2. DESCRIBE THE MATERIAL CONTROL SYSTEM, INDICATING WHETHER IT IS CURRENTLY OPERATIONAL, AND EVALUATE ITS ABILITY TO MEET THE NEEDS OF THE PROPOSED ACQUISITION.						

SECTION V - PERSONNEL								
1. NUMBER AND SOURCE OF EMPLOYEES					2. SHIFTS ON WHICH WORK IS TO BE PERFORMED			
TYPE OF EMPLOYEES	NO. ON BOARD	ADD. NO. REQUIRED	AVAIL.		SOURCE	<input type="checkbox"/> FIRST	<input type="checkbox"/> SECOND	<input type="checkbox"/> THIRD
			YES	NO		3. UNION AFFILIATION		
a. SKILLED PRODUCTION								
b. UNSKILLED PRODUCTION						AGREEMENT EXPIRATION DATE		
c. ENGINEERING						4. RELATIONSHIP WITH LABOR INDICATES PROBLEMS AFFECTING TIMELY PERFORMANCE OF PROPOSED CONTRACT (If "Yes," explain on attached sheet)		
d. ADMINISTRATIVE						<input type="checkbox"/> YES	<input type="checkbox"/> NO	
e. TOT. (Lines A thru D)								

SECTION VI - DELIVERY PERFORMANCE RECORD						

STANDARD FORM 1405 (REV. 9-88) PAGE 3

Standard Form 1405 (Page 4)

SECTION VII - RELATED PREVIOUS PRODUCTION (Government)						
PAST YEAR PRODUCTION		GOVERNMENT CONTRACT NUMBER*	PERFORMANCE		QUANTITY (f)	DOLLAR VALUE (\$000) (g)
ITEM NOMENCLATURE (a)	NATIONAL STOCK NO. (NSN) (b)		ON SCHED. (d)	DELIN- QUENT (e)		

* Identify identical items by an asterisk (*) after the Government contract number.

SECTION VIII - CURRENT PRODUCTION											
<i>(Government and civilian concurrent production schedule using same equipment and/or personnel as offered item)</i>											
ITEM(S) (Include Government Contract No., if applicable. Identify unsatisfactory performance with asterisk(*).)	MONTHLY SCHEDULE OF CONCURRENT DELIVERIES (Quantity)										
	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	BAL.
1.											
2.											

SECTION IX - ORGANIZATION AND MANAGEMENT DATA

Provide the following information in SECTION I NARRATIVE:

1. Describe the relationship between management production, and inspection. Attach an organization chart, if available.
2. Describe the prospective contractor's production control system. State whether or not it is operational.
3. Evaluate the prospective contractor's production control system in terms of (a) historical effectiveness, (b) the proposed contract, and (c) total production during performance of the proposed contract.
4. Comment on or evaluate other areas unique to this survey (include all special requests by the contracting office and any other information pertinent to the proposed contractor item classification).

Standard Form 1406

**PREAWARD SURVEY OF PROSPECTIVE CONTRACTOR
QUALITY ASSURANCE**

SERIAL NO. *(For surveying activity use)*

OMB No.: **9000-0011**
Expires: 10/31/2000

PROSPECTIVE CONTRACTOR

Public reporting burden for this collection of information is estimated to average 24 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

SECTION I - RECOMMENDATION

1. RECOMMEND: AWARD NO AWARD *(Provide full substantiation for recommendation in 4. NARRATIVE)*

2. IF PROSPECTIVE CONTRACTOR RECEIVES AWARD, A POST AWARD CONFERENCE IS RECOMMENDED. YES NO

3. AN ON-SITE SURVEY WAS PERFORMED. YES NO

4. NARRATIVE

IF CONTINUATION SHEETS
ATTACHED - MARK HERE

5. SURVEY MADE BY			6. SURVEY REVIEWING OFFICIAL		
A. SIGNATURE	B. DATE SIGNED		A. SIGNATURE	B. DATE REVIEWED	
C. NAME			C. NAME		
D. OFFICE			D. OFFICE		
E. AREA CODE	F. TELEPHONE NUMBER	G. EXT.	E. AREA CODE	F. TELEPHONE NUMBER	G. EXT.

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Previous edition is not usable.

STANDARD FORM 1406 (REV. 11-97)
Prescribed by GSA FAR (48 CFR) 53.209-1(d)

Standard Form 1406 (Back)

SECTION II - COMPANY AND SOLICITATION DATA

1. BRIEFLY DESCRIBE HOW QUALITY ASSURANCE RESPONSIBILITIES ARE ACCOMPLISHED.

2. QUALITY ASSURANCE OFFICIALS CONTACTED

A. NAME	B. TITLE	C. YEARS OF QUALITY ASSURANCE EXPERIENCE

3. APPLICABLE CONTRACT QUALITY REQUIREMENTS

A. NUMBER	B. TITLE	C. TAILORING (If any)

4. IDENTICAL OR SIMILAR ITEMS HAVE BEEN PRODUCED, SUPPLIED, OR SERVICED BY PROSPECTIVE CONTRACTOR

(If similar items, identify: _____)

SECTION III - EVALUATION CHECKLIST

STATEMENTS		YES	NO
1. These items (where applicable to the contract) are understood by the prospective contractor.	A. Exhibits, technical data, drawings, specifications, and approval requirements.		
	B. Preservation, packaging, packing, and marking requirements.		
	C. Other (Specify)		
2. Records available indicate that the prospective contractor has a satisfactory quality performance record during the past twelve (12) months for similar items.			
3. Used, reconditioned, or remanufactured material and former Government surplus material will be furnished by the prospective contractor. (If Yes, explain in Section I NARRATIVE)			
4. Prospective contractor will require unusual assistance from the Government. (If Yes, explain in Section I NARRATIVE)			
5. Did prospective contractor fulfill commitments to correct deficiencies, as proposed on previous surveys, when awarded that contract? (If No, explain in Section I NARRATIVE)			
6. Quality verification personnel	NUMBER SKILLED		
7. Quality verification to production personnel ratio.	NUMBER SEMI-SKILLED RATIO : _____		
THE FOLLOWING ARE AVAILABLE AND ADEQUATE. (If not applicable, show "N/A" in "Yes" column.)			
8. Inspection and test equipment, gauges, and instruments for first article and production (including solicitation specified equipment).			
9. Calibration/metrology program.			
10. Quality system procedures and controls.			
11. Control of specifications, drawings, changes and modifications, work/process instructions.			
12. System for determining inspection, test, and measurement requirements.			
13. Purchasing: Processes for selecting qualified suppliers and assuring the quality of purchased materials.			
14. Product identification, segregation, traceability, and maintenance.			
15. Government furnished property controls.			
16. Process controls.			
17. Nonconforming product: System for timely identification, disposition, correction of deficiencies, and corrective and preventative action.			
18. Preservation, storage, packaging, packing, marking, and delivery controls.			
19. Records (such as: inspection, test, status, corrective actions, calibration, etc.)			
20. Controls for investigation of customer complaints and correction of deficiencies.			
21. Design controls system.			
22. Computer software (deliverable and/or non-deliverable) quality assurance program.			
23. Management review and internal quality audits.			
24. Quality assurance training program.			
25. Installation and servicing quality assurance program.			
26. Statistical techniques.			

Standard Form 1407

PREAWARD SURVEY OF PROSPECTIVE CONTRACTOR FINANCIAL CAPABILITY	SERIAL NO. (For surveying activity use)	OMB No.: 9000-0011 Expires: 09/30/91	
PROSPECTIVE CONTRACTOR			
Public reporting burden for this collection of information is estimated to average 24 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office Federal Acquisition and Regulatory Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0011), Washington, DC 20503.			
SECTION I - RECOMMENDATION			
1. RECOMMENDED			
<input type="checkbox"/> a. COMPLETE AWARD <input type="checkbox"/> b. PARTIAL AWARD (Quantity: _____) <input type="checkbox"/> c. NO AWARD			
2. TOTAL OFFERED PRICE			
3. NARRATIVE (Cite those sections of the report which substantiate the recommendation. Give any other backup information in this space or on an additional sheet, if necessary.)			
IF CONTINUATION SHEETS ATTACHED - MARK HERE <input type="checkbox"/>			
4. SURVEY MADE BY	a. SIGNATURE	b. TELEPHONE NUMBER <i>(Include area code)</i>	c. DATE SIGNED
5. SURVEY REVIEWING OFFICIAL	a. SIGNATURE	b. TELEPHONE NUMBER <i>(Include area code)</i>	c. DATE REVIEWED
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition is usable.		STANDARD FORM 1407 (REV. 9-88) Prescribed by GSA - FAR (48 CFR) 53.209-1(e)	

Standard Form 1407 (Page 2)

SECTION II - GENERAL				
1. TYPE OF COMPANY <input type="checkbox"/> CORPORATION <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> SUBSIDIARY <input type="checkbox"/> DIVISION <input type="checkbox"/> PROPRIETORSHIP <input type="checkbox"/> OTHER (<i>Specify</i>)		3. NAME AND ADDRESS OF: a. PARENT CO. b. SUBSIDIARIES		
2. YEAR ESTABLISHED:				
SECTION III - BALANCE SHEET/PROFIT AND LOSS STATEMENT				
PART A - LATEST BALANCE SHEET		PART B - LATEST PROFIT AND LOSS STATEMENT		
1. DATE	2. FILED WITH	1. CURRENT PERIOD		2. FILED WITH
		a. FROM	b. TO	
3. FINANCIAL POSITION				
a. Cash	\$	3. NET SALES	a. CURRENT PERIOD	
b. Accounts Receivable			b. First prior fiscal year	
c. Inventory			c. Second prior fiscal year	
d. Other Current Assets		4. NET PROFITS BEFORE TAXES	a. CURRENT PERIOD	
e. Total Current Assets			b. First prior fiscal year	
f. Fixed Assets			c. Second prior fiscal year	
g. Current Liabilities		PART C - OTHER		
h. Long Term Liabilities		1. FISCAL YEAR ENDS (<i>Date</i>):		
i. Total Liabilities		2. BALANCE SHEETS AND PROFIT AND LOSS STATEMENTS HAVE BEEN CERTIFIED		
j. Net Worth				
4. WORKING CAPITAL (<i>Current Assets less Current Liabilities</i>)				
5. RATIOS				
a. CURRENT ASSETS TO CURRENT LIABILITIES	b. ACID TEST (<i>Cash, temporary investments held in lieu of cash and current receivables to current liabilities</i>)	c. TOTAL LIABILITIES TO NET WORTH		
SECTION IV - PROSPECTIVE CONTRACTOR'S FINANCIAL ARRANGEMENTS				
Mark "X" in appropriate column.		YES	NO	4. INDEPENDENT ANALYSIS OF FINANCIAL POSITION SUPPORTS THE STATEMENTS SHOWN IN ITEMS 1, 2, AND 3 <input type="checkbox"/> YES <input type="checkbox"/> NO (<i>If "NO", explain</i>)
1. USE OF OWN RESOURCES				
2. USE OF BANK CREDITS				
3. OTHER (<i>Specify</i>)				
SECTION V - GOVERNMENT FINANCIAL AID				
1. TO BE REQUESTED IN CONNECTION WITH PERFORMANCE OF PROPOSED CONTRACT Mark "X" in appropriate column. YES NO a. PROGRESS PAYMENT(S) b. GUARANTEED LOAN c. ADVANCE PAYMENTS		2. EXPLAIN ANY "YES" ANSWERS TO ITEMS 1a, b, AND c.		
3. FINANCIAL AID CURRENTLY OBTAINED FROM THE GOVERNMENT				
Complete items below only if Item a., is marked "YES."				
a. PROSPECTIVE CONTRACTOR RECEIVES GOVERNMENT FINANCING AT PRESENT <input type="checkbox"/> YES <input type="checkbox"/> NO	b. IS LIQUIDATION CURRENT? <input type="checkbox"/> YES <input type="checkbox"/> NO	c. AMOUNT OF UNLIQUIDATED PROGRESS PAYMENTS OUTSTANDING \$	DOLLAR AMOUNTS	(a) AUTHORIZED (b) IN USE
			a. Guaranteed loans	\$ \$
			b. Advance payments	\$ \$
4. LIST THE GOVERNMENT AGENCIES INVOLVED			5. SHOW THE APPLICABLE CONTRACT NOS.	

Standard Form 1407 (Page 3)

SECTION VI - BUSINESS AND FINANCIAL REPUTATION

1. COMMENTS OF PROSPECTIVE CONTRACTOR'S BANK

2. COMMENTS OF TRADE CREDITORS

3. COMMENTS AND REPORTS OF COMMERCIAL FINANCIAL SERVICES AND CREDIT ORGANIZATIONS *(Such as, Dun & Bradstreet, Standard and Poor, etc.)*

4. MOST RECENT
CREDIT RATING



a. DATE

b. BY

5. DOES PRICE APPEAR UNREALISTICALLY LOW?

YES

NO *(If Yes, explain in Section I NARRATIVE)*

6. DESCRIBE ANY OUTSTANDING LIENS OR JUDGMENTS

SECTION VII - SALES (000'S) FOR NEXT SIX QUARTERS

CATEGORY	1	2	3	4	5	6	TOTAL
1. CURRENT CONTRACT SALES (Backlog)	\$	\$	\$	\$	\$	\$	\$
A. GOVERNMENT (Prime & Subcontractor)							
B. COMMERCIAL							
2. ANTICIPATED ADDITIONAL SALES							
A. GOVERNMENT (Prime & Subcontractor)							
B. COMMERCIAL							
3. TOTALS							

Standard Form 1408

**PREAWARD SURVEY OF PROSPECTIVE CONTRACTOR
ACCOUNTING SYSTEM**

SERIAL NO. *(For surveying activity use)*

OMB No.: 9000-0011
Expires: 10/31/97

PROSPECTIVE CONTRACTOR

Public reporting burden for this collection of information is estimated to average 24 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to FAR Secretariat (VRS), Office of Federal Acquisition and Regulatory Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0011), Washington, DC 20503.

SECTION I - RECOMMENDATION

1. PROSPECTIVE CONTRACTOR'S ACCOUNTING SYSTEM IS ACCEPTABLE FOR AWARD OF PROSPECTIVE CONTRACT

YES NO *(Explain in 2. NARRATIVE)*

YES, WITH A RECOMMENDATION THAT A FOLLOW ON ACCOUNTING SYSTEM REVIEW BE PERFORMED AFTER CONTRACT AWARD
(Explain in 2. NARRATIVE)

2. NARRATIVE *(Clarification of deficiencies, and other pertinent comments. If additional space is required, continue on plain sheets of paper.)*

IF CONTINUATION SHEETS
ATTACHED - MARK HERE

3. SURVEY MADE BY	a. SIGNATURE AND OFFICE <i>(Include typed or printed name)</i>	b. TELEPHONE NO. <i>(include area code)</i>	c. DATE SIGNED
	a. SIGNATURE AND OFFICE <i>(Include typed or printed name)</i>	b. TELEPHONE NO. <i>(include area code)</i>	c. DATE REVIEWED

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Previous edition usable

STANDARD FORM 1408 (REV. 9-88)
Prescribed by GSA
FAR (48 CFR) 53.209-1(f)

Standard Form 1408 (Back)

SECTION II - EVALUATION CHECKLIST

MARK "X" IN THE APPROPRIATE COLUMN <i>(Explain any deficiencies in SECTION I NARRATIVE)</i>	YES	NO	NOT APPLICABLE
1. EXCEPT AS STATED IN SECTION I NARRATIVE, IS THE ACCOUNTING SYSTEM IN ACCORD WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES APPLICABLE IN THE CIRCUMSTANCES?			
2. ACCOUNTING SYSTEM PROVIDES FOR:			
a. Proper segregation of direct costs from indirect costs.			
b. Identification and accumulation of direct costs by contract.			
c. A logical and consistent method for the allocation of indirect costs to intermediate and final cost objectives. (A contract is a final cost objective.)			
d. Accumulation of costs under general ledger control.			
e. A timekeeping system that identifies employees' labor by intermediate or final cost objectives.			
f. A labor distribution system that charges direct and indirect labor to the appropriate cost objectives.			
g. Interim (at least monthly) determination of costs charged to a contract through routine posting of books of account.			
h. Exclusion from costs charged to government contracts of amounts which are not allowable in terms of FAR31, Contract Cost Principles and Procedures, or other contract provisions.			
i. Identification of costs by contract line item and by units (as if each unit or line item were a separate contract) if required by the proposed contract.			
j. Segregation of preproduction costs from production costs.			
3. ACCOUNTING SYSTEM PROVIDES FINANCIAL INFORMATION:			
a. Required by contract clauses concerning limitation of cost (FAR52.232-20 and 21) or limitation on payments (FAR52.216-16).			
b. Required to support requests for progress payments.			
4. IS THE ACCOUNTING SYSTEM DESIGNED, AND ARE THE RECORDS MAINTAINED IN SUCH A MANNER THAT ADEQUATE, RELIABLE DATA ARE DEVELOPED FOR USE IN PRICING FOLLOW-ON ACQUISITIONS?			
5. IS THE ACCOUNTING SYSTEM CURRENTLY IN FULL OPERATION? (If not, describe in Section I Narrative which portions are (1) in operation, (2) set up, but not yet in operation, (3) anticipated, or (4) nonexistent.)			

Standard Form 1413

STATEMENT AND ACKNOWLEDGMENT		OMB No.: 9000-0014 Expires: 03/31/92												
<p>Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition and Regulatory Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0014), Washington, DC 20503.</p>														
PART I - STATEMENT OF PRIME CONTRACTOR														
1. PRIME CONTRACT NO.	2. DATE SUBCONTRACT AWARDED	3. SUBCONTRACT NUMBER												
4. PRIME CONTRACTOR <i>(Name, address and ZIP code)</i>		5. SUBCONTRACTOR <i>(Name, address and ZIP code)</i>												
<p>6. The prime contractor states that under the contract shown in Item 1, a subcontract was awarded on the date shown in Item 2 by (Name of Awarding Firm) _____</p> <p>to the subcontractor identified in Item 5, for the following work:</p>														
7. PROJECT		8. LOCATION												
9. NAME AND TITLE OF PERSON SIGNING	10. BY <i>(Signature)</i>	11. DATE SIGNED												
PART II - ACKNOWLEDGMENT OF SUBCONTRACTOR														
<p>12. The subcontractor acknowledges that the following clauses of the contract shown in Item 1 are included in this subcontract:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Contract Work Hours and Safety</td> <td style="width: 50%;">Davis-Bacon Act</td> </tr> <tr> <td>Standards Act - Overtime</td> <td>Apprentices and Trainees</td> </tr> <tr> <td>Compensation - Construction</td> <td>Compliance with Copeland Regulations</td> </tr> <tr> <td>Payrolls and Basic Records</td> <td>Subcontracts</td> </tr> <tr> <td>Withholding of Funds</td> <td>Contract Termination-Debarment</td> </tr> <tr> <td>Disputes Concerning Labor Standards</td> <td>Certification of Eligibility</td> </tr> </table>			Contract Work Hours and Safety	Davis-Bacon Act	Standards Act - Overtime	Apprentices and Trainees	Compensation - Construction	Compliance with Copeland Regulations	Payrolls and Basic Records	Subcontracts	Withholding of Funds	Contract Termination-Debarment	Disputes Concerning Labor Standards	Certification of Eligibility
Contract Work Hours and Safety	Davis-Bacon Act													
Standards Act - Overtime	Apprentices and Trainees													
Compensation - Construction	Compliance with Copeland Regulations													
Payrolls and Basic Records	Subcontracts													
Withholding of Funds	Contract Termination-Debarment													
Disputes Concerning Labor Standards	Certification of Eligibility													
13. NAME(S) OF ANY INTERMEDIATE SUBCONTRACTORS, IF ANY														
14. NAME AND TITLE OF PERSON SIGNING	15. BY <i>(Signature)</i>	16. DATE SIGNED												
<small>NSN 7540-01-151-4297 Previous edition is usable</small>		STANDARD FORM 1413 (REV. 6-89) <small>Prescribed by GSA - FAR (48 CFR) 53.228(e)</small>												

Standard Form 1414

CONSENT OF SURETY	1. CONTRACT NUMBER	2. MODIFICATION NUMBER	3. DATED
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The Surety (Co-Sureties) consents (consent) to the foregoing contract modification and agrees (agree) that its (their) bond or bonds shall apply and extend to the contract as modified or amended.

4. INDIVIDUAL PRINCIPAL	a. NAME OF PRINCIPAL			c. SIGNATURE		<i>(Affix Seal)</i>
	b. BUSINESS ADDRESS			d. TYPED NAME		
	STREET ADDRESS			e. TYPED TITLE		
	CITY	STATE	ZIP CODE	f. DATE THIS CONSENT EXECUTED		
5. CORPORATE PRINCIPAL	a. CORPORATE NAME			c. PERSON EXECUTING CONSENT <i>(Signature)</i>		<i>(Affix Seal)</i>
	b. BUSINESS ADDRESS			d. TYPED NAME		
	STREET ADDRESS			e. TYPED TITLE		
	CITY	STATE	ZIP CODE	f. DATE THIS CONSENT EXECUTED		

6. CORPORATE/INDIVIDUAL SURETY (CO-SURETIES)

The Principal or authorized representative shall execute this consent of surety with the modification to which it pertains. If the representative (e.g., attorney-in-fact) that signs the consent is not a member of the partnership, or joint venture, or an officer of the corporation involved, a Power-of-Attorney or a Certificate of Corporate Principal must accompany the consent.

A	a. CORPORATE/INDIVIDUAL SURETY'S NAME			c. PERSON EXECUTING CONSENT <i>(Signature)</i>		<i>(Affix Seal)</i>
	b. BUSINESS ADDRESS			d. TYPED NAME		
	STREET ADDRESS			e. TYPED TITLE		
	CITY	STATE	ZIP CODE	f. DATE THIS CONSENT EXECUTED		
B	a. CORPORATE/INDIVIDUAL SURETY'S NAME			c. PERSON EXECUTING CONSENT <i>(Signature)</i>		<i>(Affix Seal)</i>
	b. BUSINESS ADDRESS			d. TYPED NAME		
	STREET ADDRESS			e. TYPED TITLE		
	CITY	STATE	ZIP CODE	f. DATE THIS CONSENT EXECUTED		
C	a. CORPORATE/INDIVIDUAL SURETY'S NAME			c. PERSON EXECUTING CONSENT <i>(Signature)</i>		<i>(Affix Seal)</i>
	b. BUSINESS ADDRESS			d. TYPED NAME		
	STREET ADDRESS			e. TYPED TITLE		
	CITY	STATE	ZIP CODE	f. DATE THIS CONSENT EXECUTED		

(Add similar signature blocks on the back of this form if necessary for additional co-Sureties)

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Previous edition is usable

STANDARD FORM 1414 (REV. 5-97)
Prescribed by GSA - FAR (48 CFR) 53.228(k)

Standard Form 1415

CONSENT OF SURETY AND INCREASE OF PENALTY		1. CONTRACT NUMBER	2. MODIFICATION NUMBER	3. DATED
<p>4. The surety (co-sureties) consents (consent) to the foregoing contract modification and agrees (agree) that its (their) bond or bonds shall apply and extend to the contract as modified or amended. The principal and surety (co-sureties) further agree that on or after the execution of this consent, the penalty of the performance bond or bonds increased by _____ dollars (\$ _____) and the penalty of the payment bond or bonds is increased by _____ dollars (\$ _____). However, the increase of the liability of each co-surety resulting from this consent shall not exceed the sums shown below.</p>				
5. NAME OF SURETY(IES)		6. INCREASE IN LIABILITY LIMIT UNDER	7. INCREASE IN LIABILITY LIMIT UNDER	
A.		\$	\$	
B.		\$	\$	
C.		\$	\$	
8. INDIVIDUAL PRINCIPAL	A. BUSINESS ADDRESS		B. SIGNATURE	
			C. TYPED NAME AND TITLE	
			D. DATE THIS CONSENT EXECUTED	
			<i>(Affix Seal)</i>	
9. CORPORATE PRINCIPAL	A. CORPORATE NAME AND BUSINESS ADDRESS		B. PERSON EXECUTING CONSENT <i>(Signature)</i>	
			BY	
			C. TYPED NAME AND TITLE	
			D. DATE THIS CONSENT EXECUTED	
		<i>(Affix Corporate Seal)</i>		
<p>The Principal or authorized representative shall execute this Consent of Surety with the modification to which it pertains. If the representative (e.g., attorney-in-fact) that signs the consent is not a member of the partnership, or joint venture, or an officer of the corporation involved, a Power-of-Attorney or a Certificate of Corporate Principal must accompany the consent.</p>				
10. CORPORATE/INDIVIDUAL SURETY (CO-SURETIES)				
A	A. CORPORATE/INDIVIDUAL SURETY'S NAME AND ADDRESS		B. PERSON EXECUTING CONSENT <i>(Signature)</i>	
			BY	
			C. TYPED NAME AND TITLE	
			D. DATE THIS CONSENT EXECUTED	
		<i>(Affix Corporate Seal)</i>		
B	A. CORPORATE/INDIVIDUAL SURETY'S NAME		B. PERSON EXECUTING CONSENT <i>(Signature)</i>	
			BY	
			C. TYPED NAME AND TITLE	
			D. DATE THIS CONSENT EXECUTED	
		<i>(Affix Corporate Seal)</i>		
C	A. CORPORATE/INDIVIDUAL SURETY'S NAME		B. PERSON EXECUTING CONSENT <i>(Signature)</i>	
			BY	
			C. TYPED NAME AND TITLE	
			D. DATE THIS CONSENT EXECUTED	
		<i>(Affix Corporate Seal)</i>		
Add similar signature blocks on the back of this form if necessary for additional co-sureties.				
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition is usable			STANDARD FORM 1415 (REV. 7-1993) Prescribed by GSA-FAR (48 CFR) 53.228(l)	

Standard Form 1416

PAYMENT BOND FOR OTHER THAN CONSTRUCTION CONTRACTS <i>(See instructions on reverse)</i>	DATE BOND EXECUTED <i>(Must not be later than bid opening date)</i>	OMB NO.: 9000-0045
Public reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.		
PRINCIPAL <i>(Legal name and business address)</i>	TYPE OF ORGANIZATION <i>(“X” one)</i>	
	<input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> CORPORATION	
	STATE OF INCORPORATION _____	
SURETY(IES) <i>(Name(s) and business address(es)) (Include ZIP code)</i>	PENAL SUM OF BOND	
	MILLION(S)	THOUSAND(S)
	HUNDRED(S)	CENTS
	CONTRACT DATE _____	
	CONTRACT NO. _____	

We, the Principal and Surety(ies) are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The Principal has entered into the contract identified above.

THEREFORE:

(a) The above obligation is void if the Principal promptly makes payment to all persons (claimants) having a contract relationship with the Principal or a subcontractor of the Principal for furnishing labor, material or both in the prosecution of the work provided for in the contract identified above and any duly authorized modifications thereof. Notice of those modifications to the Surety(ies) are waived.

(b) The above obligation shall remain in full force if the Principal does not promptly make payments to all persons (claimants) having a contract relationship with the principal or a subcontractor of the Principal for furnishing labor, material or both in the prosecution of the contract identified above. In these cases, persons not paid in full before the expiration of ninety (90) days after the date of which the last labor was performed or material furnishing, have a direct right of action against the principal and Surety(ies) on this bond for the sum or sums justly due. The claimant, however, may not bring a suit or any action -

(1) Unless claimant, other than one having a direct contract with the Principal, had given written notice to the Principal within ninety (90) days after the claimant did or performed the last of the work or labor, or furnished or supplied the last of the materials for which the claim is made. The notice is to state with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished or supplied, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the Principal at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process is served in the state in which the contract is being performed, save that such service need not be made by a public officer.

(2) After the expiration one (1) year following the date on which claimant did or performed the last of the work or labor, or furnished or supplied the last of the materials for which the suit is brought.

(3) Other than in the United States District court for the district in which the the contract, or any part thereof, was performed and executed, and not elsewhere.

WITNESS:

The Principal and Surety(ies) executed this bid bond and affixed their seals on the above date.

Standard Form 1416 (Back)

PRINCIPAL					
SIGNATURE(S)	1.	2.	3.	<i>Corporate Seal</i>	
	<i>(Seal)</i>	<i>(Seal)</i>	<i>(Seal)</i>		
NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.	3.		
INDIVIDUAL SURETY(IES)					
SIGNATURE(S)	1.	2.		<i>(Seal)</i>	
		<i>(Seal)</i>			
NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.			
CORPORATE SURETY(IES)					
SURETY A	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT \$	
	SIGNATURE(S)	1.	2.		<i>Corporate Seal</i>
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY B	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT \$	
	SIGNATURE(S)	1.	2.		<i>Corporate Seal</i>
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		

INSTRUCTIONS

1. This form is authorized for use when payment bonds are required under FAR (48 CFR) 28.103-3, i.e., payment bonds for other than construction contracts. Any deviation from this form will require the written approval of the Administrator of General Services.
2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.
3. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitation listed therein. Where more than one corporate surety is involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designed "SURETY(IES)" on the face of the form, insert only the letter identification of the sureties.

 (b) Where individual Sureties are involved, a completed Affidavit of Individual Surety (Standard Form 28), for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning its financial capability.
4. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal"; and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.
5. Type the name and title of each person signing this bond in the space provided.

Standard Form 1418


PERFORMANCE BOND FOR OTHER THAN CONSTRUCTION CONTRACTS <i>(See instructions on reverse)</i>		DATE BOND EXECUTED <i>(Must be same or later than date of contract)</i>	OMB No.:9000-0045		
Public reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405					
PRINCIPAL <i>(Legal name and business address)</i>		TYPE OF ORGANIZATION <i>(“X” one)</i>			
		<input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> CORPORATION			
		STATE OF INCORPORATION _____			
SURETY(IES) <i>(Name(s) and business address(es))</i>		PENAL SUM OF BOND			
		MILLION(S)	THOUSAND(S)	HUNDRED(S) CENTS	
		CONTRACT DATE		CONTRACT NO.	
		OPTION DATE		OPTION NO.	
OBLIGATION:					
We, the Principal and Surety(ies), are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.					
CONDITIONS:					
The Principal has entered into the contract identified above.					
THEREFORE:					
The above obligation is void if the Principal: (1) Performs and fulfills all the undertakings, covenants, terms, conditions, and agreements of the contract during either the base term or an optional term of the contract and any extensions thereof that are granted by the Government, with or without notice to the Surety(ies), and during the life of any guaranty required under the contract, and (2) performs and fulfills all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of the contract that hereafter are made. Notice of those modifications to the Surety(ies) is waived.					
The guaranty for a base term covers the initial period of performance of the contract and any extensions thereof excluding any options. The guaranty for an option term covers the period of performance for the option being exercised and any extensions thereof.					
The failure of a surety to renew a bond for any option term shall not result in a default of any bond previously furnished covering any base or option term.					
WITNESS:					
The Principal and Surety(ies) executed this performance bond and affixed their seals on the above date.					
PRINCIPAL					
SIGNATURE(S)	1.	2.		Corporate Seal	
		(Seal)	(Seal)		
NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.			
INDIVIDUAL SURETY(IES)					
SIGNATURE(S)	1.	2.		(Seal)	
		(Seal)	(Seal)		
NAME(S) <i>(Typed)</i>	1.	2.			
CORPORATE SURETY(IES)					
SURETY A	NAME & ADDRESS	STATE OF INC.		LIABILITY LIMIT	
				\$	
	SIGNATURE(S)	1.	2.		Corporate Seal
NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.			

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STANDARD FORM 1418 (REV. 2-99)
Prescribed by GSA-FAR (48 CFR) 53.228(b)

Standard Form 1418 (Back)

SURETY B	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY C	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY D	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY E	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY F	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY G	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT	Corporate Seal
	SIGNATURE(S)	1.	2.	\$	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		

BOND PREMIUM 	RATE PER THOUSAND (\$)	TOTAL (\$)
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INSTRUCTIONS

1. This form is authorized for use in connection with Government contracts. Any deviation from this form will require the written approval of the Administrator of General Services.
2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the coporation involved.
3. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitation listed therein. Where more than one corporate surety is involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designated "SURETY(IES)" on the face of the form, insert only the letter identification of the sureties.
 - (b) Where individual sureties are involved, a completed Affidavit of Individual Surety (Standard Form 28) for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning their financial capability.
4. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal", and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.
5. Type the name and title of each person signing this bond in the space provided.
6. Unless otherwise specified, the bond shall be submitted to the contracting office that awarded the contract.

Standard Form 1420

FOR OFFICIAL USE ONLY (WHEN COMPLETED)			
PERFORMANCE EVALUATION - CONSTRUCTION CONTRACTS			1. CONTRACT NUMBER
1. CONTRACTOR (Name, address and ZIP code)		3. TYPE OF CONTRACT (Check)	A. ADVERTISED
			B. NEGOTIATED <input type="checkbox"/> CPFF <input type="checkbox"/> FIRM FIXED PRICE <input type="checkbox"/> OTHER (Specify)
5. DESCRIPTION AND LOCATION OF WORK		4. COMPLEXITY OF WORK	
		<input type="checkbox"/> DIFFICULT <input type="checkbox"/> ROUTINE	
6. FISCAL DATA			
	a. AMOUNT OF BASIC CONTRACT \$	b. TOTAL AMOUNT OF MODIFICATION \$	c. LIQUIDATED DAMAGES ASSESSED \$
	d. NET AMOUNT PAID CONTRACTOR \$		
7. SIGNIFICANT DATES			
	a. DATE OF AWARD	b. ORIGINAL CONTRACT COMPLETION DATE	c. REVISED CONTRACT COMPLETION DATE
	d. DATE WORK ACCEPTED		
8. TYPE AND EXTENT OF SUBCONTRACTING			
PART II - PERFORMANCE EVALUATION OF CONTRACT (Check appropriate box)			
9. PERFORMANCE ELEMENTS		OUTSTANDING	SATISFACTORY
UNSATISFACTORY			
a. QUALITY OF WORK			
b. TIMELY PERFORMANCE			
c. EFFECTIVENESS OF MANAGEMENT			
d. COMPLIANCE WITH LABOR STANDARDS			
e. COMPLIANCE WITH SAFETY STANDARDS			
10. OVERALL EVALUATION			
<input type="checkbox"/> OUTSTANDING (Explain in Item 13, on reverse) <input type="checkbox"/> SATISFACTORY <input type="checkbox"/> UNSATISFACTORY (Explain in Item 14, on reverse)			
11. EVALUATED BY			
a. ORGANIZATION (Type or print)			
b. NAME AND TITLE (Type or print)		c. SIGNATURE	d. DATE
12. EVALUATION REVIEWED BY			
a. ORGANIZATION (Type or print)			
b. NAME AND TITLE (Type or print)		c. SIGNATURE	d. DATE
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition is usable		FOR OFFICIAL USE ONLY (When completed)	STANDARD FORM 1420 (10-83) Prescribed by GSA FAR (48 CFR) 53.236-1(b)

Standard Form 1420 (Back)

FOR OFFICIAL USE ONLY
(When completed)

13. REMARKS ON OUTSTANDING PERFORMANCE - AS INDICATED BY THE CONTRACTOR'S PERFORMANCE ON THIS CONTRACT. IF YOU CONSIDER THE CONTRACTOR TO BE OUTSTANDING, SET FORTH FACTUAL DATA SUPPORTING THIS OBSERVATION. THESE DATA MUST BE IN SUFFICIENT DETAIL TO ASSIST CONTRACTING OFFICERS IN SELECTING CONTRACTORS THAT HAVE DEMONSTRATED OUTSTANDING QUALITY OF WORK AND RELIABILITY. *(Continue on separate sheet, if needed.)*

14. EXPLANATION OF UNSATISFACTORY EVALUATION. FOR EACH UNSATISFACTORY ELEMENT, PROVIDE FACTS CONCERNING SPECIFIC EVENTS OR ACTIONS TO JUSTIFY THE EVALUATION *(e.g., extent of Government inspection required, rework required, subcontracting, cooperation of contractor, quality of workmen and adequacy of equipment)*. THESE DATA MUST BE IN SUFFICIENT DETAIL TO ASSIST CONTRACTING OFFICERS IN DETERMINING THE CONTRACTOR'S RESPONSIBILITY. *(Continue on separate sheet, if needed.)*

FOR OFFICIAL USE ONLY
(When completed)

STANDARD FORM 1420 (10-83) BACK

Standard Form 1421

PERFORMANCE EVALUATION (ARCHITECT-ENGINEER)				1. PROJECT NUMBER	
				2. CONTRACT NUMBER	
IMPORTANT: Be sure to complete Performance section on reverse. If additional space is necessary for any item, use Remarks section on reverse.					
3. TYPE OF REPORT <i>(Check one)</i>			4. REPORT NUMBER		5. DATE OF REPORT
<input type="checkbox"/> INTERIM <input type="checkbox"/> COMPLETION OF DESIGN OR STUDY <input type="checkbox"/> COMPLETION OF CONSTRUCTION <input type="checkbox"/> TERMINATION					
6. NAME AND ADDRESS OF CONTRACTOR			7. PROJECT DESCRIPTION AND LOCATION		
8. OFFICE RESPONSIBLE FOR:					
A. SELECTION OF CONTRACTOR		B. NEGOTIATION/AWARD OF CONTRACT		C. ADMINISTRATION OF CONTRACT	
9. CONTRACT DATA					
A. TYPE OF WORK			B. TYPE OF CONTRACT		
			<input type="checkbox"/> FIXED-PRICE <input type="checkbox"/> OTHER <i>(Specify)</i> <input type="checkbox"/> COST-REIMBURSEMENT		
C. PROJECT COMPLEXITY		D. PROFESSIONAL SERVICES CONTRACT			
<input type="checkbox"/> DIFFICULT <input type="checkbox"/> ROUTINE <input type="checkbox"/> SIMPLE		INITIAL FEE	AMENDMENTS		CLAIMS BY CONTRACTOR
		NO.	AMOUNT	NO.	AMOUNT
		\$	\$	\$	\$
E. DATE CONTRACT AWARDED		F. CONTRACT COMPLETION DATE <i>(Including extensions)</i>		G. ACTUAL COMPLETION DATE OF CONTRACT	
10. KEY CONSULTANT DATA					
A. NAMES		B. ADDRESS		C. SPECIALTY	
11. CONSTRUCTION COSTS		A. INITIAL ESTIMATE	B. AWARD		C. ACTUAL
		\$	\$		\$
12. CONSTRUCTION CHANGES AND DEFICIENCIES		NUMBER		TOTAL	
A. CONSTRUCTION CHANGES				\$	
B. CONSTRUCTION CHANGES RESULTING FROM DEFICIENCIES IN A-E PERFORMANCE				\$	
C. DEFICIENCIES PAID FOR BY A-E				\$	
D. DEFICIENCIES PAID FOR BY GOVERNMENT				\$	
13. OVERALL RATING			14. RECOMMENDED FOR FUTURE CONTRACTS?		
<input type="checkbox"/> EXCELLENT <input type="checkbox"/> AVERAGE <input type="checkbox"/> POOR			<input type="checkbox"/> YES <input type="checkbox"/> NO <i>(If "NO," explain in REMARKS on reverse)</i>		
15A. NAME AND TITLE OF RATING OFFICIAL			16A. NAME AND TITLE OF REVIEWING OFFICIAL		
15B. SIGNATURE		15C. DATE	16B. SIGNATURE		16C. DATE
NSN 7540-01-155-3244			STANDARD FORM 1421 (10-83) Prescribed by GSA FAR (48 CFR) 5.236-2(d)		

Standard Form 1421 (Back)

STAGES OF SERVICES <i>(As applicable)</i>					PERFORMANCE								RATED BY	
					NOT APPLICABLE	RATING FACTORS/RATING								
						ACCURACY	COMPLETENESS	COOPERATION	COORDINATION	MANAGEMENT	MEETING SCHEDULE	PERSONNEL ABILITY	WORK QUALITY	CODE LEGEND:
CONCEPTS	SCHEDULE <i>(Mo., day, yr.)</i>	FROM	TO	ARCH. STRU.										
	ACTUAL <i>(Mo., day, yr.)</i>	FROM	TO	MECH. ELEC.										
TENTATIVES	SCHEDULE <i>(Mos. day, yr.)</i>	FROM	TO	ARCH. STRU.										
	ACTUAL <i>(Mo., day, yr.)</i>	FROM	TO	MECH. ELEC.										
WORKING DRAWINGS	SCHEDULE <i>(Mo., day, yr.)</i>	FROM	TO	ARCH. STRU.										
	ACTUAL <i>(Mo., day, yr.)</i>	FROM	TO	MECH. ELEC.										
ESTIMATES				A/S										
				M/E										
CRITICAL PATH METHOD				PRE-AWARD POST-AWARD										
POST CONSTRUCTION CONTRACT SERVICES				SHOP DWGS. MANUALS										
INSPECTION				FIELD OFFICE										
SOLICITATION DOCUMENTS														
REMARKS														

Standard Form 1423

INVENTORY VERIFICATION SURVEY (See FAR 45.602-1(b)(1))				DATE		
SECTION I - GENERAL						
1. FROM: <i>(Include ZIP Code)</i>			2. TO: <i>(Include ZIP Code)</i>			
3. CONTRACT NUMBER AND TYPE			4. CONTRACTOR/SUBCONTRACTOR			
5A. SCHEDULES OF INVENTORY TO BE INSPECTED AND VERIFIED			5B. PLANT CLEARANCE CASE NUMBER/DOCUMENT NUMBER			
REFERENCE NUMBER	PAGES		AMOUNT (\$)			
	START NO.	END NO.				
SECTION II - TECHNICAL VERIFICATION						
6. IS PROPERTY LISTED ON THE INVENTORY DISPOSAL SCHEDULES ON HAND AND IN THE QUANTITIES INDICATED?		YES	NO	12. ARE THE WEIGHTS OF THE ITEMS APPROXIMATELY CORRECT? IF WEIGHTS ARE NOT SHOWN, GIVE ESTIMATE OF WEIGHT BY BASIC MATERIAL CONTENT:		
7. IS THE PROPERTY CORRECTLY DESCRIBED ON THE INVENTORY DISPOSAL SCHEDULES?			*			
8. IS THE PROPERTY SEGREGATED OR ADEQUATELY PROTECTED?			*	13. DO THE ITEMS APPEAR TO HAVE COMMERCIAL VALUE OTHER THAN SCRAP?		
9. IS THE PROPERTY PROPERLY TAGGED?			*	14. DID CONTRACTOR MAKE REASONABLE EFFORTS TO RETURN THE PROPERTY?		
10. ARE THE CONDITION CODES ACCURATE?			*	15. DO ANY ITEMS REQUIRE DEMILITARIZATION OR SPECIAL PROCESSING <i>(sensitive items)?</i>		
11. IS THE PROPERTY CLASSIFICATION CORRECTLY IDENTIFIED?			*	16. ARE COMMON ITEMS INCLUDED ON THE INVENTORY DISPOSAL SCHEDULE?		
SECTION III - TERMINATION INVENTORY						
COMPLETION OF THIS SECTION <input type="checkbox"/> IS <input type="checkbox"/> IS NOT REQUIRED <i>(Requester, check one)</i>						
17. DID WORK STOP PROMPTLY UPON RECEIPT OF THE TERMINATION NOTICE? DATE OF NOTICE: _____		YES	NO	20. DOES THE INVENTORY INCLUDE REJECTS? IF YES, EXPLAIN SPECIFIC LINE ITEM ENTRIES. OBTAIN FROM CONTRACTOR ESTIMATED COST OF REWORKING REJECTS ON SPECIFIC LINE ITEM BASIS.		
18a. DO THE QUANTITIES OF MATERIAL EXCEED THE AMOUNTS THAT WOULD HAVE BEEN REQUIRED TO COMPLETE THE TERMINATED PORTION OF THE CONTRACT?			*	21a. HAVE COMPLETED ARTICLES BEEN INSPECTED AS TO QUALITY AND CONFORMANCE TO SPECIFICATIONS?		
b. CAN THE ITEMS OF TERMINATION INVENTORY BE USED ON THE CONTINUING PORTION OF THE CONTRACT?			*	b. DO THE COMPLETED ITEMS INSPECTED CONFORM TO CONTRACT SPECIFICATIONS?		
19. ARE ALL ITEMS AND QUANTITIES ALLOCABLE TO THE TERMINATION PORTION OF THIS CONTRACT OR ORDER?			*	c. DO OTHER THAN COMPLETED ITEMS CONFORM WITH TECHNICAL REQUIREMENTS OF THE CONTRACT OR ORDER?		
22. FOR WORK-IN-PROCESS, IS THE PERCENTAGE OF COMPLETION ACCURATE?			*			
23. REQUESTING OFFICE REMARKS <i>(Where the answer to any question is placed in a block containing an asterisk (*) detailed comments of the verifier shall be included on the reverse of this form and identified by section and item number.)</i>						
24. SIGNATURE OF REQUESTER						
INVENTORY VERIFICATION The above information is based on a physical verification of inventory listed under Item 5.						
25. NAME AND TITLE		26. SIGNATURE OF VERIFIER		27. DATE		
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Standard Form 1424

INVENTORY DISPOSAL REPORT (See FAR 45.605)		PLANT CLEARANCE CASE NUMBER	
TO: <i>(Include ZIP Code)</i>		FROM: <i>(Include ZIP Code)</i>	
1. DATE PLANT CLEARANCE CASE OPENED	2. DATE PLANT CLEARANCE CASE CLOSED	3. NUMBER OF DAYS BETWEEN OPENING AND CLOSING	
4. NAME AND ADDRESS OF CONTRACTOR/SUBCONTRACTOR <i>(Include ZIP Code)</i>		5. IF SUBCONTRACTOR, STATE NAME AND ADDRESS OF PRIME CONTRACTOR <i>(Include ZIP Code)</i>	
6. LOCATION OF PROPERTY <i>(City and State)</i>	7. CONTRACT NUMBER	8. DOCKET NUMBER <i>(Termination only)</i>	
	9. SUBCONTRACT NUMBER	10. CONTRACTOR REFERENCE NUMBER	
DISPOSITION OF PROPERTY			
ITEM DESCRIPTION	LINE ITEMS	ACQUISITION COST	PROCEEDS
11. TOTAL INVENTORY AS SUBMITTED			
12. ADJUSTMENTS <i>(Pricing errors, shortages, etc.)</i>			
13. ADJUSTED INVENTORY <i>(Line 11 + or - Line 12)</i>			
14. PURCHASE OR RETENTION AT COST			
15. RETURN TO SUPPLIERS <i>(Net Proceeds)</i>			
16. REDISTRIBUTIONS			
A. WITHIN OWNING AGENCY			
B. OTHER AGENCIES			
TOTAL			
17. DONATIONS			
18. SALES			
19. SALES - SCRAP PROCEEDS TO OVERHEAD			
20.			
21.			
22. TOTAL PROCEEDS CREDIT <i>(Total Lines 14, 15, and 18)</i>			
23. ABANDONED			
24. DESTROYED/ABANDONED			
25. DESTROYED/SCRAPPED			
26. OTHER <i>(Explain in Item 28, Remarks)</i>			
27. TOTAL DISPOSITIONS			
28. REMARKS <i>(Identify contract number in which proceeds were applied, or disbursing office where proceeds were deposited)</i>			
<p>To the best of my knowledge, disposition of all property on this case has been effected in accordance with existing regulations, all property has been accounted for and all disposal credits properly applied.</p>			
CONTRACT ADMINISTRATION OFFICE <i>(Authorized signature and title)</i>		DATE	
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Standard Form 1428

INVENTORY DISPOSAL SCHEDULE (See Reverse for Instructions) (See FAR 52.245-2(i)(3) and 52.245-5(i)(3))		1. TYPE (Check block(s) when applicable) <input type="checkbox"/> TERMINATION <input type="checkbox"/> INVENTORY <input type="checkbox"/> FINAL SCHEDULE		2. SCHEDULE REFERENCE NUMBER	PAGE NO.	NO. OF PAGES	OMB No.: 9000-0075 Expires: 10/31/2006														
Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVA), Regulatory and Federal Assistance Publications Division, GSA, Washington, DC 20405.																					
3. PRIME CONTRACT NO.		4. SUBCONTRACTOR/P.O. NO.		5. CONTRACT TYPE		6. TERM DOCKET NUMBER		7. TOTAL LINE ITEMS		8. TOTAL ACQUISITION COST											
9a. CAGE CODE (9b. PRIME CONTRACTOR (Point of Contact))		10a. CAGE CODE		10b. SUBCONTRACTOR (Point of Contact)																	
9c. STREET ADDRESS		10c. STREET ADDRESS																			
9d. CITY, STATE, AND ZIP CODE		10d. CITY, STATE, AND ZIP CODE																			
11a. LOCATION OF PROPERTY		11b. POINT OF CONTACT FOR PROPERTY		12. PRODUCT COVERED BY CONTRACT/ORDER																	
13. ITEM NO.		14. ITEM DESCRIPTION		15. GOVT. FURNISHED/ CONTRACTOR ACQUIRED		16. DML CODE		17. PROPERTY CLASSIFICATION		18. GOVERNMENT PART OR DRAWING NUMBER AND REVISION NUMBER		19. CONDITION CODE		20. QUANTITY		21. UNIT OF MEASURE		22. COST UNIT (a) TOTAL (b)		23. CONTRACTOR'S OFFER	
24a. SIGNATURE OF CONTRACTOR SUBMITTING SCHEDULE				24b. NAME OF CONTRACTOR SUBMITTING SCHEDULE				24c. TITLE				24d. DATE									
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Standard Form 1428 (Back)

INSTRUCTIONS

The Contractor shall submit all schedules to the Plant Clearance Officer.

Manual submissions. Prepare a separate schedule for items in each property classification (block 17) and a separate schedule for scrap. Submit an original and 2 copies of each scrap schedule and continuation sheet (SF 1429). For other schedules, an original and 7 copies are required.

Electronic submissions. Group all items of the same property classification. Submit separate schedules for scrap.

General Instructions.

BLOCKS 1, 2 & 4 - Self-explanatory.

BLOCK 3 - PRIME CONTRACT NO. (For contract modifications and BOAs). If the property applies solely to one contract modification indicate the modification number after the contract number. For task orders and orders under basic ordering agreements, enter the contract number or BOA number followed by the order number under which the property is accountable.

BLOCK 5 - CONTRACT TYPE. Use one of the following codes:

- J - Fixed-Price
- O - Other
- S - Cost-Reimbursement
- Y - Time-and-Material
- Z - Labor-Hour
- 9 - Task Order Contracts and Orders under Basic Ordering Agreements (BOAs)

BLOCKS 6-8 - Self-explanatory.

BLOCKS 9a and 10a - CAGE CODE. Enter the Commercial and Government Entity code when applicable.

BLOCKS 9b-d, 10b-d, and 11a-13 - Self-explanatory.

BLOCK 14 - ITEM DESCRIPTION. Describe each item in sufficient detail to permit the Government to determine its appropriate disposition. Scrap may be described as a lot including metal content, estimated weight and estimated acquisition cost. For all other property, provide the information required by FAR Part 45.505. List the national stock number (NSN) first. For the following, also provide:

Special tooling and special test equipment. Identify each part number with which the item is used.

Computers, components thereof, peripheral and related equipment. The manufacturer's name, model and serial number, and date manufactured.

Work in process. The estimated percentage of completion.

Precious metals. The metal type and estimated weight.

Hazardous material or property contaminated with hazardous material. The type of hazardous material.

Metals in mill product form. The form, shape, treatments, hardness, temper, specification (commercial or Government), and dimensions (thickness, width, and length).

BLOCK 15 - GOVERNMENT FURNISHED/CONTRACTOR ACQUIRED. Per line item, enter one of the following:

- GF - Government furnished
- CA - Contractor acquired

BLOCK 16 - DML CODE. (Demilitarization code). If applicable, enter the code specified in DoD 4160.21-M-1.

BLOCK 17 - PROPERTY CLASSIFICATION. Use one of the following classifications for each line item:

- EQ - Equipment
- M - Material
- STE - Special test equipment
- ST - Special tooling
- APP - Agency peculiar property

In addition, when applicable, list one of the following sub classifications for each line item below the property classification:

- COM - Computers, peripherals, etc.
- AAE - Arms, ammunition and explosives
- PM - Precious metals
- HAZ - Hazardous materials
- ME - Metals in mill product form
- WIP - Work in process
- CL - Classified

BLOCK 18 - Self-explanatory.

BLOCK 19 - CONDITION CODE. Assign one of the following codes to each item:

Code 1. Property which is in new condition or unused condition and can be used immediately without modifications or repairs.

Code 4. Property which shows some wear, but can be used without significant repair.

Code 7. Property which is unusable in its current condition but can be economically repaired.

Code X. Property which has value in excess of its basic material content, but repair or rehabilitation is impractical and/or uneconomical.

Code S. Property has no value except for its basic material content.

BLOCKS 20-22 - Self-explanatory.

BLOCK 23 - CONTRACTOR'S OFFER. The Contractor's offer to purchase the item if it survives screening.

Standard Form 1429

INVENTORY DISPOSAL SCHEDULE - CONTINUATION SHEET		PAGE NO.	NO. OF PAGES	OMB No.: 9000-0075 Expires: 10/31/2006							
13. ITEM NO.	14. ITEM DESCRIPTION	15. GOVT. FURNISHED/ CONTRACTOR ACQUIRED	16. DML CODE	17. PROPERTY CLASSIFICATION	18. GOVERNMENT PART OR DRAWING NUMBER AND REVISION NUMBER	19. CONDITION CODE	20. QUANTITY	21. UNIT OF MEASURE	22. COST		23. CONTRACTOR'S OFFER
									UNIT (a)	TOTAL (b)	

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVA), Regulatory and Federal Assistance Publications Division, GSA, Washington, DC 20405.

STANDARD FORM 1429 (REV. 5/2004)
Prescribed by GSA-FAR (48 CFR) 53.245(e) and 53.249(b)

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Standard Form 1435

SETTLEMENT PROPOSAL (INVENTORY BASIS)				OMB No.: 9000-0012 Expires: 05/31/98		
Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.						
FOR USE BY A FIXED-PRICE PRIME CONTRACTOR OR FIXED-PRICE SUBCONTRACTOR						
THIS PROPOSAL APPLIES TO <i>(Check one)</i> <input type="checkbox"/> A PRIME CONTRACT WITH THE GOVERNMENT SUBCONTRACT OR PURCHASE ORDER NO(S).			COMPANY			
<input type="checkbox"/> SUBCONTRACT OR PURCHASE ORDER			STREET ADDRESS			
CONTRACTOR WHO SENT NOTICE OF TERMINATION			CITY AND STATE <i>(Include ZIP Code)</i>			
NAME			NAME OF GOVERNMENT AGENCY			
ADDRESS <i>(Include ZIP Code)</i>			GOVERNMENT PRIME CONTRACT NO.		CONTRACTOR'S REFERENCE NO.	
If moneys payable under the contract have been assigned, give the following:			EFFECTIVE DATE OF TERMINATION			
NAME OF ASSIGNEE			PROPOSAL NO.			
ADDRESS <i>(Include ZIP Code)</i>			CHECK ONE <input type="checkbox"/> INTERIM <input type="checkbox"/> FINAL			
SF 1439, SCHEDULE OF ACCOUNTING INFORMATION <input type="checkbox"/> IS			<input type="checkbox"/> IS NOT ATTACHED <i>(If not, explain below)</i>			
SECTION I - STATUS OF CONTRACT OR ORDER AT EFFECTIVE DATE OF TERMINATION						
PRODUCTS COVERED BY TERMINATED CONTRACT OR PURCHASE ORDER (a)		FINISHED		UNFINISHED OR NOT COMMENCED		TOTAL COVERED BY CONTRACT OR ORDER (g)
		PREVIOUSLY SHIPPED AND INVOICED (b)	ON HAND PAYMENT TO BE RECEIVED THROUGH INVOICING (c)	INCLUDED IN THIS PROPOSAL (d)	TO BE COMPLETED <i>(Partial termination only)</i> (e)	
QUANTITY						
\$						
QUANTITY						
\$						
QUANTITY						
\$						
SECTION II - PROPOSED SETTLEMENT						
NO.	ITEM (a)	(Use Columns (b) and (c) only where previous proposal has been filed)		TOTAL PROPOSED TO DATE (d)	FOR USE OF CONTRACTING AGENCY ONLY (e)	
		TOTAL PREVIOUSLY PROPOSED (b)	INCREASE OR DECREASE BY THIS PROPOSAL (c)			
1	METALS					
2	RAW MATERIALS <i>(other than metals)</i>					
3	PURCHASED PARTS					
4	FINISHED COMPONENTS					
5	MISCELLANEOUS INVENTORY					
6	WORK-IN-PROCESS					
7	SPECIAL TOOLING AND SPECIAL TEST EQUIPMENT					
8	OTHER COSTS <i>(from Schedule B)</i>					
9	GENERAL AND ADMINISTRATIVE EXPENSES <i>(from Schedule C)</i>					
10	TOTAL (Items 1 to 9 inclusive)					
11	PROFIT <i>(explain in Schedule D)</i>					
12	SETTLEMENT EXPENSES <i>(from Schedule E)</i>					
13	TOTAL (Items 10 to 12 inclusive)					
14	SETTLEMENTS WITH SUBCONTRACTORS <i>(from Schedule F)</i>					
15	ACCEPTABLE FINISHED PRODUCT					
16	GROSS PROPOSED SETTLEMENT <i>(Items 13 thru 15)</i>					
17	DISPOSAL AND OTHER CREDITS <i>(from Schedule G)</i>					
18	NET PROPOSED SETTLEMENT <i>(Item 16 less 17)</i>					
19	ADVANCE, PROGRESS & PARTIAL PAYMENTS <i>(from Schedule H)</i>					
20	NET PAYMENT REQUESTED (Item 18 less 19)					
<i>(When the space provided for any information is insufficient, continue on a separate sheet.)</i>						
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Standard Form 1435 (Page 2)

SCHEDULE A - ANALYSIS OF INVENTORY COST (Items 4 and 6)

Furnish the following information (unless not reasonably available) for inventories of finished components and work-in-progress included in this proposal:

	TOTAL DIRECT LABOR	TOTAL DIRECT MATERIALS	TOTAL INDIRECT EXPENSES	TOTAL
FINISHED COMPONENTS				
WORK-IN-PROGRESS				

NOTE: Individual items of small amounts may be grouped into a single entry in Schedules B, C, D, and G.

SCHEDULE B - OTHER COSTS (Item 8)

ITEM	EXPLANATION	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

SCHEDULE C - GENERAL AND ADMINISTRATIVE EXPENSES (Item 9)

DETAIL OF EXPENSES	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

SCHEDULE D - PROFIT (Item 11)

EXPLANATION	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

(Where the space provided for any information is insufficient, continue on a separate sheet.)

Standard Form 1436

SETTLEMENT PROPOSAL (TOTAL COST BASIS)	OMB No.: 9000-0012 Expires: 06/30/2004
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Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVA), Regulatory and Federal Assistance Publications Division, GSA, Washington, DC 20405.

FOR USE BY A FIXED-PRICE PRIME CONTRACTOR OR FIXED-PRICE SUBCONTRACTOR

THIS PROPOSAL APPLIES TO (Check one) <input type="checkbox"/> A PRIME CONTRACT WITH THE GOVERNMENT <input type="checkbox"/> SUBCONTRACT OR PURCHASE ORDER SUBCONTRACT OR PURCHASE ORDER NO(S).	COMPANY STREET ADDRESS CITY AND STATE (Include ZIP Code)
CONTRACTOR WHO SENT NOTICE OF TERMINATION NAME ADDRESS (Include ZIP Code)	NAME OF GOVERNMENT AGENCY GOVERNMENT PRIME CONTRACT NO. CONTRACTOR'S REFERENCE NO.
If moneys payable under the contract have been assigned, give the following: NAME OF ASSIGNEE ADDRESS (Include ZIP Code)	EFFECTIVE DATE OF TERMINATION PROPOSAL NO. CHECK ONE <input type="checkbox"/> INTERIM <input type="checkbox"/> FINAL
SF 1439, SCHEDULE OF ACCOUNTING INFORMATION <input type="checkbox"/> IS <input type="checkbox"/> IS NOT ATTACHED (If not, explain below)	

SECTION I - STATUS OF CONTRACT OR ORDER AT EFFECTIVE DATE OF TERMINATION

PRODUCTS COVERED BY TERMINATED CONTRACT OR PURCHASE ORDER	(a)	FINISHED			UNFINISHED OR NOT COMMENCED		TOTAL COVERED BY CONTRACT OR ORDER
		PREVIOUSLY SHIPPED AND INVOICED (b)	PAYMENT TO BE RECEIVED THROUGH INVOICING (c)	PAYMENT NOT TO BE RECEIVED THROUGH INVOICING (d)	SUBSEQUENTLY COMPLETED AND INVOICED* (e)	NOT TO BE COMPLETED (f)	
	QUANTITY						
	\$						
	QUANTITY						
	\$						
	QUANTITY						
	\$						

SECTION II - PROPOSED SETTLEMENT

NO.	ITEM (a)	(Use Columns (b) and (c) only where previous proposal has been filed) TOTAL PREVIOUSLY PROPOSED (b) INCREASE OR DECREASE BY THIS PROPOSAL (c)		TOTAL PROPOSED TO DATE (d)	FOR USE OF CONTRACTING AGENCY ONLY (e)
1	DIRECT MATERIAL				
2	DIRECT LABOR				
3	INDIRECT FACTORY EXPENSE (from Schedule A)				
4	SPECIAL TOOLING AND SPECIAL TEST EQUIPMENT (SF 1428)				
5	OTHER COSTS (from Schedule B)				
6	GENERAL AND ADMINISTRATIVE EXPENSES (from Schedule C)				
7	TOTAL COSTS (Items 1 thru 6)				
8	PROFIT (Explain in Schedule D)				
9	TOTAL (Items 7 and 8)				
10	DEDUCT FINISHED PRODUCT INVOICED OR TO BE INVOICED*				
11	TOTAL (Item 9 less Item 10)				
12	SETTLEMENT EXPENSES (from Schedule E)				
13	TOTAL (Items 11 and 12)				
14	SETTLEMENTS WITH SUBCONTRACTORS (from Schedule F)				
15	GROSS PROPOSED SETTLEMENT (Items 13 thru 14)				
16	DISPOSAL AND OTHER CREDITS (from Schedule G)				
17	NET PROPOSED SETTLEMENT (Item 15 less 16)				
18	ADVANCE, PROGRESS & PARTIAL PAYMENTS (from Schedule H)				
19	NET PAYMENT REQUESTED (Item 17 less 18)				

* Column (e), Section I, should only be used in the event of a partial termination, in which the total cost reported in Section II should be accumulated to date of completion of the continued portion of the contract and the deduction for finished product (Item 10, Section II) should be the contract price of finished product in Column (b), (c), and (e), Section I.

NOTE: File inventory schedule (SF 1428) for allocable inventories on hand at date of termination (See 49.206).

(When the space provided for any information is insufficient, continue on a separate sheet.)

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Prescribed by GSA FAR (48 CFR) 53.240(a)(3)

Standard Form 1436 (Page 2)

SCHEDULE A - INDIRECT FACTORY EXPENSE <i>(Item 3)</i>			
DETAIL OF EXPENSES	METHOD OF ALLOCATION	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

NOTE: Individual items of small amounts may be grouped into a single entry in Schedules B, C, D, E, and G.

SCHEDULE B - OTHER COSTS <i>(Item 5)</i>			
ITEM	EXPLANATION	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

SCHEDULE C - GENERAL AND ADMINISTRATIVE EXPENSES <i>(Item 6)</i>			
DETAIL OF EXPENSES	METHOD OF ALLOCATION	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

SCHEDULE D - PROFIT <i>(Item 8)</i>			
EXPLANATION	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY	

(Where the space provided for any information is insufficient, continue on a separate sheet.)

Standard Form 1436 (Page 3)

SCHEDULE E - SETTLEMENT EXPENSES <i>(Item 12)</i>			
ITEM	EXPLANATION	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

SCHEDULE F - SETTLEMENTS WITH IMMEDIATE SUBCONTRACTORS AND SUPPLIERS <i>(Item 14)</i>			
NAME AND ADDRESS OF SUBCONTRACTOR	BRIEF DESCRIPTION OF PRODUCT CANCELED	AMOUNT OF SETTLEMENT	FOR USE OF CONTRACTING AGENCY ONLY

SCHEDULE G - DISPOSAL AND OTHER CREDITS <i>(Item 16)</i>		
DESCRIPTION	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

(If practicable, show separately amount of disposal credits applicable to acceptable finished product included on SF 1428.)

(Where the space provided for any information is insufficient, continue on a separate sheet.)

Standard Form 1437

SETTLEMENT PROPOSAL FOR COST-REIMBURSEMENT TYPE CONTRACTS	OMB No.: 9000-0012 Expires: 05/31/98
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Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

To be used by prime contractors submitting settlement proposals on cost-reimbursement type contracts under Part 49 of the Federal Acquisition Regulation. Also suitable for use in connection with terminated cost-reimbursement type subcontracts.

COMPANY	PROPOSAL NUMBER	CHECK ONE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL
STREET ADDRESS	GOVERNMENT PRIME CONTRACT NO.	REFERENCE NO.
CITY AND STATE <i>(Include ZIP Code)</i>	EFFECTIVE DATE OF TERMINATION	

ITEM (a)	TOTAL PREVIOUSLY SUBMITTED (b)	INCREASE OR DECREASE BY THIS PROPOSAL (c)	TOTAL SUBMITTED TO DATE (d)
1. DIRECT MATERIAL	\$	\$	\$
2. DIRECT LABOR			
3. INDIRECT FACTORY EXPENSE			
4. SPECIAL TOOLING AND SPECIAL TEST EQUIPMENT			
5. OTHER COSTS			
6. GENERAL AND ADMINISTRATIVE EXPENSE			
7. TOTAL COST <i>(Items 1 thru 6)</i>	\$	\$	\$
8. FEE			
9. SETTLEMENT EXPENSES			
10. SETTLEMENTS WITH SUBCONTRACTORS			
11. GROSS PROPOSED SETTLEMENT <i>(Items 7 thru 10)</i>			
12. DISPOSAL AND OTHER CREDITS			
13. NET PROPOSED SETTLEMENT <i>(Item 11 less 12)</i>	\$	\$	\$
14. PRIOR PAYMENTS TO CONTRACTOR	\$	\$	\$
15. NET PAYMENT REQUESTED <i>(Item 13 less 14)</i>	\$	\$	\$

CERTIFICATE

This is to certify that the undersigned, individually, and as an authorized representative of the Contractor, has examined this termination settlement proposal and that, to the best knowledge and belief of the undersigned:

(a) AS TO THE CONTRACTOR'S OWN CHARGES. The proposed settlement (exclusive of charges set forth in Item 10) and supporting schedules and explanations have been prepared from the books of account and records of the Contractor in accordance with recognized commercial accounting practices; they include only those charges allocable to the terminated portion of this contract; they have been prepared with knowledge that they will, or may, be used directly or indirectly as the basis of settlement of a termination settlement proposal or claim against an agency of the United States; and the charges as stated are fair and reasonable.

(b) AS TO THE SUBCONTRACTORS' CHARGES. (1) The Contractor has examined, or caused to be examined, to an extent it considered adequate in the circumstances, the termination settlement proposals of its immediate subcontractors (exclusive of proposals filed against these immediate subcontractors by their subcontractors); (2) The settlements on account of immediate subcontractors' own charges are fair and reasonable, the charges are allocable to the terminated portion of this contract, and the settlements were negotiated in good faith and are not more favorable to its immediate subcontractors than those that the Contractor would make if reimbursement by the Government were not involved; (3) The Contractor has received from all its immediate subcontractors appropriate certificates with respect to their termination settlement proposals, which certificates are substantially in the form of this certificate; and (4) The Contractor has no information leading it to doubt (i) the reasonableness of the settlements with more remote subcontractors or (ii) that the charges for them are allocable to this contract. Upon receipt by the Contractor of amounts covering settlements with its immediate subcontractors, the Contractor will pay or credit them promptly with the amounts so received, to the extent that it has not previously done so. The term "subcontractors," as used above, includes suppliers.

NOTE: The Contractor shall, under conditions stated in FAR 15.403, be required to submit a Certificate of Current Cost or Pricing Data (see FAR 15.406-2 and 15.408 Table 15-2).

NAME OF CONTRACTOR	BY <i>(Signature of authorized official)</i>	
	TITLE	DATE
NAME OF SUPERVISORY ACCOUNTING OFFICIAL	TITLE	

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STANDARD FORM 1437 (REV. 9-97)
Prescribed by GSA - FAR (48 CFR) 53.249(a)(4)

Standard Form 1438

SETTLEMENT PROPOSAL (SHORT FORM)		OMB No.: 9000-0012 Expires: 06/30/2004				
Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVA), Regulatory and Federal Assistance Publications Division, GSA, Washington, DC 20405.						
For Use by a Prime Contractor or Subcontractor in Settlement of a Fixed Price Terminated Contract When Total Charges Claimed Are Less Than \$10,000.						
THIS PROPOSAL APPLIES TO <i>(Check one)</i>		COMPANY <i>(Prime or Subcontractor)</i>				
<input type="checkbox"/> A PRIME CONTRACT WITH THE GOVERNMENT						
<input type="checkbox"/> SUBCONTRACT OR PURCHASE ORDER						
SUBCONTRACT OR PURCHASE ORDER NO.(S)		STREET ADDRESS				
CONTRACTOR WHO SENT NOTICE OF TERMINATION		CITY AND STATE <i>(Include ZIP code)</i>				
NAME		NAME OF GOVERNMENT AGENCY				
ADDRESS <i>(Include ZIP Code)</i>		GOVERNMENT PRIME CONTRACT NO.				
If moneys payable under the contract have been assigned, give the following:		CONTRACTOR'S REFERENCE NO.				
NAME OF ASSIGNEE		EFFECTIVE DATE OF TERMINATION				
ADDRESS <i>(Include ZIP Code)</i>						
SECTION I - STATUS OF CONTRACT OR ORDER AT EFFECTIVE DATE OF TERMINATION						
PRODUCTS COVERED BY TERMINATED CONTRACT OR PURCHASE ORDER	PREVIOUSLY SHIPPED AND INVOICED	FINISHED ON HAND		UNFINISHED OR NOT COMMENCED		TOTAL COVERED BY CONTRACT OR ORDER
		PAYMENT TO BE RECEIVED THROUGH INVOICING	INCLUDED IN THIS PROPOSAL	TO BE COMPLETED <i>(Partial termination only)</i>	NOT TO BE COMPLETED	
(a)	(b)	(c)	(d)	(e)	(f)	(g)
	QUANTITY					
	\$					
	QUANTITY					
	\$					
	QUANTITY					
	\$					
SECTION II - PROPOSED SETTLEMENT						
NO.	ITEM <i>(Include only items allocable to the terminated portion of contract)</i>					AMOUNT OF CHARGE (\$)
1	CHARGE FOR ACCEPTABLE FINISHED PRODUCT NOT COVERED BY INVOICING <i>(from SF 1428)</i>					
2	CHARGE FOR WORK-IN-PROGRESS, RAW MATERIAL, ETC. ON HAND <i>(from SF 1428)</i>					
3	OTHER CHARGES INCLUDING PROFIT AND SETTLEMENT EXPENSES					
4	CHARGES FOR SETTLEMENT(S) WITH SUBCONTRACTORS					
5	GROSS PROPOSED SETTLEMENT <i>(Sum of Items 1 thru 4)</i>					
6	DISPOSAL AND OTHER CREDITS <i>(from SF 1424, Item 27, Col. 3)</i>					
7	NET PROPOSED SETTLEMENT <i>(Item 5 less 6)</i>					
8	ADVANCE, PROGRESS, AND PARTIAL PAYMENTS					
9	NET PAYMENT REQUESTED <i>(Item 7 less 8)</i>					
List your inventory on SF 1428 and attach a copy thereto. Retain for the applicable period specified in the prime contract all papers and records relating to this proposal for future examination.						
GIVE A BRIEF EXPLANATION OF HOW YOU ARRIVED AT THE AMOUNTS SHOWN IN ITEMS 3, 4, 6, AND 7						
I CERTIFY that the above proposed settlement includes only charges allocable to the terminated portion of the contract or purchase order, that the total charges (Item 5) and the disposal credits (Item 6) are fair and reasonable, and that this proposal has been prepared with knowledge that it will, or may, be used directly or indirectly as a basis for reimbursement under a settlement proposal(s) against agencies of the United States.		NAME OF YOUR COMPANY				
		SIGNATURE <i>(Signature of authorized official)</i>				
		TITLE			DATE	
<i>(Where the space provided for any information is insufficient, continue on a separate sheet.)</i>						
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Standard Form 1438 (Back)

INSTRUCTIONS

1. This settlement proposal should be submitted to the contracting officer, if you are a prime contractor, or to your customer, if you are a subcontractor. The term contract as used hereinafter includes a subcontract or a purchase order.

2. Proposals that would normally be included in a single settlement proposal, such as those based on a series of separate orders for the same item under one contract should be consolidated wherever possible, and must not be divided in such a way as to bring them below \$10,000.

3. You should review any aspects of your contract relating to termination and consult your customer or contracting officer for further information. Government regulations pertaining to the basis for determining a fair and reasonable termination settlement are contained in Part 49 of the Federal Acquisition Regulation. Your proposal for fair compensation should be prepared on the basis of the costs shown by your accounting records. Where your costs are not so shown, you may use any reasonable basis for estimating your costs which will provide for fair compensation for the preparations made and work done for the terminated portion of the contract, including a reasonable profit on such preparation and work.

4. Generally your settlement proposal may include under Items 2, 3, and 4, the following:

a. **COSTS** - Costs incurred which are rea-

sonably necessary and are properly allocable to the terminated portion of your contract under recognized commercial accounting practices, including direct and indirect manufacturing, selling and distribution, administrative, and other costs and expenses incurred.

b. **SETTLEMENT WITH SUBCONTRACTORS** - Reasonable settlements of proposals of subcontractors allocable to the terminated portion of the subcontract. Copies of such settlements will be attached hereto.

c. **SETTLEMENT EXPENSES** - Reasonable costs of protecting and preserving termination inventory in your possession and preparing your proposal.

d. **PROFIT** - A reasonable profit with respect to the preparations you have made and work you have actually done for the terminated portion of your contract. No profit should be included for work which has not been done, nor shall profit be included for settlement expenses, or for settlement with subcontractors.

5. If you use this form, your total charges being proposed (line 5), must be less than \$10,000. The Government has the right to examine your books and records relative to this proposal, and if you are a subcontractor, your customer must be satisfied with your proposal.

Standard Form 1439

SCHEDULE OF ACCOUNTING INFORMATION		OMB No.: 9000-0012 Expires: 05/31/98	
<p>Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Acquisition and Regulatory Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0012), Washington, DC 20503.</p> <p>To be used by prime contractors submitting termination proposals under part 49 of the Federal Acquisition Regulation. Also suitable for use by subcontractor in effecting subcontract settlements with prime contractor or immediate subcontractor.</p>			
THIS PROPOSAL APPLIES TO <i>(Check one)</i> <input type="checkbox"/> A PRIME CONTRACT WITH THE GOVERNMENT <input type="checkbox"/> SUBCONTRACT OR PURCHASE ORDER SUBCONTRACT OR PURCHASE ORDER NO.(S)		COMPANY <i>(Prime or Subcontractor)</i> STREET ADDRESS	
CONTRACTOR WHO SENT NOTICE OF TERMINATION NAME AND ADDRESS <i>(Include ZIP Code)</i>		CITY AND STATE <i>(Include ZIP Code)</i> NAME OF GOVERNMENT AGENCY	
		GOVERNMENT PRIME CONTRACT NO.	CONTRACTOR'S REFERENCE NO.
		EFFECTIVE DATE OF TERMINATION	
1. INDIVIDUAL IN YOUR ORGANIZATION FROM WHOM ADDITIONAL INFORMATION MAY BE REQUESTED ON QUESTIONS RELATING TO:			
ACCOUNTING MATTERS		PROPERTY DISPOSAL	
NAME		NAME	
TITLE	TELEPHONE NUMBER	TITLE	TELEPHONE NUMBER
ADDRESS <i>(Include ZIP Code)</i>		ADDRESS <i>(Include ZIP Code)</i>	
2. ARE THE ACCOUNTS OF THE CONTRACTOR SUBJECT TO REGULAR PERIODIC EXAMINATION BY INDEPENDENT PUBLIC ACCOUNTANTS? <input type="checkbox"/> YES <input type="checkbox"/> NO <i>(Name and address of accountants)</i>			
3. INDEPENDENT ACCOUNTANTS, IF ANY, WHO HAVE REVIEWED OR ASSISTED IN THE PREPARATION OF THE ATTACHED PROPOSAL			
NAME		ADDRESS <i>(Include ZIP Code)</i>	
4. GOVERNMENTAL AGENCY(IES) WHICH HAVE REVIEWED YOUR ACCOUNTS IN CONNECTION WITH PRIOR SETTLEMENT PROPOSALS DURING THE CURRENT AND PRECEDING FISCAL YEAR			
NAME		ADDRESS <i>(Include ZIP Code)</i>	
5. HAVE THERE BEEN ANY SIGNIFICANT DEVIATIONS FROM YOUR REGULAR ACCOUNTING PROCEDURES AND POLICIES IN ARRIVING AT THE COSTS SET FORTH IN THE ATTACHED PROPOSAL? <i>(If "yes," explain briefly)</i> <input type="checkbox"/> YES <input type="checkbox"/> NO			
6. WERE THE DETAILED COST RECORDS USED IN PREPARING THE PROPOSAL CONTROLLED BY AND IN AGREEMENT WITH YOUR GENERAL BOOKS OF ACCOUNT? <input type="checkbox"/> YES <input type="checkbox"/> NO			
7. STATE METHOD OF ACCOUNTING FOR TRADE AND CASH DISCOUNTS EARNED, REBATES, ALLOWANCES, AND VOLUME PRICE ADJUSTMENTS. ARE SUCH ITEMS EXCLUDED FROM COSTS PROPOSED? <input type="checkbox"/> YES <input type="checkbox"/> NO			
(Where the space provided for any information is insufficient, continue on a separate sheet.)			
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Standard Form 1439 (Page 2)

8. STATE METHOD OF RECORDING AND ABSORBING (1) GENERAL ENGINEERING AND GENERAL DEVELOPMENT EXPENSE AND (2) ENGINEERING AND DEVELOPMENT EXPENSE DIRECTLY APPLICABLE TO THE TERMINATED CONTRACT.

9. STATE TYPES AND SOURCE OF MISCELLANEOUS INCOME AND CREDITS AND MANNER OF RECORDING IN THE INCOME OR THE COST ACCOUNTS SUCH AS RENTAL OF YOUR FACILITIES TO OUTSIDE PARTIES, ETC.

10. METHOD OF ALLOCATING GENERAL AND ADMINISTRATIVE EXPENSE.

11. ARE COSTS AND INCOME FROM CHANGE ORDERS SEGREGATED FROM OTHER CONTRACT COSTS AND INCOME? (If "Yes," by what methods?)

YES NO

12. METHOD OF COMPUTING PROFIT SHOWN IN THE ATTACHED PROPOSAL AND REASON FOR SELECTING THE METHOD USED. FURNISH ESTIMATE OF AMOUNT OR RATE OF PROFIT IN DOLLARS OR PERCENT ANTICIPATED HAD THE CONTRACT BEEN COMPLETED.

13. ARE SETTLEMENT EXPENSES APPLICABLE TO PREVIOUSLY TERMINATED CONTRACTS EXCLUDED FROM THE ATTACHED PROPOSALS? (If "NO," explain.)

YES NO

14. DOES THIS PROPOSAL INCLUDE CHARGES FOR MAJOR INVENTORY ITEMS AND PROPOSALS OF SUBCONTRACTORS COMMON TO THIS TERMINATED CONTRACT AND OTHER WORK OF THE CONTRACTOR? (If "Yes," explain the method used in allocating amounts to the terminated portion of this contract.)

YES NO

15. EXPLAIN BRIEFLY YOUR METHOD OF PRICING INVENTORIES, INDICATING WHETHER MATERIAL HANDLING COST HAS BEEN INCLUDED IN CHARGES FOR MATERIALS.

16. ARE ANY PARTS, MATERIALS, OR FINISHED PRODUCT, KNOWN TO BE DEFECTIVE, INCLUDED IN THE INVENTORIES? (If "Yes," explain.)

YES NO

(Where the space provided for any information is insufficient, continue on a separate sheet.)

STANDARD FORM 1439 (REV. 7-83) PAGE 2

Standard Form 1439 (Page 3)

17. WERE INVENTORY QUANTITIES BASED ON A PHYSICAL COUNT AS OF THE DATE OF TERMINATION? *(If "No," explain exceptions.)*

YES NO

18. DESCRIBE BRIEFLY THE NATURE OF INDIRECT EXPENSE ITEMS INCLUDED IN INVENTORY COSTS *(See Schedule A, SF 1435)* AND EXPLAIN YOUR METHOD OF ALLOCATION USED IN PREPARING THIS PROPOSAL, INCLUDING IF PRACTICABLE, THE RATES USED AND THE PERIOD OF TIME UPON WHICH THEY ARE BASED.

19. STATE GENERAL POLICIES RELATING TO DEPRECIATION AND AMORTIZATION OF FIXED BASES, UNDERLYING POLICIES.

20. DO THE COSTS SET FORTH IN THE ATTACHED PROPOSAL INCLUDE PROVISIONS FOR ANY RESERVES OTHER THAN DEPRECIATION RESERVES? *(If "Yes," list such reserves.)*

YES NO

21. STATE POLICY OR PROCEDURE FOR RECORDING AND WRITING OFF STARTING LOAD.

22. STATE POLICIES FOR DISTINGUISHING BETWEEN CHARGES TO CAPITAL (FIXED) ASSET ACCOUNTS AND TO REPAIR AND MAINTENANCE ACCOUNTS.

23. ARE PERISHABLE TOOLS AND MANUFACTURING SUPPLIES CHARGED DIRECTLY TO CONTRACT COSTS OR INCLUDED IN INDIRECT EXPENSES?

(Where the space provided for any information is insufficient, continue on a separate sheet.)

STANDARD FORM 1439 (REV. 7-83) **PAGE 3**

Standard Form 1439 (Page 4)

24. HAVE ANY CHARGES FOR SERVANCE, DISMISSAL, OR SEPARATION PAY BEEN INCLUDED IN THIS PROPOSAL? (If "Yes," furnish brief explanation and estimates of amounts included.)

YES NO

25. STATE POLICIES RELATING TO RECORDING OF OVERTIME SHIFT PREMIUMS AND PRODUCTION BONUSES.

26. DOES CONTRACTOR HAVE A PENSION PLAN? (If "YES," state method of funding and absorption of past and current pension service costs.)

YES NO

27. IS THIS SETTLEMENT PROPOSAL BASED ON STANDARD COSTS?

YES (If "Yes," has adjustment to actual cost or adjustment for any significant variations been made?) YES NO (If "No," explain)
 NO

28. DOES THIS PROPOSAL INCLUDE ANY ELEMENT OF PROFIT TO THE CONTRACTOR OR RELATED ORGANIZATION, OTHER THAN (a) PROFIT SET FORTH SEPARATELY IN THE PROPOSAL OR (b) PROFIT INCLUDED IN THE CONTRACT PRICE AT WHICH ACCEPTABLE FINISHED PRODUCT, IF ANY, IS INCLUDED IN THE PROPOSAL? (If "Yes," explain briefly.)

YES NO

29. WHAT IS LENGTH OF TIME (PRODUCTION CYCLE) REQUIRED TO PRODUCE ONE OF THE END ITEMS FROM THE TIME THE MATERIAL ENTERS THE PRODUCTION LINE TO THE COMPLETION AS THE FINISHED PRODUCT?

30. STATE POLICY AND PROCEDURE FOR VERIFICATION AND NEGOTIATION OF SETTLEMENTS WITH SUBCONTRACTORS AND VENDORS.

CERTIFICATE

THIS CERTIFIES THAT, TO THE BEST KNOWLEDGE AND BELIEF OF THE UNDERSIGNED, THE ABOVE STATEMENTS ARE TRUE AND CORRECT

NAME OF CONTRACTOR

BY (Signature of supervisory accounting official)

TITLE

DATE

(Where the space provided for any information is insufficient, continue on a separate sheet.)

Standard Form 1440

APPLICATION FOR PARTIAL PAYMENT						OMB No.: 9000-0012 Expires: 05/31/98	
<p>Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0012), Washington, DC 20503.</p> <p style="text-align: center;">For use by Prime Contractor or Subcontractor under contracts terminated for the convenience of the Government</p>							
THIS APPLICATION APPLIES TO <i>(Check one)</i> <input type="checkbox"/> A PRIME CONTRACT WITH THE GOVERNMENT <input type="checkbox"/> SUBCONTRACT OR PURCHASE ORDER SUBCONTRACT OR PURCHASE ORDER NUMBER(S)				APPLICANT STREET ADDRESS CITY AND STATE <i>(Include ZIP Code)</i> NAME OF GOVERNMENT AGENCY			
CONTRACTOR WHO SENT NOTICE OF TERMINATION NAME ADDRESS <i>(Include ZIP Code)</i>				GOVERNMENT PRIME CONTRACT NUMBER CONTRACTOR'S REFERENCE NUMBER			
IF CONTRACTOR HAS GUARANTEED LOANS OR HAS ASSIGNED MONEYS DUE UNDER THE CONTRACT, GIVE THE FOLLOWING: NAME AND ADDRESS OF FINANCING INSTITUTION <i>(Include ZIP Code)</i>				EFFECTIVE DATE OF TERMINATION		DATE OF THIS APPLICATION	
NAME AND ADDRESS OF GUARANTOR <i>(Include ZIP Code)</i>				AMOUNT REQUESTED		APPLICATION NUMBER UNDER THIS TERMINATION	
NAME AND ADDRESS OF ASSIGNEE <i>(Include ZIP Code)</i>				\$			
SECTION I - STATUS OF CONTRACT OR ORDER AT EFFECTIVE DATE OF TERMINATION							
PRODUCTS COVERED BY TERMINATED CONTRACT OR PURCHASE ORDER (a)	QUANTITY	FINISHED			UNFINISHED OR NOT COMMENCED		TOTAL COVERED BY CONTRACT OR ORDER (g)
		PREVIOUSLY SHIPPED AND INVOICED (b)	PAYMENT TO BE RECEIVED THROUGH INVOICING (c)	ON HAND INCLUDED IN THIS APPLICATION (d)	TO BE COMPLETED (e)	NOT TO BE COMPLETED (f)	
	\$						
	\$						
	\$						
	\$						
SECTION II - APPLICANT'S OWN TERMINATION CHARGES <i>(Exclusive of its Subcontractors' Charges)</i>						SETTLEMENT PROPOSAL <input type="checkbox"/> ATTACHED <input type="checkbox"/> PREVIOUSLY SUBMITTED	
NO.	ITEM					CHARGES AS LISTED IN SETTLEMENT PROPOSAL	
1.	ACCEPTABLE FURNISHED PRODUCT <i>(at contract price)</i>					\$	
2.	WORK-IN-PROCESS						
3.	RAW MATERIALS, PURCHASED PARTS, AND SUPPLIES						
4.	GENERAL AND ADMINISTRATIVE EXPENSES						
5.	TOTAL (Sum of lines 1, 2, 3, and 4)					\$	
6.	SPECIAL TOOLING AND SPECIAL TEST EQUIPMENT						
7.	OTHER COSTS						
8.	SETTLEMENT EXPENSES						
9.	TOTAL (Sum of lines 5, 6, 7, and 8)					\$	
10.	SUBCONTRACTOR SETTLEMENTS APPROVED BY CONTRACTING OFFICER OR SETTLED UNDER A DELEGATION OF AUTHORITY AND PAID BY APPLICANT					\$	
11. AMOUNT RECEIVED							
(a)	UNLIQUIDATED PARTIAL, PROGRESS, AND ADVANCE PAYMENTS RECEIVED					\$	
(b)	DISPOSAL AND OTHER CREDITS						
(c)	TOTAL (Sum of lines a and b)						
(d)	AMOUNT OF PARTIAL PAYMENT REQUESTED						
(e)	TOTAL (Sum of lines c and d)					\$	
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Standard Form 1440 (Back)

SECTION III - AGREEMENT OF APPLICANT

IN CONSIDERATION OF PARTIAL PAYMENT THAT MAY BE MADE, THE APPLICANT AGREES AS FOLLOWS:

(a) **Repayment of Excess.** If any partial payment made to the Contractor is in excess of the amount finally determined to be due on its termination settlement proposal or claim, the Contractor shall repay the excess to the Government upon demand together with interest 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 of the excess payment to the date the excess is repaid. Interest shall not be charged however, for any (1) excess payment due to a reduction in the Contractor's proposal or claim because of retention or other disposition of termination inventory, until 10 days after the date of the retention or disposition, or any later date determined by the Contracting Officer because of the circumstances, or for (2) overpayment under cost-reimbursement research and development contracts (without profit or fee to the Contractor) if the overpayments are repaid to the Government within 30 days after demand.

(b) **Prompt Settlement of Proposal.** The applicant will make every effort to expedite final settlement of the termination settlement proposal and any proposals of its subcontractors.

(c) **Disposal and Retention of Inventory.** The applicant shall, within 10 days, notify the Contracting Officer whenever the proceeds received from the disposal of termination inventory, when added to the cost or agreed value of inventory retained by the applicant, exceeds the amount of its charges (Section II, Line 9) and the amount of such credits has not been included on Section II, Line b (Disposal and Other Credits).

SECTION IV - CERTIFICATE OF APPLICANT

I certify that the amount of charges (**exclusive of subcontractors' charges**) due as of the date of this application and allocable to the terminated portion of contract number _____ dated _____ with _____, is not less than \$ _____; that, to the best of my knowledge, (From Section II, Line 9) the amounts received are set forth above; and that I have not assigned any moneys payable under this contract, except as set forth above.

NAME OF APPLICANT	BY <i>(Signature of authorized official)</i>	
	TITLE	DATE

SECTION V - RECOMMENDATION OF FIRST REVIEWING CONTRACTOR

The undersigned states that it has examined this application and has considered the applicant's general reputation. It has no reason to doubt the accuracy of the information contained in this application or that amount certified by the applicant as due will constitute a proper charge to be included in the undersigned's termination settlement proposal against _____.

It recommends that the requested partial payment be made.

The undersigned agrees that it will promptly pay over to the applicant or credit against amounts owing from the applicant any amount received for the benefit of the applicant under this application, and that it will repay to the Government on demand any amount not so paid or credited.

NAME OF CONTRACTOR	BY <i>(Signature of authorized official)</i>	
	TITLE	DATE

SECTION VI - RECOMMENDATION OF OTHER REVIEWING CONTRACTORS

Each of the undersigned states that it has no reason to doubt that the amount of the partial payment requested, and recommended above is due the applicant will constitute a proper charge in the termination settlement proposal of the undersigned.

Each of the undersigned agrees that it will promptly pay over to its immediate subcontractor or credit against amounts owing from such subcontractor any amount received for the benefit of the applicant under this application, and that it will repay to the Government on demand any amount not so paid or credited.

	CONTRACTOR	DATE	IDENTIFICATION OF YOUR CONTRACT	SIGNATURE OF OFFICER, PARTNER, OR OWNER
1				
2				
3				

(Where the space provided for any information is insufficient, continue on a separate sheet.)

Standard Form 1442


SOLICITATION, OFFER, AND AWARD (Construction, Alteration, or Repair)	1. SOLICITATION NO.	2. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED	PAGE OF PAGES
IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.				
4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO.	6. PROJECT NO.		
7. ISSUED BY	CODE	8. ADDRESS OFFER TO		
9. FOR INFORMATION CALL:	a. NAME	b. TELEPHONE NO. (Include area code) (NO COLLECT CALLS)		
SOLICITATION				
NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid and "bidder".				
10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no., date)				
11. The Contractor shall begin performance _____ calendar days and complete it within _____ calendar days after receiving <input type="checkbox"/> award, <input type="checkbox"/> notice to proceed. This performance period is <input type="checkbox"/> mandatory <input type="checkbox"/> negotiable. (See _____ .)				
12a. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES," indicate within how many calendar days after award in Item 12b).				12b. CALENDAR DAYS
<input type="checkbox"/> YES <input type="checkbox"/> NO				
13. ADDITIONAL SOLICITATION REQUIREMENTS:				
a. Sealed offers in original and _____ copies to perform the work required are due at the place specified in Item 8 by _____ (hour) local time _____ (date). If this is a sealed bid solicitation, offers will be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.				
b. An offer guarantee <input type="checkbox"/> is, <input type="checkbox"/> is not required.				
c. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by				
d. Offers providing less than _____ calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.				
NSN 7540-01-155-3212				
STANDARD FORM 1442 (REV. 4-85) Prescribed by GSA - FAR (48 CFR) 53.236-1(d)				

Standard Form 1442 (Back)

OFFER (Must be fully completed by offeror)

14. NAME AND ADDRESS OF OFFEROR (Include ZIP Code)		15. TELEPHONE NO. (Include area code)	
		16. REMITTANCE ADDRESS (Include only if different than Item 14.)	
CODE	FACILITY CODE		

17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government in writing within _____ calendar days after the date offers are due. (Insert any number equal to or greater than the minimum requirement stated in Item 13d. Failure to insert any number means the offeror accepts the minimum in Item 13d.)

AMOUNTS 

18. The offeror agrees to furnish any required performance and payment bonds.

19. ACKNOWLEDGMENT OF AMENDMENTS

(The offeror acknowledges receipt of amendments to the solicitation -- give number and date of each)


AMENDMENT NO.									
DATE.									

20a. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)	20. SIGNATURE	20c. OFFER DATE
--	---------------	-----------------

AWARD (To be completed by Government)

21. ITEMS ACCEPTED:

22. AMOUNT	23. ACCOUNTING AND APPROPRIATION DATA
------------	---------------------------------------

24. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified) 	ITEM	25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO <input type="checkbox"/> 10 U.S.C. 2304(c)) <input type="checkbox"/> 41 U.S.C. 253(c) ()
26. ADMINISTERED BY	27. PAYMENT WILL BE MADE BY	

CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE

<input type="checkbox"/> 28. NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all work requirements identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications incorporated by reference in or attached to this contract.		<input type="checkbox"/> 29. AWARD (Contractor is not required to sign this document.) Your offer on this solicitation is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.	
30a. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)	31a. NAME OF CONTRACTING OFFICER (Type or print)		
30b. SIGNATURE	30c. DATE	31b. UNITED STATES OF AMERICA	30c. DATE
		BY	

Standard Form 1443

CONTRACTOR'S REQUEST FOR PROGRESS PAYMENT				Form Approved OMB No. 9000-0010	
IMPORTANT: This form is to be completed in accordance with Instructions on reverse.					
SECTION I - IDENTIFICATION INFORMATION					
1. TO: NAME AND ADDRESS OF CONTRACTING OFFICE <i>(Include ZIP Code)</i>			2. FROM: NAME AND ADDRESS OF CONTRACTOR <i>(Include ZIP code)</i>		
PAYING OFFICE			3. SMALL BUSINESS <input type="checkbox"/> YES <input type="checkbox"/> NO		4. CONTRACT NO.
					5. CONTRACT PRICE \$
6. RATES		7. DATE OF INITIAL AWARD		8A. PROGRESS PAYMENT REQUEST NO.	
A. PROG. PYMTS.	B. LIQUIDATION	A. YEAR	B. MONTH	8B. DATE OF THIS REQUEST	
	%				
SECTION II - STATEMENT OF COSTS UNDER THIS CONTRACT THROUGH _____ (Date)					
9. PAID COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE					\$
10. INCURRED COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE					
11. TOTAL COSTS ELIGIBLE FOR PROGRESS PAYMENTS <i>(Item 9 plus 10)</i>					
12.a. TOTAL COST INCURRED TO DATE					\$
b. ESTIMATED ADDITIONAL COST TO COMPLETE					
13. ITEM 11 MULTIPLIED BY ITEM 6a					
14a. PROGRESS PAYMENTS PAID TO SUBCONTRACTORS					
b. LIQUIDATED PROGRESS PAYMENTS TO SUBCONTRACTORS					
c. UNLIQUIDATED PROGRESS PAYMENTS TO SUBCONTRACTORS <i>(Item 14a less 14b)</i>					
d. SUBCONTRACT PROGRESS BILLINGS APPROVED FOR CURRENT PAYMENT					
e. ELIGIBLE SUBCONTRACTOR PROGRESS PAYMENTS <i>(Item 14c plus 14d)</i>					
15. TOTAL DOLLAR AMOUNT <i>(Item 13 plus 14e)</i>					
16. ITEM 5 MULTIPLIED BY ITEM 6b					
17. LESSER OF ITEM 15 OR ITEM 16					
18. TOTAL AMOUNT OF PREVIOUS PROGRESS PAYMENTS REQUESTED					
19. MAXIMUM BALANCE ELIGIBLE FOR PROGRESS PAYMENTS <i>(Item 17 less 18)</i>					
SECTION III - COMPUTATION OF LIMITS FOR OUTSTANDING PROGRESS PAYMENTS					
*SEE SPECIAL INSTRUCTIONS ON BACK FOR USE UNDER THE FEDERAL ACQUISITION REGULATION.					
20. COMPUTATION OF PROGRESS PAYMENT CLAUSE (a)(3)(i) or a(4)(i) LIMITATION*					\$
a. COSTS INCLUDED IN ITEM 11, APPLICABLE TO ITEMS DELIVERED, INVOICED, AND ACCEPTED TO THE DATE IN HEADING OF SECTION II.					
b. COSTS ELIGIBLE FOR PROGRESS PAYMENTS, APPLICABLE TO UNDELIVERED ITEMS AND TO DELIVERED ITEMS NOT INVOICED AND ACCEPTED <i>(Item 11 less 20a)</i>					
c. ITEM 20b MULTIPLIED BY ITEM 6a					\$
d. ELIGIBLE SUBCONTRACTOR PROGRESS PAYMENTS <i>(Item 14e)</i>					
e. LIMITATION a(3)(i) or a(4)(i) <i>(Item 20c plus 20d)*</i>					
21. COMPUTATION OF PROGRESS PAYMENT CLAUSE (a)(3)(ii) or a(4)(ii) LIMITATION*					
a. CONTRACT PRICE OF ITEMS DELIVERED, ACCEPTED AND INVOICED TO DATE IN HEADING OF SECTION II					
b. CONTRACT PRICE OF ITEMS NOT DELIVERED, ACCEPTED AND INVOICED <i>(Item 5 less 21a)</i>					
c. ITEM 21b MULTIPLIED BY ITEM 6b					
d. UNLIQUIDATED ADVANCE PAYMENTS PLUS ACCRUED INTEREST					
e. LIMITATION a(3)(ii) or a(4)(ii) <i>(Item 21c plus 21d)*</i>					
22. MAXIMUM UNLIQUIDATED PROGRESS PAYMENTS <i>(Lesser of Item 20e or 21e)</i>					
23. TOTAL AMOUNT APPLIED AND TO BE APPLIED TO REDUCE PROGRESS PAYMENT					
24. UNLIQUIDATED PROGRESS PAYMENTS <i>(Item 18 less 23)</i>					
25. MAXIMUM PERMISSIBLE PROGRESS PAYMENTS <i>(Item 22 less 24)</i>					
26. AMOUNT OF CURRENT INVOICE FOR PROGRESS PAYMENT <i>(Lesser of Item 25 or 19)</i>					
27. AMOUNT APPROVED BY CONTRACTING OFFICER					
CERTIFICATION					
I certify that the above statement (with attachments) has been prepared from the books and records of the above-named contractor in accordance with the contract and the instructions hereon, and to the best of my knowledge and belief, that it is correct, that all the costs of contract performance (except as herewith reported in writing) have been paid to the extent shown herein, or where not shown as paid have been paid or will be paid currently, by the contractor, when due, in the ordinary course of business, that the work reflected above has been performed, that the quantities and amounts involved are consistent with the requirements of the contract. are no encumbrances (except as reported in writing herewith, or on previous progress payment request _____) against the property acquired or produced for, and allocated or properly chargeable to the contract which would affect or impair the Government's title, that there has been no materially adverse change in the financial condition of the contractor since the submission of the most recent written information _____ by the contractor to the Government in connection with the contract, that the extent of any contract provision limiting progress payments pending first article approval, such provision has been complied with, and that after the making of the requested progress payment the unliquidated progress payments will not exceed the maximum unliquidated progress payments permitted by the contract.					
NAME AND TITLE OF CONTRACTOR REPRESENTATIVE SIGNING THIS FORM			SIGNATURE		
NAME AND TITLE OF CONTRACTING OFFICER			SIGNATURE		
NSN 7540-01-140-5523					
STANDARD FORM 1443 (10-82) Prescribed by GSA (FPR 1-16.808) FAR (48 CFR 53.232)					

Standard Form 1443 (Back)

INSTRUCTIONS

Form Approved OMB
No. 9000-0010

GENERAL - All entries on this form must be typewritten - all dollar amounts must be shown in whole dollars, rounded up to the next whole dollar. All line item numbers not included in the instructions below are self-explanatory.

SECTION I - IDENTIFICATION INFORMATION. Complete Items 1 through 8c in accordance with the following instructions:

Item 1. TO - Enter the name and address of the cognizant Contract Administrator Office. PAYING OFFICE - Enter the designation of the paying office, as indicated in the contract.

Item 2 FROM - CONTRACTOR'S NAME AND ADDRESS/ZIP CODE - Enter the name and mailing address of the contractor. If applicable, the division of the company performing the contract should be entered immediately following the contractor's name.

Item 3. Enter an "X" in the appropriate block to indicate whether or not the contractor is a small business concern.

Item 5. Enter the total contract price, as amended. If the contract provides for escalation or price redetermination, enter the initial price until changed and not the ceiling price; if the contract is of the incentive type, enter the target or billing price, as amended until final pricing. For letter contracts, enter the maximum expenditure authorized by the contract, as amended.

Item 6A. PROGRESS PAYMENT RATES - Enter the 2-digit progress payment percentage rate shown in paragraph (a)(1) of the progress payment clause.

Item 6B. LIQUIDATION RATE - Enter the progress payment liquidation rate shown in paragraph (b) of the progress payment clause, using three digits - Example: show 80% as 800 - show 72.3% or 723.

Item 7. DATE OF INITIAL AWARD - Enter the last two digits of the calendar year. Use two digits to indicate the month. Example: show January 1982 or 82/01.

Item 8A. PROGRESS PAYMENT REQUEST NO. - Enter the number assigned to this request. All requests under a single contract must be numbered consecutively, beginning with 1. Each subsequent request under the same contract must continue in sequence, using the same series of numbers without omission.

Item 8B. Enter the date of the request.

SECTION II - GENERAL INSTRUCTIONS. DATE. In the space provided in the heading enter the date through which costs have been accumulated from inception for inclusion in this request. This date is applicable to item entries in Sections II and III.

Cost Basis. For all contracts with Small Business concerns, the base for progress payments is total costs incurred. For contracts with concerns other than Small Business, the progress payment base will be the total recorded paid costs, together with the incurred costs per the Computation of Amounts paragraph of the progress payment clause in FPR 1-30.510-11 (a) or FAR 52.232-16, as appropriate. Total costs include all expenses paid and incurred, including applicable manufacturing and production expense, general and administrative expense for performance of contract, which are reasonable, allocable to the contract, consistent with sound and generally accepted accounting principles and practices, and which are not otherwise excluded by the contract.

Manufacturing and Production Expense, General and Administrative Expense. In connection with the first progress payment request on a contract, attach an explanation of the method, bases and period used in determining the amount of each of these two types of expenses. If the method, bases or periods used for computing these expenses differ in subsequent requests for progress payments under this contract, attach an explanation of such charges to the progress payment request involved.

Incurred Costs Involving Subcontractors for Contracts with Small Business Concerns. If the incurred costs eligible for progress payments under the contract include costs shown in invoices of subcontractors, suppliers and others, that portion of the costs computed on such invoices can only include costs for: (1) completed work to which the prime contractor has acquired title; (2) materials delivered to which the prime contractor has acquired title; (3) services rendered; and (4) costs billed under cost reimbursement or time and material subcontracts for work to which the prime contractor has acquired title.

SECTION II - SPECIFIC INSTRUCTIONS

Item 9. PAID COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE - Line 9 will not be used for Small Business Contracts.

Item 9 shall include only those recorded costs which have resulted at time of request in payment made by cash, check, or other form of actual payment for items or services purchased directly for the contract. This includes items delivered, accepted and paid for, resulting in liquidation of subcontractor progress payments.

Costs to be shown in Item 9 are not to include advance payments, downpayments, or deposits, all of which are not eligible for reimbursement; or progress payments made to subcontractors, suppliers or others, which are to be included in Item 14. See "Cost Basis" above.

Item 10. INCURRED COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE - For all Small Business Contracts, Item 10 will show total costs incurred for the contract.

Costs to be shown in Item 10 are not to include advance payments, downpayments, deposits, or progress payments made to subcontractors, suppliers or others.

For large business contracts, costs to be shown in Item 10 shall include all costs incurred (see "Cost Basis" above) for: materials which have been issued from the stores inventory and placed into production process for use on the contract; for direct labor; for other direct in-house costs; and for properly allocated and allowable indirect costs as set forth under "Cost Basis" above.

Item 12a. Enter the total contract costs incurred to date; if the actual amount is not known, enter the best possible estimate. If an estimate is used, enter (E) after the amount.

Item 12b. Enter the estimated cost to complete the contract. The estimate may be the last estimate made, adjusted for costs incurred since the last estimate; however, estimates shall be made not less frequently than every six months.

Items 14a through 14e. Include only progress payments on subcontracts which conform to progress payment provisions of the prime contract.

Item 14a. Enter only progress payments actually paid.

Item 14b. Enter total progress payments recouped from subcontractors.

Item 14d. For Small Business prime contracts, include the amount of unpaid subcontract progress payment billings which have been approved by the contractor for the current payment in the ordinary course of business. For other contracts, enter "0" amount.

SECTION III - SPECIFIC INSTRUCTIONS. This Section must be completed only if the contractor has received advance payments against this contractor, or if items have been delivered, invoiced and accepted as of the date indicated in the heading of Section II above. EXCEPTION: Item 27 must be filled in by the Contracting Officer.

Item 20a. Of the costs reported in Item 11, compute and enter only costs which are properly allocable to items delivered, invoiced and accepted to the applicable date. In order of preference, these costs are to be computed on the basis of one of the following: (a) The actual unit cost of items delivered, giving proper consideration to the deferral of the starting load costs or, (b) projected unit costs (based on experienced costs plus the estimated cost to complete the contract), where the contractor maintains cost data which will clearly establish the reliability of such estimates.

Item 20d. Enter amount from 14e.

Item 21a. Enter the total billing price, as adjusted, of items delivered, accepted and invoiced to the applicable date.

Item 23. Enter total progress payments liquidated and those to be liquidated from billings submitted but not yet paid.

Item 25. Self-explanatory. (NOTE: If the entry in this item is a negative amount, there has been an overpayment which requires adjustment.)

Item 26. Self-explanatory, but if a lesser amount is requested, enter the lesser amount.

SPECIAL INSTRUCTIONS FOR USE UNDER FEDERAL ACQUISITION REGULATION (FAR)

Item 20 and 20e. Delete the references to a(3)(i) of the progress payment clause.

Items 21 and 21e. Delete the references to a(3)(ii) of the progress payment clause.

STANDARD FORM 1443 (10-82) BACK

Standard Form 1444

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE					CHECK APPROPRIATE BOX <input type="checkbox"/> SERVICE CONTRACT <input type="checkbox"/> CONSTRUCTION CONTRACT	AUTHORIZED FOR LOCAL REPRODUCTION OMB No.: 9000-0089 Expires: 04/30/2005
Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVP), Office of Acquisition Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0089), Washington, DC 20503.						
INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPPLICATE, TO THE CONTRACTING OFFICER.						
1. TO: ADMINISTRATOR, Employment Standards Administration WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, D.C. 20210				2. FROM: (REPORTING OFFICE)		
3. CONTRACTOR					4. DATE OF REQUEST	
5. CONTRACT NUMBER	6. DATE BID OPENED (SEALED BIDDING)	7. DATE OF AWARD	8. DATE CONTRACT WORK STARTED	9. DATE OPTION EXERCISED (IF APPLICABLE) (SCA ONLY)		
10. SUBCONTRACTOR (IF ANY)						
11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)						
12. LOCATION (CITY, COUNTY AND STATE)						
13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION						
NUMBER: _____			DATED: _____			
a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (SCA ONLY) <small>(Use reverse or attach additional sheets, if necessary)</small>			b. WAGE RATE(S)		c. FRINGE BENEFITS PAYMENTS	
14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE <small>(IF ANY)</small>			15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE			
16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE			TITLE		CHECK APPROPRIATE BOX-REFERENCING BLOCK 13. <input type="checkbox"/> AGREE <input type="checkbox"/> DISAGREE	
TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SCA) OR FAR 22.406-3 (DBA))						
<input type="checkbox"/> THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.						
<input type="checkbox"/> THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.						
<small>(Send copies 1, 2, and 3 to Department of Labor)</small>						
SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE			TITLE AND COMMERCIAL TELEPHONE NO.		DATE SUBMITTED	
PREVIOUS EDITION IS USABLE			STANDARD FORM 1444 (REV. 12-2001) Prescribed by GSA-FAR (48 CFR) 53.222(f)			

Standard Form 1445

LABOR STANDARDS INTERVIEW								
CONTRACT NUMBER				EMPLOYEE INFORMATION				
NAME OF PRIME CONTRACTOR				LAST NAME		FIRST NAME		MI
NAME OF EMPLOYER				STREET ADDRESS				
SUPERVISOR'S NAME				CITY		STATE	ZIP CODE	
LAST NAME		FIRST NAME		MI	WORK CLASSIFICATION		WAGE RATE	
ACTION							CHECK BELOW	
							YES	NO
Do you work over 8 hours per day?								
Do you work over 40 hours per week?								
Are you paid at least time and a half for overtime hours?								
Are you receiving any cash payments for fringe benefits required by the posted wage determination decision?								
WHAT DEDUCTIONS OTHER THAN TAXES AND SOCIAL SECURITY ARE MADE FROM YOUR PAY?								
HOW MANY HOURS DID YOU WORK ON YOUR LAST WORK DAY BEFORE THIS INTERVIEW?				TOOLS YOU USE				
DATE OF LAST WORK DAY BEFORE INTERVIEW (YYMMDD)								
DATE YOU BEGAN WORK ON THIS PROJECT (YYMMDD)								
THE ABOVE IS CORRECT TO THE BEST OF MY KNOWLEDGE								
EMPLOYEE'S SIGNATURE							DATE (YYMMDD)	
INTERVIEWER	SIGNATURE			TYPED OR PRINTED NAME			DATE (YYMMDD)	
INTERVIEWER'S COMMENTS								
WORK EMPLOYEE WAS DOING WHEN INTERVIEWED				ACTION (If explanation is needed, use comments section)		YES	NO	
				IS EMPLOYEE PROPERLY CLASSIFIED AND PAID?				
				ARE WAGE RATES AND POSTERS DISPLAYED?				
FOR USE BY PAYROLL CHECKER								
IS ABOVE INFORMATION IN AGREEMENT WITH PAYROLL DATA?								
<input type="checkbox"/> YES <input type="checkbox"/> NO								
COMMENTS								
CHECKER								
LAST NAME		FIRST NAME		MI	JOB TITLE			
SIGNATURE							DATE (YYMMDD)	
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition not usable				STANDARD FORM 1445 (REV. 12-96) Prescribed by GSA - FAR (48 CFR) 53.222(g)				

Standard Form 1447

SOLICITATION/CONTRACT				1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350)		RATING	PAGE OF OF	
2. CONTRACT NO.		3. AWARD/EFFECTIVE DATE	4. SOLICITATION NUMBER		5. SOLICITATION TYPE <input type="checkbox"/> SEALED BIDS (IFB) <input type="checkbox"/> NEGOTIATED (RFP)		6. SOLICITATION ISSUE DATE	
7. ISSUED BY			CODE	8. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE: % FOR <input type="checkbox"/> SMALL BUSINESS SIC: SIZE STANDARD:				
				<input type="checkbox"/> LABOR SURPLUS AREA CONCERNS <input type="checkbox"/> COMBINED SMALL BUSINESS & LABOR SURPLUS AREA CONCERNS <input type="checkbox"/> OTHER				
9. (AGENCY USE) NO COLLECT CALLS								
10. ITEMS TO BE PURCHASED (BRIEF DESCRIPTION) <input type="checkbox"/> SUPPLIES <input type="checkbox"/> SERVICES								
11. IF OFFER IS ACCEPTED BY THE GOVERNMENT WITHIN _____ CALENDAR DAYS (60 CALENDAR DAYS UNLESS OFFEROR INSERTS A DIFFERENT PERIOD) FROM THE DATE SET FORTH IN BLK 9 ABOVE, THE CONTRACTOR AGREES TO HOLD ITS OFFERED PRICES FIRM FOR THE ITEMS SOLICITED HEREIN AND TO ACCEPT ANY RESULTING CONTRACT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN.				12. ADMINISTERED BY				CODE
13. CONTRACTOR OFFEROR		CODE	FACILITY CODE		14. PAYMENT WILL BE MADE BY			CODE
TELEPHONE NO. DUNS NO. <input type="checkbox"/> CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER				SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK:				
15. PROMPT PAYMENT DISCOUNT				16. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION <input type="checkbox"/> 10 U.S.C. 2304 <input type="checkbox"/> 41 U.S.C. 253				
17. ITEM NO.	18. SCHEDULE OF SUPPLIES/SERVICES			19. QUANTITY	20. UNIT	21. UNIT PRICE	22. AMOUNT	
23. ACCOUNTING AND APPROPRIATION DATA						24. TOTAL AWARD AMOUNT (FOR GOVT. USE ONLY)		
25. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY CONTINUATION SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.				26. AWARD OF CONTRACT: YOUR OFFER ON SOLICITATION NUMBER SHOWN IN BLOCK 4 INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:				
27. SIGNATURE OF OFFEROR/CONTRACTOR				28. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)				
NAME AND TITLE OF SIGNER (TYPE OR PRINT)			DATE SIGNED	NAME OF CONTRACTING OFFICER			DATE SIGNED	

NSN 7540-01-218-4386

STANDARD FORM 1447 (5-88)
Prescribed by GSA - FAR (48 CFR) 53.215-1(g)

Standard Form 1447 (Back)

NO RESPONSE FOR REASONS CHECKED	
CANNOT COMPLY WITH SPECIFICATIONS	CANNOT MEET DELIVERY REQUIREMENT
UNABLE TO IDENTIFY THE ITEM(S)	DO NOT REGULARLY MANUFACTURE OR SELL THE TYPE OF ITEMS INVOLVED
OTHER <i>(Specify)</i>	
WE DO	WE DO NOT, DESIRE TO BE RETAINED ON THE MAILING LIST FOR FUTURE PROCUREMENT OF THE TYPE OF ITEM(S) INVOLVED
NAME AND ADDRESS OF FIRM <i>(Include ZIP Code)</i>	SIGNATURE
	TYPE OR PRINT NAME AND TITLE OF SIGNER
<p>FROM:</p> <p style="text-align: center;">TO:</p> <p>SOLICITATION NO. _____</p> <p>DATE AND LOCAL TIME _____</p>	

AFIX
STAMP
HERE

Standard Form 1449

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30					1. REQUISITION NUMBER	PAGE 1 OF
2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER	5. SOLICITATION NUMBER	6. SOLICITATION ISSUE DATE		
7. FOR SOLICITATION INFORMATION CALL:			a. NAME	b. TELEPHONE NUMBER (No collect calls)	8. OFFER DUE DATE/ LOCAL TIME	
9. ISSUED BY		CODE	10. THIS ACQUISITION IS		11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED	12. DISCOUNT TERMS
			<input type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE: % FOR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> 8(A) NAICS: SIZE STANDARD:		<input type="checkbox"/> SEE SCHEDULE <input type="checkbox"/> 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING	
15. DELIVER TO		CODE	16. ADMINISTERED BY		CODE	
17a. CONTRACTOR/OFFEROR	CODE	FACILITY CODE	18a. PAYMENT WILL BE MADE BY		CODE	
TELEPHONE NO.			18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER						
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES			21. QUANTITY	22. UNIT	23. UNIT PRICE
<i>(Use Reverse and/or Attach Additional Sheets as Necessary)</i>						
25. ACCOUNTING AND APPROPRIATION DATA					26. TOTAL AWARD AMOUNT (For Govt. Use Only)	
<input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA					<input type="checkbox"/> ARE	<input type="checkbox"/> ARE NOT ATTACHED
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA					<input type="checkbox"/> ARE	<input type="checkbox"/> ARE NOT ATTACHED
<input type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.				<input type="checkbox"/> 29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:		
30a. SIGNATURE OF OFFEROR/CONTRACTOR				31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)		
30b. NAME AND TITLE OF SIGNER (Type or print)		30c. DATE SIGNED	31b. NAME OF CONTRACTING OFFICER (Type or print)		31c. DATE SIGNED	
AUTHORIZED FOR LOCAL REPRODUCTION PREVIOUS EDITION IS NOT USABLE				STANDARD FORM 1449 (REV. 4/2002) Prescribed by GSA - FAR (48 CFR) 53.212		

Standard Form 1449 (Back)

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT

32a. QUANTITY IN COLUMN 21 HAS BEEN

RECEIVED
 INSPECTED
 ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE
32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE		32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
		32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE

33. SHIP NUMBER	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT	37. CHECK NUMBER
<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL			<input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	
38. S/R ACCOUNT NUMBER	39. S/R VOUCHER NUMBER	40. PAID BY		

41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT	42a. RECEIVED BY (<i>Print</i>)
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE
	42b. RECEIVED AT (<i>Location</i>)
	42c. DATE REC'D (<i>YY/MM/DD</i>)
	42d. TOTAL CONTAINERS

STANDARD FORM 1449 (REV. 4/2002) BACK

Optional Form 17

OF-17 (12/93) FAR (48) CFR 53.214(g)
Offer Label FAR (48) CFR 53.215-1(h)

NOTICE TO OFFEROR

1. THIS LABEL MAY ONLY BE USED ON ENVELOPES LARGER THAN 156 mm (6 1/8 INCHES) IN HEIGHT AND 292 mm (11 1/2 INCHES) IN LENGTH.
2. Print or type your name and address in the UPPER left corner of the envelope containing your offer.
3. Complete the bottom portion of this form and paste it on the LOWER left corner of the envelope, unless the envelope is 156 mm by 292 mm (6 1/8 inches by 11 1/2 inches) or smaller.

OFFER

SOLICITATION NO.
DATE FOR RECEIPT OF OFFERS
TIME FOR RECEIPT OF OFFERS
AM PM
OFFICE DESIGNATED TO RECEIVE OFFERS

SAMPLE ONLY

Optional Form 90

RELEASE OF LIEN ON REAL PROPERTY

Whereas _____, of _____, by a bond
 (Name) (Place of Residence)
 for the performance of U.S. Government Contract Number _____,
 became a surety for the complete and successful performance of said contract, which bond
 includes a lien upon certain real property further described hereafter, and

Whereas said surety established the said lien upon the following property

and recorded this pledge on _____
 (Name of Land Records)
 in the _____ of _____,
 (Locality) (State)
 and

Whereas, I, _____, being a duly
 authorized representative of the United States Government as a warranted contracting
 officer, have determined that the lien is no longer required to ensure further performance of
 the said Government contract or satisfaction of claims arising therefrom,
 and

Whereas the surety remains liable to the United States Government for continued
 performance of the said Government contract and satisfaction of claims pertaining thereto.

Now, therefore, this agreement witnesseth that the Government hereby releases the
 aforementioned lien.

[Date]

[Signature]
Seal

Optional Form 91

RELEASE OF PERSONAL PROPERTY FROM ESCROW

Whereas _____, of _____, by a bond
 (Name) (Place of Residence)
 for the performance of U.S. Government Contract Number _____,
 became a surety for the complete and successful performance of said contract, and Whereas
 said surety has placed certain personal property in escrow
 in Account Number _____ on deposit
 at _____
 (Name of Financial Institution)

located at _____, and
 (Address of Financial Institution)

Whereas I, _____, being a duly authorized
 representative of the United States government as a warranted contracting officer, have
 determined that retention in escrow of the following property is no longer required to ensure
 further performance of the said Government contract or satisfaction of claims arising
 therefrom:

and

Whereas the surety remains liable to the United States Government for the continued
 performance of the said Government contract and satisfaction of claims pertaining thereto.

Now, therefore, this agreement witnesseth that the Government hereby releases from escrow
 the property listed above, and directs the custodian of the aforementioned escrow account to
 deliver the listed property to the surety. If the listed property comprises the whole of the
 property placed in escrow in the aforementioned escrow account, the Government further
 directs the custodian to close the account and to return all property therein to the surety, along
 with any interest accruing which remains after the deduction of any fees lawfully owed to

 (Name of Financial Institution)

[Date]

[Signature]

Seal

Optional Form 307

CONTRACT AWARD			PAGE	OF	PAGES		
1. CONTRACT NUMBER		2. EFFECTIVE DATE	3. SOLICITATION NUMBER		4. REQUISITION/PROJECT NUMBER		
5. ISSUED BY	CODE	6. ADMINISTERED BY (If other than Item 5)		CODE			
7. NAME AND ADDRESS OF CONTRACTOR		CODE	8. PAYMENT WILL BE MADE BY				
9A. DUNS NUMBER	9B. TAXPAYER'S IDENTIFICATION NO.		10. SUBMIT INVOICES (4 copies unless otherwise specified) TO <input type="checkbox"/> ITEM 5 <input type="checkbox"/> ITEM 6 <input type="checkbox"/> ITEM 8 <input type="checkbox"/> OTHER (Specify)				
11. TABLE OF CONTENTS							
(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
	A	SOLICITATION/CONTRACT FORM			I	CONTRACT CLAUSES	
	B	SUPPLIES OR SERVICES AND PRICES/COSTS		PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.			
	C	DESCRIPTION/SPECS./WORK STATEMENT			J	LIST OF ATTACHMENTS	
	D	PACKAGING AND MARKING		PART IV - REPRESENTATIONS AND INSTRUCTIONS			
	E	INSPECTION AND ACCEPTANCE			K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
	F	DELIVERIES OR PERFORMANCE			L	INSTRS., CONDS., AND NOTICES TO OFFERORS	
	G	CONTRACT ADMINISTRATION DATA			M	EVALUATION FACTORS FOR AWARD	
	H	SPECIAL CONTRACT REQUIREMENTS					
12. BRIEF DESCRIPTION							
13. TOTAL AMOUNT OF CONTRACT							
14. CONTRACTOR'S AGREEMENT. Contractor agrees to furnish and deliver the items or perform services to the extent stated in this document for the consideration stated. The rights and obligations of the parties to this contract shall be subject to and governed by this document and any documents attached or incorporated by reference.				15. AWARD. The Government hereby accepts your offer on the solicitation identified in item 3 above as reflected in this award document. The rights and obligations of the parties to this contract shall be subject to and governed by this document and any documents attached or incorporated by reference.			
<input type="checkbox"/> A. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN FOUR COPIES TO THE ISSUING OFFICE. (Check if applicable)							
B. SIGNATURE OF PERSON AUTHORIZED TO SIGN				A. UNITED STATES OF AMERICA (Signature of Contracting Officer)			
C. NAME OF SIGNER							
D. TITLE OF SIGNER				B. NAME OF CONTRACTING OFFICER			
E. DATE				C. DATE			
AUTHORIZED FOR LOCAL REPRODUCTION				OPTIONAL FORM 307 (9-97) Prescribed by GSA - FAR (48 CFR) 53.215-1(e)			

Optional Form 308

SOLICITATION AND OFFER - NEGOTIATED ACQUISITION						PAGE	OF	PAGES
I. SOLICITATION								
1. SOLICITATION NUMBER			2. DATE ISSUED		3. OFFERS DUE BY		4. OFFERS VALID FOR 60 DAYS UNLESS A DIFFERENT PERIOD IS ENTERED HERE	
5. ISSUED BY					6. ADDRESS OFFER TO <i>(If other than Item 5)</i>			
7. FOR INFORMATION CALL <i>(No collect calls)</i>								
A. NAME			B. TELEPHONE			C. E-MAIL ADDRESS		
			AREA CODE		PHONE NUMBER			
8. BRIEF DESCRIPTION								
9. TABLE OF CONTENTS								
(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)	
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES				
	A	SOLICITATION/CONTRACT FORM			I	CONTRACT CLAUSES		
	B	SUPPLIES OR SERVICES AND PRICES/COSTS		PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.				
	C	DESCRIPTION/SPECS./WORK STATEMENT			J	LIST OF ATTACHMENTS		
	D	PACKAGING AND MARKING		PART IV - REPRESENTATIONS AND INSTRUCTIONS				
	E	INSPECTION AND ACCEPTANCE			K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS		
	F	DELIVERIES OR PERFORMANCE			L	INSTRS., CONDS., AND NOTICES TO OFFERORS		
	G	CONTRACT ADMINISTRATION DATA			M	EVALUATION FACTORS FOR AWARD		
	H	SPECIAL CONTRACT REQUIREMENTS						
II. OFFER								
The undersigned agrees to furnish and deliver the items or perform services to the extent stated in this document for the consideration stated. The rights and obligations of the parties to the resultant contract shall be subject to and governed by this document and any documents attached or incorporated by reference.								
10A. PERSONS AUTHORIZED TO NEGOTIATE			10B. TITLE			10C. TELEPHONE		
						AREA CODE		NUMBER
11. NAME AND ADDRESS OF OFFEROR				12A. SIGNATURE OF PERSON AUTHORIZED TO SIGN				
				12B. NAME OF SIGNER				
				12C. TITLE OF SIGNER				
				12D. DATE		12E. TELEPHONE		
						AREA CODE		NUMBER
AUTHORIZED FOR LOCAL REPRODUCTION				OPTIONAL FORM 308 (9-97) Prescribed by GSA - FAR (48 CFR) 53.215-1(f)				

Optional Form 309

AMENDMENT OF SOLICITATION <i>(Negotiated Procurements)</i>			PAGE	OF	PAGES
<p>NOTICE: Offerors must acknowledge receipt of this amendment in writing, by the date and time specified for proposal submissions or the date and time specified in Block 6, whichever is later. IF YOUR ACKNOWLEDGMENT IS NOT RECEIVED AT THE DESIGNATED LOCATION BY THE SPECIFIED DATE AND TIME, YOUR OFFER MAY BE REJECTED. If, by virtue of this amendment, you wish to change your offer, such change must make reference to the solicitation and this amendment and be received prior to the date and time specified in Block 6.</p>					
I. AMENDMENT					
1. SOLICITATION NUMBER		2. SOLICITATION DATE	3. AMENDMENT NUMBER		4. AMENDMENT DATE
5. ISSUED BY			6. DUE DATE		
THIS AMENDMENT DOES NOT CHANGE THE DATE BY WHICH OFFERS ARE DUE UNLESS A DATE AND TIME IS INSERTED BELOW.					
			A. DATE		B. TIME
7. FOR INFORMATION CALL <i>(No collect calls)</i>					
A. NAME		B. TELEPHONE		C. E-MAIL ADDRESS	
		AREA CODE	PHONE NUMBER		
8. DESCRIPTION OF AMENDMENT					
<p>Except as provided herein, all terms and conditions of the solicitation remain unchanged and in full force and effect.</p>					
II. ACKNOWLEDGMENT OF AMENDMENT					
<p>In lieu of other written methods of acknowledgment, the offeror may complete Blocks 9 and 10 and return this amendment to the address in Block 5.</p>					
9. NAME AND ADDRESS OF OFFEROR			10A. OFFEROR <i>(Signature of person authorized to sign)</i>		
			10B. NAME OF SIGNER		
			10C. TITLE OF SIGNER		
			10D. DATE		
AUTHORIZED FOR LOCAL REPRODUCTION			OPTIONAL FORM 309 (9-97) Prescribed by GSA - FAR (48 CFR) 53.215-1(g)		

Optional Form 312 (Back)

GENERAL INFORMATION INSTRUCTIONS

1. This form collects data on the participation of small disadvantaged business concerns in contracts that contain the clause at FAR 52.219-25, Small Disadvantaged Business Participation Program - Disadvantaged Status and Reporting.
2. Submit this report to the contracting officer. If your organization is required to report subcontracting data under an individual subcontracting plan, you may attach this report to the final SF 294, Subcontracting Report for Individual Contracts, submitted under the contract.
3. Report in whole dollars.

SPECIFIC INSTRUCTIONS


Block 3. Report the total dollar amount of participation of small disadvantaged business concerns under the contract cited in Block 2. Participation may be through subcontracting, teaming arrangement, joint ventures, or as the prime contractor (provided the prime contractor waived its right to a price evaluation adjustment).

Block 4. Report the participation, if any, by small disadvantaged business concerns in this contract at the prime contract level. All prime contract dollars must be reported under the North American Industrial Classification System (NAICS) assigned to the prime contract. Report the dollar amount and percentage of the total contract value.

Block 5. Report, by NAICS Industry Subsector, as determined by the Department of Commerce, the participation by small disadvantaged business concerns in this contract at the subcontract level. Report the dollar amount and percentage of the total contract value.

Block 6. Provide the name, telephone number, and e-mail address of the individual who can answer questions related to this report.

Optional Form 348

ORDER FOR SUPPLIES OR SERVICES SCHEDULE - CONTINUATION						PAGE NO.
IMPORTANT: Mark all packages and papers with contract and/or order numbers.						
DATE OF ORDER		CONTRACT NO.		ORDER NO.		
ITEM NO. (a)	SUPPLIES OR SERVICES (b)	QUANTITY ORDERED (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)	QUANTITY ACCEPTED (g)
TOTAL CARRIED FORWARD TO 1ST PAGE (ITEM 17h)						

NSN 7540-01-152-8082

OPTIONAL FORM 348 (10-83)
Prescribed by GSA-FAR (48 CFR)

Form DD 254

DEPARTMENT OF DEFENSE CONTRACT SECURITY CLASSIFICATION SPECIFICATION <i>(The requirements of the DoD Industrial Security Manual apply to all security aspects of this effort.)</i>				1. CLEARANCE AND SAFEGUARDING a. FACILITY CLEARANCE REQUIRED b. LEVEL OF SAFEGUARDING REQUIRED			
2. THIS SPECIFICATION IS FOR: <i>(X and complete as applicable)</i> a. PRIME CONTRACT NUMBER b. SUBCONTRACT NUMBER c. SOLICITATION OR OTHER NUMBER DUE DATE (YYYYMMDD)			3. THIS SPECIFICATION IS: <i>(X and complete as applicable)</i> a. ORIGINAL <i>(Complete date in all cases)</i> DATE (YYYYMMDD) b. REVISED <i>(Supersedes all previous specs)</i> REVISION NO. DATE (YYYYMMDD) c. FINAL <i>(Complete Item 5 in all cases)</i> DATE (YYYYMMDD)				
4. IS THIS A FOLLOW-ON CONTRACT? <input type="checkbox"/> YES <input type="checkbox"/> NO. If Yes, complete the following: Classified material received or generated under _____ <i>(Preceding Contract Number)</i> is transferred to this follow-on contract.							
5. IS THIS A FINAL DD FORM 254? <input type="checkbox"/> YES <input type="checkbox"/> NO. If Yes, complete the following: In response to the contractor's request dated _____, retention of the classified material is authorized for the period of _____.							
6. CONTRACTOR <i>(Include Commercial and Government Entity (CAGE) Code)</i> a. NAME, ADDRESS, AND ZIP CODE b. CAGE CODE c. COGNIZANT SECURITY OFFICE <i>(Name, Address, and Zip Code)</i>							
7. SUBCONTRACTOR a. NAME, ADDRESS, AND ZIP CODE b. CAGE CODE c. COGNIZANT SECURITY OFFICE <i>(Name, Address, and Zip Code)</i>							
8. ACTUAL PERFORMANCE a. LOCATION b. CAGE CODE c. COGNIZANT SECURITY OFFICE <i>(Name, Address, and Zip Code)</i>							
9. GENERAL IDENTIFICATION OF THIS PROCUREMENT							
10. CONTRACTOR WILL REQUIRE ACCESS TO:		YES	NO	11. IN PERFORMING THIS CONTRACT, THE CONTRACTOR WILL:		YES	NO
a. COMMUNICATIONS SECURITY (COMSEC) INFORMATION				a. HAVE ACCESS TO CLASSIFIED INFORMATION ONLY AT ANOTHER CONTRACTOR'S FACILITY OR A GOVERNMENT ACTIVITY			
b. RESTRICTED DATA				b. RECEIVE CLASSIFIED DOCUMENTS ONLY			
c. CRITICAL NUCLEAR WEAPON DESIGN INFORMATION				c. RECEIVE AND GENERATE CLASSIFIED MATERIAL			
d. FORMERLY RESTRICTED DATA				d. FABRICATE, MODIFY, OR STORE CLASSIFIED HARDWARE			
e. INTELLIGENCE INFORMATION				e. PERFORM SERVICES ONLY			
(1) Sensitive Compartmented Information (SCI)				f. HAVE ACCESS TO U.S. CLASSIFIED INFORMATION OUTSIDE THE U.S., PUERTO RICO, U.S. POSSESSIONS AND TRUST TERRITORIES			
(2) Non-SCI				g. BE AUTHORIZED TO USE THE SERVICES OF DEFENSE TECHNICAL INFORMATION CENTER (DTIC) OR OTHER SECONDARY DISTRIBUTION CENTER			
f. SPECIAL ACCESS INFORMATION				h. REQUIRE A COMSEC ACCOUNT			
g. NATO INFORMATION				i. HAVE TEMPEST REQUIREMENTS			
h. FOREIGN GOVERNMENT INFORMATION				j. HAVE OPERATIONS SECURITY (OPSEC) REQUIREMENTS			
i. LIMITED DISSEMINATION INFORMATION				k. BE AUTHORIZED TO USE THE DEFENSE COURIER SERVICE			
j. FOR OFFICIAL USE ONLY INFORMATION				l. OTHER <i>(Specify)</i>			
k. OTHER <i>(Specify)</i>							

DD FORM 254, DEC 1999

PREVIOUS EDITION IS OBSOLETE.

Reset

Form DD 254 (Reverse)

12. PUBLIC RELEASE. Any information (*classified or unclassified*) pertaining to this contract shall not be released for public dissemination except as provided by the Industrial Security Manual or unless it has been approved for public release by appropriate U.S. Government authority. Proposed public releases shall be submitted for approval prior to release Direct Through (*Specify*)

to the Directorate for Freedom of Information and Security Review, Office of the Assistant Secretary of Defense (Public Affairs)* for review.
 *In the case of non-DoD User Agencies, requests for disclosure shall be submitted to that agency.

13. SECURITY GUIDANCE. The security classification guidance needed for this classified effort is identified below. If any difficulty is encountered in applying this guidance or if any other contributing factor indicates a need for changes in this guidance, the contractor is authorized and encouraged to provide recommended changes; to challenge the guidance or the classification assigned to any information or material furnished or generated under this contract; and to submit any questions for interpretation of this guidance to the official identified below. Pending final decision, the information involved shall be handled and protected at the highest level of classification assigned or recommended. (*Fill in as appropriate for the classified effort. Attach, or forward under separate correspondence, any documents/guides/extracts referenced herein. Add additional pages as needed to provide complete guidance.*)

14. ADDITIONAL SECURITY REQUIREMENTS. Requirements, in addition to ISM requirements, are established for this contract. Yes No
 (*If Yes, identify the pertinent contractual clauses in the contract document itself, or provide an appropriate statement which identifies the additional requirements. Provide a copy of the requirements to the cognizant security office. Use Item 13 if additional space is needed.*)

15. INSPECTIONS. Elements of this contract are outside the inspection responsibility of the cognizant security office. Yes No
 (*If Yes, explain and identify specific areas or elements carved out and the activity responsible for inspections. Use Item 13 if additional space is needed.*)

16. CERTIFICATION AND SIGNATURE. Security requirements stated herein are complete and adequate for safeguarding the classified information to be released or generated under this classified effort. All questions shall be referred to the official named below.

a. TYPED NAME OF CERTIFYING OFFICIAL

b. TITLE

c. TELEPHONE (*Include Area Code*)

d. ADDRESS (*Include Zip Code*)

17. REQUIRED DISTRIBUTION

- a. CONTRACTOR
- b. SUBCONTRACTOR
- c. COGNIZANT SECURITY OFFICE FOR PRIME AND SUBCONTRACTOR
- d. U.S. ACTIVITY RESPONSIBLE FOR OVERSEAS SECURITY ADMINISTRATION
- e. ADMINISTRATIVE CONTRACTING OFFICER
- f. OTHERS AS NECESSARY

e. SIGNATURE

Form DD 441

DEPARTMENT OF DEFENSE SECURITY AGREEMENT	<i>Form Approved OMB No. 0704-0194 Expires Sep 30, 2007</i>
The public reporting burden for this collection of information is estimated to average 14 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Executive Services and Communications Directorate (0704-0194). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.	
PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ORGANIZATION. RETURN COMPLETED FORM TO YOUR RESPECTIVE COGNIZANT SECURITY OFFICE.	
<p>This DEPARTMENT OF DEFENSE SECURITY AGREEMENT (<i>hereinafter called the Agreement</i>), entered into this _____ day of _____, _____ by and between THE UNITED STATES OF AMERICA through the Defense Security Service acting for the Department of Defense and other governmental User Agencies (<i>hereinafter called the Government</i>), and _____ (<i>hereinafter called the Contractor</i>), which is:</p> <p>(1) a corporation organized and existing under the laws of the state of _____</p> <p>(2) a partnership consisting of _____</p> <p>(3) an individual trading as _____</p> <p>with its principal office and place of business at (<i>Street, City, State and ZIP Code</i>) _____</p>	
<p>WITNESSETH THAT:</p> <p>WHEREAS, the Government has in the past purchased or may in the future purchase from the Contractor supplies or services, which are required and necessary to the national security of the United States; or may invite bids or request quotations on proposed contracts for the purchase of supplies or services, which are required and necessary to the national security of the United States; and</p> <p>WHEREAS, it is essential that certain security measures be taken by the Contractor prior to and after being accorded access to classified information; and</p> <p>WHEREAS, the parties desire to define and set forth the precautions and specific safeguards to be taken by the Contractor and the Government in order to preserve and maintain the security of the United States through the prevention of improper disclosure of classified information, sabotage, or any other acts detrimental to the security of the United States;</p> <p>NOW, THEREFORE, in consideration of the foregoing and of the mutual promises herein contained, the parties hereto agree as follows.</p> <p>Section I - SECURITY CONTROLS</p> <p>(A) The Contractor agrees to provide and maintain a system of security controls within the organization in accordance with the requirements of the "National Industrial Security Program Operating Manual," DoD 5220.22-M (<i>hereinafter called the Manual</i>) attached hereto and made a part of this agreement, subject, however, (i) to any revisions of the Manual required by the demands of national security as determined by the Government, notice of which shall be furnished to the Contractor, and (ii) to mutual agreements entered into by the parties in order to adapt the Manual to the Contractor's business and necessary procedures thereunder. In order to place in effect such security controls, the Contractor further agrees to prepare Standard Practice Procedures for internal use, such procedures to be consistent with the Manual. In the event of any inconsistency between the Manual, as revised, and the Contractor's Standard Practice Procedures, the Manual shall control.</p>	<p>(B) The Government agrees that it shall indicate when necessary, by security classification (TOP SECRET, SECRET, or CONFIDENTIAL), the degree of importance to the national security of information pertaining to supplies, services, and other matters to be furnished by the Contractor to the Government or by the Government to the Contractor, and the Government shall give written notice of such security classification to the Contractor and of any subsequent changes thereof; provided, however, that matters requiring security classification will be assigned the least restricted security classification consistent with proper safeguarding of the matter concerned, since overclassification causes unnecessary operational delays and depreciates the importance of correctly classified matter. Further, the Government agrees that when Atomic Energy information is involved it will, when necessary, indicate by a marking additional to the classification marking that the information is "RESTRICTED DATA." The "Department of Defense Contract Security Classification Specification" (DD Form 254) is the basic document by which classification, regrading, and declassification specifications are documented and conveyed to the Contractor.</p> <p>(C) The Government agrees, on written application, to grant personnel security clearances to eligible employees of the Contractor who require access to information classified TOP SECRET, SECRET, or CONFIDENTIAL.</p> <p>(D) The Contractor agrees to determine that any subcontractor, subbidder, individual, or organization proposed for the furnishing of supplies or services which will involve access to classified information, has been granted an appropriate facility security clearance, which is still in effect prior to according access to such classified information.</p> <p>Section II - SECURITY REVIEWS</p> <p>Designated representatives of the Government responsible for reviews pertaining to industrial plant security shall have the right to review, at reasonable intervals, the procedures, methods, and facilities utilized by the Contractor in complying with the requirements of the terms and conditions of the Manual. Should the Government, through its authorized representative, determine that the Contractor's security methods, procedures, or facilities do not comply with such requirements, it shall submit a written report to the Contractor advising of the deficiencies.</p>
DD FORM 441, OCT 2004	PREVIOUS EDITION IS OBSOLETE.

Form DD 441 (Reverse)

Section III - MODIFICATION

Modification of this Agreement may be made only by written agreement of the parties hereto. The Manual may be modified in accordance with Section I of this Agreement.

Section IV - TERMINATION

This Agreement shall remain in effect until terminated through the giving of 30 days' written notice to the other party of intention to terminate; provided, however, notwithstanding any such termination, the terms and conditions of this Agreement shall continue in effect so long as the Contractor possesses classified information.

Section V - PRIOR SECURITY AGREEMENTS

As of the date hereof, this Agreement replaces and succeeds

any and all prior security or secrecy agreements, understandings, and representations, with respect to the subject matter included herein, entered into between the Contractor and the Government; provided, that the term "security or secrecy agreements, understandings, and representations: shall not include agreements, understandings, and representations contained in contracts for the furnishing of supplies or services to the Government which were previously entered into between the Contractor and the Government.

Section VI - SECURITY COSTS

This Agreement does not obligate Government funds, and the Government shall not be liable for any costs or claims of the Contractor arising out of this Agreement or instructions issued hereunder. It is recognized, however, that the parties may provide in other written contracts for security costs, which may be properly chargeable thereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year written above:

THE UNITED STATES OF AMERICA

By _____
(Signature of Authorized Government Representative)

(Typed Name of Authorized Government Representative)

(Typed Name of Authorized Government Agency)

(Typed Name of Contractor Entering Agreement)

WITNESS

By _____
(Signature of Authorized Contractor Representative)

(Typed Name of Authorized Contractor Representative)

(Title of Authorized Contractor Representative)

NOTE: In case of a corporation, a witness is not required but the certificate must be completed. Type or print names under all signatures.

(Contractor Address)

(Contractor Address)

NOTE: Contractor, if a corporation, should cause the following certificate to be executed under its corporate seal, provided that the same officer shall not execute both the Agreement and the Certificate.

CERTIFICATE

I, _____, certify that I am the _____
of the corporation named as Contractor herein; that _____
who signed this Agreement on behalf of the Contractor, was then _____
of said corporation; that said Agreement was duly signed for and in behalf of said corporation by authority of its governing body, and is
within the scope of its corporate powers.

(Corporate Seal)

(Signature and Date)

FEDERAL ACQUISITION REGULATION

APPENDIX

The official codified Cost Accounting Standards appear at 48 CFR Chapter 99.
This Chapter may be accessed via the website at www.access.gpo.gov/nara/cfr.

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APPENDIX—COST ACCOUNTING STANDARDS PREAMBLES AND REGULATIONS*

PART III—PREAMBLES PUBLISHED UNDER THE FAR SYSTEM

* This Appendix is provided for the convenience of user of the looseleaf FAR.
The official codified Cost Accounting Standards appear at 48 CFR 99.

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**PART III—PREAMBLES PUBLISHED UNDER THE
FAR SYSTEM**

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PART III—PREAMBLES PUBLISHED UNDER THE FAR SYSTEM

PREAMBLE A TO 30.404, CAPITALIZATION OF TANGIBLE ASSETS

This final rule, in Federal Acquisition Circular (FAC) 84-38, revises 30.404-40(b)(1), 30.404-60(a)(1), and 30.404-60(a)(1)(i).

SUMMARY

Section 30.404 requires that contractors have written policies for capitalization which must include a minimum acquisition cost criterion of \$1000. The standard is being amended to raise the threshold to \$1500. The purpose of the change is to permit contractors to adopt practices appropriate in today's economy.

Effective Date: The effective date of this modification is September 19, 1988.

BACKGROUND

Supplementary Information. The CAS Board established the minimum acquisition cost criterion for capitalization at \$500 when it originally promulgated CAS 404 in 1973. The Board's initial \$500 limitation encompassed the practices of 97 percent of the companies whose Disclosure Statements were filed with the Board. In the promulgation comments to the Standard, the Board recommended that the special limits in the standard "...may need to be reviewed in the future...(and will be revised) promptly if developments warrant a change."

On March 3, 1980, the Board did revise the limitation upward to \$1000 as it recognized that circumstances had changed significantly since the promulgation of Standard 404. The Board found that the performance of several official indices showed increases from 60 to 80 percent, and a survey of companies not influenced by the limitation of Standard 404 showed a significant number using \$1000 as the minimum criterion for capitalization.

The impact of inflation has continued over the 7 years since 1980, although at a lower level. Indices from the Commerce Department for the implicit price deflators on nonresidential structures and machinery and equipment showed increases from 30 to 35 percent over the period 1979 through 1985. When applied to the current \$1000 criterion, this yields values from \$1300 to \$1350. In addition, economic projections showed inflation levels rising slightly from 1986 through 1989. Consequently, this change increases the minimum acquisition cost criterion for capitalization of tangible capital assets to \$1500 to cover both actual and projected price increases.

The amendment which is now being promulgated is derived directly from the proposed rule which was published in the *Federal Register* on July 9, 1986 (51 FR 24971), with an invitation for interested parties to submit comments.

Four letters of comment were received on the July 9, 1986, proposal. Only one letter directly addressed the appropriateness of the proposed revisions to 30.404. That comment stated that inflation should not be the motivating factor in determining significant costs for capitalization, but rather materiality of the cost should be the factor in determining significance.

The CAS Board's comments in the CAS 404 preamble and its action to increase the capitalization threshold based upon inflation, discussed above, indicate that the Board considered the materiality

and significance of asset acquisition cost to be directly related to the level of prices in the economy. The Defense Acquisition Regulations Council and the Civilian Agency Acquisition Council agree with the CAS Board's outlook on this matter and expect the increase in capitalization threshold provided in this modification to 30.404 will be beneficial to Government contract costing by not requiring capitalization of assets that are of insignificant value.

PREAMBLE A TO 30.416, ACCOUNTING FOR INSURANCE COSTS

This final rule, in Federal Acquisition Circular (FAC) 84-38, revises 30.416-50(a)(3)(ii).

SUMMARY

FAR 30.416-50(a)(3)(ii) revisions delete the requirement to use state rates in discounting certain self-insured losses to present value.

Effective Date: The effective date of this modification is September 19, 1988.

This modification shall be followed by each contractor on or after the start of its next cost accounting period, beginning after receipt of a contract to which this modification is applicable.

BACKGROUND

Supplementary Information. Section 30.416 provides that the amount of insurance cost to be assigned to a cost accounting period is the projected average loss (PAL) for that period plus insurance administration expense in that period. The PAL is either the insurance premium, where the risk of loss is covered by the purchase of insurance, or a self-insurance charge, where the exposure to risk is not covered by the purchase of insurance. Where it is probable that the actual amount of losses will not differ significantly from the PAL, the actual amount of losses may be considered to represent the PAL for the period as the self-insurance charge.

In self-insurance, when the actual amount of losses is being used to represent the PAL, contractors are to discount those losses to present value, where payments to the claimant will not take place for over a year after the loss occurs. If a state provides a discount rate for computing lump-sum settlements, 30.416 requires that the state rate be used for computing present value. Otherwise, the Pub. L. 92-41 Treasury rate is to be used. The differing rates specified by the states, and the lack of specified rates in some states, result in inconsistent treatment of self-insurance charges on defense contracts.

The purpose of requiring a present value computation for contract cost accounting purposes is to recognize the time value of money for funds advanced to and used by the contractor for extended periods before being disbursed. The Pub. L. 92-41 Treasury rate is generally specified for this purpose. The majority of state laws covering worker's compensation insurance specify a rate in the range of 3-6 percent. The use of a low rate results in a larger settlement than would use of a current money market rate. The purpose of low state rates is to discourage lump-sum settlements. This purpose is unrelated to that of fair valuation for contract cost accounting purposes. The use of state rates may produce inaccurate measures of present values and will most certainly create inconsistencies in the pricing of

contracts due to the lack of consistent determinations of present values. Consequently, the proposed rule, published in the *Federal Register* on July 8, 1986 (51 FR 24788), deleted the reference to state discount rates at 30.416-50(a)(3)(ii) and required use of the Pub. L. 92-41 Treasury rate in all cases.

Four comments were received in response to the proposed rule. None of the comments directly challenged the appropriateness of the proposed revision. Therefore, no changes were made to the proposed rule as a result of the public comments.

FEDERAL ACQUISITION REGULATION

INDEX

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Section	8(a) Award.	52.219-17
	Section	8(a) competition.	6.204
	Notification of Competition Limited to Eligible	8(a) Concerns.	52.219-18
	Special	8(a) Contract Conditions.	52.219-11
	Pricing the	8(a) contract.	19.806
	Contracting with the Small Business Administration (The	8(a) Program)	19.8
	Selecting acquisitions for the	8(a) program.	19.803
	Selecting concerns for the	8(a) program.	19.802
	Special	8(a) Subcontract Conditions.	52.219-12
	Competitive	8(a).	19.805
		Abandonment, destruction or donation of excess personal property.	45.603
	Sureties and Other Security for Bonds:	Acceptability of assets.	28.203-2
	Sureties and Other Security for Bonds:	Acceptability of corporate sureties.	28.202
	Sureties and Other Security for Bonds:	Acceptability of individual sureties.	28.203
		Acceptable Material	11.3
	Definitions:	Acceptance	46.101 52.246-17 52.246-18 52.246-19 52.246-20
	Criteria for	acceptance and negotiation of an unsolicited proposal.	15.607
	Period for	Acceptance of Bids.	52.214-15
	Solicitation and	acceptance of gratuities by Government personnel.	3.101-2
	Sureties and Other Security for Bonds	Acceptance of real property.	28.203-3
	Definition:	Acceptance period	52.214-16
	Minimum Bid	Acceptance Period.	52.214-16
	Quality Assurance: Place of	acceptance.	46.503
	Quality Assurance: Responsibility for	acceptance.	46.502
	Selecting and Developing Requirements Documents: Market	acceptance.	11.103
	Small Business Programs: Evaluation, offering, and	acceptance.	19.804
	Unique Requirements Regarding Terms and Conditions for Commercial Items:	Acceptance.	12.402
		Accessorial Services—Moving Contracts.	52.247-13
	Definition:	Accessory item	45.501
	Construction and Architect-Engineer Contracts:	Accident prevention.	36.513 52.236-13
		Accountable Facilities (Nonprofit Educational Institutions).	52.245-13
		Accounting for unallowable costs.	31.201-6
	Availability of	accounting guide.	31.002
	Schedule of	accounting information.	49.602-3

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Financial and cost	accounting records.	4.705-1
	Initiation of progress payments and review of	accounting system.	32.503-3
	Change Order	Accounting.	52.243-6
	Definition:	Accrual of a claim	33.201
	Definition:	Accrued benefit cost method	31.001
	Definition:	Accumulating costs	31.001
		Acquiring special test equipment.	45.307-2
		Acquiring Utility Services.	41.2
	Definition:	Acquisition	2.101
	Foreign	Acquisition	Part 25
	Major System	Acquisition	Part 34
		Acquisition and supply records.	4.705-3
	Patent Rights—	Acquisition by the Government.	52.227-13
	Equipment Lease or Purchase:	Acquisition considerations.	7.401
	Delay of	acquisition dates over 60 days.	22.1014
	Announcements of long-range	acquisition estimates.	5.404-2
	Required Sources of Supplies and Services:	Acquisition from Federal Prison Industries, Inc.	8.6
	Required Sources of Supplies and Services:	Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled	8.7
	Exchange of	acquisition information.	5.405
	Sealed Bidding: Release of	acquisition information.	14.211
	Availability of Specifications Listed in the DoD Index of Specifications and Standards (DoDISS) and Descriptions Listed in the	Acquisition Management Systems and Data Requirements Control List, DoD 5010.12-L.	52.211-2
		Acquisition methods.	7.402
	Simplified	Acquisition Methods.	13.3
		Acquisition of Commercial Items	Part 12
	Special Requirements for the	Acquisition of Commercial Items	12.2
	Forms:	Acquisition of commercial items.	53.212
		Acquisition of data.	27.406
		Acquisition of Helium	8.5
		Acquisition of Information Technology	Part 39
	Required Sources of Supplies and Services:	Acquisition of Printing and Related Supplies	8.8
		Acquisition of Utility Services	Part 41
	Definition:	Acquisition planning	2.101
		Acquisition Planning	Part 7
	Contents of written	acquisition plans.	7.105
	Simplified	acquisition procedures (SF's 18, 30, 44, 1165, 1449, OF's 336, 347, 348).	53.213
	Agency	Acquisition Regulations	1.3
	Federal	Acquisition Regulations System	Part 1

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Special	acquisition requirements.	37.114
	Definition:	Acquisition savings	48.001 52.248-1
	Sharing	acquisition savings.	48.104-2
	Major System Acquisition:	Acquisition strategy.	34.004
	Definition:	Acquisition streamlining	7.101
	Statement of guiding principles for the Federal	Acquisition System.	1.102
	Guiding principles for the	Acquisition Team.	1.102-3
	Role of the	Acquisition Team.	1.102-4
	Termination of Work (Consolidated Facilities or Facilities	Acquisition).	52.249-11
	Insufficient causes for not setting aside an	acquisition.	19.502-5
	Government Property—Facilities	Acquisition.	52.245-10
	Application of Labor Laws to Government	Acquisitions	Part 22
	Terms and Conditions—Simplified	Acquisitions (Other Than Commercial Items).	52.213-4
	Application of labor laws to Government	acquisitions (SF's 99, 308, 1093, 1413, 1444, 1445, 1446, WH-347).	53.222
	Government contract quality assurance for	acquisitions at or below the simplified acquisition threshold.	46.404
	Setting aside a class of	acquisitions for small business.	19.503
	Selecting	acquisitions for the 8(a) program.	19.803
	Additional requirements for	acquisitions involving bundling.	7.107
	Contractor Qualifications:	Acquisitions subject to qualification requirements.	9.206
	Encouraging small business participation in	acquisitions.	19.202-1
	Repetitive	acquisitions.	19.804-4
	Requirements for setting aside	acquisitions.	19.502-1
	Setting aside	acquisitions.	19.502
	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper	Activity.	52.203-8
	Contract Work Hours and Safety Standards	Act—Overtime Compensation.	52.222-4
	Service Contract	Act—Place of Performance Unknown.	52.222-49
	Fair Labor Standards Act and Service Contract	Act—Price Adjustment (Multiple Year and Option Contracts).	52.222-43
	Fair Labor Standards Act and Service Contract	Act—Price Adjustment.	52.222-44
	Definition:	Actual cash value	31.001
	Definition:	Actual costs	31.001
	Definition:	Actuarial accrued liability	31.001
	Definition:	Actuarial assumption	31.001
	Definition:	Actuarial cost method	31.001
	Definition:	Actuarial gain and loss	31.001
	Definition:	Actuarial valuation	31.001
		Additional Foreign Acquisition Regulations	25.10
	Definition:	Adequate evidence	2.101
		Adjustment for loss.	49.203

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Adjustment of fee.	49.305
		Adjustment of indirect costs.	49.303-4
	Establishing and	Administering Federal Supply Schedules	38.2
	Closeout by the office	administering the contract.	4.804-1
	Closeout of the contracting office files if another office	administers the contract.	4.804-2
	Cost Accounting Standards	Administration	Part 30
	Federal Acquisition Regulations System:	Administration	1.2
	Contract	Administration and Audit Services	Part 42
		Administration and payment of commercial financing payments.	32.207
		Administration and payment of performance-based payments.	32.1007
		Administration of Cost Accounting Standards.	52.230-6
		Administration of progress payments.	32.503-5
	First Article Testing and Approval: Government	administration procedures.	9.307
	Contract	administration responsibilities.	42.201
	Contract	Administration Services	42.2
	Contract	administration services directory.	42.203
	Assignment of contract	administration.	42.202
	Contract pricing and	administration.	22.101-2
	Bonds and Other Financial Protections:	Administration.	28.106
	Change Orders	Administration.	43.204
	Definition:	Administrative change	43.101
	Definition: Contracting officer/	Administrative contracting officer (ACO)	2.101
	Service Contract Act of 1965, As Amended:	Administrative limitations, variations, tolerances, and exemptions.	22.1003-4
		Administrative Matters	Part 4 53.204
	Definition:	Administrator, or Administrator, Wage and Hour Division	22.001
		Advance agreements.	31.109
	Traffic and Transportation Management:	Advance notice.	42.1406-1
	Distribution of	advance notices and solicitations.	36.211
	Transportation:	Advance Notification by the Government.	52.247-24
	Consent to Subcontracts:	Advance notification requirements.	44.201-2
	Clauses for contracting in	advance of funds.	32.705-1
	Contract Financing:	Advance Payments for Non-Commercial Items.	32.4 52.232-12
	Definition:	Advertisement	5.501
	Paid	Advertisements	5.5 53.205-1
	Use of	advertising agencies.	5.504
	Contracts with Commercial Organizations: Public relations and	advertising costs.	31.205-1

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Advertising material	15.601
	Definition:	Advisory and assistance services	2.101
		Advisory and Assistance Services	37.2
	Multiple Awards for	Advisory and Assistance Services.	52.216-28
	Solicitation and Receipt of Proposals and Information:	Advisory multi-step process.	15.202
	Competition	Advocates	6.5
	Definition:	Affiliates	2.101 9.403
		Affirmative Action Compliance Requirements for Construction.	22.804-2 52.222-25 52.222-27
		Affirmative Action for Workers with Disabilities.	52.222-36
	Definition:	Affirmative action program	22.801
	Agency	affirmative procurement programs.	23.404
	Definition:	After-imposed tax	52.229-4 52.229-6
	Definition:	After-relieved tax	52.229-4 52.229-6
	Definition:	Agency	3.801 9.403 24.101 52.203-12
	Federal Acquisition Regulations System:	Agency Acquisition Regulations	1.3
		Agency affirmative procurement programs.	23.404
	Federal Acquisition Regulations System:	Agency and Public Participation	1.5
	Federal Acquisition Regulations System: Solicitation of	agency and public views.	1.501
	Federal Acquisition Regulations System:	Agency compliance with the FAR.	1.202
	Federal Acquisition Regulations System:	Agency control and compliance procedures.	1.304
		Agency distribution requirements.	4.202
	Definition:	Agency ethics official	3.104-1
	Contracting with the Small Business Administration (The 8(a) Program):	Agency evaluation.	19.804-1
		Agency forms.	53.303
	Definition:	Agency head (see "head of the agency")	2.101
	Definition:	Agency labor advisor	22.1001
	Market research and description of	agency need.	12.202
	Describing	Agency Needs	Part 11
	Contracting with the Small Business Administration (The 8(a) Program):	Agency offering.	19.804-2
		Agency regulations.	3.101-3
	Acquisition Plans:	Agency-head responsibilities.	7.103
	Definition:	Agency-peculiar property	45.301

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Agreed Weight—General Freight.	52.247-9
	Definition:	Agreement	4.1101
		Agreement for special account at a financial institution.	32.411
		Agreement on Trade in Civil Aircraft.	25.407
	Novation and Change-of-Name Agreements:	Agreement to recognize contractor's change of name.	42.1205
	Memorandum of pricing	agreement with refund.	32.609
	International	agreement.	6.302-4
	Contract Not Affected by Oral	Agreement.	52.247-27
	Use of patented technology under the North American Free Trade	Agreement.	27.208
	Forms for Settlement of Terminated Contracts: Settlement	agreement. (SF 30)	49.602-5
	Foreign License and Technical Assistance	Agreements	27.6
	Forward Pricing Rate	Agreements	42.17
	Novation and Change-of-Name	Agreements	42.12
	Delivery orders and orders under basic ordering	agreements (OF 347).	53.216-1
	Novation and change-of-name	agreements (SF 30).	53.242-1
	Air transport	agreements between the United States and foreign governments.	47.403-2
	Availability of term contracts and basic ordering	agreements for transportation or for transportation-related services.	47.205
	Acquiring Utility Services: Interagency	agreements.	41.206
	Advance	agreements.	31.109
	Applicability of novation	agreements.	42.1204
	Basic ordering	agreements.	16.703
	Contract Administration and Audit Services: Interagency	agreements.	42.002
	Employment of Workers with Disabilities: Collective bargaining	agreements.	22.1405
	Formats for termination for convenience settlement	agreements.	49.603
	Forward pricing rate	agreements.	15.407-3
	Processing	agreements.	42.1203
	Responsibility for executing	agreements.	42.1202
	Settlement	agreements.	49.109
	Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans: Collective bargaining	agreements.	22.1307
	Sponsoring	agreements.	35.017-1
	Surety-takeover	agreements.	49.404
	F.o.b. Designated	Air Carrier's Terminal, Point of Exportation.	52.247-43
	F.o.b. Designated	Air Carrier's Terminal, Point of Importation.	52.247-44
	Refrigeration Equipment and	Air Conditioners.	52.223-12
	Definition:	Air freight forwarder	47.401
		Air freight forwarders.	47.404
	Clearance and Documentation Requirements—Shipments to DoD	Air or Water Terminal Transshipment Points.	52.247-52
	Air Transportation By U.S.-Flag Carriers:	Air transport agreements between the United States and foreign governments.	47.403-2

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Air Transportation by U.S.-Flag Carriers	47.4
	Costs of	alcoholic beverages.	31.205-51
	Definition:	All applicable Federal, State, and local taxes and duties	52.229-4
	Definition:	All applicable taxes and duties	52.229-6
	Definition:	All employment openings	52.222-35
	Sealed Bidding:	All or none qualifications.	14.404-5
	Determining	allocability.	31.201-4
	Definition:	Allocate	31.001
	Definition:	Allocation	8.701
	Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled:	Allocation process.	8.705-3
	Defense Priority and	Allocation Requirements.	52.211-15
	Describing Agency Needs: Priorities and	Allocations	11.6
	Exceptions to general rules on	allowability and allocability.	31.106-2
	Determining	allowability.	31.201-2
	Cost Reimbursement Contracts:	Allowable Cost and Payment.	52.216-7
	Cost Reimbursement Contracts:	Allowable Cost and Payment—Facilities Use.	52.216-14
	Cost Reimbursement Contracts:	Allowable Cost and Payment—Facilities.	52.216-13
	Payments of	Allowable Costs Before Definitization.	52.216-26
		Alterations in Contract.	52.252-4
		Alterations in Solicitation.	52.252-3
	Definition:	Alternate	2.101
	Procedures for using	alternates.	52.105
	Definition:	Alternative dispute resolution (ADR)	33.201
		Alternative dispute resolution (ADR).	33.214
	Performance and payment bonds and	alternative payment protections for construction contracts.	28.102
		Alternative Payment Protections.	52.228-13
	Establishing or maintaining	alternative sources.	6.202
		Alternatives in lieu of corporate or individual sureties.	28.204
		Alternatives to Government-Unique Standards.	52.211-7
	Contracting by Negotiation:	Amending the solicitation.	15.206
		Amendments without consideration.	50.302-1
	Contract modifications (options, extensions, changes in scope) and	anniversary dates.	22.1008-6
		Announcement of contract awards.	5.303
		Announcements of long-range acquisition estimates.	5.404-2
		Annual Representations and Certifications	4.12
		Annual Representations and Certifications.	52.204-8
		Anti-Kickback Procedures.	52.203-7
	Reports of Suspected	Antitrust Violations.	3.3

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	SBA	appeals.	19.810
	Wage determination	appeals.	22.404-11
	Contractor Versus Government Performance:	Appeals.	7.307
	Protests, Disputes, and	Appeals.	Part 33
		Applicability of certain laws to Executive agency contracts for the acquisition of commercial items.	12.503
		Applicability of Certain Laws to the Acquisition of Commercial Items	12.5
		Application of Labor Laws to Government Acquisitions	Part 22
		Application of labor laws to Government acquisitions (SF's 99, 308, 1093, 1413, 1444, 1445, 1446, WH-347).	53.222
	Incentive Contracts:	Application of predetermined, formula-type incentives.	16.402
	Definition:	Applied research	31.205-18
	Definition:	Applied research	35.001
	Selection, appointment, and termination of	appointment.	1.603
	Definition:	Apprentice	22.401
		Apprentices and trainees.	22.406-4 52.222-9
	Definition:	Approval	9.301
	First Article Testing and	Approval	9.3
		Approval of Contract.	52.204-1
		Approval of progress payment requests.	32.503-4
		Approval of the justification.	6.304
		Approval of Wage Rates.	52.222-16
	Contractors' Purchasing Systems Reviews: Disclosure of	approval status.	44.306
	OMB	Approval under the Paperwork Reduction Act.	1.106
	Contractors' Purchasing Systems Reviews: Granting, withholding, or withdrawing	approval.	44.305
	Basic Labor Policies	Approvals.	22.103-4
	Definition:	Approved purchasing system	44.101 52.244-2
	Definition:	Approving authority	50.001
	Responsibility of the	Architect-Engineer Contractor.	52.236-23
	Contract Cost Principles and Procedures: Construction and	architect-engineer contracts.	31.105 31.201-7
	Work oversight in	architect-engineer contracts.	36.609-3 52.236-24
	Definition:	Architect-engineer services	2.101
		Architect-Engineer Services	36.6
		Architect-engineer services (SF's 252, 330, and 1421).	53.236-2

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Standard and Optional Forms for Contracting for Construction,	Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements	36.7
	Contracts for construction work or	architect-engineer services.	27.304-3
	Forms for use in contracting for	architect-engineer services.	36.702
	Subcontractors and Outside Associates and Consultants	Architect-Engineer Services.	52.244-4
	Government cost estimate for	architect-engineer work.	36.605
	Termination (Fixed-Price	Architect-Engineer).	52.249-7
	Value Engineering—	Architect-Engineer.	52.248-2
	Definition:	Areawide contract	41.101
	Federal Acquisition Regulations System:	Arrangement of regulations.	1.105-2
	Federal Acquisition Regulations System: Publication and code	arrangement.	1.105-1
	Providing Government production and research property	as is.	45.308
	Government Property Furnished	As Is.	52.245-19
	Loan Guarantees for Defense Production:	Asset formula.	32.304-3
	Pension Adjustments and	Asset Reversions.	52.215-15
		Asset valuations resulting from business combinations.	31.205-52
	Gains and losses on disposition or impairment of depreciable property or other capital	assets.	31.205-16
	Sureties and Other Security for Bonds: Acceptability of	assets.	28.203-2
	Sureties and Other Security for Bonds: Substitution of	assets.	28.203-4
	Pledges of	Assets.	52.228-11
	Extent of	assignee's protection.	32.804
	Corporate Administrative Contracting Officer:	Assignment and location.	42.602
	Definition:	Assignment of claims	2.101
		Assignment of claims under contracts.	32.304-5
		Assignment of claims.	32.1105
		Assignment of contract audit services.	42.102
	Production Surveillance and Reporting:	Assignment of criticality designator.	42.1105
		Assignment of rights under subcontracts.	49.108-8
	Single-agency	assignments of Government contract quality assurance.	46.408
	Notice and	Assistance Regarding Patent and Copyright Infringement.	52.227-2
	Furnishing	assistance to contractors.	51.104
	General Services Administration	assistance.	7.403
	Patents: Notice and	assistance.	27.202
	Subcontractors and Outside	Associates and Consultants (Architect-Engineer Services).	52.244-4
	Definition:	Attorney-in-fact	28.001
	Contracting by Negotiation:	Audit and Records—Negotiation.	52.215-2
	Sealed Bidding:	Audit and Records—Sealed Bidding.	52.214-26
		Audit of prime contract settlement proposals and subcontract settlements.	49.107

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Audit of property control system.	45.511
		Audit of settlement proposal.	49.303-3
	Contract	audit responsibilities.	42.101
	Contract	Audit Services	42.1
	Contract Administration and	Audit Services	Part 42
	Contract	audit services directory.	42.103
	Assignment of contract	audit services.	42.102
	Submission of Commercial Transportation Bills to the General Services Administration for	Audit.	52.247-67
	Indirect Cost Rates:	Auditor determination procedure.	42.705-2
	Permits,	Authorities, or Franchises.	52.247-2
	Contracting	authority and responsibilities (SF 1402).	53.201-1
		Authority for use of warranties.	46.704
	Contract Modifications:	Authority to issue change orders.	43.202
	Career Development, Contracting	Authority, and Responsibilities	1.6
	Purpose,	Authority, Issuance	1.1
	Signatory	authority.	1.707
	Statutory and delegated	authority.	41.103
	Federal Acquisition Regulations System:	Authority.	1.103 1.602-1
	Definition:	Authorization	41.101
		Authorization and consent.	27.201 27.201-2 52.227-1
		Authorization for subcontract settlements without approval or ratification.	49.108-4
		Authorization to use Government supply sources.	51.102
	Advance Payments for Non-Commercial Items: Findings, determination, and	authorization.	32.410
		Authorized Deviations in Clauses.	52.252-6
		Authorized Deviations in Provisions.	52.252-5
	Definition:	Authorized individual	13.001
	Definition:	Authorized official of an agency	3.901
	Definition:	Authorized official of the Department of Justice	3.901
		Authorized or required by statute.	6.302-5
	Definition:	Authorized program	11.601
	Contractor Use and Rental of Government Property:	Authorizing use of Government production and research property.	45.402
	Definition:	Auxiliary item	45.501
		Availability and unavailability of U.S.-flag air carrier service.	47.403-1
		Availability and use of utility services.	36.514

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Availability for Examination of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.	52.211-4
		Availability of Funds for the Next Fiscal Year.	52.232-19
	Contracts conditioned upon	availability of funds.	32.703-2
	Contract Modifications:	Availability of funds.	43.105 52.232-18
	Determining	availability of private commercial sources.	7.303
	Notice of	Availability of Progress Payments Exclusively for Small Business Concerns.	52.232-14
	Publicizing Contract Actions:	Availability of solicitations.	5.102
		Availability of Specifications Listed in the DoD Index of Specifications and Standards (DoDISS) and Descriptions Listed in the Acquisition Management Systems and Data Requirements Control List, DoD 5010.12-L.	52.211-2
		Availability of Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR 101-29.	52.211-1
		Availability of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.	52.211-3
	Identification and	availability of specifications.	11.201
		Availability of term contracts and basic ordering agreements for transportation or for transportation-related services.	47.205
	Other Than Full and Open Competition:	Availability of the justification.	6.305
	Soliciting competition, evaluation of quotations or offers,	award and documentation.	13.106
	Sealed Bidding:	Award of classified contracts.	14.409-2
	Opening of Bids and	Award of Contract	14.4
	Sealed Bidding:	Award of unclassified contracts.	14.409-1
	Contracting by Negotiation:	Award to successful offeror.	15.504
	Contracting by Negotiation: Preaward,	Award, and Postaward Notifications, Protests, and Mistakes	15.5
	Special Contracting Methods:	Award, renewal, and extension.	17.605
	Acquisition of Commercial Items: Procedures for solicitation, evaluation, and	award.	12.203
	Construction and Architect-Engineer Contracts: Notice of	award.	36.213-4
	Contracting by Negotiation: Protests against	award.	15.507
	Evaluation for	award.	35.008
	Opportunity for qualification before	award.	9.205
	Sealed Bidding: Documentation of	award.	14.408-7
	Sealed Bidding: Other mistakes disclosed before	award.	14.407-3
	Sealed Bidding: Protests against	award.	14.408-8
	Service Contract Act of 1965, As Amended: Notice of	award.	22.1017
	Sealed Bidding:	Award.	14.408
	Section 8(a)	Award.	52.219-17
	Incentive Contracts: Cost-plus-	award-fee contracts.	16.405-2
	Small Business Programs:	Awarding the contract.	19.602-4

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Multiple	Awards for Advisory and Assistance Services.	52.216-28
		Awards involving subcontracting plans.	19.705-5
	HUBZone sole source	awards.	19.1306
	Preparation and transmittal of synopses of	awards.	5.302
	Recognition of judgments and arbitration	awards.	49.108-5
	Sealed Bidding: Mistakes after	awards.	14.407-4
	Single or Multiple	Awards.	52.216-27
		Bad debts.	31.205-3
	Certified or cashier's checks,	bank drafts, money orders, or currency.	28.204-2
		Bankruptcy	42.9
	Types of Contracts:	Basic Agreements.	16.7 16.702
	Management of Government Property in the Possession of Contractors:	Basic information.	45.505-1
		Basic Labor Policies	22.1
	Delivery orders and orders under	basic ordering agreements (OF 347).	53.216-1
	Availability of term contracts and	basic ordering agreements for transportation or for transportation-related services.	47.205
		Basic ordering agreements.	16.703 19.804-5
	Definition:	Basic research	2.101
	Definition:	Best practices	37.501
	Definition:	Best value	2.101
	Contracting by Negotiation:	Best value continuum.	15.101
	Definition:	Bid	28.001
	Minimum	Bid Acceptance Period.	52.214-16
	Independent research and development and	bid and proposal costs.	31.205-18
	Sealed Bidding:	Bid envelopes.	14.202-3
	Definition:	Bid guarantee	28.001
	Noncompliance with	bid guarantee requirements.	28.101-4
		Bid guarantees.	52.228-1
	Disclosure, protection, and marking of contractor	bid or proposal information and source selection information.	3.104-4
	Definition:	Bid sample	2.101
	Sealed Bidding:	Bid samples.	14.202-4 52.214-20
	Sealed Bidding:	Bid submission.	14.302
	Sealed Bidding: Receipt of an unreadable electronic	bid.	14.406
	Definition:	Bidder	28.001
	Sealed Bidding: Responsible	bidder—reasonableness of price.	14.408-2
	Sealed Bidding: Notice to	bidders of rejection of all bids.	14.404-3

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Sealed Bidding: Information to	bidders.	14.409
	Sealed Bidding: Transmittal to prospective	bidders.	14.203-1
	Sealed Bidding: Explanation to Prospective	Bidders.	52.214-6
	Sealed Bidding:	Bidding time.	14.202-1
	Sealed Bidding: Elements of sealed	bidding.	14.101
	Sealed Bidding: Sealed	bidding.	Part 14 53.214
	Sealed Bidding: Step Two of Two-Step Sealed	Bidding.	52.214-25
	Sealed Bidding: Submission of	Bids	14.3
	Sealed Bidding: Evaluation of	Bids for Multiple Awards.	52.214-22
	Sealed Bidding: Telegraphic	bids.	14.202-2 52.214-13
	Sealed Bidding: Classified	bids.	14.402-2
	Sealed Bidding: Electronic	bids.	14.202-8
	Sealed Bidding: Equal low	bids.	14.408-6 19.202-3 52.219-2
	Sealed Bidding: Facsimile	bids.	14.202-7 52.214-31
	Sealed Bidding: Final review of invitations for	bids.	14.202-6
	Sealed Bidding: General rules for solicitation of	bids.	14.202
	Sealed Bidding: Methods of soliciting	bids.	14.203
	Sealed Bidding: Minor informalities or irregularities in	bids.	14.405
	Sealed Bidding: Mistakes in	bids.	14.407
	Sealed Bidding: Modification or withdrawal of	bids.	14.303
	Sealed Bidding: Notice to bidders of rejection of all	bids.	14.404-3
	Sealed Bidding: Opening of	bids.	14.402
	Sealed Bidding: Preparation of invitations for	bids.	14.201
	Sealed Bidding: Receipt and safeguarding of	bids.	14.401
	Sealed Bidding: Recording of	bids.	14.403
	Sealed Bidding: Records of invitations for bids and records of	bids.	14.204
	Sealed Bidding: Rejection of	bids.	14.404
	Sealed Bidding: Rejection of individual	bids.	14.404-2
	Sealed Bidding: Responsiveness of	bids.	14.301
	Sealed Bidding: Unclassified	bids.	14.402-1
	Special Aspects of Contracting for Construction: Invitations for	bids.	36.213-3
	Sealed Bidding: False Statements in	Bids.	52.214-4
	Sealed Bidding: Period for Acceptance of	Bids.	52.214-15
	Sealed Bidding: Preparation of	Bids.	52.214-12

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Sealed Bidding: Submission of	Bids.	52.214-5
	Sealed Bidding: Preparation of	Bids—Construction.	52.214-18
	Commercial	Bill of Lading Notations.	52.247-1
	Transportation (U.S. Government	Bill of Lading).	53.247
	Annotation and distribution of shipping and	billing documents.	47.207-9
	Definition:	Billing rate	42.701
	Indirect Cost Rates:	Billing rates.	42.704
	F.o.b. Origin—Government	Bills of Lading or Indicia Mail.	52.242-11
	F.o.b. Origin—Government	Bills of Lading or Prepaid Postage.	52.242-10
	Submission of Commercial Transportation	Bills to the General Services Administration for Audit.	52.247-67
	Definition:	Biobased product	23.701
	Historically	Black Colleges and Universities and Minority Institutions	26-3
		Blanket purchase agreements (BPAs).	13.303
	Federal Supply Schedules:	Blanket purchase agreements (BPAs).	8.405-3
	Surveys of nonprofit agencies serving people who are	blind or have other severe disabilities under the Javits-Wagner-O'Day (JWOD) Program.	9.107
	Acquisition from Nonprofit Agencies Employing People Who Are	Blind or Severely Disabled	8.7
	Loading,	Blocking, and Bracing of Freight Car Shipments.	52.247-58
	Definition:	Bona fide agency	3.401
	Definition:	Bona fide employee	3.401
	Definition:	Bond	28.001
	Additional	bond and security.	28.106-3
	Additional	Bond Security.	52.228-2
		Bonding costs.	31.205-4
	Sureties and Other Security for	Bonds	28.2
	Performance and payment	bonds and alternative payment protections for construction contracts.	28.102
		Bonds and bond-related forms.	28.106-1
		Bonds and insurance.	Part 28 53.228
		Bonds and Other Financial Protections	28.1
	Performance and payment	bonds for other than construction contracts.	28.103
	United States	bonds or notes.	28.204-1
	Dismantling, Demolition or Removal of Improvements:	Bonds or other security.	37.302
	Advance payment	bonds.	28.105-1
	Annual performance	bonds.	28.104
	Other types of	bonds.	28.105
	Patent infringement	bonds.	28.105-2
	Payment	bonds.	28.103-3
	Performance	bonds.	28.103-2

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Substitution of surety	bonds.	28.106-2
	Prospective Subcontractor Requests for	Bonds.	52.228-12
	Definition:	Borrower	32.301
	Loan Guarantees for Defense Production: Other	borrowing.	32.304-8
	Simplified Acquisition Methods: Blanket purchase agreements—	BPAs.	13.303
	Loading, Blocking, and	Bracing of Freight Car Shipments.	52.247-58
	Selecting and Developing Requirements Documents: Use of	brand name or equal purchase descriptions.	11.104
		Brand Name or Equal.	52.211-6
	Applicable Law for	Breach of Contract Claim	52.233-4
	Definition:	Broad agency announcement	2.101
	Definition:	Building, or work	22.401
	Definition:	Bundled contract	2.101
	Definition:	Bundling	2.101
	Additional requirements for acquisitions involving	bundling.	7.107
	Definition:	Bureau of Land Management	8.501 52.208-8
	Definition:	Business Partner Network (BPN)	2.101
	Other Improper	Business Practices	3.5
	Improper	Business Practices and Personal Conflicts of Interest	Part 3
	Definition:	Business unit	2.101
	Trade,	business, technical, and professional activity costs.	31.205-43
	Waiver of	Buy American Act for Civil Aircraft and Related Articles.	52.225-7
		Buy American Act.	25.504-1
		Buy American Act—Construction Materials	25.2
		Buy American Act—Construction Materials Under Trade Agreements.	52.225-11
		Buy American Act—Construction Materials.	52.225-9
		Buy American Act—Free Trade Agreements—Israeli Trade Act.	52.225-3
		Buy American Act—Supplies	25.1 52.225-1
	Definition:	Buying-in	3.501-1
	Improper Business Practices and Personal Conflicts of Interest:	Buying-in.	3.501
	Transportation in Supply Contracts:	C.& f. destination.	47.303-13 52.247-41
	Transportation in Supply Contracts:	C.i.f. destination.	47.303-14 52.247-42
		Calculation of retention periods.	4.704
	Definition:	Canadian end product	25.003 52.225-3, Alt I and II
	Definition:	Cancellation	17.103 52.217-2

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Cancellation ceiling	17.103
	Definition:	Cancellation charge	17.103
		Cancellation of invitations after opening.	14.404-1
		Cancellation of invitations before opening.	14.209
	Notice of	cancellation or change.	28.302
		Cancellation Under Multiyear Contracts.	52.217-2
		Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity.	52.203-8
		Capability to Perform a Contract for the Relocation of a Federal Office.	52.247-3
		Capital Credits.	52.241-13
Management of Government Property in the Possession of Contractors:		Care, maintenance, and use.	45.509
		Career Development, Contracting Authority, and Responsibilities	1.6
		Cargo Insurance.	52.228-9
	Definition:	Caribbean Basin country	25.003
	Definition:	Caribbean Basin country end product	25.003 52.225-5
		Caribbean Basin Trade Initiative.	25.405
	F.o.b. Origin—	Carload and Truckload Shipments.	52.247-59
	Definition:	Carrier, or commercial carrier	47.001
	F.o.b. Inland	Carrier, Point of Exportation.	52.247-38
	Preference for U.S.-Flag Air	Carriers.	52.247-63
		CAS Administration	30.6
		CAS applicability.	30.201-1
	Types of	CAS coverage.	30.201-2
		CAS Program Requirements	30.2
	Noncompliance with	CAS requirements.	30.602-2
	Certified or	cashier's checks, bank drafts, money orders, or currency.	28.204-2
		Central Contractor Registration	4.11 52.204-7
	Definition:	Central Contractor Registration database	2.101
	Definition:	Central nonprofit agency	8.701
	Issuing or denying a	Certificate of Competency (COC).	19.602-2
	Small business	Certificate of Competency.	37.108
	Acceptance:	Certificate of conformance.	46.504 46.315
		Certificate of Conformance.	52.246-15
		Certificate of Current Cost or Pricing Data.	15.406-2
	Loan Guarantees for Defense Production:	Certificate of eligibility.	32.304-2
		Certificate of Independent Price Determination.	52.203-2

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Indirect Cost Rates:	Certificate of indirect costs.	42.703-2
		Certificates of Competency and Determinations of Responsibility	19.6
		Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.	52.203-11
		Certification and disclosure.	3.803
		Certification of Eligibility.	52.222-15
		Certification of Final Indirect Costs.	52.242-4
		Certification of Toxic Chemical Release Reporting.	52.223-13
		Certification regarding debarment, suspension, proposed debarment, and other responsibility matters.	9.408 52.209-5
		Certification Regarding Knowledge of Child Labor for Listed End Products.	52.222-18
	Evaluating the	certification.	3.103-2
	Protests, Disputes, and Appeals: Contractor	certification.	33.207
	Cost Accounting Standards Notices and	Certification.	52.230-1
	Recovered Material	Certification.	52.223-4
	Annual Representations and	Certifications	4.12
	The need for further	certifications.	3.103-3
	Federal Acquisition Regulations System:	Certifications.	1.107
	Offeror Representations and	Certifications—Commercial Items.	52.212-3
		Certified or cashier's checks, bank drafts, money orders, or currency.	28.204-2
		Change in Class of Service.	52.241-4
		Change in Rates or Terms and Conditions of Service for Regulated Services.	52.241-7
		Change in Rates or Terms and Conditions of Service for Unregulated Services.	52.241-8
	Agreement to recognize contractor's	change of name.	42.1205
	Definition:	Change order	2.101
		Change order accounting procedures.	43.203
		Change Order Accounting.	52.243-6
		Change Orders	43.2
	Authority to issue	change orders.	43.202
	Processing value engineering	change proposals.	48.103
	Definition:	Change-of-name agreement	2.101
	Novation and	Change-of-Name Agreements	42.12
	Novation and	change-of-name agreements (SF 30).	53.242-1
	Required Sources of Supplies and Services:	Change-of-name and successor in interest procedures.	8.716
		Changes and Changed Conditions.	52.243-5
	Contract modifications (options, extensions,	changes in scope) and anniversary dates.	22.1008-6
	Notification of contract	changes.	43.104
	Unsettled contract	changes.	49.114
	Contract Modifications:	Changes.	52.243-4

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Notification of	Changes.	52.243-7
		Changes—Cost-Reimbursement.	52.243-2
		Changes—Fixed-Price.	52.243-1
		Changes—Time-and-Materials or Labor-Hours.	52.243-3
	Connection	Charge.	52.241-9
	Nonrefundable, Nonrecurring Service	Charge.	52.241-12
	Contracts for transportation or related services	Charges.	52.247-17
	Use and	Charges.	52.245-9
	Compliance	checking.	22.406-7
	Certified or cashier's	checks, bank drafts, money orders, or currency.	28.204-2
	Definition:	Child care services	37.101
	Prohibition of Acquisition of Products Produced by Forced or Indentured	Child Labor	22.15
	Certification Regarding Knowledge of	Child Labor for Listed End Products.	52.222-18
		Child Labor—Cooperation with Authorities and Remedies.	52.222-19
		Circumstances permitting other than full and open competition.	6.302
		Citation of Government rate tenders.	47.104-5
	Definition:	Civil aircraft and related articles	25.003 52.225-7
	Definition:	Civil judgment	9.403
	Criminal and	civil penalties, and further administrative remedies.	3.104-8
		Civil penalties.	3.807
	Definition:	Claim	2.101
	Definition:	Claim	52.233-1
	Initiation of a	claim.	33.206
	Assignment of	claims.	52.232-23
	Interest on	claims.	33.208
	Suspected fraudulent	claims.	33.209
	Federal Acquisition Regulations System:	Class determinations and findings.	1.703
		Class deviations.	1.404
	Change in	Class of Service.	52.241-4
	Freight	Classification Description.	52.247-53
	Wage Rates: Additional	classifications.	22.406-3
	Definition:	Classified acquisition	2.101
	Protection of	classified and sensitive information.	8.608
	Sealed Bidding:	Classified bids.	14.402-2
	Definition:	Classified contract	2.101
	Sealed Bidding: Award of	classified contracts.	14.409-2
	Patents:	Classified contracts.	27.207
	Definition:	Classified information	2.101

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Safeguarding	Classified Information Within Industry	4.4
	Safeguarding	classified information within industry (DD Form 254, DD Form 441).	53.204-1
	Filing of Patent Applications—	Classified Subject Matter.	52.227-10
	Patents:	Clause for classified contracts.	27.207-2
		Clause for construction contracts and for dismantling, demolition, and removal of improvements contracts.	27.203-5
	Patents:	Clause for Government waiver of indemnity.	27.203-6
	Provision and	Clause Matrix.	52.3
	Patents:	Clause on notice and assistance.	27.202-2
	Basic rights in data	clause.	27.404
		Clauses and Forms	Subchapter H
		Clauses for contracting in advance of funds.	32.705-1
	Patents:	Clauses for negotiated contracts (excluding construction).	27.203-4
	Contract	clauses for non-commercial purchases.	32.111
	Patents:	Clauses for sealed bid contracts (excluding construction).	27.203-2
	Tailoring of provisions and	clauses for the acquisition of commercial items.	12.302
		Clauses Incorporated by Reference.	52.252-2
	Patents:	Clauses on authorization and consent.	27.201-2
	Administration of patent rights	clauses.	27.305
	Federal Acquisition Regulations System: Identification of provisions and	clauses.	52.103
	Authorized Deviations in	Clauses.	52.252-6
	Solicitation Provisions and Contract	Clauses.	Part 52
		Cleaning up.	36.512 52.236-12
		Clearance and Documentation Requirements—Shipments to DoD Air or Water Terminal Transshipment Points.	52.247-52
	Contract finance office	clearance.	32.502-2
		Closeout by the office administering the contract.	4.804-1
		Closeout of contract files.	4.804
		Closeout of paying office contract files.	4.804-3
		Closeout of the contracting office files if another office administers the contract.	4.804-2
	Procedures for	closing out contract files.	4.804-5
	Publication and	code arrangement.	1.105-1
	Federal Acquisition Regulations System: Publication and	codification.	1.303
	Responsibilities of the	cognizant administrative contracting officer.	19.706
	Definition:	Cognizant Federal agency	2.101
	Contract Administration and Audit Services:	Cognizant Federal agency.	42.003
	Definition:	Collateral costs	48.001 52.248-3

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Collateral savings	48.001 52.248-1 52.248-3
	Value Engineering: Sharing	collateral savings.	48.104-3
	Other	collateral security.	32.304-6
	Deferment of	collection.	32.613
		Collective bargaining agreement (CBA)	22.1307 22.1405
	Response to late submission of Notice—no	collective bargaining agreement.	22.1012-4
	Response to late submission of Notice—with	collective bargaining agreement.	22.1012-5
	Response to timely submission of Notice—no	collective bargaining agreement.	22.1012-2
	Response to timely submission of Notice—with	collective bargaining agreement.	22.1012-3
	Section 4(c) successorship with incumbent contractor	collective bargaining agreement.	22.1008-3
SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor		Collective Bargaining Agreements (CBA).	52.222-47
	Wage determinations based on	collective bargaining agreements.	22.1002-3
	Historically Black	Colleges and Universities and Minority Institutions.	26-3
	Execution and	Commencement of Work.	52.216-23
	Opportunity for public	comments.	1.501-2
	Electronic	Commerce in Contracting	4.5
	Definition:	Commercial advance payment	32.202-2
		Commercial Bill of Lading Notations.	52.247-1
	Contractor-prepaid	commercial bills of lading, small package shipments.	47.303-17
	Definition:	Commercial component	2.101
		Commercial Computer Software—Restricted Rights.	52.227-19
	Procedures for contracting officer-specified	commercial contract financing.	32.204
	Procedures for offeror-proposed	commercial contract financing.	32.205
	Administration and payment of	commercial financing payments.	32.207
	Definition:	Commercial interim payment	32.001
	Definition:	Commercial item	2.101 52.219-9
	Definition:	Commercial item offer	15.601
		Commercial Item Purchase Financing	32.2
	Types of payments for	commercial item purchases.	32.202-2
	Test Program for Certain	Commercial Items	13.5
	Subcontracts for	Commercial Items and Commercial Components.	44.4
	Terms and Conditions—Simplified Acquisitions (Other Than	Commercial Items).	52.213-4
	Acquisition of Forms:	Commercial Items.	Part 12 53.212
	Contracts with	Commercial Organizations.	31.2

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Commercial plan	19.701 52.219-9
	Other	commercial practices.	12.213
	Governmentwide	commercial purchase card.	13.301
	Determining availability of private	commercial sources.	7.303
	Submission of	Commercial Transportation Bills to the General Services Administration for Audit.	52.247-67
	Contracting Authority: Ratification of unauthorized	commitments.	1.602-3
	Definition:	Committee	8.701
	Transportation in Supply Contracts:	Commodity description and freight classification.	47.305-9
	Definition:	Common carrier	47.001
	Definition:	Common item	45.601
	Definition:	Common parent	4.901 52.204-3
	Payment under	Communication Service Contracts with Common Carriers.	52.232-6
		Communications with the central nonprofit agencies and the Committee.	8.714
	Definition	Company	31.205-18
	Other Than Full and Open Competition: Unusual and	compelling urgency.	6.302-2
	Definition:	Compensated personal absence	31.001
	Definition:	Compensation	3.104-1
	Overseas workers'	compensation and war hazard insurance.	28.305
	Workers'	Compensation and War-Hazard Insurance Overseas.	52.228-4
	Definition:	Compensation for personal services	31.001
		Compensation for personal services.	31.205-6
	Evaluation of	Compensation for Professional Employees.	52.222-46
	Workers'	Compensation Insurance (Defense Base Act).	52.228-3
	Certificates of	Competency and Determinations of Responsibility	19.6
	Competition Requirements:	Competition Advocates	6.5
		Competition and Acquisition Planning	Subchapter B
		Competition in service contracting.	37.105
		Competition in Subcontracting.	52.244-5
	Notification of	Competition Limited to Eligible 8(a) Concerns.	52.219-18
		Competition Requirements	Part 6
	Competition Requirements: Section 8(a)	competition.	6.204
	Promoting	competition.	13.104
	Small Business Programs: Preparing	Competitive 8(a) Contracts.	19.811-2
	Small Business Programs:	Competitive 8(a) Negotiations.	19.808-2
		Competitive 8(a).	19.805
	Instructions to Offerors—	Competitive Acquisition.	52.215-1

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Government Property:	Competitive Advantage	45.2
	Competition Requirements: Use of	competitive procedures.	6.102
	Competition Requirements: Sealed Bidding and	Competitive Proposals	6.4
	Employment of Workers with Disabilities:	Complaint procedures.	22.1406
	Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans:	Complaint procedures.	22.1308
	Nondiscrimination Because of Age: Handling	complaints.	22.902
	Procedures for investigating	complaints.	3.905
	Whistleblower Protections for Contractor Employee: Procedures for filing	complaints.	3.904
	Equal Employment Opportunity:	Complaints.	22.808
	Physically	completed contracts.	4.804-4
	Termination for Default:	Completion by another contractor.	49.405
	Commencement, Prosecution, and	Completion of Work.	52.211-10
	Inventories upon termination or	completion.	45.508-1
	Use and Possession Prior to	Completion.	52.236-11
	Warranty of Supplies of a	Complex Nature.	52.246-18
	Labor Standards for Contracts Involving Construction:	Compliance checking.	22.406-7
	Definition:	Compliance evaluation	22.801
		Compliance Investigations and sanctions for violations.	22.1604
	Federal Acquisition Regulations System: Agency control and	compliance procedures.	1.304
	Electric Service Territory	Compliance Representation.	52.241-1
		Compliance with Copeland Act Requirements.	52.222-10
		Compliance with Davis-Bacon and Related Act Regulations.	52.222-13
	Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled:	Compliance with orders.	8.705-4
	Federal	Compliance with Right-to-Know Laws and Pollution Prevention Requirements	23.10
	Federal Acquisition Regulations System: Agency	compliance with the FAR.	1.202
		Compliance with Veterans' Employment Reporting Requirements.	52.222-38
	Year 2000	compliance.	39.106
	Affirmative Action	Compliance.	52.222-25
	Definition:	Component	2.101 25.003 52.225-1 52.225-3 52.225-9 52.225-11
	Contract Debts:	Compromise actions.	32.616
		Computer Generated Forms.	52.253-1
		Computer generation.	53.105

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Computer software	2.101 52.227-14 52.227-20
	Special Requirements for the Acquisition of Commercial Items:	Computer software.	12.212
	Representation of Limited Rights Data and Restricted	Computer Software.	52.227-15
	Commercial	Computer Software—Restricted Rights.	52.227-19
	Indirect Cost Rates:	Computing interest.	42.709-4
	Definition:	Concern	19.001
	Definition:	Conditional acceptance	46.101
	Site Investigation and	Conditions Affecting the Work.	52.236-3
	Change in Rates or Terms and	Conditions of Service for Regulated Services.	52.241-7
	Change in Rates or Terms and	Conditions of Service for Unregulated Services.	52.241-8
	Differing Site	Conditions.	52.236-2
	Familiarization with	Conditions.	52.247-5
	Fraud or other criminal	conduct.	49.106
	Standards of	conduct.	3.101
	Preconstruction	conference.	36.522 52.236-26
	Sealed Bidding: Pre-bid	conference.	14.207
	Postaward	conferences.	42.503
	Postaward subcontractor	conferences.	42.505
	Cost Accounting Standards Administration: Privileged and	confidential information.	30.202-4
	Improper Business Practices and Personal	Conflicts of Interest	Part 3
	Organizational and Consultant	Conflicts of Interest	9.5
	Quality Assurance: Certificate of	conformance.	46.504 52.246-15
	Requests from Members of	Congress.	5.403
	Multi-Year Contracting:	Congressional notification.	17.108
	Definition:	Connection charge	41.101
		Connection Charge.	52.241-9
	Consent to Subcontracts:	Consent and advance notification requirements.	44.201
		Consent limitations.	44.203
	Definition:	Consent of surety	28.001
		Consent of surety.	28.106-5
		Consent requirements.	44.201-1
	Definition:	Consent to subcontract	2.101 52.244-2
		Consent to Subcontracts	44.2
	Authorization and	consent.	27.201

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Consideration for contract financing.	32.005
	Acquisition	considerations.	7.401
	Subcontracting Policies and Procedures:	Considerations.	44.202-2
	F.o.b. Destination, within	Consignee's Premises.	52.247-35
		Consistency in Cost Accounting Practices.	52.230-4
	Disclosure and	Consistency of Cost Accounting Practices.	52.230-3
	Termination of Work	Consolidated Facilities or Facilities Acquisition.	52.249-11
	Government Property	Consolidated Facilities.	52.245-7
	Definition:	Construction	2.101
	Labor Standards for Contracts Involving	Construction	22.4
	Special Aspects of Contracting for	Construction	36.2
		Construction and architect-engineer contracts.	31.105
	Special	construction and printing.	53.106
	Disposition of disputes concerning	construction contract labor standards enforcement.	22.406-10
	Special procedures for price negotiation in	construction contracting.	36.214
	Special procedures for sealed bidding in	construction contracting.	36.213
	Clause for	construction contracts and for dismantling, demolition, and removal of improvements contracts.	27.203-5
		Construction contracts performed in North Carolina.	29.401-2
		Construction contracts with architect-engineer firms.	36.209
	Concurrent performance of firm-fixed-price and other types of	construction contracts.	36.208
	Performance and payment bonds and alternative payment protections for	construction contracts.	28.102
	Performance and payment bonds for other than	construction contracts.	28.103
	Pricing fixed-price	construction contracts.	36.207
	Progress payments under	construction contracts.	32.103
	Schedules for	construction contracts.	36.515
	Value Engineering: Clause for	construction contracts.	48.202
	Work oversight in cost-reimbursement	construction contracts.	36.518
		Construction contracts.	11.702
	Patent Indemnity—	Construction Contracts.	52.227-4
	Payments under Fixed-Price	Construction Contracts.	52.232-5
	Prompt Payment for	Construction Contracts.	52.232-27
	Schedules for	Construction Contracts.	52.236-15
	Work Oversight in Cost-Reimbursement	Construction Contracts.	52.236-18
	Government estimate of	construction costs.	36.203
	Definition:	Construction material	25.003 52.225-9 52.225-11
	Standard and optional forms for use in contracting for	construction or dismantling, demolition, or removal of improvements.	36.701

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Disclosure of the magnitude of	construction projects.	36.204
	Termination of Contracts: Cleanup of	construction site.	49.105-4
	Contracts for	construction work or architect-engineer services.	27.304-3
	Labor standards for	construction work performed under facilities contracts.	22.405
	Labor Standards for	Construction Work—Facilities Contracts.	52.222-17
	Default (Fixed-Price	Construction).	52.249-10
	Standard and Optional Forms for Contracting for	Construction, Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements	36.7
	Special procedure for cost-reimbursement contracts for	construction.	36.215
	Specifications and drawings for	construction.	36.521 52.236-21
	Affirmative Action Compliance Requirements for	Construction.	52.222-27
	Contract Award—Sealed Bidding—	Construction.	52.214-19
	Equal Employment Opportunity:	Construction.	22.804-2
	Fixed Fee—	Construction.	52.216-9
	Inspection of	Construction.	52.246-12
	Liquidated Damages—	Construction.	52.211-12
	Performance and Payment Bonds—	Construction.	52.228-15
	Preparation of Bids—	Construction.	52.214-18
	Preparation of Proposals—	Construction.	52.236-28
	Site Visit	Construction.	52.236-27
	Value Engineering—	Construction.	52.248-3
	Warranty of	Construction.	52.246-21
	Organizational and	Consultant Conflicts of Interest	9.5
	Subcontractors and Outside Associates and	Consultants (Architect-Engineer Services).	52.244-4
		Contents of contract files.	4.803
		Contents of written acquisition plans.	7.105
	Definition:	Contiguous United States (CONUS)	2.101
	Contracts with Commercial Organizations:	Contingencies.	31.205-7
	Definition:	Contingency operation	2.101
	Definition:	Contingent fee	3.401
		Contingent Fees	3.4
	Covenant Against	Contingent Fees.	52.203-5
	Definition:	Continued portion of the contract	2.101
		Continuity of Services.	52.237-3
	Definition:	Contract	2.101
	Opening of Bids and Award of	Contract	14.4
	Definition:	Contract action	5.001 32.001

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Synopses of Proposed	Contract Actions	5.2
	Publicizing	contract actions.	Part 5 53.205
		Contract adjustment boards.	50.202
	Types of	contract adjustment.	50.302
		Contract adjustment.	50.303
		Contract administration functions.	42.302
	Definition:	Contract administration office	2.101
		Contract administration office responsibilities.	46.104
	Evaluation of	contract administration offices.	42.403
		Contract administration responsibilities.	42.201
		Contract Administration Services	42.2
		Contract administration services directory.	42.203
	Assignment of	contract administration.	42.202
	Contracting with the Small Business Administration (The 8(a) Program):	Contract administration.	19.812
	Prescription of Forms:	Contract administration.	53.242
		Contract audit responsibilities.	42.101
		Contract Audit Services	42.1
		Contract audit services directory.	42.103
	Assignment of	contract audit services.	42.102
	Evaluation of Options Exercised at Time of	Contract Award.	52.217-4
	Announcement of	contract awards.	5.303
	Sealed Bidding:	Contract Award—Sealed Bidding.	52.214-10
	Sealed Bidding:	Contract Award—Sealed Bidding—Construction.	52.214-19
	Definition:	Contract carrier	47.001
	Notification of	contract changes.	43.104
		Contract clause for definitions.	2.201
		Contract clause for fast payment procedure.	13.404
		Contract clause for insurance of leased motor vehicles.	28.312
		Contract clause for work on a Government installation.	28.310
	Definition:	Contract clause or clause	2.101
	Solicitation Provisions and	Contract Clauses	Part 52
		Contract clauses for insurance of transportation or transportation-related services.	28.313
		Contract clauses for non-commercial purchases.	32.111
	Solicitation provisions and	contract clauses for the acquisition of commercial items.	12.301
		Contract clauses for workers' compensation insurance.	28.309
	Special 8(a)	Contract Conditions.	52.219-11
	Contract Administration and Audit Services:	Contract correspondence.	42.401

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Contract Cost Principles and Procedures	Part 31
	Definition:	Contract date	52.229-4 52.229-6 52.229-7
		Contract Debts	32.6
		Contract Definitization.	52.216-25
		Contract Disputes Act of 1978.	33.202
		Contract Distribution	4.2
		Contract Execution	4.1
	Government	Contract Files	4.8
	Closeout of	contract files.	4.804
	Closeout of paying office	contract files.	4.804-3
	Contents of	contract files.	4.803
	Procedures for closing out	contract files.	4.804-5
	Storage, handling, and disposal of	contract files.	4.805
		Contract files.	4.802
		Contract financing (SF 1443).	53.232
	Description of	contract financing methods.	32.102
	Need for	contract financing not a deterrent.	32.107
	Definition:	Contract financing payment	32.001
		Contract financing payments	32.007
	Determining	contract financing terms.	32.203
	Consideration for	contract financing.	32.005
	Customary	contract financing.	32.113
	Procedures for offeror-proposed commercial	contract financing.	32.205
	Providing	contract financing.	32.104
	Unusual	contract financing.	32.114
	Uses of	contract financing.	32.105
		Contract financing.	12.210
	Capability to Perform a	Contract for the Relocation of a Federal Office.	52.247-3
	Sealed Bidding: Simplified	contract format.	14.201-9
	Acquisition of Commercial Items:	Contract format.	12.303
	Contracting by Negotiation:	Contract format.	15.204
	Contracting by Negotiation: Order of Precedence—Uniform	Contract Format.	52.215-8
		Contract funding requirements.	32.703
	Reporting	contract information to the IRS.	4.903
	Disposition of disputes concerning construction	contract labor standards enforcement.	22.406-10
		Contract Line Items	4.10
		Contract Management	Subchapter G

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Contract modification	2.101
		Contract Modifications	Part 43
		Contract modifications (options, extensions, changes in scope) and anniversary dates.	22.1008-6
		Contract Modifications (SF 30).	53.243
		Contract negotiation.	19.808
		Contract Not Affected by Oral Agreement.	52.247-27
	Reduction or suspension of	contract payments upon finding of fraud.	32.006
	Withholding from or suspension of	contract payments.	22.406-9
	Withholding of	contract payments.	22.1022
		Contract performance in foreign countries.	32.004
	Definition:	Contract price	52.228-15 52.228-16
	Contracting by Negotiation:	Contract Pricing	15.4
	Basic Labor Policies:	Contract pricing and administration.	22.101-2
		Contract Purpose (Nonprofit Educational Institutions).	52.245-12
	SCA Minimum Wages and Fringe Benefits Applicable to Successor	Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA).	52.222-47
	Single-agency assignments of Government	contract quality assurance.	46.408
	Acquisition of Commercial Items:	Contract quality assurance.	12.208
	Higher-level	contract quality requirement.	46.202-4 46.311 52.246-11
	Definition:	Contract quality requirements	46.101
		Contract Quality Requirements	46.2
	Criteria for use of	contract quality requirements.	46.203
		Contract Reporting.	4.6
	Extraordinary Contractual Actions:	Contract requirements.	50.307
	Leasing Motor Vehicles:	Contract requirements.	8.1103
		Contract surety bonds and loan guarantees.	32.304-7
		Contract Termination Clauses	49.5
		Contract Termination Forms and Formats	49.6
		Contract Termination—Debarment.	52.222-12
		Contract terminations.	22.406-11
		Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.	52.212-5
		Contract Terms and Conditions—Commercial Items.	52.212-4
	Contracting methods and	contract type.	35.006
	Types of Contracts: Negotiating	contract type.	16.103
	Acquisition of Commercial Items:	Contract type.	12.207

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Service Contracting:	Contract type.	37.602-4
	Selecting	Contract Types	16.1
		Contract Work Hours and Safety Standards Act.	22.3 22.403-3
		Contract Work Hours and Safety Standards Act—Overtime Compensation.	52.222-4
	Suspension of payments, termination of	contract, and debarment and suspension actions.	23.506
	Awarding the	contract.	19.602-4
	Closeout by the office administering the	contract.	4.804-1
	Closeout of the contracting office files if another office administers the	contract.	4.804-2
	Alterations in	Contract.	52.252-4
	Approval of	Contract.	52.204-1
	Scope and Duration of	Contract.	52.241-3
	Type of	Contract.	52.216-1
	Definition:	Contracting	2.101
	Electronic Commerce in	Contracting	4.5
	Federal Supply Schedule	Contracting	Part 38
	Research and Development	Contracting	Part 35
	Service	Contracting	Part 37
	Research and development	contracting (SF 298).	53.235
	Definition:	Contracting action	5.001
	Definition:	Contracting activity	2.101
		Contracting authority and responsibilities (SF 1402).	53.201-1
	Federal Acquisition Regulations System: Career Development,	Contracting Authority, and Responsibilities	1.6
		Contracting by negotiation agency procedures.	15.606
	Construction and Architect-Engineer Contracts:	Contracting by negotiation.	36.520 53.215
	Special Aspects of	Contracting for Construction	36.2
	Standard and Optional Forms for	Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements	36.7
		Contracting for Environmentally Preferable Products and Services	23.7
	Clauses for	contracting in advance of funds.	32.705-1
	Special	Contracting Methods	Part 17
		Contracting methods and contract type.	35.006
		Contracting Methods and Contract Types	Subchapter C
	Definition:	Contracting office	2.101 48.001 52.248-1
	Closeout of the	contracting office files if another office administers the contract.	4.804-2
		Contracting office responsibilities.	46.103

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Contracting officer	2.101 52.243-7
	Corporate Administrative	Contracting Officer	42.6
		Contracting officer action.	32.409
	Indirect Cost Rates:	Contracting officer determination procedure.	42.705-1
	Acquisition Planning:	Contracting officer responsibilities.	7.204
	Improper Business Practices and Personal Conflicts of Interest:	Contracting officer responsibilities.	3.603
	Organizational and Consultant Conflicts of Interest:	Contracting officer responsibilities.	9.504
	Service Contracting:	Contracting officer responsibilities.	37.103 37.205 37.402
	Transportation:	Contracting officer responsibilities.	47.301-1
	Responsibilities of the	contracting officer under the subcontracting assistance program.	19.705
	Memorandum by the	contracting officer.	49.402-5
	Postaward responsibilities of the	contracting officer.	19.705-6
		Contracting officer's authority.	33.210
		Contracting officer's decision.	33.211
		Contracting officer's duties upon appeal.	33.212
		Contracting officer's evaluation.	44.202
		Contracting officer's signature.	4.101
	Federal Acquisition Regulations System:	Contracting officers.	1.602
	Procedures for	contracting officer-specified commercial contract financing.	32.204
	Architect-Engineer Services: Applicable	contracting procedures.	36.601-3
		Contracting with individual pool members.	9.703
		Contracting with pools.	9.702
		Contracting with the Small Business Administration (The 8(a) Program)	19.8
	Construction and Architect-Engineer Contracts: Methods of	contracting.	36.103
	Modular	contracting.	39.103
	Special procedures for price negotiation in construction	contracting.	36.214
	Special procedures for sealed bidding in construction	contracting.	36.213
	Definition:	Contractor	22.1001 44.101 9.403 52.222-41
	Simplified Acquisition Methods: Obtaining	contractor acceptance and modifying purchase orders.	13.302-3
	Definition:	Contractor bid or proposal information	3.104-1
	Disclosure, protection, and marking of	contractor bid or proposal information and source selection information.	3.104-4
	Contract Adjustments:	Contractor certification.	50.303-2
	Protests, Disputes, and Appeals:	Contractor certification.	33.207

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
Exemption from Application of Service Contract Act Provisions for Contracts for Maintenance, Calibration, and/or Repair of Certain Information Technology, Scientific and Medical, and/or Office and Business Equipment—		Contractor Certification.	52.222-48
SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor		Contractor Collective Bargaining Agreements (CBA).	52.222-47
	Whistleblower Protections for	Contractor Employees	3.9
		Contractor Gratuities to Government Personnel	3.2
		Contractor inspection requirements.	46.301 52.246-1
		Contractor Liability for Loss of and/or Damage to Freight other than Household Goods.	52.247-22
		Contractor Liability for Loss of and/or Damage to Household Goods.	52.247-23
		Contractor Liability for Loss of or Damage to Property of the Government	46.8
		Contractor Liability for Personal Injury and/or Property Damage.	52.247-21
		Contractor Performance Information	42.15
	Evaluation of	contractor performance.	36.201
	Definition:	Contractor purchasing system review (CPSR)	44.101
		Contractor Qualifications	Part 9
	Forms:	Contractor qualifications.	53.209
		Contractor Records Retention	4.7
		Contractor requests.	50.303-1
		Contractor responsibilities.	46.105 47.207-5
		Contractor Responsibility for Loading and Unloading.	52.247-15
		Contractor Responsibility for Receipt of Shipment.	52.247-14
		Contractor Responsibility for Returning Undelivered Freight.	52.247-16
		Contractor responsibility.	45.502
	Definition:	Contractor team arrangement	9.601
	Contractor Qualifications:	Contractor Team Arrangements	9.6
	First Article Approval—	Contractor Testing.	52.209-3
	Incremental Payment by	Contractor to Government.	52.237-6
	Payment by	Contractor to Government.	52.237-5
		Contractor Use and Rental of Government Property	45.4
		Contractor Use of Government Supply Sources	51.1
		Contractor use of Government supply sources (OF 347).	53.251
		Contractor use of Government-owned and -operated test facilities.	45.302-4
		Contractor Use of Interagency Fleet Management System (IFMS) Vehicles	51.2
		Contractor Use of Mandatory Sources of Supply or Services.	52.208-9
		Contractor Versus Government Performance	7.3
	Completion by another	contractor.	49.405

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Ethics advisory opinions regarding prohibitions on a former official's acceptance of compensation from a	contractor.	3.104-6
	Follow-up by	contractor.	27.305-2
	Government reliance on inspection by	contractor.	46.202-2
	Patent indemnification of Government by	contractor.	27.203
	Performance of work by the	contractor.	36.501 52.236-1
	Superintendence by the	contractor.	36.506 52.236-6
	Payment by Government to	Contractor.	52.237-4
	Responsibility of the Architect-Engineer	Contractor.	52.236-23
	Definition:	Contractor-acquired property	45.101
		Contractor-prepaid commercial bills of lading, small package shipments.	47.303-17
	Responsible Prospective	Contractors	9.1
	Use of Government Sources by	Contractors	Part 51
	Agreement to recognize	contractor's change of name.	42.1205
		Contractor's commercial items.	31.106-3
	Protecting the Government's Interest when Subcontracting with	Contractors Debarred, Suspended, or Proposed for Debarment.	52.209-6
	Definition:	Contractor's development and implementation costs	48.001 52.248-1 52.248-3
		Contractor's Facilities.	52.241-5
	F.o.b. origin,	contractor's facility.	47.303-2 52.247-30
		Contractor's Invoices.	52.247-28
		Contractor's liability.	45.504
		Contractor's maintenance program.	45.509-1
	Definition:	Contractor's managerial personnel	52.245-5 52.245-8 52.246-3 52.246-6 52.246-8 52.246-10
	Definition:	Contractor's principal officials	52.250-1
	Review and correction of	contractors' property control systems.	45.104
		Contractors' Purchasing Systems Reviews	44.3
		Contractor's signature.	4.102
	Furnishing assistance to	contractors.	51.104
	Loading responsibilities of	contractors.	47.305-15
	Responsible Prospective	Contractors.	9.1 53.209-1

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Incentive	Contracts	16.4
	Indefinite-Delivery	Contracts	16.5
	Management Oversight of Service	Contracts	37.5
	Voiding and Rescinding	Contracts	3.7
	Clauses for negotiated	contracts (excluding construction).	27.203-4
	Clauses for sealed bid	contracts (excluding construction).	27.203-2
	Negotiated	contracts (excluding construction).	27.203-3
	Research and development	contracts (short form).	46.309
	Previous	Contracts and Compliance Reports.	52.222-22
	Clause for construction	contracts and for dismantling, demolition, and removal of improvements contracts.	27.203-5
	Payments under Transportation	Contracts and Transportation-Related Services Contracts.	52.232-4
	Award of classified	contracts by sealed bidding.	14.409-2
	Award of unclassified	contracts by sealed bidding.	14.409-1
		Contracts conditioned upon availability of funds.	32.703-2
	Service Contract Act of 1965, As Amended: Some examples of	contracts covered.	22.1003-5
		Contracts crossing fiscal years.	32.703-3
		Contracts for commercial items.	46.202-1
		Contracts for construction work or architect-engineer services.	27.304-3
	Special procedure for cost-reimbursement	contracts for construction.	36.215
		Contracts for dismantling, demolition, or removal of improvements.	46.313
	Indefinite-delivery	contracts for leased equipment.	29.401-1
	Exemption from Application of Service Contract Act Provisions for	Contracts for Maintenance, Calibration, and/or Repair of Certain Information Technology, Scientific and Medical, and/or Office and Business Equipment—Contractor Certification.	52.222-48
	Nonpayment of subcontractors under	contracts for noncommercial items.	32.112
	Selecting	contracts for postaward orientation.	42.502
		Contracts for research with educational institutions and nonprofit organizations.	35.015
	Applicability of certain laws to Executive agency	contracts for the acquisition of commercial items.	12.503
		Contracts for Transportation or for Transportation-Related Services	47.2
	Short selection process for	contracts not to exceed the simplified acquisition threshold.	36.602-5
	Construction	contracts performed in North Carolina.	29.401-2
		Contracts placed by or for other Government agencies.	27.304-2
		Contracts with commercial organizations.	31.103 31.2
	Payment under Communication Service	Contracts with Common Carriers.	52.232-6
	Fixed-price	contracts with economic price adjustment.	16.203
		Contracts with educational institutions.	31.104 31.3

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Contracts with foreign governments or international organizations.	45.405
	Taxes—Cost-Reimbursement	Contracts with Foreign Governments.	52.229-9
	Taxes—Fixed-Price	Contracts with Foreign Governments.	52.229-7
		Contracts with Government Employees or Organizations Owned or Controlled by Them	3.6
		Contracts with nonprofit organizations.	31.108 31.7
	Fixed-price	contracts with prospective price redetermination.	16.205
	Fixed-ceiling-price	contracts with retroactive price redetermination.	16.206
		Contracts with State, local, and federally recognized Indian tribal governments.	31.107 31.6
	Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option	Contracts).	52.222-43
	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour	Contracts).	52.245-5
	Government Property (Fixed-Price	Contracts).	52.245-2
	Liability for Government Property (Demolition Services	Contracts).	52.245-6
	Applying Pub. L. 85-804 to advance payments under sealed bid	contracts.	32.405
	Assignment of claims under	contracts.	32.304-5
	Concept exploration	contracts.	34.005-3
	Construction	contracts.	11.702 46.312 49.305-2
	Construction and architect-engineer	contracts.	31.105 53.236 31.201-7 Part 36
	Continuation of current	contracts.	9.405-1
	Cost	contracts.	16.302
	Cost-plus-award-fee	contracts.	16.305 16.405-2
	Cost-plus-fixed-fee	contracts.	16.306
	Cost-plus-incentive-fee	contracts.	16.304 16.405-1
	Cost-reimbursement	contracts.	16.3 47.104-3
	Cost-reimbursement incentive	contracts.	16.405
	Cost-sharing	contracts.	16.303
	Definite-quantity	contracts.	16.502
	Demonstration	contracts.	34.005-4
	Domestic	contracts.	29.401

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Facilities	contracts.	31.106 46.310 45.302-2
	Firm-fixed-price	contracts.	16.202
	Firm-fixed-price, level-of-effort term	contracts.	16.207
	Fixed-price incentive	contracts.	16.204 16.403
	Fixed-price incentive (firm target)	contracts.	16.403-1
	Fixed-price incentive (successive targets)	contracts.	16.403-2
	Fixed-price research and development	contracts.	46.307
	Foreign	contracts.	29.402
	Foreign fixed-price	contracts.	29.402-1
	Full-scale development	contracts.	34.005-5
	Funding and term of service	contracts.	37.106
	GSA areawide	contracts.	41.204
	Identifying management and operating	contracts.	17.604
	Indefinite-quantity	contracts.	16.504
	Insurance under cost-reimbursement	contracts.	28.307
	Insurance under fixed-price	contracts.	28.306
	Labor standards for construction work performed under facilities	contracts.	22.405
	Labor-hour	contracts.	16.602
	Letter	contracts.	16.603
	Loan guarantees for terminated	contracts.	32.305
	Losses on other	contracts.	31.205-23
	Optional property-related clauses for facilities	contracts.	45.302-7
	Personal services	contracts.	37.104
	Physically completed	contracts.	4.804-4
	Preparing the	contracts.	19.811
	Progress payments under construction	contracts.	32.103
	Quality Assurance: Cost-reimbursement research and development	contracts.	46.308
	Quality Assurance: Cost-reimbursement service	contracts.	46.305
	Quality Assurance: Cost-reimbursement supply	contracts.	46.303
	Quality Assurance: Fixed-price service	contracts.	46.304
	Quality Assurance: Fixed-price supply	contracts.	46.302
	Quality Assurance: Time-and-material and labor-hour	contracts.	46.306
	Quality Assurance: Transportation	contracts.	46.314
	Required Government property clauses for facilities	contracts.	45.302-6
	Requirements	contracts.	16.503
	Service Contract Act of 1965, As Amended: Multiple-year	contracts.	22.1008-5

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Settlement of terminated incentive	contracts.	49.115
	Single-movement	contracts.	47.204
	Solicitation provision and contract clause on liability insurance under cost-reimbursement	contracts.	28.311
	Structuring multiple-incentive	contracts.	16.402-4
	Supply	contracts.	11.701
	Termination of	contracts.	Part 49 53.249
	Time-and-materials	contracts.	16.601
	Transportation term	contracts.	47.203
	Types of	contracts.	14.104 Part 16 53.216
	Work oversight in architect-engineer	contracts.	36.609-3 52.236-24
	Accessorial Services—Moving	Contracts.	52.247-13
	Cancellation Under Multi-year	Contracts.	52.217-2
	Fixed-Price	Contracts.	16.2 31.102 47.104-2
	Payments under Fixed-Price Architect-Engineer	Contracts.	52.232-10
	Payments under Fixed-Price Construction	Contracts.	52.232-5
	Payments under Fixed-Price Research and Development	Contracts.	52.232-2
	Payments under Personal Services	Contracts.	52.232-3
	Payments under Time-and-Materials and Labor-Hour	Contracts.	52.232-7
	Prompt Payment for Construction	Contracts.	52.232-27
	Prompt Payment for Fixed-Price Architect-Engineer	Contracts.	52.232-26
	Schedules for Construction	Contracts.	52.236-15
	Taxes—Foreign Cost-Reimbursement	Contracts.	52.229-8
	Taxes—Foreign Fixed-Price	Contracts.	52.229-6
	Work Oversight in Cost-Reimbursement Construction	Contracts.	52.236-18
	Foreign cost-reimbursement	contracts.	29.402-2
	Separate	contracts.	41.205
	Extraordinary	Contractual Actions	Part 50
	Definition:	Contribution	15.601
		Contributions or donations.	31.205-8
	Agency	control and compliance procedures.	1.304

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
Availability of Specifications Listed in the DoD Index of Specifications and Standards (DoDISS) and Descriptions Listed in the Acquisition Management Systems and Data Requirements		Control List, DoD 5010.12-L.	52.211-2
	Definition:	Controlled materials	11.601
	Definition:	Controlled substance	23.503 52.223-6
	Shipments from	CONUS for overseas delivery.	47.304-3
	Shipments originating outside	CONUS.	47.304-4
	Shipments within	CONUS.	47.304-2
	Termination for	Convenience of the Government (Dismantling, Demolition, or Removal of Improvements).	52.249-3
	Termination for	Convenience of the Government (Educational and Other Nonprofit Institutions).	52.249-5
	Termination for	Convenience of the Government (Fixed-Price) (Short Form).	52.249-1
	Termination for	Convenience of the Government (Fixed-Price).	52.249-2
	Termination for	Convenience of the Government (Services) (Short Form).	52.249-4
	FAR	conventions.	1.108
		Convict Labor.	22.2 52.222-3
	Definition:	Conviction	2.101 23.503 52.223-6
		Cooperation with the Small Business Administration	19.4
		Coordination requirements.	38.201
	Compliance with	Copeland Act Requirements.	52.222-10
		Copeland Act.	22.403-2
	Printed or	Copied Double-Sided on Recycled Paper.	52.204-4
	Federal Acquisition Regulations System:	Copies.	1.105-3
	Notice and Assistance Regarding Patent and	Copyright Infringement.	52.227-2
	Patents, Data, and	Copyrights	Part 27
		Corporate Administrative Contracting Officer	42.6
		Correcting mistakes.	50.302-2
	Definition:	Correction	52.246-17 52.246-18 52.246-19
	Contract Administration and Audit Services:	Correspondence and Visits.	42.4
	Contract	correspondence.	42.401
	Limitation of	Cost (Facilities).	52.232-21
	Changes to disclosed or established	cost accounting practices.	30.602
	Consistency in	Cost Accounting Practices.	52.230-4

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Disclosure and Consistency of	Cost Accounting Practices.	52.230-3
	Financial and	cost accounting records.	4.705-1
		Cost Accounting Standards Administration	Part 30
		Cost Accounting Standards Board Publication.	30.102
		Cost Accounting Standards Notices and Certification.	52.230-1
		Cost Accounting Standards Preambles and Regulations	Appendix
	Acquisition of Commercial Items:	Cost Accounting Standards.	12.214
	Administration of	Cost Accounting Standards.	52.230-6
	Text of Provisions and Clauses:	Cost Accounting Standards.	52.230-2
		Cost Accounting Standards—Educational Institution.	52.230-5
	Severance Pay to Foreign Nationals: Waiver of	cost allowability limitations.	37.113-1
	Allowable	Cost and Payment.	52.216-7
	Allowable	Cost and Payment—Facilities Use.	52.216-14
	Allowable	Cost and Payment—Facilities.	52.216-13
	Notice of	Cost Comparison (Sealed-Bid).	52.207-1
		Cost Contract—No Fee.	52.216-11
		Cost contracts.	16.302
	Transportation	cost determinations.	47.306-1
	Government	cost estimate for architect-engineer work.	36.605
		Cost incentives.	16.402-1
	Definition:	Cost input	31.001
	Definition:	Cost objective	31.001
	Definition:	Cost of components	25.003 52.225-1 52.225-3 52.225-9 52.225-11
		Cost of money.	31.205-10
	Facilities Capital	Cost of Money.	52.215-16
	Waiver of Facilities Capital	Cost of Money.	52.215-17
	Clauses for limitation of	cost or funds.	32.705-2
	Limitation of	cost or funds.	32.704
	Special	cost or pricing areas.	15.407
	Definition:	Cost or pricing data	2.101
	Prohibition on obtaining	cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. 254b).	15.403-1
	Requiring	cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. 254b).	15.403-4
	Other circumstances where	cost or pricing data are not required.	15.403-2
	Instructions for submission of	cost or pricing data or information other than cost or pricing data.	15.403-5
	Requirements for	Cost or Pricing Data or Information Other Than Cost or Pricing Data.	52.215-20

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Defective	cost or pricing data.	15.407-1
	Obtaining	cost or pricing data.	15.403
	Requiring information other than	cost or pricing data.	15.403-3
	Certificate of Current	Cost or Pricing Data.	15.406-2
	Subcontractor	Cost or Pricing Data.	52.215-12
	Table 15-2—Instructions for Submitting	Cost or Pricing Data.	15.408
	Price Reduction for Defective	Cost or Pricing Data—Modifications.	52.215-11
	Subcontractor	Cost or Pricing Data—Modifications.	52.215-13
	Price Reduction for Defective	Cost or Pricing Data—Modifications—Sealed Bidding.	52.214-27
	Subcontractor	Cost or Pricing Data—Modifications—Sealed Bidding.	52.214-28
	Contract	Cost Principles and Procedures	Part 31
	Applicable	cost principles.	31.106-1
		Cost principles.	49.113
	Predetermined Indirect	Cost Rates.	52.216-15
	Definition:	Cost realism	2.101
	Inspection of Research and Development—	Cost Reimbursement.	52.246-8
	Should-	cost review.	15.407-4
	Definition:	Cost sharing	2.101
	Composition of total	cost.	31.201-1
	Determining reasonableness of	cost.	25.105
	Limitation of	Cost.	52.232-20
		Cost-plus-award-fee contracts.	16.305 16.405-2
		Cost-plus-fixed-fee contracts.	16.306
		Cost-plus-incentive-fee contracts.	16.304 16.405-1
	Work oversight in	cost-reimbursement construction contracts.	36.518 52.236-18
	Special procedure for	cost-reimbursement contracts for construction.	36.215
	Additional Principles for	Cost-Reimbursement Contracts Terminated for Convenience	49.3
	Taxes—	Cost-Reimbursement Contracts with Foreign Governments.	52.229-9
	Insurance under	cost-reimbursement contracts.	28.307
	Special tooling under	cost-reimbursement contracts.	45.306-2
		Cost-Reimbursement Contracts.	16.3 47.104-3
	Taxes—Foreign	Cost-Reimbursement Contracts.	52.229-8
	Foreign	cost-reimbursement contracts.	29.402-2
		Cost-reimbursement contracts—complete termination, if settlement includes cost.	49.603-3

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Cost-reimbursement contracts—complete termination, with settlement limited to fee.	49.603-4
		Cost-reimbursement contracts—partial termination.	49.603-5
		Cost-reimbursement incentive contracts.	16.405
	Payment of subcontractors under	cost-reimbursement prime contracts.	32.110
		Cost-reimbursement research and development contracts.	46.308
		Cost-reimbursement service contracts.	46.305
		Cost-reimbursement supply contracts.	46.303
	Government Property	Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts.	52.245-5
	Changes—	Cost-Reimbursement.	52.243-2
	Inspection of Services—	Cost-Reimbursement.	52.246-5
	Inspection of Supplies—	Cost-Reimbursement.	52.246-3
	Termination	Cost-Reimbursement.	52.249-6
	Definition:	Costs	31.205-47(a) 52.216-5 52.216-6 52.216-16 52.216-17
	Disallowance of	Costs	42.8
	Disallowing	costs after incurrence.	42.803
	Employee morale, health, welfare, food service, and dormitory	costs and credits.	31.205-13
	Other	costs and savings.	45.202-3
	Royalties and other	costs for use of patents.	31.205-37
		Costs of alcoholic beverages.	31.205-51
	Definition:	Costs of idle facilities or idle capacity	31.205-17
		Costs related to legal and other proceedings.	31.205-47
	Liability for Government	costs resulting from design errors or deficiencies.	36.608
	Bonding	costs.	31.205-4
	Certificate of indirect	costs.	42.703-2
	Direct	costs.	31.202
	Economic planning	costs.	31.205-12
	Entertainment	costs.	31.205-14
	Idle facilities and idle capacity	costs.	31.205-17
	Independent research and development and bid and proposal	costs.	31.205-18
	Indirect	costs.	31.203
	Interest and other financial	costs.	31.205-20
	Labor relations	costs.	31.205-21
	Lobbying and political activity	costs.	31.205-22
	Lowest overall transportation	costs.	47.306-2

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Manufacturing and production engineering	costs.	31.205-25
	Material	costs.	31.205-26
	Notice of intent to disallow	costs.	42.801
	Organization	costs.	31.205-27
	Patent	costs.	31.205-30
	Plant protection	costs.	31.205-29
	Plant reconversion	costs.	31.205-31
	Precontract	costs.	31.205-32
	Professional and consultant service	costs.	31.205-33
	Public relations and advertising	costs.	31.205-1
	Recruitment	costs.	31.205-34
	Relocation	costs.	31.205-35
	Rental	costs.	31.205-36
	Research and development	costs.	31.205-48
	Selected	costs.	31.205
	Selling	costs.	31.205-38
	Service and warranty	costs.	31.205-39
	Special tooling and special test equipment	costs.	31.205-40
	Termination	costs.	31.205-42
	Trade, business, technical, and professional activity	costs.	31.205-43
	Training and education	costs.	31.205-44
	Travel	costs.	31.205-46
	Certification of Final Indirect	Costs.	52.242-4
	No Evaluation of Transportation	Costs.	52.247-50
	Notice of Intent to Disallow	Costs.	52.242-1
	Penalties for Unallowable	Costs.	52.242-3
	Fines, penalties, and mischarging	costs.	31.205-15
		Cost-Sharing Contract—No Fee.	52.216-12
		Cost-sharing contracts.	16.303
		Cost-sharing rates and limitations on indirect cost rates.	42.707
	The two	councils.	1.201-1
	Definition:	Country concerned	52.229-6
	F.o.b. Inland Point,	Country of Importation.	52.247-39
		Covenant Against Contingent Fees.	52.203-5
	Security, supervision, and	covenants.	32.409-3
	Definition:	Covered area	52.222-27
	Definition:	Covered Federal action	3.801 52.203-12
	Definition:	Covered personnel	37.201

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Credits.	31.201-5
	Capital	Credits.	52.241-13
	Transportation Transit Privilege	Credits.	52.247-57
		Criminal and civil penalties, and further administrative remedies.	3.104-8
	Definition:	Criminal drug statute	23.503 52.223-6
	Contracting by Negotiation:	Criteria for acceptance and negotiation of an unsolicited proposal.	15.607
		Criteria for use of contract quality requirements.	46.203
		Criteria for use of warranties.	46.703
	Definition:	Critical nonconformance	46.101
	Assignment of	criticality designator.	42.1105
	Certified or cashier's checks, bank drafts, money orders, or	currency.	28.204-2
	Debarment, Suspension, and Ineligibility: Continuation of	current contracts.	9.405-1
		Current editions.	53.102
	Definition:	Custodial records	45.501
	Definition:	Customary contract financing	32.001
	Describing Agency Needs:	Customer satisfaction.	11.203
		Customs and Duties	25.9
	Definition:	Customs territory of the United States	2.101 52.225-8
	Definition:	Cylinder	52.247-66
	Returnable	Cylinders.	52.247-66
	Contractor Liability for Loss of and/or	Damage to Freight other than Household Goods.	52.247-22
	Insurance against loss of or	damage to Government property.	28.303
	Contractor Liability for Loss of and/or	Damage to Household Goods.	52.247-23
	Contractor Liability for Loss of or	Damage to Property of the Government	46.8
	Definition:	Data	27.401 52.227-14 52.227-17 52.227-20
	Basic rights in	data clause.	27.404
		Data collection and reporting requirements.	19.202-5
	Rights to technical	data in successful proposals.	27.407
	Collecting	data on and appraising firms' qualifications.	36.603
	Availability of Specifications Listed in the DoD Index of Specifications and Standards (DoDISS) and Descriptions Listed in the Acquisition Management Systems and	Data Requirements Control List, DoD 5010.12-L.	52.211-2
	Other	data rights provisions.	27.405
		Data rights—General.	27.403
	Federal Procurement	Data System.	4.602

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Data Universal Numbering System (DUNS) number	2.101
		Data Universal Numbering System (DUNS) Number.	52.204-6
	Definition:	Data Universal Numbering System +4 (DUNS+4) number	2.101
	Patents,	Data, and Copyrights	Part 27
	Acquisition of	data.	27.406
	Contracting by Negotiation: Limited use of	data.	15.609
	Inspection of site and examination of	data.	36.210
	Physical	data.	36.504
	Research and Development Contracting:	Data.	35.011
	Governmentwide	database of contracts.	5.601
		Davis-Bacon Act wage determinations.	22.404
		Davis-Bacon Act.	22.403-1 52.222-6
		Davis-Bacon Act—Price Adjustment (Actual Method).	52.222-32
		Davis-Bacon Act—Price Adjustment (None or Separately Specified Method).	52.222-30
		Davis-Bacon Act—Price Adjustment (Percentage Method).	52.222-31
	Compliance with	Davis-Bacon and Related Act Regulations.	52.222-13
	Definition:	Day	2.101 33.101
	Safeguarding classified information within industry	DD Form-254, DD Form-441.	53.204-1
	Definition:	Debarment	2.101
	Suspension of payments, termination of contract, and	debarment and suspension actions.	23.506
		Debarment, Suspension, and Ineligibility	9.4
	Certification regarding	debarment, suspension, proposed debarment, and other responsibility matters.	9.408 52.209-5
	Causes for	debarment.	9.406-2
	Period of	debarment.	9.406-4
	Scope of	debarment.	9.406-5
		Debarment.	9.406
	Contract Termination—	Debarment.	52.222-12
	Protecting the Government's Interest when Subcontracting with Contractors	Debarred, Suspended, or Proposed for Debarment.	52.209-6
	Definition:	Debarring official	9.403
	Contracting by Negotiation: Postaward	debriefing of offerors.	15.506
	Contracting by Negotiation: Preaward	debriefing of offerors.	15.505
		Debt determination and collection.	32.606
	Demand for payment of contract	debt.	32.610
	Bad	debts.	31.205-3
	Negotiation of contract	debts.	32.608
	Definition:	Decision to award a subcontract or modification of subcontract	3.104-1

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Disputes and Appeals: Contracting officer's	decision.	33.211
	Technical Data	Declaration, Revision, and Withholding of Payment—Major Systems.	52.227-21
		Deductions.	49.204
		Default (Fixed-Price Construction).	52.249-10
		Default (Fixed-Price Research and Development).	52.249-9
		Default (Fixed-Price Supply and Service).	52.249-8
	Procedure for	default.	49.402-3
	Termination for	default.	22.1023
	Termination of fixed-price contracts for	default.	49.504
	Definition:	Defect	52.246-19
	Definition:	Defective certification	33.201
		Defective cost or pricing data.	15.407-1
	Price Reduction for	Defective Cost or Pricing Data—Modifications.	52.215-11
	Price Reduction for	Defective Cost or Pricing Data—Modifications—Sealed Bidding.	52.214-27
	Workers' Compensation Insurance	Defense Base Act.	52.228-3
		Defense Priority and Allocation Requirements.	52.211-15
	Loan Guarantees for	Defense Production	32.3
	Testing, Qualification, and Use of Industrial Resources Developed Under Title III,	Defense Production Act	34.1
	Industrial Resources Developed Under	Defense Production Act Title III.	52.234-1
		Defense Production Pools and Research and Development Pools	9.7
	Using the	Defense Transportation System (DTS).	47.301-3
	Definition:	Deferred compensation	31.001
	Liability for Government costs resulting from design errors or	deficiencies.	36.608
	Redesign responsibility for design errors or	deficiencies.	36.609-2
	Definition:	Deficiency	15.001
	Definition:	Defined-benefit pension plan	31.001
	Definition:	Defined-contribution pension plan	31.001
		Definite Quantity.	52.216-20
		Definite-quantity contracts.	16.502
		Definitions Clause	2.2
		Definitions of Words and Terms	Part 2
	Government	delay of work.	42.1304 52.242-17
		Delays in receipt of notices or demands.	32.615
	Excusable	Delays.	52.249-14
	Definition:	Delegate Agency	11.601
	Definition:	Delegated agency	41.101
	Statutory and	delegated authority.	41.103

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Delegation of and Limitations on Exercise of Authority	50.2
		Delegation of authority.	50.201
		Delinquency notices.	49.607
		Delivery incentives.	16.402-3
		Delivery of Excess Quantities.	52.211-17
		Delivery of Government-furnished property.	47.305-12
		Delivery or Performance Schedules	11.4
	Definition:	Delivery order	2.101
	Definition:	Delivery order contract	16.501-1
		Delivery orders and orders under basic ordering agreements (OF 347).	53.216-1
	Definition:	Delivery payment	32.001
	Definition:	Delivery payment	32.202-2
	Standard	delivery terms and contract clauses.	47.303
	Determination of	delivery terms.	47.304
	Definition:	Demilitarization	45.601
	Liability for Government Property	Demolition Services Contracts.	52.245-6
	Dismantling,	Demolition, or Removal of Improvements	37.3
	Termination for Convenience of the Government (Dismantling,	Demolition, or Removal of Improvements).	52.249-3
	Contracts for dismantling,	demolition, or removal of improvements.	46.313
	Inspection—Dismantling,	Demolition, or Removal of Improvements.	52.246-13
		Demonstration contracts.	34.005-4
	Issuing or	denying a Certificate of Competency (COC).	19.602-2
	Service Contract Act of 1965, As Amended:	Department of Labor action.	22.1011-1
	Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans:	Department of Labor notices and reports.	22.1306
	Employment of Workers with Disabilities:	Department of Labor notices.	22.1404
	Labor Standards for Contracts Involving Construction:	Department of Labor regulations.	22.403-4
	Service Contract Act of 1965, As Amended:	Department of Labor responsibilities and regulations.	22.1004
	Walsh-Healey Public Contracts Act: Regional jurisdictions of the	Department of Labor, Wage and Hour Division.	22.609
	Cooperation with the	Department of Labor.	22.406-12 22.1024
	Discovery of errors by the	Department of Labor.	22.1015
	Response to Notice by	Department of Labor.	22.1011
	Definition:	Depreciation	2.101
		Depreciation.	31.205-11
	Definition:	Deputy Assistant Secretary	22.801
		Describing Agency Needs	Part 11
	Acquisition of Commercial Items: Market research and	description of agency need.	12.202
		Description of shipment, origin, and destination.	47.207-3

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Freight Classification	Description.	52.247-53
	Definition:	Descriptive literature	2.101 52.214-21
	Sealed Bidding: Restrictions on disclosure of	descriptive literature.	14.404-4
	Sealed Bidding:	Descriptive literature.	14.202-5 52.214-21
	Definition:	Design	36.102
	Warranty of Systems and Equipment under Performance Specifications or	Design Criteria.	52.246-19
	Redesign responsibility for	design errors or deficiencies.	36.609-2
		Design within funding limitations.	36.609-1 52.236-22
	Definition:	Designated agency	32.801
	Definition:	Designated billing office	32.001
	Definition:	Designated country	25.003 52.225-5 52.225-11
	Definition:	Designated country construction material	52.225-11
	Definition:	Designated country end product	25.003 52.225-5
	Definition:	Designated payment office	32.001
	Definition:	Designated SBA district	19.902
		Designation of Office for Government Receipt of Electronic Funds Transfer Information	52.232-35
	Definition:	Design-bid-build	36.102
	Definition:	Design-build	36.102
	Two-Phase	Design-Build Selection Procedures	36.3
	Requirements for Registration of	Designers.	52.236-25
	Definition:	Design-to-cost	2.101
	F.o.b. Origin and/or F.o.b.	Destination Evaluation.	52.247-45
		Destination unknown.	47.305-5 52.247-49
	F.o.b.	Destination, within Consignee's Premises.	52.247-35
	C. & f.	Destination.	52.247-41
	C.i.f.	Destination.	52.247-42
	F.o.b.	Destination.	52.247-34
	F.o.b.	Destination—Evidence of Shipment.	52.247-48
	Definition:	Determination and Findings	1.701
		Determination of delivery terms.	47.304
	Small Business Programs:	Determination of fair market price.	19.202-6
	Special Requirements for the Acquisition of Commercial Items:	Determination of price reasonableness.	12.209

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Determination of Small Business Status for Small Business Programs	19.3
		Determination of weights.	47.207-4
	Advance Payments for Non-Commercial Items: Findings,	determination, and authorization.	32.410
	Responsible Prospective Contractors:	Determinations and documentation.	9.105-2
	Federal Acquisition Regulations System:	Determinations and Findings	1.7
	Interagency Acquisitions Under the Economy Act:	Determinations and findings requirements.	17.503
	Federal Acquisition Regulations System: Class	determinations and findings.	1.703
	Certificates of Competency and	Determinations of Responsibility	19.6
	Considerations in	developing an evaluation factor or subfactor.	19.1202-3
	Selecting and	Developing Requirements Documents	11.1
	Definition:	Development	31.205-18 35.001
	Career	Development, Contracting Authority, and Responsibilities	1.6
	Definition:	Deviation	1.401
	Federal Acquisition Regulations System:	Deviations from the FAR	1.4
	Authorized	Deviations in Clauses.	52.252-6
	Authorized	Deviations in Provisions.	52.252-5
	Federal Acquisition Regulations System:	Deviations pertaining to treaties and executive agreements.	1.405
	Federal Acquisition Regulations System: Class	deviations.	1.404
	Individual	deviations.	1.403
	F.o.b. Origin, with	Differentials.	52.247-33
		Differing site conditions.	36.502 52.236-2
	Definition:	Direct cost	2.101
		Direct costs.	31.202
	Quantity analysis,	direct delivery, and reduction of crosshauling and backhauling.	47.305-7
	Government	Direction and Marking.	52.247-26
	Organization and	direction of the work.	36.519 52.236-19
	Definition:	Directly associated cost	31.001
	Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled:	Direct-order process.	8.705-2
	Contract administration services	directory.	42.203
	Contract audit services	directory.	42.103
	Employment of Workers with	Disabilities	22.14
	Surveys of nonprofit agencies serving people who are blind or have other severe	disabilities under the Javits-Wagner-O'Day (JWOD) Program.	9.107
	Equal Opportunity for Special	Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans.	52.222-35
		Disadvantaged business status.	19.304

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Small Disadvantaged Business Participation Program—	Disadvantaged Status and Reporting.	52.219-25
	Notice of intent to	disallow costs.	42.801 52.242-1
	Contract Administration and Audit Services:	Disallowance of Costs	42.8
	Air Transportation by U.S.-Flag Carriers:	Disallowance of expenditures.	47.403-3
		Disallowing costs after incurrence.	42.803
	Advance Payments for Non-Commercial Items: Recommendation for	disapproval.	32.409-2
		Disaster or Emergency Assistance Activities	26.2
		Disclosure and Consistency of Cost Accounting Practices.	52.230-3
		Disclosure of approval status.	44.306
	Sealed Bidding: Restrictions on	disclosure of descriptive literature.	14.404-4
		Disclosure of preaward information.	9.105-3
	Certification and	Disclosure Regarding Payments to Influence Certain Federal Transactions.	52.203-11
		Disclosure requirements.	30.202
	Filing	Disclosure Statements.	30.202-5
	Subcontractor	Disclosure Statements.	30.202-8
		Disclosure, protection, and marking of contractor bid or proposal information and source selection information.	3.104-4
	Certification and	disclosure.	3.803
		Discontinuance of vouchers.	49.302
	Procedure after	discontinuing vouchers.	49.303
	Definition:	Discount for prompt payment	32.902
		Discounts for Prompt Payment.	52.232-8
	Sealed Bidding: Prompt payment	discounts.	14.408-3
	Contracting by Negotiation:	Discovery of mistakes.	15.508
	Definition:	Discrepancies incident to shipment	45.501
		Discrepancies incident to shipment of supplies.	42.1405
		Discrepancies incident to shipment.	45.502-2
	Definition:	Discussions	52.215-1
		Dismantling, Demolition, or Removal of Improvements	37.3
	Contracts for	dismantling, demolition, or removal of improvements.	46.313
	Inspection—	Dismantling, Demolition, or Removal of Improvements.	52.246-13
	Termination for Convenience of the Government	Dismantling, Demolition, or Removal of Improvements.	52.249-3
	Reporting, Reutilization, and	Disposal	45.6
	Storage, handling, and	disposal of contract files.	4.805
		Disposal of scrap.	45.606
		Disposition of disputes concerning construction contract labor standards enforcement.	22.406-10
		Disposition.	50.306

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Disputes and Appeals	33.2
		Disputes clause.	52.233-1
	Disposition of	disputes concerning construction contract labor standards enforcement.	22.406-10
		Disputes concerning labor standards.	22.1026 52.222-14
	Protests,	Disputes, and Appeals	Part 33
	Reporting labor	disputes.	22.101-3
	Federal Supply Schedules:	Disputes.	8.406-6
		Disqualification.	3.104-5
	Publicizing Contract Actions: Methods of	disseminating information.	5.101
	Publicizing Contract Actions:	Dissemination of Information	5.1
	Automatic	dissolution of a small business set-aside.	19.507
	Contract	Distribution	4.2
		Distribution of documents.	42.706
	Annotation and	distribution of shipping and billing documents.	47.207-9
	Agency	distribution requirements.	4.202
	Sealed Bidding:	Documentation of award.	14.408-7
	Special	documentation requirements.	13.501
	Options:	Documentation requirements.	17.205
	Clearance and	Documentation Requirements—Shipments to DoD Air or Water Terminal Transshipment Points.	52.247-52
	Responsible Prospective Contractors: Determinations and	documentation.	9.105-2
	Contract Pricing:	Documentation.	15.406
	Federal Supply Schedules:	Documentation.	8.405-7
	Contract Pricing:	Documenting the negotiation.	15.406-3
	Paper	Documents	4.3
	Clearance and Documentation Requirements—Shipments to	DoD Air or Water Terminal Transshipment Points.	52.247-52
	Availability of Specifications Listed in the	DoD Index of Specifications and Standards (DoDISS) and Descriptions Listed in the Acquisition Management Systems and Data Requirements Control List, DoD 5010.12-L.	52.211-2
	Availability of Specifications Listed in the DoD Index of Specifications and Standards	DoDISS and Descriptions Listed in the Acquisition Management Systems and Data Requirements Control List, DoD 5010.12-L.	52.211-2
	Definition:	Domestic construction material	25.003 52.225-9 52.225-11
		Domestic contracts.	29.401
	Definition:	Domestic end product	25.003 52.225-1 52.225-3
	Definition:	Domestic offer	25.003

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Contributions or	donations.	31.205-8
	Specifications and	Drawings for Construction.	52.236-21
	Definition:	Drug-free workplace	2.101 52.223-6
Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and		Drug-Free Workplace	Part 23
		Drug-Free Workplace.	23.5 52.223-6
	Definition:	Dry bulk carrier	47.501
	Definition:	Dry cargo liner	47.501
	Using the Defense Transportation System	DTS.	47.301-3
	Definition:	Due date	32.001
		DUNS number	2.101
	Data Universal Numbering System	DUNS Number.	52.204-6
		Duration of contract and time of performance.	47.207-2
	Scope and	Duration of Contract.	52.241-3
	Competition Advocates:	Duties and responsibilities.	6.502
		Duties of termination contracting officer after issuance of notice of termination.	49.105
	Final Decisions: Contracting officer's	duties upon appeal.	33.212
		Duty-Free Entry.	52.225-8
	Definition:	E.O. 11246	22.801
	Utilization of Indian Organizations and Indian-Owned	Economic Enterprises.	52.226-1
		Economic planning costs.	31.205-12
	Fixed-price contracts with	economic price adjustment.	16.203
	Sealed Bidding:	Economic price adjustment.	14.408-4
	Fixed-Price Contracts:	Economic Price Adjustment—Labor and Material.	52.216-4
	Fixed-Price Contracts:	Economic Price Adjustment—Semistandard Supplies.	52.216-3
	Fixed-Price Contracts:	Economic Price Adjustment—Standard Supplies.	52.216-2
	Sealed Bidding:	Economic purchase quantities (supplies).	14.212
		Economic Purchase Quantity—Supplies.	52.207-4
	Planning for the Purchase of Supplies in	Economic Quantities	7.2
	Current	editions.	53.102
	Training and	education costs.	31.205-44
	Termination for Convenience of the Government	Educational and Other Nonprofit Institutions.	52.249-5
	Cost Accounting Standards—	Educational Institution.	52.230-5
	Contracts with	Educational Institutions	31.3
	Contracts for research with	educational institutions and nonprofit organizations.	35.015
	Accountable Facilities (Nonprofit	Educational Institutions).	52.245-13
	Contract Purpose (Nonprofit	Educational Institutions).	52.245-12

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Indirect Cost Rates:	Educational institutions.	42.705-3
	Debarment, Suspension, and Ineligibility:	Effect of listing.	9.405
	Definition:	Effective competition	34.001
	Definition:	Effective date	43.101
	Definition:	Effective date of termination	2.101
	Definition:	EFT information	32.1102
		EFT information submitted by offerors.	32.1109
	Protection of	EFT information.	32.1104
		EFT mechanisms.	32.1106
		Electric Service Territory Compliance Representation.	52.241-1
		Electronic and Information Technology	39.2
	Definition:	Electronic and information technology (EIT)	2.101
	Receipt of an unreadable	electronic bid.	14.406
		Electronic bids.	14.202-8
	Definition:	Electronic commerce	2.101
		Electronic Commerce in Contracting	4.5
	Definition:	Electronic data interchange (EDI)	2.101
		Electronic Funds Transfer	32.11
	Definition:	Electronic Funds Transfer (EFT)	2.101 32.1102
	Submission of	Electronic Funds Transfer Information with Offer.	52.232-38
	Designation of Office for Government Receipt of	Electronic Funds Transfer Information.	52.232-35
	Payment by	Electronic Funds Transfer—Central Contractor Registration.	52.232-33
	Payment by	Electronic Funds Transfer—Other Than Central Contractor Registration.	52.232-34
		Eligibility requirements for participating in the program.	19.703
	Certification of	Eligibility.	52.222-15
	Definition:	Eligible offer	25.003
	Definition:	Eligible product	25.003
	Disaster or	Emergency Assistance Activities	26-2
	Definition:	Emerging small business	19.1002 52.212-3 52.219-19
	Definition:	Emerging small business reserve amount	19.1002
	Definition:	Employee	23.503 52.223-6
		Employee morale, health, welfare, food service, and dormitory costs and credits.	31.205-13
	Notification of	Employee Rights Concerning Payment of Union Dues or Fees.	52.222-39
	Definition:	Employer's identification number	52.222-27

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Employment of Workers with Disabilities	22.14
		Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans.	52.222-37
	Completed	end items.	49.205
	Definition:	End product	2.101 25.003 52.225-1 52.225-3 52.225-5
	Definition:	End product of Australia, Canada, Chile, Mexico, or Singapore	52.225-3
		Energy and Water Efficiency and Renewable Energy	23.2
	Definition:	Energy-efficient product	2.101
		Energy-efficient products.	23.203
	Definition:	Energy-efficient standby power devices	2.101
	Definition:	Energy-savings performance contract	2.101
		Energy-savings performance contracts.	23.204
Application of Labor Laws to Government Acquisitions: Administration and		enforcement.	22.303 22.406 22.809
	Manufacturing and production	engineering costs.	31.205-25
	Industrial mobilization;	engineering, developmental, or research capability; or expert services.	6.302-3
	Value	Engineering.	52.248-1
	Value	Engineering—Architect-Engineer.	52.248-2
	Value	Engineering—Construction.	52.248-3
	Inconsistency between	English Version and Translation of Contract.	52.225-14
		Entertainment costs.	31.205-14
		Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace	Part 23
	Definition:	Environmentally preferable	2.101
	Contracting for	Environmentally Preferable Products and Services	23.7
	Definition:	EPA-designated product	23.401
Estimate of Percentage of Recovered Material Content for		EPA-Designated Products.	52.223-9
		Equal Employment Opportunity	22.8
Notice of Requirement for Affirmative Action to Ensure		Equal Employment Opportunity for Construction.	52.222-23
	Sealed Bidding:	Equal low bids.	14.408-6 52.219-2
	Definition:	Equal Opportunity clause	22.801
	Preaward On-Site	Equal Opportunity Compliance Evaluation.	52.222-24
		Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans.	52.222-35

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Equal Opportunity.	52.222-26
	Acquisition Planning:	Equipment Lease or Purchase	7.4
	Facilities	Equipment Modernization.	52.245-16
	Warranty of Systems and	Equipment under Performance Specifications or Design Criteria.	52.246-19
	Government-Furnished	Equipment With or Without Operators.	52.247-25
	Protection of Government Buildings,	Equipment, and Vegetation.	52.237-2
	Protection of Existing Vegetation, Structures,	Equipment, Utilities, and Improvements.	52.236-9
	Special Test	Equipment.	52.245-18
		Equitable adjustment after partial termination.	49.208
		Equitable adjustments for new or modified standards.	30.602-1
	Statement of	Equivalent Rates for Federal Hires.	52.222-42
		Establishing and Administering Federal Supply Schedules	38.2
		Establishing or maintaining alternative sources.	6.202
	Delivery or Performance Schedules: Factors to consider in	establishing schedules.	11.402
		Estimate of Percentage of Recovered Material Content for EPA-Designated Products.	52.223-9
		Estimated Quantities or Weights for Evaluation of Offers.	52.247-20
		Estimated Weights or Quantities Not Guaranteed.	52.247-8
	Announcements of long-range acquisition	estimates.	5.404-2
	Release of long-range acquisition	estimates.	5.404
	Definition:	Estimating costs	31.001
		Estimating systems.	15.407-5
		Ethics advisory opinions regarding prohibitions on a former official's acceptance of compensation from a contractor.	3.104-6
	Sanctioned	European Union Country End Products.	52.225-15
	Sanctioned	European Union Country Services.	52.225-16
		Evaluating Foreign Offers—Supply Contracts	25.5
		Evaluating FPI performance	8.606
		Evaluating offers of foreign construction material.	25.204
		Evaluating the certification.	3.103-2
	Streamlined Procedures for	Evaluation and Solicitation for Commercial Items	12.6
	Architect-Engineer Services:	Evaluation board functions.	36.602-3
	Architect-Engineer Services:	Evaluation boards.	36.602-2
		Evaluation Exclusive of Options.	52.217-3
		Evaluation factor or subfactor.	19.1202
	Contracting by Negotiation:	Evaluation factors and significant subfactors.	15.304
	Research and Development Contracting:	Evaluation for award.	35.008
	Sealed Bidding:	Evaluation of Bids for Multiple Awards.	52.214-22
		Evaluation of Compensation for Professional Employees.	52.222-46

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Evaluation of contract administration offices.	42.403
		Evaluation of Export Offers.	52.247-51
	Shipping Point(s) Used in	Evaluation of F.o.b. Origin Offers.	52.247-46
		Evaluation of Foreign Currency Offers.	52.225-17
	Streamlined	evaluation of offers.	12.602
	Estimated Quantities or Weights for	Evaluation of Offers.	52.247-20
	Options:	Evaluation of Options Exercised at Time of Contract Award.	52.217-4
	Options:	Evaluation of Options.	52.217-5
	Soliciting competition,	evaluation of quotations or offers, award and documentation.	13.106
	No	Evaluation of Transportation Costs.	52.247-50
		Evaluation procedures.	45.202
	Contractor Qualifications: Providing	evaluation services.	9.505-3
	Acquisition of Commercial Items: Procedures for solicitation,	evaluation, and award.	12.203
		Evaluation, offering, and acceptance.	19.804
	Contracting officer's	evaluation.	44.202
	Testing: Preaward in-use	evaluation.	11.801
	Contractor Versus Government Performance:	Evaluation.	7.306
	F.o.b. Origin and/or F.o.b. Destination	Evaluation.	52.247-45
	Options:	Evaluation.	17.206
		Evaluation—Commercial Items.	52.212-2
		Evaluation—F.o.b. Origin.	52.247-47
	F.o.b. Destination—	Evidence of Shipment.	52.247-48
	Facts and	evidence.	50.304
		Ex dock, pier, or warehouse, port of importation.	47.303-12 52.247-40
	Waiver of right to	examination of records.	25.1001
	Definition:	Excepted tax	52.229-4 52.229-6
	Definition:	Exception	53.001
	Agency and Public Participation:	Exceptions to soliciting public comments.	1.501-3
	Acquisition from Federal Prison Industries, Inc.:	Exceptions.	8.605
	Forms:	Exceptions.	53.103
	Improper Business Practices and Personal Conflicts of Interest:	Exceptions.	3.602
	Release of	excess funds.	49.105-2
	Definition:	Excess personal property	2.101
		Excess Personal Property	8.1
		Exchange of acquisition information.	5.405
		Exchanges with industry before receipt of proposals.	15.201
	Definition:	Excluded Parties List System	2.101

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Debarment, Suspension, and Ineligibility:	Excluded Parties List System.	9.404
	Freight	Excluded.	52.247-7
		Exclusion of individual sureties.	28.203-7
	Full and Open Competition After	Exclusion of Sources	6.2
		Excusable Delays.	52.249-14
	Contract	Execution	4.1
		Execution and Commencement of Work.	52.216-23
	Definition:	Executive agency	2.101
	Applicability of certain laws to	Executive agency contracts for the acquisition of commercial items.	12.503
	Definition:	Executive agreements	1.405(a)
	Deviations pertaining to treaties and	executive agreements.	1.405
		Exemption from Application of Service Contract Act Provisions for Contracts for Maintenance, Calibration, and/or Repair of Certain Information Technology, Scientific and Medical, and/or Office and Business Equipment—Contractor Certification.	52.222-48
	Limitations on the Payment of Funds to Influence Federal Transactions:	Exemption.	3.805
	Administrative limitations, variations, tolerances, and	exemptions.	22.1003-4
	Contract Work Hours and Safety Standards Act: Variations, tolerances, and	exemptions.	22.304
	Service Contract Act of 1965, As Amended: Statutory	exemptions.	22.1003-3
	Walsh-Healey Public Contracts Act: Regulatory	exemptions.	22.604-2
	Walsh-Healey Public Contracts Act: Statutory	exemptions.	22.604-1
	Equal Employment Opportunity:	Exemptions.	22.807
	Requests for status or	expediting of response.	22.1011-2
	Disallowance of	expenditures.	47.403-3
	Other business	expenses.	31.205-28
	Determinations and Findings:	Expiration dates.	1.706
	Evaluation of	Export Offers.	52.247-51
	F.o.b. Designated Air Carrier's Terminal, Point of	Exportation.	52.247-43
	F.o.b. Inland Carrier, Point of	Exportation.	52.247-38
	Definition:	Expressly unallowable cost	31.001
		Extension of services.	37.111
	Management and Operating Contracts: Award, renewal, and	extension.	17.605
	Contract modifications (options,	extensions, changes in scope) and anniversary dates.	22.1008-6
	Time	Extensions.	52.211-13
		Extraordinary Contractual Actions	Part 50
		Extras.	52.232-11
	Definition:	F.a.s. vessel, port of shipment.	47.303-8 52.247-36
	Definition:	F.o.b.	2.101

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		F.o.b. designated air carrier's terminal, point of exportation.	47.303-15
		F.o.b. designated air carrier's terminal, point of importation.	47.303-16 52.247-44
	Definition:	F.o.b. destination	2.101 52.247-34
	F.o.b. Origin and/or	F.o.b. Destination Evaluation.	52.247-45
		F.o.b. destination solicitations.	47.305-4
	Definition:	F.o.b. destination, within consignee's premises.	47.303-7 52.247-35
		F.o.b. destination.	47.303-6 52.247-34
		F.o.b. Destination—Evidence of Shipment.	52.247-48
	Definition:	F.o.b. inland carrier, point of exportation.	47.303-10 52.247-38
	Definition:	F.o.b. inland point, country of importation.	47.303-11 52.247-39
	Definition:	F.o.b. origin	2.101 52.247-29
	Solicitations	f.o.b. origin and f.o.b. destination—lowest overall cost.	47.305-2
		F.o.b. Origin and/or F.o.b. Destination Evaluation.	52.247-45
	Shipping Point(s) Used in Evaluation of	F.o.b. Origin Offers.	52.247-46
	Shipping documents covering	f.o.b. origin shipments.	42.1403
		F.o.b. origin solicitations.	47.305-3
		F.o.b. origin, contractor's facility.	47.303-2 52.247-30
	Definition:	F.o.b. origin, freight allowed.	47.303-3 52.247-31
	Definition:	F.o.b. origin, freight prepaid.	47.303-4 52.247-32
		F.o.b. Origin, Prepaid Freight—Small Package Shipments.	52.247-65
	Definition:	F.o.b. origin, with differentials.	47.303-5 52.247-33
		F.o.b. Origin.	47.303-1 52.247-29 52.247-47
		F.o.b. Origin—Carload and Truckload Shipments.	52.247-59
		F.o.b. Origin—Government Bills of Lading or Indicia Mail.	52.242-11
		F.o.b. Origin—Government Bills of Lading or Prepaid Postage.	52.242-10
		F.o.b. Origin—Minimum Size of Shipments.	52.247-61
		F.o.b. Point for Delivery of Government-Furnished Property.	52.247-55
	Place of delivery—	f.o.b. point.	47.302

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	F.o.b. vessel, port of shipment.	47.303-9 52.247-37
	Definition:	Facilities	31.205-17 45.301 52.245-7 52.245-10 52.245-11
	Accountable	Facilities (Nonprofit Educational Institutions).	52.245-13
	Termination of Work (Consolidated Facilities or	Facilities Acquisition).	52.249-11
	Government Property	Facilities Acquisition.	52.245-10
	Definition:	Facilities capital cost of money	2.101
	Definition:	Facilities contract	45.301
	Labor standards for construction work performed under	facilities contracts.	22.405
	Optional property-related clauses for	facilities contracts.	45.302-7
	Required Government property clauses for	facilities contracts.	45.302-6
		Facilities contracts.	31.106 46.310
	Labor Standards for Construction Work—	Facilities Contracts.	52.222-17
		Facilities Equipment Modernization.	52.245-16
	Cost-Reimbursement Contracts: Allowable Cost and Payment—	Facilities Use.	52.216-14
	Government Property	Facilities Use.	52.245-11
	Government Property (Consolidated	Facilities).	52.245-7
	Adequacy of loading and unloading	facilities.	47.306-3
	Providing	facilities.	45.302
	Visits to contractors'	facilities.	42.402
	Contractor's	Facilities.	52.241-5
	Cost-Reimbursement Contracts: Allowable Cost and Payment—	Facilities.	52.216-13
	Inspection of	Facilities.	52.246-10
	Inspection of Shipping and Receiving	Facilities.	52.247-4
	Liability for the	Facilities.	52.245-8
	Limitation of Cost	Facilities.	52.232-21
	Stop-Work Order—	Facilities.	52.242-16
	Transfer of Title to the	Facilities.	52.245-15
	Use of Government	Facilities.	52.245-14
	F.o.b. Origin, Contractor's	Facility.	52.247-30
	Definitions:	FACNET	2.101
	Definition:	Facsimile	2.101
	Sealed Bidding:	Facsimile bids.	14.202-7 52.214-31
	Definition:	Facsimile proposal	52.215-5

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Factors to consider in establishing schedules.	11.402
		Facts and evidence.	50.304
	Definition:	Failure to make a good faith effort to comply with the subcontracting plan	19.701 52.219-16
		Failure to Perform.	52.249-13
		Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts).	52.222-43
		Fair Labor Standards Act and Service Contract Act—Price Adjustment.	52.222-44
	Application of the	Fair Labor Standards Act minimum wage.	22.1002-4
	Definition:	Fair market price	19.001
	Determination of	fair market price.	19.202-6
	Estimating the	fair market price.	19.807
		FAR conventions.	1.108
	Administration of the FAR:	FAR Secretariat.	1.201-2
		Fast Payment Procedure	13.4 52.213-1
	Definition:	Federal Acquisition Computer Network (FACNET) Architecture	2.101
		Federal Acquisition Computer Network (FACNET).	2.101
		Federal Acquisition Regulations System	Part 1
		Federal Acquisition Streamlining Act of 1994 list of inapplicable laws.	13.005
		Federal acquisition system.	53.201
	Statement of guiding principles for the	Federal Acquisition System.	1.102
	Definition:	Federal agency	2.101 23.1003
	Definition:	Federal agency procurement	3.104-1
		Federal and State labor requirements.	22.102
		Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements	23.10
		Federal Excise Taxes	29.2
	Definition:	Federal helium supplier	8.501 52.208-8
	Statement of Equivalent Rates for	Federal Hires.	52.222-42
	Capability to Perform a Contract for the Relocation of a	Federal Office.	52.247-3
	Definition:	Federal Power and Water Marketing Agency	41.101
	Acquisition from	Federal Prison Industries, Inc.	8.6
		Federal Procurement Data System.	4.602
	Definition:	Federal Reserve Board	32.301
		Federal Supply Schedule Contracting	Part 38
	Small Business Programs: Multiple award and	Federal Supply Schedule contracts.	19.804-6
		Federal Supply Schedule Program.	38.1

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Federal Supply Schedules	8.4
	Establishing and Administering	Federal Supply Schedules	38.2
	Limitations on the Payment of Funds to Influence	Federal Transactions	3.8
		Federal, State, and Local Taxes.	52.229-3 52.229-4
	Definition:	Federally Funded Research and Development Centers (FFRDCs)	2.101
		Federally Funded Research and Development Centers.	35.017
	Contracts with State, Local, and	Federally Recognized Indian Tribal Governments	31.6
	Adjustment of	fee.	49.305
	Fixed	Fee.	52.216-8
	Incentive	Fee.	52.216-10
	Contingent	Fees	3.4
	Establishing or changing an	FFRDC.	35.017-2
	Terminating an	FFRDC.	35.017-5
	Using an	FFRDC.	35.017-3
	Limitation on the creation of new	FFRDC's.	35.017-7
	Master list of	FFRDC's.	35.017-6
	Reviewing	FFRDC's.	35.017-4
	Definition:	Filed	33.101
	Government Contract	Files	4.8
	Closeout of contract	files.	4.804
	Closeout of paying office contract	files.	4.804-3
	Contents of contract	files.	4.803
	Contract	files.	4.802
	Procedures for closing out contract	files.	4.804-5
	Storage, handling, and disposal of contract	files.	4.805
		Filing of Patent Applications—Classified Subject Matter.	52.227-10
	Definition:	Final conviction	3.702
	Definition:	Final cost objective	31.001
	Definition:	Final indirect cost rate	2.101
		Final indirect cost rates.	42.705
	Certification of	Final Indirect Costs.	52.242-4
		Final payment.	49.112-2
		Final settlement.	49.303-5
		Financial and cost accounting records.	4.705-1
		Financial consultation.	32.108
	Bonds and Other	Financial Protections	28.1
		Financial Statement.	52.247-6
	Commercial Item Purchase	Financing	32.2

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Contract	Financing	Part 32
	Non-Commercial Item Purchase	Financing	32.1
	Contract	financing (SF 1443).	53.232
	Terms for	Financing of Purchases of Commercial Items.	52.232-29
	Conducting market research about	financing terms.	32.202-3
	Determining contract	financing terms.	32.203
	Invitation to Propose	Financing Terms.	52.232-31
	Acquisition of Commercial Items: Contract	financing.	12.210
	Consideration for contract	financing.	32.005
	Procedures for contracting officer-specified commercial contract	financing.	32.204
	Procedures for offeror-proposed commercial contract	financing.	32.205
	Providing contract	financing.	32.104
	Security for Government	financing.	32.202-4
	Simplified acquisition procedures	financing.	32.003
	Termination	financing.	32.109
	Federal Acquisition Regulations System: Determinations and	Findings	1.7
	Advance Payment for Non-Commercial Items:	Findings, determination, and authorization.	32.410
	Federal Acquisition Regulations System: Class determinations and	findings.	1.703
		Fines, penalties, and mischarging costs.	31.205-15
	Definition:	Firm	36.102
	Incentive Price Revision—	Firm Target.	52.216-16
	Concurrent performance of	firm-fixed-price and other types of construction contracts.	36.208
	Types of Contracts:	Firm-fixed-price contracts.	16.202
	Types of Contracts:	Firm-fixed-price, level-of-effort term contracts.	16.207
	Definition:	First article	2.101
		First Article Approval—Contractor Testing.	52.209-3
		First Article Approval—Government Testing.	52.209-4
	Definition:	First article testing	2.101
	Contractor Qualifications:	First Article Testing and Approval	9.3
	Definition:	Fiscal year	31.001
	Cost-Reimbursement Contracts:	Fixed Fee.	52.216-8
	Cost-Reimbursement Contracts:	Fixed Fee—Construction.	52.216-9
	Inspection of Research and Development—	Fixed Price.	52.246-7
	Fixed-Price Contracts:	Fixed-ceiling-price contracts with retroactive price redetermination.	16.206
	Termination for Convenience of the Government	Fixed-Price (Short Form).	52.249-1
	Payments under	Fixed-Price Architect-Engineer Contracts.	52.232-10
	Prompt Payment for	Fixed-Price Architect-Engineer Contracts.	52.232-26
	Termination	Fixed-Price Architect-Engineer.	52.249-7
	Pricing	fixed-price construction contracts.	36.207

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Payments under	Fixed-Price Construction Contracts.	52.232-5
	Default	Fixed-Price Construction.	52.249-10
	Termination of	fixed-price contracts for default.	49.402 49.504
	Additional Principles for	Fixed-Price Contracts Terminated for Convenience	49.2
	Fixed-Price Contracts:	Fixed-price contracts with economic price adjustment.	16.203
	Taxes—	Fixed-Price Contracts with Foreign Governments.	52.229-7
	Fixed-Price Contracts:	Fixed-price contracts with prospective price redetermination.	16.205
	Foreign	fixed-price contracts.	29.402-1
	Insurance under	fixed-price contracts.	28.306
	Special tooling under	fixed-price contracts.	45.306-3
	Transportation:	Fixed-price contracts.	47.104-2
		Fixed-Price Contracts.	16.2 31.102
	Government Property	Fixed-Price Contracts.	52.245-2
	Taxes—Foreign	Fixed-Price Contracts.	52.229-6
		Fixed-price contracts—complete termination.	49.603-1
		Fixed-price contracts—partial termination.	49.603-2
		Fixed-price contracts—settlements with subcontractors only.	49.603-8
		Fixed-price incentive (firm target) contracts.	16.403-1
		Fixed-price incentive (successive targets) contracts.	16.403-2
	Pricing aspects of	fixed-price incentive contract warranties.	46.707
		Fixed-price incentive contracts.	16.204 16.403
		Fixed-price research and development contracts.	46.307
	Payments under	Fixed-Price Research and Development Contracts.	52.232-2
	Default	Fixed-Price Research and Development.	52.249-9
		Fixed-price service contracts.	46.304
	Default	Fixed-Price Supply and Service.	52.249-8
		Fixed-price supply contracts.	46.302
	Changes—	Fixed-Price.	52.243-1
	Inspection of Services—	Fixed-Price.	52.246-4
	Inspection of Supplies—	Fixed-Price.	52.246-2
	Termination for Convenience of the Government	Fixed-Price.	52.249-2
	Interagency	Fleet Management System (IFMS) Vehicles and Related Services.	52.251-2
	Guidelines for implementation of the	Fly America Act.	47.403
	Performance-Based Contracting:	Follow-on and repetitive requirements.	37.602-5
	Definition:	Forced or indentured child labor	22.1501 52.212-3

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Foreign Acquisition	Part 25
	Additional	Foreign Acquisition Regulations	25.10
	Definition:	Foreign construction material	25.003 52.225-9 52.225-11
	Definition:	Foreign contractor	25.003
		Foreign contracts.	29.402
	Taxes—	Foreign Cost-Reimbursement Contracts.	52.229-8
		Foreign cost-reimbursement contracts.	29.402-2
	Contract performance in	foreign countries.	32.004
	Evaluation of	Foreign Currency Offers.	52.225-17
	Use of	foreign currency.	25.1002
	Definition:	Foreign end product	25.003 52.225-1 52.225-3
		Foreign fixed-price contracts.	29.402-1
	Taxes—	Foreign Fixed-Price Contracts.	52.229-6
	Air transport agreements between the United States and	foreign governments.	47.403-2
		Foreign governments.	46.406
	Taxes—Cost-Reimbursement Contracts with	Foreign Governments.	52.229-9
	Taxes—Fixed-Price Contracts with	Foreign Governments.	52.229-7
		Foreign License and Technical Assistance Agreements	27.6
	Severance payments to	foreign nationals.	37.113
	Restriction on Severance Payments to	Foreign Nationals.	52.237-8
	Waiver of Limitation on Severance Payments to	Foreign Nationals.	52.237-9
	Definition:	Foreign offer	25.003
	Restrictions on Certain	Foreign Purchases.	52.225-13
	Definition:	Foreign-flag vessel	47.501
	Definition:	Form, fit, and function data	27.401 52.227-14 52.227-20
	Acquisition of Commercial Items: Solicitation/contract	form.	12.204
	Contract	format.	12.303
		Formats for utility service specifications.	41.701
	Illustration of	Forms	53.3
	Prescription of	Forms	53.2
	Optional	forms (OF's).	53.302
	Standard	forms (SF's).	53.301
	Standard and Optional	Forms for Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements	36.7

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Forms for settlement of terminated contracts.	49.602
		Forms for use in contracting for architect-engineer services.	36.702
	Standard and optional	forms for use in contracting for construction or dismantling, demolition, or removal of improvements.	36.701
		Forms prescribed by other regulations.	53.109
	Agency	forms.	53.303
	Bonds and bond-related	forms.	28.106-1
	Inventory	forms.	49.602-2
	Obtaining	forms.	53.107
	Recommendations concerning	forms.	53.108
	Requirements for use of	forms.	53.101
	Termination settlement proposal	forms.	49.602-1
	Use of	forms.	43.301
		Forms.	13.307 15.509 41.6 Part 53
	Computer Generated	Forms.	52.253-1
	Definition:	Forward pricing rate agreement	2.101
	Contract Administration and Audit Services:	Forward Pricing Rate Agreements	42.17
	Contracting by Negotiation:	Forward pricing rate agreements.	15.407-3
	Definition:	Forward pricing rate recommendation	2.101
	Evaluating	FPI performance	8.606
	Definition:	Franchise territory	41.101
	Permits, Authorities, or	Franchises.	52.247-2
	Definition:	Fraud	31.205-47
		Fraud or other criminal conduct.	49.106
	Reduction or suspension of contract payments upon finding of	fraud.	32.006
	Suspected	fraudulent claims.	33.209
	Definition:	Free Trade Agreement country	25.003 52.225-11
	Definition:	Free Trade Agreement country construction material	52.225-11
	Definition:	Free Trade Agreement country end product	25.003 52.225-5
	World Trade Organization Government Procurement Agreement and	Free Trade Agreements.	25.403
	Protection of Privacy and	Freedom of Information	Part 24
		Freedom of Information Act	24.2
	Definition:	Freight	2.101
	F.o.b. Origin,	Freight Allowed.	52.247-31
	Loading, Blocking, and Bracing of	Freight Car Shipments.	52.247-58

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Freight Classification Description.	52.247-53
	Commodity description and	freight classification.	47.305-9
		Freight Excluded.	52.247-7
	Contractor Liability for Loss of and/or Damage to	Freight other than Household Goods.	52.247-22
	F.o.b. Origin,	Freight Prepaid.	52.247-32
	Government	freight.	47.104-1
	Contractor Responsibility for Returning Undelivered	Freight.	52.247-16
	SCA Minimum Wages and	Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA).	52.222-47
	Wages,	fringe benefits, and overtime.	22.406-2
		FTA/Israeli Trade Act.	25.504-3
	Definition:	Full and open competition	2.101
	Competition Requirements:	Full and Open Competition	6.1
	Competition Requirements:	Full and Open Competition after Exclusion of Sources	6.2
	Competition Requirements: Circumstances permitting other than	full and open competition.	6.302
	Research and Development Contracts:	Full production.	34.005-6
	Contract administration	functions.	42.302
	Definition:	Funded pension cost	31.001
		Funding and term of service contracts.	37.106
	Design Within	Funding Limitations.	52.236-22
	Contract	funding requirements.	32.703
	Cancellation, Rescission, and Recovery of	Funds for Illegal or Improper Activity.	52.203-8
	Availability of	funds.	43.105 52.232-18
	Limitation of	Funds.	52.232-22
	Withholding of	Funds.	52.222-7
	Bonds and Other Financial Protections:	Furnishing information.	28.106-6
	The need for	further certifications.	3.103-3
	Definition:	Future unit cost reduction	48.001 52.248-1
		Gains and losses on disposition or impairment of depreciable property or other capital assets.	31.205-16
	Protests to	GAO.	33.104
	Definition:	Gateway airport abroad	47.401
	Definition:	Gateway airport in the United States	47.401
	Use of patented technology under the General Agreement on Tariffs and Trade	GATT.	27.209
	Use of patented technology under the	General Agreement on Tariffs and Trade (GATT).	27.209
	Definition:	General and administrative (G&A) expense	2.101
		General Contracting Requirements	Subchapter E

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	General freight	47.201
	Agreed Weight—	General Freight.	52.247-9
	Net Weight—	General Freight.	52.247-10
	Acquisition Planning:	General procedures.	7.104
	Release of Information:	General public.	5.402
		General Services Administration assistance.	7.403
	Submission of Commercial Transportation Bills to the	General Services Administration for Audit.	52.247-67
	Responsible Prospective Contractors:	General standards.	9.104-1
	Rights in Data—	General.	52.227-14
		Goodwill.	31.205-49
	Application of labor laws to	Government acquisitions (SF's 99, 308, 1093, 1413, 1444, 1445, 1446, WH-347).	53.222
	First Article Testing and Approval:	Government administration procedures.	9.307
	F.o.b. Origin—	Government Bills of Lading or Indicia Mail.	52.242-11
	F.o.b. Origin—	Government Bills of Lading or Prepaid Postage.	52.242-10
	Protection of	Government Buildings, Equipment, and Vegetation.	52.237-2
		Government Contract Files	4.8
	Definition:	Government contract quality assurance	46.101
		Government Contract Quality Assurance	46.4
	Definition:	Government costs	48.001 52.248-1 52.248-3
	Suspension of Work, Stop-Work Orders, and	Government Delay of Work	42.13
		Government delay of work.	42.1304 52.242-17
		Government Direction and Marking.	52.247-26
	Use of	Government Facilities.	52.245-14
	Limitation of	Government Liability.	52.216-24
	Responsibilities and cooperation among	Government officials.	32.605
	Definition:	Government or entity of the Government	8.701
	Contractor Versus	Government Performance	7.3
	Contractor Gratuities to	Government Personnel	3.2
	Definition:	Government printing	8.801
	World Trade Organization	Government Procurement Agreement and Free Trade Agreements.	25.403
	Definition:	Government production and research property	45.301
	Definition:	Government property	45.101
		Government Property (Consolidated Facilities).	52.245-7
		Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts).	52.245-5

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Liability for	Government Property (Demolition Services Contracts).	52.245-6
		Government Property (Facilities Acquisition).	52.245-10
		Government Property (Facilities Use).	52.245-11
		Government Property (Fixed-Price Contracts).	52.245-2
	Research and Development Contracting:	Government property and title.	35.014
		Government property clauses.	45.106
		Government Property Furnished ÓAs Is.Ó	52.245-19
		Government property.	49.109-3 Part 45 53.245
		Government rate tenders under section 10721 of the Interstate Commerce Act.	47.104
	Citation of	Government rate tenders.	47.104-5
		Government responsibilities.	47.207-8
	Use of	Government Sources by Contractors	Part 51
	Priorities for use of	Government supply sources.	8.002
	Use of other	Government supply sources.	8.003
		Government Supply Sources.	52.251-1
	First Article Approval—	Government Testing.	52.209-4
	Definition:	Government vessel	47.501
	Advance Notification by the	Government.	52.247-24
	Follow-up by	Government.	27.305-3
	Service Contracting: Incremental Payment by Contractor to	Government.	52.237-6
	Service Contracting: Payment by Contractor to	Government.	52.237-5
		Government-Furnished Equipment With or Without Operators.	52.247-25
	Definition:	Government-furnished property	45.101
		Government-Furnished Property (Short Form).	52.245-4
	F.o.b. Point for Delivery of	Government-Furnished Property.	52.247-55
	Identification of	Government-Furnished Property.	52.245-3
	Application to	Government-owned or leased facilities.	23.704
	The	Government's right.	49.402-1
	Alternatives to	Government-Unique Standards.	52.211-7
	Definition:	Governmentwide acquisition contract (GWAC)	2.101
	Definition:	Governmentwide commercial purchase card	13.001 32.1102
	Payment by	Governmentwide commercial purchase card.	32.1108
	Publicizing Multi-Agency Use Contracts:	Governmentwide database of contracts	5.601
	Definition:	Governmentwide point of entry (GPE)	2.101
		Governmentwide point of entry.	5.003

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Exemptions	Granted by the Secretary of Labor.	22.1603
		Granting, withholding, or withdrawing approval.	44.305
	Solicitation and acceptance of	gratuities by Government personnel.	3.101-2
	Reporting suspected violations of the	Gratuities clause.	3.203
	Contractor	Gratuities to Government Personnel	3.2
		Gratuities.	52.203-3
	State of New Mexico	Gross Receipts and Compensating Tax.	52.229-10
	Evaluating Foreign Offers—Supply Contracts:	Group award basis.	25.504-4
		Group insurance plans.	28.307-1
		GSA areawide contracts.	41.204
		GSA assistance.	41.203
	Availability of Specifications Listed in the	GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR 101-29.	52.211-1
	Availability for Examination of Specifications Not Listed in the	GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.	52.211-4
	Availability of Specifications Not Listed in the	GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.	52.211-3
	Loan Guarantees for Defense Production:	Guarantee amount and maturity.	32.304-4
	Application for	guarantee.	32.304-1
	Definition:	Guaranteed loan, or V loan	32.301
		Guaranteed Shipping Characteristics.	52.247-60
	Definition:	Guaranteeing agency	32.301
		Guidelines for determining availability of personnel.	37.204
	Actions At or Below the Micro-Purchase Threshold: Purchase	guidelines.	13.202
	Statement of	guiding principles for the Federal Acquisition System.	1.102
	Government Contract Files: Storage,	handling, and disposal of contract files.	4.805
	Definition:	Hazardous material	23.301 52.223-3
		Hazardous Material Identification and Material Safety Data.	23.3 52.223-3
	Special procedures for unusually	hazardous or nuclear risks.	50.403
	Definition:	Head of the agency	2.10
	Definition:	Head of the contracting activity	2.101
	Requests for	hearing.	22.1021
	Acquisition of	Helium	8.5
		Higher-level contract quality requirement.	46.311
	Definition:	High-value item	46.802
	Limitation of Liability—	High-Value Items.	52.246-24
	Definition:	Historically black college or university	2.101

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Historically Black College or University	52.219-23 52.226-2
		Historically Black Colleges and Universities and Minority Institutions	26.3
		Historically Underutilized Business Zone (HUBZone) Program	19.13
	Definition:	Home office	31.001
	Definition:	Household goods	47.201
	Net Weight—	Household Goods or Office Furniture.	52.247-11
	Contractor Liability for Loss of and/or Damage to	Household Goods.	52.247-23
	Contractor Liability for Loss of and/or Damage to Freight other than	Household Goods.	52.247-22
	Definition:	HUBZone	2.101
	Historically Underutilized Business Zone	HUBZone Program	19.13
	Notice of Total	HUBZone Set-Aside	52.219-3
		HUBZone set-aside procedures.	19.1305
	Definition:	HUBZone small business concern	2.101 52.219-3 52.219-4 52.219-8
	Protesting a firm's status as a	HUBZone small business concern.	19.306
	Full and Open Competition After Exclusion of Sources: Set-asides for	HUBZone small business concerns.	6.205
	Notice of Price Evaluation Preference for	HUBZone Small Business Concerns.	52.219-4
	Price evaluation preference for	HUBZone Small Business Concerns.	19.1307
		HUBZone sole source awards.	19.1306
	Definition:	Humanitarian or peacekeeping operation	2.101
	Definition:	Identical bids	3.302
		Identification and availability of specifications.	11.201
	Taxpayer	identification information.	4.203
		Identification of Government-Furnished Property.	52.245-3
	Instructions for Using Provisions and Clauses:	Identification of provisions and clauses.	52.103
	Definition:	Idle capacity	31.205-17
	Definition:	Idle facilities	31.205-17
	Contractor Use of Interagency Fleet Management System	IFMS Vehicles	51.2
	Use of interagency fleet management system	IFMS vehicles and related services.	51.204
	Interagency Fleet Management System	IFMS Vehicles and Related Services.	52.251-2
	Irrevocable letter of credit	ILC.	28.204-3
	Cancellation, Rescission, and Recovery of Funds for	Illegal or Improper Activity.	52.203-8
	Price or Fee Adjustment for	Illegal or Improper Activity.	52.203-10
		Illustration of Forms	53.3
	Definition:	Immediate-gain actuarial cost method	31.001
	Ex Dock, Pier, or Warehouse, Port of	Importation.	52.247-40

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	F.o.b. Designated Air Carrier's Terminal, Point of	Importation.	52.247-44
	F.o.b. Inland Point, Country of	Importation.	52.247-39
		Impracticality of submission.	30.202-2
	Definition:	Imprest fund	13.001
	Simplified Acquisition Methods:	Imprest funds and third party drafts.	13.305
	Other	Improper Business Practices	3.5
		Improper Business Practices and Personal Conflicts of Interest	Part 3
	Definition:	Improper influence	3.401
	Dismantling, Demolition, or Removal of	Improvements	37.3
	Termination for Convenience of the Government (Dismantling, Demolition, or Removal of	Improvements).	52.249-3
	Inspection—Dismantling, Demolition, or Removal of	Improvements.	52.246-13
	Protection of Existing Vegetation, Structures, Equipment, Utilities, and	Improvements.	52.236-9
	Definition:	In excess of \$10,000,000	3.104-1
	Definition:	In writing or written	2.101 52.215-1
	Federal Acquisition Streamlining Act of 1994 list of	inapplicable laws.	13.005
		Inapplicable provisions and clauses.	13.006
	Pricing aspects of fixed-price	incentive contract warranties.	46.707
	Types of Contracts:	Incentive Contracts	16.4
	Cost-reimbursement	incentive contracts.	16.405
	Cost-Reimbursement Contracts:	Incentive Fee.	52.216-10
	Incentive Contracts:	Incentive Price Revision—Firm Target.	52.216-16
	Incentive Contracts:	Incentive Price Revision—Successive Targets.	52.216-17
		Incentive Subcontracting Program.	52.219-10
		Incentive subcontracting with small disadvantaged business concerns.	19.1203
	Small Disadvantaged Business Participation Program—	Incentive Subcontracting.	52.219-26
	Incentive Contracts: Cost-plus-	incentive-fee contracts.	16.405-1
	Incentive Contracts: Application of predetermined, formula-type	incentives.	16.402
	Incentive Contracts: Delivery	incentives.	16.402-3
	Incentive Contracts: Performance	incentives.	16.402-2
	Incentive Contracts: Relationship to other	incentives.	48.105
	Clauses	Incorporated by Reference.	52.252-2
	Solicitation Provisions	Incorporated by Reference.	52.252-1
		Incorporating provisions and clauses.	52.102
		Incremental Payment by Contractor to Government.	52.237-6
		Indefinite Quantity.	52.216-22
		Indefinite-Delivery Contracts	16.5
		Indefinite-delivery contracts for leased equipment.	29.401-1

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Indefinite-quantity contracts.	16.504
		Indemnification and Medical Liability Insurance.	52.237-7
	Patent	indemnification of Government by contractor.	27.203
	Action on	indemnification requests.	50.403-2
		Indemnification requests.	50.403-1
		Indemnification Under Public Law 85-804.	52.250-1
	Insurance and	indemnification.	31.205-19
	Clause for Government waiver of	indemnity.	27.203-6
	Patent	Indemnity.	52.227-3
	Waiver of	Indemnity.	52.227-5
	Certificate of	Independent Price Determination.	52.203-2
		Independent pricing.	3.103
	Definition:	Independent research and development (IR&D) cost	31.001
		Independent research and development and bid and proposal costs.	31.205-18
	Definition:	Indian	26.101 52.226-1
		Indian Incentive Program	26.1
	Definition:	Indian organization	26.101 52.226-1
	Utilization of	Indian Organizations and Indian-Owned Economic Enterprises.	52.226-1
	Contracts with State, local, and federally recognized	Indian tribal governments.	31.107
	Contracts with State, Local, and Federally Recognized	Indian Tribal Governments.	31.6
	Definition:	Indian tribe	26.101 52.226-1
	Definition:	Indian tribe, and tribal organization	3.801 52.203-12(a)
	Definition:	Indian-owned economic enterprise	26.101 52.226-1
	Utilization of Indian Organizations and	Indian-Owned Economic Enterprises.	52.226-1
	F.o.b. Origin—Government Bills of Lading or	Indicia Mail.	52.242-11
	Definition:	Indictment	9.403
	Definition:	Indirect cost	2.101
	Definition:	Indirect cost pools	31.001
	Definition:	Indirect cost rate	2.101
		Indirect cost rate certification and penalties on unallowable costs.	31.110
		Indirect Cost Rates	42.7
	Cost-sharing rates and limitations on	indirect cost rates.	42.707
	Cost-Reimbursement Contracts: Predetermined	Indirect Cost Rates.	52.216-15
	Adjustment of	indirect costs.	49.303-4

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Certificate of	indirect costs.	42.703-2
		Indirect costs.	31.203
	Certification of Final	Indirect Costs.	52.242-4
	Definition:	Individual	23.503 24.101 52.223-6
	Definition:	Individual contract plan	19.701 52.219-9
	Federal Acquisition Regulations System:	Individual deviations.	1.403
	Definition:	Individual item record	45.501
	Contracting with	individual pool members.	9.703
		Industrial mobilization; engineering, developmental, or research capability; or expert services.	6.302-3
		Industrial Resources Developed Under Defense Production Act Title III.	52.234-1
	Definition:	Industry	19.001
	Safeguarding Classified Information Within	Industry	4.4
	Debarment, Suspension, and	Ineligibility	9.4
	Service Contract Act of 1965, As Amended:	Ineligibility of violators.	22.1025
	Definition:	Ineligible	2.101
	Definition:	Influencing or attempting to influence	3.801 52.203-12(a)
	Formalizing	informal commitments.	50.302-3
	Minor	informalities or irregularities in bids.	14.405
	Publicizing Contract Actions: Release of	Information	5.4
	Required Sources of Supplies and Services:	Information on available excess personal property.	8.103
	Definition:	Information other than cost or pricing data	2.101
	EFT	information submitted by offerors.	32.1109
	Definition:	Information technology	2.101
		Information technology services.	39.104
	Acquisition of	Information Technology.	Part 39
		Information to bidders.	14.409
	Reporting contract	information to the IRS.	4.903
	Reporting payment	information to the IRS.	4.904
	Safeguarding Classified	Information Within Industry	4.4
	Contractor Qualifications: Obtaining access to proprietary	information.	9.505-4
	Publicizing Contract Actions: Methods of disseminating	information.	5.101
	Responsible Prospective Contractors: Obtaining	information.	9.105-1
	Sealed Bidding: Release of acquisition	information.	14.211
	Pollution Prevention and Right-to-Know	Information.	52.223-5

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Inherently governmental function	2.101
		Inherently Governmental Functions	7.5
	F.o.b.	Inland Carrier, Point of Exportation.	52.247-38
	F.o.b.	Inland Point, Country of Importation.	52.247-39
		Inquiries regarding compliance with E.O. 11246.	22.806
	Definition:	Inspection	2.101
	Federal Supply Schedules:	Inspection and acceptance.	8.406-2
	Government reliance on	inspection by contractor.	46.202-2
		Inspection of Construction.	52.246-12
		Inspection of Facilities.	52.246-10
		Inspection of Research and Development (Short Form).	52.246-9
		Inspection of Research and Development—Cost Reimbursement.	52.246-8
		Inspection of Research and Development—Fixed Price.	52.246-7
		Inspection of Services—Cost-Reimbursement.	52.246-5
		Inspection of Services—Fixed-Price.	52.246-4
		Inspection of Shipping and Receiving Facilities.	52.247-4
		Inspection of site and examination of data.	36.210
		Inspection of Supplies—Cost-Reimbursement.	52.246-3
		Inspection of Supplies—Fixed-Price.	52.246-2
		Inspection of Transportation.	52.246-14
	Contractor	inspection requirements.	46.301 52.246-1
	Standard	inspection requirements.	46.202-3
		Inspection—Dismantling, Demolition, or Removal of Improvements.	52.246-13
		Inspection—Time-and-Material and Labor-Hour.	52.246-6
	Definition:	Inspector General	3.901
		Installment Payments for Commercial Items.	52.232-30
	Definition:	Instant contract	48.001 52.248-1
	Definition:	Instant contract savings	52.248-3
	Definition:	Instant unit cost reduction	48.001 52.248-1
	Historically Black Colleges and Universities and Minority	Institutions	26.3
	Table 15-2—	Instructions for Submitting Cost or Pricing Data.	15.408
		Instructions for Using Provisions and Clauses	52.1
		Instructions to Offerors—Commercial Items.	52.212-1
		Instructions to Offerors—Competitive Acquisition.	52.215-1
	Packing, marking, and consignment	instructions.	47.305-10
		Insufficient causes for not setting aside an acquisition.	19.502-5

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Insurance	28.3
	Definition:	Insurance	2.101
	Workers' Compensation	Insurance (Defense Base Act).	52.228-3
	Definition:	Insurance administration expenses	31.001
		Insurance against loss of or damage to Government property.	28.303
		Insurance and indemnification.	31.205-19
	Contract clause for	insurance of leased motor vehicles.	28.312
	Contract clauses for	insurance of transportation or transportation-related services.	28.313
	Workers' Compensation and War-Hazard	Insurance Overseas.	52.228-4
	Group	insurance plans.	28.307-1
	Solicitation provision and contract clause on liability	insurance under cost-reimbursement contracts.	28.311
		Insurance under cost-reimbursement contracts.	28.307
		Insurance under fixed-price contracts.	28.306
	Bonds and	insurance.	53.228
	Contract clauses for workers' compensation	insurance.	28.309
	Liability and	insurance.	47.207-7
	Overseas workers' compensation and war hazard	insurance.	28.305
	Transportation	insurance.	47.102
	Bonds and	Insurance.	Part 28
	Cargo	Insurance.	52.228-9
	Indemnification and Medical Liability	Insurance.	52.237-7
	Research and Development Contracting:	Insurance.	35.013
	Vehicular and General Public Liability	Insurance.	52.228-10
	Liability and	Insurance—Leased Motor Vehicles.	52.228-8
		Insurance—Liability to Third Persons.	52.228-7
		Insurance—Work on a Government Installation.	52.228-5
	Definition:	Intangible capital asset	31.001
		Integrity of Unit Prices.	52.215-14
	Procurement	integrity.	3.104
	Notice of	Intent to Disallow Costs.	52.242-1
	Definition:	Interagency acquisition	17.501
		Interagency Acquisitions Under the Economy Act	17.5
	Acquisition of Utility Services:	Interagency agreements.	41.206
	Contract Administration and Audit Services:	Interagency agreements.	42.002
	Use of	interagency fleet management system (IFMS) vehicles and related services.	51.204
	Contractor Use of	Interagency Fleet Management System (IFMS) Vehicles.	51.2 52.251-2
		Interest and other financial costs.	31.205-20
		Interest charges.	32.614-1

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Contract Debts:	Interest credits.	32.614-2
		Interest on claims.	33.208
	Prompt Payment:	Interest penalties.	32.907
	Computing	interest.	42.709-4
	Advance Payments for Non-Commercial Items:	Interest.	32.407
	Contract Debts:	Interest.	32.614 52.232-17
	Definition:	Interested party	26.101 52.226-1
	Definition:	Interested party for the purpose of filing a protest	33.101
	Other Than Full and Open Competition:	International agreement.	6.302-4
	Definition:	International air transportation	47.401 52.247-63
	Rulings and	interpretations of the Walsh-Healey Public Contracts Act.	22.605
	Government rate tenders under section 10721 of the	Interstate Commerce Act.	47.104
	Definition:	Intervention	41.101
	Definition:	Invention	27.301 52.227-11 52.227-12 52.227-13
	Publication or release of	invention disclosures.	27.305-5
	Conveyance of	invention rights acquired by the Government.	27.305-4
		Inventories upon termination or completion.	45.508-1
		Inventory disposal reports.	45.605
	Submission of	inventory disposal schedules.	49.206-3 49.303-2
		Inventory disposal schedules.	45.602-1
		Inventory forms.	49.602-2
	Site	Investigation and Conditions Affecting the Work.	52.236-3
	Labor Standards for Contracts Involving Construction:	Investigations.	22.406-8
	Amendment of	invitation for bids.	14.208
		Invitation to Propose Financing Terms.	52.232-31
		Invitation to Propose Performance-Based Payments.	52.232-28
	Sealed Bidding: Cancellation of	invitations after opening.	14.404-1
	Sealed Bidding: Cancellation of	invitations before opening.	14.209
	Records of	invitations for bids and records of bids.	14.204
	Dissemination of information concerning	invitations for bids.	14.203-2
	Final review of	invitations for bids.	14.202-6
	Preparation of	invitations for bids.	14.201
	Special Aspects of Contracting for Construction:	Invitations for bids.	36.213-3

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Amendments to	Invitations for Bids.	52.214-3
	Definition:	Invoice	2.101
	Definition:	Invoice payment	32.001
		Invoices.	52.213-2
	Contractor's	Invoices.	52.247-28
	Minor informalities or	irregularities in bids.	14.405
	Definition:	Irrevocable letter of credit	2.101 52.228-14
		Irrevocable letter of credit (ILC).	28.204-3 52.228-14
	Reporting contract information to the	IRS.	4.903
	Reporting payment information to the	IRS.	4.904
	Definition:	Israeli end product	25.003 52.225-3
		Israeli Trade Act.	25.406
	Federal Acquisition Regulations System: Purpose, Authority,	Issuance	1.1
	Federal Acquisition Regulations System:	Issuance.	1.105
	Definition:	Issue in controversy	33.201
		Issuing or denying a Certificate of Competency (COC).	19.602-2
	Definition:	Item of supply	34.101
	Selecting and Developing Requirements Documents:	Items peculiar to one manufacturer.	11.105
	Surveys of nonprofit agencies serving people who are blind or have other severe disabilities under the	Javits-Wagner-O'Day (JWOD) Program.	9.107
	Definition:	Job	31.001
	Definition:	Job class of employees	31.001
		Joint settlement of two or more settlement proposals.	49.109-6
	Recognition of	judgments and arbitration awards.	49.108-5
	Other Than Full and Open Competition: Approval of the	justification.	6.304
	Other Than Full and Open Competition: Availability of the	justification.	6.305
	Other Than Full and Open Competition:	Justifications.	6.303
	Definition:	Kickback	3.502-1 52.203-7(a)
	Subcontractor	kickbacks.	3.502
	Economic Price Adjustment—	Labor and Material.	52.216-4
	Definition:	Labor cost at standard	31.001
	Reporting	labor disputes.	22.101-3
	Notice to the Government of	Labor Disputes.	52.222-1
	Application of	Labor Laws to Government Acquisitions	Part 22
	Application of	labor laws to Government acquisitions (SF's 99, 308, 1093, 1413, 1444, 1445, 1446, WH-347).	53.222

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Labor market	31.001
		Labor relations costs.	31.205-21
		Labor relations.	22.101
	Federal and State	labor requirements.	22.102
	Disposition of disputes concerning construction contract	labor standards enforcement.	22.406-10
		Labor standards for construction work performed under facilities contracts.	22.405
		Labor Standards for Construction Work—Facilities Contracts.	52.222-17
		Labor standards for contracts containing construction requirements and option provisions that extend the term of the contract.	22.404-12
		Labor Standards for Contracts Involving Construction	22.4
	Disputes concerning	labor standards.	22.1026 52.222-14
	Dismantling, Demolition, or Removal of Improvements:	Labor standards.	37.301
	Subcontracts	Labor Standards.	52.222-11
	Definition:	Labor surplus area	2.101
	Definition:	Labor surplus area concern	2.101
	Supervision,	Labor, or Materials.	52.247-12
	Convict	Labor.	52.222-3
	Definition:	Laborers or mechanics	22.401
	Government Property (Cost-Reimbursement, Time-and-Material, or	Labor-Hour Contracts).	52.245-5
	Time-and-material and	labor-hour contracts.	46.306
	Types of Contracts:	Labor-hour contracts.	16.602
	Payments under Time-and-Materials and	Labor-Hour Contracts.	52.232-7
	Types of Contracts: Time-and-Materials,	Labor-Hour, and Letter Contracts	16.6
	Inspection—Time-and-Material and	Labor-Hour.	52.246-6
	Changes—Time-and-Materials or	Labor-Hours.	52.243-3
	Definition:	Labor-rate standard	31.001
	Definition:	Labor-time standard	31.001
		Late Bids/Offers—Commercial Items.	52.212-1
		Late receipt or nonreceipt of wage determination.	22.1012
	Response to	late submission of Notice—no collective bargaining agreement.	22.1012-4
	Response to	late submission of Notice—with collective bargaining agreement.	22.1012-5
		Late Submissions, Modifications, and Withdrawals of Bids.	52.214-7
		Late Submissions, Modifications, Revisions, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding.	52.214-23
	Definition:	Latent defect	2.101
	Federal Compliance with Right-to-Know	Laws and Pollution Prevention Requirements	23.10
		Layout of work.	36.517 52.236-17

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Leader Company Contracting	17.4
	Indefinite-delivery contracts for	leased equipment.	29.401-1
	Application to Government-owned or	leased facilities.	23.704
	Liability and Insurance—	Leased Motor Vehicles.	52.228-8
	Condition of	Leased Vehicles.	52.208-5
	Marking of	Leased Vehicles.	52.208-6
	Tagging of	Leased Vehicles.	52.208-7
	Definition:	Leasing	8.1101
		Leasing of Motor Vehicles	8.11
		Least developed countries.	25.404
	Definition:	Least developed country	25.003
	Definition:	Least developed country end product	25.003 52.225-5
		Legal effect of quotations.	13.004
	Definition:	Legal proceedings	9.403
	Time-and-Materials, Labor-Hour, and	Letter Contracts	16.6
		Letter contracts.	16.603
		Letter notice.	49.601-2
	Irrevocable	Letter of Credit.	52.228-14
		Letters of credit.	32.406
		Liability and insurance.	47.207-7
		Liability and Insurance—Leased Motor Vehicles.	52.228-8
		Liability for Government costs resulting from design errors or deficiencies.	36.608
		Liability for Government Property (Demolition Services Contracts).	52.245-6
	Responsibility and	liability for Government property.	45.103
	Contractor	Liability for Loss of and/or Damage to Freight other than Household Goods.	52.247-22
	Contractor	Liability for Loss of and/or Damage to Household Goods.	52.247-23
	Contractor	Liability for Loss of or Damage to Property of the Government	46.8
	Contractor	Liability for Personal Injury and/or Property Damage.	52.247-21
		Liability for the Facilities.	52.245-8
	Vehicular and General Public	Liability Insurance.	52.228-10
	Insurance—	Liability to Third Persons.	52.228-7
	Bonds and Insurance:	Liability.	28.307-2
	Limitation of	Liability.	52.246-23
	Termination	Liability.	52.241-10
	Limitation of	Liability—High-Value Items.	52.246-24
	Limitation of	Liability—Services.	52.246-25
		Licensing background patent rights to third parties.	27.306
	Release of	lien.	28.203-5

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Life-cycle cost	7.101 52.248-2
		Limitation of Cost (Facilities).	52.232-21
		Limitation of cost or funds.	32.704
		Limitation of Cost.	52.232-20
		Limitation of Funds.	52.232-22
		Limitation of Government Liability.	52.216-24
Contractor Liability for Loss of or Damage to Property of the Government:		Limitation of Liability.	52.246-23
		Limitation of Liability—High-Value Items.	52.246-24
		Limitation of Liability—Services.	52.246-25
		Limitation on Payments to Influence Certain Federal Transactions.	52.203-12
		Limitation on settlements.	49.207
	Waiver of	Limitation on Severance Payments to Foreign Nationals.	52.237-9
		Limitation on the Payment of Funds to Influence Federal Transactions	3.8
		Limitation on Withholding of Payments.	52.232-9
		Limitations on exercise of authority.	50.203
	Delegation of and	Limitations on Exercise of Authority.	50.2
	Cost-sharing rates and	limitations on indirect cost rates.	42.707
	Competition Requirements:	Limitations.	6.002
	Federal Acquisition Regulations System:	Limitations.	1.302
	Warranties:	Limitations.	46.705
	Definition:	Limited rights	27.401 52.227-14
	Definition:	Limited rights data	27.401 52.227-14 52.227-20
	Definition:	Line item	3.302
	Contract	Line Items	4.10
		Liquidated damages and overtime pay.	22.302
	Small Business Programs:	Liquidated damages.	19.705-7
	Special Aspects of Contracting for Construction:	Liquidated damages.	36.206
	Describing Agency Needs:	Liquidated Damages.	11.5
		Liquidated Damages—Construction.	52.211-12
		Liquidated Damages—Subcontracting Plan.	52.219-16
		Liquidated Damages—Supplies, Services, or Research and Development.	52.211-11
		Liquidation of liability.	49.406
	Establishing alternate	liquidation rates.	32.503-10
		Liquidation rates—alternate method.	32.503-9
		Liquidation rates—ordinary method.	32.503-8

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Procedures for acquiring end products on the	List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor.	22.1501
	Debarment, Suspension, and Ineligibility: Effect of	listing.	9.405
	Descriptive	literature in sealed bidding.	14.202-5
	Contractor Responsibility for	Loading and Unloading.	52.247-15
		Loading responsibilities of contractors.	47.305-15
		Loading, Blocking, and Bracing of Freight Car Shipments.	52.247-58
		Loan Guarantees for Defense Production	32.3
		Loan guarantees for subcontracts.	32.306
		Loan guarantees for terminated contracts.	32.305
	Contract surety bonds and	loan guarantees.	32.304-7
		Lobbying and political activity costs.	31.205-22
	Definition:	Local government	3.801 52.203-12(a)
	Definition:	Local taxes	52.229-3 52.229-4
	Publicizing Contract Actions: Announcements of	long-range acquisition estimates.	5.404-2
	Publicizing Contract Actions: Release of	long-range acquisition estimates.	5.404
	Contractor Liability for	Loss of and/or Damage to Freight other than Household Goods.	52.247-22
	Contractor Liability for	Loss of and/or Damage to Household Goods.	52.247-23
		Losses on other contracts.	31.205-23
	Equal	low bids.	19.202-3 52.219-2
		Lowest price technically acceptable source selection process.	15.101-2
	Definition:	Made	27.301 52.227-11 52.227-12
	Shipments by parcel post or other classes of	mail.	42.1404
	Definition:	Maintain	24.101
	Full and Open Competition After Exclusion of Sources: Establishing or	maintaining alternative sources.	6.202
	Using and	Maintaining Requirements Documents	11.2
		Maintenance of standardization documents.	11.202
		Maintenance of the FAR.	1.201
	Contractor's	maintenance program.	45.509-1
	Definition:	Major helium requirement	8.501 52.208-8
	Definition:	Major nonconformance	46.101
	Definition:	Major system	2.101
		Major System Acquisition	Part 34
		Major System—Minimum Rights.	52.227-22

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Additional requirements for	major systems.	7.106
	Technical Data Declaration, Revision, and Withholding of Payment—	Major Systems.	52.227-21
	Definition:	Make-or-Buy program	2.101
	Changes or Additions to	Make-or-Buy Program.	52.215-9
		Make-or-buy programs.	15.407-2
	Definition:	Management and operating contract	17.601
		Management and Operating Contracts	17.0
		Management of Government Property in the Possession of Contractors	45.5
		Management of risk.	39.102
		Management Oversight of Service Contracts	37.5
	Availability of Specifications Listed in the DoD Index of Specifications and Standards (DoDISS) and Descriptions Listed in the Acquisition	Management Systems and Data Requirements Control List, DoD 5010.12-L.	52.211-2
	Contractor Use of	Mandatory Sources of Supply or Services.	52.208-9
	Selecting and Developing Requirements Documents: Items peculiar to one	manufacturer.	11.105
		Manufacturing and production engineering costs.	31.205-25
		Market acceptance.	11.103
	Definition:	Market research	2.101
		Market Research	Part 10
	Conducting	market research about financing terms.	32.202-3
	Acquisition of Commercial Items:	Market research and description of agency need.	12.202
	Definition:	Marketing consultant	9.501
	Disclosure, protection, and	marking of contractor bid or proposal information and source selection information.	3.104-4
	Government Direction and	Marking.	52.247-26
	Definition:	Master plan	19.701 52.219-9
	Definition:	Master solicitation	2.101
	Sealed Bidding:	Master solicitation.	14.203-3
	Acceptable	Material	11.3
	Definition:	Material	45.301
		Material and workmanship.	36.505 52.236-5
	Definition:	Material cost at standard	31.001
		Material costs.	31.205-26
		Material Inspection and Receiving Reports	46.6
		Material Requirements.	52.211-5
	Hazardous Material Identification and	Material Safety Data.	52.223-3
	Providing	material.	45.303
	Records of	material.	45.505-3

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Material-price standard	31.001
	Definition:	Material-quantity standard	31.001
	Definition:	Materials	52.229-2
	Supervision, Labor, or	Materials.	52.247-12
	Solicitation provisions and contract clauses	Matrix.	52.301
	Definition:	May	2.101
	Indemnification and	Medical Liability Insurance.	52.237-7
	Agency and Public Participation: Public	meetings.	1.503
	Release of Information: Requests from	Members of Congress.	5.403
		Methods of conducting set-asides.	19.502-4
	Publicizing Contract Actions:	Methods of disseminating information.	5.101
	Acquisition	methods.	7.402
	Definition:	Micro-purchase	2.101
	Definition:	Micro-purchase threshold	2.101
	Actions At or Below the	Micro-Purchase Threshold	13.2
	Major System—	Minimum Rights.	52.227-22
	F.o.b. Origin—	Minimum Size of Shipments.	52.247-61
	Application of the Fair Labor Standards Act	minimum wage.	22.1002-4
	SCA	Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA).	52.222-47
	Definition:	Minor nonconformance	46.101
	Definition:	Minority	52.222-27
	Definition:	Minority Institution	2.101 52.219-23 52.226-2
	Historically Black Colleges and Universities and	Minority Institutions	26.3
	Definition:	Misrepresentation of fact	33.201
		Misrepresentations or violations of the Covenant Against Contingent Fees.	3.405
	Contracting by Negotiation: Preaward, Award, and Postaward Notifications, Protests, and	Mistakes	15.5
	Sealed Bidding:	Mistakes after awards.	14.407-4
	Sealed Bidding: Other	mistakes disclosed before award.	14.407-3
	Sealed Bidding:	Mistakes in bids.	14.407
	Contracting by Negotiation: Discovery of	mistakes.	15.508
	Sealed Bidding: Apparent clerical	mistakes.	14.407-2
	Definition:	Mixed invoice	32.902
	Facilities Equipment	Modernization.	52.245-16
	Definition:	Modification	52.101(a)

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Sealed Bidding:	Modification or withdrawal of bids.	14.303
	Sealed Bidding: Submission,	modification, and withdrawal of bids.	14.304
	Contracting by Negotiation: Submission,	modification, revision, and withdrawal of proposals.	15.208
	Contract	Modifications	Part 43
	Contract	Modifications (SF 30).	53.243
	Late Submissions,	Modifications, and Withdrawals of Bids.	52.214-7
	Late Submissions,	Modifications, Revisions, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding.	52.214-23
	Types of contract	modifications.	43.103
	Price Reduction for Defective Cost or Pricing Data—	Modifications.	52.215-11
	Price Reduction for Defective Cost or Pricing Data—	Modifications—Sealed Bidding.	52.214-27
	Subcontractor Cost or Pricing Data—	Modifications—Sealed Bidding.	52.214-28
	Procedures for	modifying and completing provisions and clauses.	52.104
	Withdrawing or	modifying small business set-asides.	19.506
	Definition:	Modular contracting	39.002
		Modular contracting.	39.103
	Quantitative and	monetary control.	45.508-3
	Certified or cashier's checks, bank drafts,	money orders, or currency.	28.204-2
		Monthly and annual review.	41.401
	Definition:	Motor vehicle	8.1101
	Providing	motor vehicles.	45.304
	Definition:	Moving average cost	31.001
	Accessorial Services—	Moving Contracts.	52.247-13
	Definition:	Multi-agency contract (MAC)	2.101
	Small Business Programs:	Multiple award and Federal Supply Schedule contracts.	19.804-6
	Definitions:	Multiple Award Schedule (MAS)	8.401
		Multiple Awards for Advisory and Assistance Services.	52.216-28
	Evaluation of Bids for	Multiple Awards.	52.214-22
	Single or	Multiple Awards.	52.216-27
		Multiple Payment Arrangements.	52.232-37
	Definition:	Multiple service locations	41.101
		Multiple Service Locations.	52.241-11
		Multiple Shipments.	52.247-18
	Fair Labor Standards Act and Service Contract Act—Price Adjustment	Multiple Year and Option Contracts.	52.222-43
	Definition:	Multiple year contracts	22.1001
	Incentive Contracts: Structuring	multiple-incentive contracts.	16.402-4
	Service Contract Act of 1965, As Amended:	Multiple-year contracts.	22.1008-5
	Definition:	Multi-year contract	17.103
		Multi-year Contracting	17.1

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Cancellation Under	Multi-year Contracts.	52.217-2
	Definition:	National defense	2.101
	Notice of Priority Rating for	National Defense Use.	52.211-14
	Definition:	National security system	39.002
	Other Than Full and Open Competition:	National security.	6.302-6
	The	need for further certifications.	3.103-3
	Definition:	Negative instant contract savings	48.001 52.248-1
	Patents: Clauses for	negotiated contracts (excluding construction).	27.203-4
	Patents:	Negotiated contracts (excluding construction).	27.203-3
	Notice of Cost Comparison	Negotiated.	52.207-2
		Negotiating contract type.	16.103
	Special procedures for price	negotiation in construction contracting.	36.214
	Criteria for acceptance and	negotiation of an unsolicited proposal.	15.607
		Negotiation of contract debts.	32.608
	Construction Contracts: Contracting by	negotiation.	36.520
	Contract	negotiation.	19.808
	Documenting the	negotiation.	15.406-3
	Forms: Contracting by	negotiation.	53.215
	Price	negotiation.	15.405
	Audit and Records—	Negotiation.	52.215-2
	Architect-Engineer Services:	Negotiations.	36.606
	Definition:	Net acquisition savings	48.001 52.248-1
		Net Weight—General Freight.	52.247-10
		Net Weight—Household Goods or Office Furniture.	52.247-11
	Definition:	Neutral person	2.101
	Definition:	New	52.211-5
	State of	New Mexico Gross Receipts and Compensating Tax.	52.229-10
		No Evaluation of Transportation Costs.	52.247-50
	Cost-Reimbursement Contracts: Cost Contract—	No Fee.	52.216-11
	Cost-Reimbursement Contracts: Cost-Sharing Contract—	No Fee.	52.216-12
	Definition: May/	No person may	2.101
		No-cost settlement agreement—complete termination.	49.603-6
		No-cost settlement agreement—partial termination.	49.603-7
		No-cost settlement.	49.109-4
		Non-Commercial Item Purchase Financing	32.1
	Advance Payments for	Non-Commercial Items	32.4
	Nonpayment of subcontractors under contracts for	noncommercial items.	32.112

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Contract clauses for	non-commercial purchases.	32.111
	Warranty of Supplies of a	Noncomplex Nature.	52.246-17
	Bonds and Other Financial Protections:	Noncompliance with bid guarantee requirements.	28.101-4
		Noncompliance with CAS requirements.	30.602-2
	Employment of Workers with Disabilities: Actions because of	noncompliance.	22.1407
	Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans: Actions because of	noncompliance.	22.1309
		Nonconforming supplies or services.	46.407
	Equal Employment Opportunity:	Nonconstruction.	22.804-1
	Definition:	Nondevelopmental item	2.101
		Nondiscrimination Because of Age	22.9
	Definition:	Noneligible offer	25.003
	Definition:	Noneligible product	25.003
		Non-Government use of plant equipment.	45.407
	Definition:	Nonmanufacturer rule	19.001
		Nonpayment of subcontractors under contracts for noncommercial items.	32.112
	Subcontractor assertions of	nonpayment.	32.112-1
		Nonpersonal Health Care Services	37.4
	Definition:	Nonpersonal services contract	37.101
	Definition:	Nonprocurement Common Rule	9.403
	Communications with the central	nonprofit agencies and the Committee.	8.714
	Acquisition from	Nonprofit Agencies Employing People Who Are Blind or Severely Disabled.	8.7
	Surveys of	nonprofit agencies serving people who are blind or have other severe disabilities under the Javits-Wagner-O'Day (JWOD) Program.	9.107
	Definition:	Nonprofit agency serving people who are blind	8.701
	Definition:	Nonprofit agency serving people with other severe disabilities	8.701
	Accountable Facilities	Nonprofit Educational Institutions.	52.245-13
	Contract Purpose	Nonprofit Educational Institutions.	52.245-12
	Termination for Convenience of the Government (Educational and Other	Nonprofit Institutions).	52.249-5
	Definition:	Nonprofit organization	27.301 45.301 52.227-11 52.227-12
		Nonprofit organizations other than educational and state and local governments.	42.705-5
	Contracts for research with educational institutions and	nonprofit organizations.	35.015
	Contracts with	nonprofit organizations.	31.108 31.7
	Definition:	Nonqualified pension plan	31.001
	Late receipt or	nonreceipt of wage determination.	22.1012

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Nonrecurring costs	17.103
	Nonrefundable,	Nonrecurring Service Charge.	52.241-12
		Nonrefundable, Nonrecurring Service Charge.	52.241-12
	Obtaining	nonreportable property.	8.104
	Definition:	Nonseverable	45.301
	Definition:	Nonsponsor	35.017(b)
	Definition:	Normal cost	31.001
	Definition:	Normal workweek	22.103-1
	Use of patented technology under the	North American Free Trade Agreement.	27.208
	Determining	North American Industry Classification System (NAICS) codes and size standards.	19.303
		North Carolina State and Local Sales and Use Tax.	52.229-2
	Definition:	No-setoff commitment	32.801
	Estimated Weights or Quantities	Not Guaranteed.	52.247-8
	Commercial Bill of Lading	Notations.	52.247-1
	United States bonds or	notes.	28.204-1
	Definition:	Notice	22.1001
		Notice and Assistance Regarding Patent and Copyright Infringement.	52.227-2
	Patents: Clause on	notice and assistance.	27.202-2
		Notice of Availability of Progress Payments Exclusively for Small Business Concerns.	52.232-14
		Notice of award.	36.213-4
		Notice of Cost Comparison (Negotiated).	52.207-2
		Notice of Cost Comparison (Sealed-Bid).	52.207-1
		Notice of Emerging Small Business Set-Aside.	52.219-20
	Patents—	Notice of Government Licensee.	52.227-7
		Notice of intent to disallow costs.	42.801 52.242-1
		Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.	52.219-23
		Notice of Price Evaluation Preference for HUBZone Small Business Concerns	52.219-4
		Notice of Progress Payments.	52.232-13
		Notice of Radioactive Material.	23.6 52.223-7
		Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction.	52.222-23
		Notice of Total HUBZone Set-Aside	52.219-3
		Notice of Total Small Business Set-Aside.	52.219-6
	Sealed Bidding:	Notice to bidders of rejection of all bids.	14.404-3
		Notice To Supplier.	52.213-3

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Notice to the Government of Labor Disputes.	52.222-1
	Traffic and Transportation Management: Advance	notice.	42.1406-1
	Cost Accounting Standards	Notices and Certification.	52.230-1
	Department of Labor	notices and reports.	22.1306
		Notices of subcontracting opportunities.	5.206
	Employment of Workers with Disabilities: Department of Labor	notices.	22.1404
	Contracting for Construction: Presolicitation	notices.	36.213-2
	Publicizing Contract Actions: Presolicitation	notices.	5.204
	Advance	Notification by the Government.	52.247-24
		Notification of Changes.	52.243-7
		Notification of Competition Limited to Eligible 8(a) Concerns.	52.219-18
		Notification of contract changes.	43.104
		Notification of Employee Rights Concerning Payment of Union Dues or Fees	22.16 52.222-39
		Notification of overpayment.	12.215 32.008
		Notification of Ownership Changes.	52.215-19
		Notification of Visa Denial.	52.222-29
	Consent to Subcontracts: Consent and advance	notification requirements.	44.201
		Notification to contractors and employees.	22.1018
		Notification to interested parties under collective bargaining agreements.	22.1010
	Contractors' Purchasing Systems Reviews:	Notification.	44.305-2
	Contracting by Negotiation:	Notifications to unsuccessful offerors.	15.503
	Contracting by Negotiation: Preaward, Award, and Postaward	Notifications, Protests, and Mistakes	15.5
	Definition:	Novation agreement	2.101
	Applicability of	novation agreements.	42.1204
		Novation and Change-of-Name Agreements	42.12
		Novation and change-of-name agreements (SF 30).	53.242-1
	Special procedures for unusually hazardous or	nuclear risks.	50.403
	Data Universal Numbering System (DUNS)	Number.	52.204-6
	Data Universal	Numbering System (DUNS) Number.	52.204-6
	Protests, Disputes, and Appeals:	Obligation to continue performance.	33.213
		Obtaining forms.	53.107
		Obtaining nonreportable property.	8.104
	Environment, Energy and Water Efficiency, Renewable Energy Technologies,	Occupational Safety, and Drug-Free Workplace	Part 23
		Ocean Transportation by U.S.—Flag Vessels	47.5
	Contractor use of Government supply sources	OF 347.	53.251
	Delivery orders and orders under basic ordering agreements	OF 347.	53.216-1
	Definition:	Offer	2.101

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Evaluation,	offering, and acceptance.	19.804
	Definition:	Offeror	2.101
		Offeror Representations and Certifications—Commercial Items.	52.212-3
	Contracting by Negotiation: Award to successful	offeror.	15.504
	Representation by the	offeror.	19.301
	Procedures for	offeror-proposed commercial contract financing.	32.205
	Contracting by Negotiation: Exchanges with	offerors after receipt of proposals.	15.306
	Contracting by Negotiation: Notifications to unsuccessful	offerors.	15.503
	Contracting by Negotiation: Postaward debriefing of	offerors.	15.506
	Contracting by Negotiation: Preaward debriefing of	offerors.	15.505
	Qualifications of	offerors.	47.207-1
	Instructions to	Offerors—Commercial Items.	52.212-1
	Contracting by Negotiation: Instructions to	Offerors—Competitive Acquisition.	52.215-1
	Sealed Bidding: Submission of	Offers in the English Language.	52.214-34
	Sealed Bidding: Submission of	Offers in U.S. Currency.	52.214-35
	Buy American Act—Construction Materials: Evaluating	offers of foreign construction material.	25.204
	Streamlined evaluation of	offers.	12.602
	Transportation factors in the evaluation of	offers.	47.306
		Offers.	12.205
	Estimated Quantities or Weights for Evaluation of	Offers.	52.247-20
	Evaluation of Export	Offers.	52.247-51
	Shipping Point(s) Used in Evaluation of F.o.b. Origin	Offers.	52.247-46
	Definition:	Office furniture	47.201
	Net Weight—Household Goods or	Office Furniture.	52.247-11
	Definition:	Officer or employee of an agency	3.801 52.203-12(a)
	Federal Acquisition Regulations System: Contracting	officers.	1.602
	Definition:	Official	3.104-1
	Definition:	Off-the-shelf item	46.101
	Optional forms	OF's.	53.302
		OMB Approval Under the Paperwork Reduction Act.	1.106
	Only	one responsible source and no other supplies or services will satisfy agency requirements.	6.302-1
	Definition:	Online Representations and Certifications Application (ORCA)	2.101
	Full and	Open Competition	6.1
	Sealed Bidding:	Opening of Bids and Award of Contract	14.4
	Sealed Bidding:	Opening of bids.	14.402
	Sealed Bidding: Cancellation of invitations after	opening.	14.404-1
	Sealed Bidding: Postponement of	openings.	14.402-3

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Operation of a system of records	24.101 52.224-2(c)(1)
	Government-Furnished Equipment With or Without	Operators.	52.247-25
	Definition:	Option	2.101
	Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and	Option Contracts).	52.222-43
		Option for Increased Quantity.	52.217-6
		Option for Increased Quantity—Separately Priced Line Item.	52.217-7
		Option to Extend Services.	52.217-8
		Option to Extend the Term of the Contract.	52.217-9
		Option to Purchase Equipment.	52.207-5
		Optional acquisition of supplies and services.	8.713
		Optional forms (OF's).	53.302
		Options	17.2
	Evaluation of	Options Exercised at Time of Contract Award.	52.217-4
		Options in shipment and delivery.	47.305-11
	Contract modifications	options, extensions, changes in scope and anniversary dates.	22.1008-6
	Exercise of	options.	17.207
	Use of	options.	17.202
	Evaluation Exclusive of	Options.	52.217-3
	Evaluation of	Options.	52.217-5
	Contract not Affected by	Oral Agreement.	52.247-27
	Contracting by Negotiation:	Oral presentations.	15.102
	Definition:	Order	7.101
		Order Limitations.	52.216-19
		Order of precedence for requirements documents.	11.101
	Contracting by Negotiation:	Order of Precedence—Uniform Contract Format.	52.215-8
		Order of Precedence—Utilities.	52.241-2
	Federal Supply Schedules:	Order placement.	8.406-1
	Stop-Work	Order.	52.242-15
	Definitions:	Ordering activity	8.401
	Federal Supply Schedules:	Ordering activity responsibilities.	8.406
		Ordering from Government supply sources.	51.103
	Definition:	Ordering office	8.701
	Federal Supply Schedules:	Ordering procedures for Federal Supply Schedules.	8.405
		Ordering procedures.	17.504
	Indefinite-Delivery Contracts:	Ordering.	16.505 52.216-18
	Delivery	orders and orders under basic ordering agreements (OF 347).	53.216-1

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Preparation and execution of	orders.	13.403
		Organization and direction of the work.	36.519 52.236-19
		Organization costs.	31.205-27
		Organizational and Consultant Conflicts of Interest	9.5
	Definition:	Organizational conflict of interest	2.101
	F.o.b.	Origin and/or F.o.b. Destination Evaluation.	52.247-45
	F.o.b.	Origin, Contractor's Facility.	52.247-30
	F.o.b.	Origin, Freight Allowed.	52.247-31
	F.o.b.	Origin, Freight Prepaid.	52.247-32
	F.o.b.	Origin, Prepaid Freight—Small Package Shipments.	52.247-65
	F.o.b.	Origin, with Differentials.	52.247-33
	Evaluation—F.o.b.	Origin.	52.247-47
	F.o.b.	Origin.	52.247-29
	Definition:	Original complement of low cost equipment	31.001
	F.o.b.	Origin—Carload and Truckload Shipments.	52.247-59
	F.o.b.	Origin—Government Bills of Lading or Indicia Mail.	52.242-11
	F.o.b.	Origin—Government Bills of Lading or Prepaid Postage.	52.242-10
	F.o.b.	Origin—Minimum Size of Shipments.	52.247-61
	Use of	other Government supply sources.	8.003
		Other Improper Business Practices	3.5
		Other International Agreements and Coordination	25.8
	Sureties and	Other Security for Bonds	28.2
		Other Socioeconomic Programs	Part 26
	Performance and Payment Bonds—	Other Than Construction.	52.228-16
	Competition Requirements:	Other Than Full and Open Competition	6.3
	Competition Requirements: Circumstances permitting	other than full and open competition.	6.302
	Definition:	Other work	49.001
	Definition:	Outlying areas	2.101
	Subcontractors and	Outside Associates and Consultants (Architect-Engineer Services).	52.244-4
	Notification of	overpayment.	12.215 32.008
		Overprinting.	53.104
		Overseas workers' compensation and war hazard insurance.	28.305
	Work	oversight in architect-engineer contracts.	36.609-3
	Work	Oversight in Cost-Reimbursement Construction Contracts.	52.236-18
	Management	Oversight of Service Contracts	37.5
	Definition:	Overtime	2.101
	Contract Work Hours and Safety Standards Act—	Overtime Compensation.	52.222-4

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Liquidated damages and	overtime pay.	22.302
	Definition:	Overtime premium	2.101
	Payment for	Overtime Premiums.	52.222-2
	Service Contracting: Uncompensated	overtime.	37.115
	Wages, fringe benefits, and	overtime.	22.406-2
	Basic Labor Policies:	Overtime.	22.103
	Identification of Uncompensated	Overtime.	52.237-10
	Definition:	Ozone-depleting substance	2.101 52.223-11
		Ozone-Depleting Substances.	23.8 52.223-11
	Publicizing Contract Actions:	Paid Advertisements.	5.5 53.205-1
		Paper Documents	4.3
	OMB Approval Under the	Paperwork Reduction Act.	1.106
		Parcel post eligible shipments.	42.1404-1
	Shipments by	parcel post or other classes of mail.	42.1404
		Partial payments.	49.112-1 49.602-4
		Partial set-asides.	19.502-3
		Partial settlements.	49.109-5
	Definition:	Partial termination	2.101
	Equitable adjustment after	partial termination.	49.208
	Procedure for	partial termination.	49.304
	Stopping in Transit for	Partial Unloading.	52.247-19
	Definition:	Participating personally and substantially in a Federal agency procurement	3.104-1
	Acquisition of Commercial Items: Use of	past performance.	12.206
	Notice and Assistance Regarding	Patent and Copyright Infringement.	52.227-2
	Filing of	Patent Applications—Classified Subject Matter.	52.227-10
		Patent costs.	31.205-30
	Definition:	Patent defect	46.101
		Patent indemnification of Government by contractor.	27.203
		Patent Indemnity.	52.227-3
		Patent Indemnity—Construction Contracts.	52.227-4
	Administration of	patent rights clauses.	27.305
		Patent rights follow-up.	27.305-1
	Licensing background	patent rights to third parties.	27.306
		Patent Rights Under Government Contracts	27.3
	Research and Development Contracting:	Patent rights.	35.012

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Patent Rights—Acquisition by the Government.	52.227-13
		Patent Rights—Retention by the Contractor (Long Form).	52.227-12
		Patent Rights—Retention by the Contractor (Short Form).	52.227-11
		Patents	27.2
		Patents, Data, and Copyrights	Part 27
	Royalties and other costs for use of	patents.	31.205-37
		Patents—notice of Government as a licensee.	27.204-3 52.227-7
		Pay administration records.	4.705-2
	Definition:	Pay-as-you-go cost method	31.001
	Closeout of	paying office contract files.	4.804-3
	Multiple	Payment Arrangements.	52.232-37
		Payment bonds.	28.103-3
		Payment by Contractor to Government.	52.237-5
	Incremental	Payment by Contractor to Government.	52.237-6
		Payment by Electronic Funds Transfer—Central Contractor Registration	52.232-33
		Payment by Electronic Funds Transfer—Other Than Central Contractor Registration	52.232-34
	Service Contracting:	Payment by Government to Contractor.	52.237-4
		Payment by Governmentwide commercial purchase card.	32.1108
		Payment by Third Party.	52.232-36
	Definition:	Payment date	32.902
	Prompt Payment: Determining	payment due dates.	32.904
		Payment for Overtime Premiums.	52.222-2
		Payment for shipments.	51.105
	Definition:	Payment information	32.1102
	Reporting	payment information to the IRS.	4.904
		Payment information.	32.1107
	Administration and	payment of commercial financing payments.	32.207
	Demand for	payment of contract debt.	32.610
	Limitations on the	Payment of Funds to Influence Federal Transactions	3.8
	Administration and	payment of performance-based payments.	32.1007
		Payment of subcontractors under cost-reimbursement prime contracts.	32.110
	Notification of Employee Rights Concerning	Payment of Union Dues or Fees.	52.222-39
	Fast	Payment Procedure	13.4
	Alternative	Payment Protections.	52.228-13
	Bonds and Other Financial Protections:	Payment to subcontractors or suppliers.	28.106-8
		Payment under Communication Service Contracts with Common Carriers.	52.232-6
	Federal Supply Schedules:	Payment.	8.405-8

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Interagency Acquisitions Under the Economy Act:	Payment.	17.505
	Termination of Contracts:	Payment.	49.112
	Notice of Availability of Progress	Payments Exclusively for Small Business Concerns.	52.232-14
	Types of	payments for commercial item purchases.	32.202-2
	Installment	Payments for Commercial Items.	52.232-30
		Payments of Allowable Costs Before Definitization.	52.216-26
	Restriction on Severance	Payments to Foreign Nationals.	52.237-8
	Waiver of Limitation on Severance	Payments to Foreign Nationals.	52.237-9
	Certification and Disclosure Regarding	Payments to Influence Certain Federal Transactions.	52.203-11
	Limitation on	Payments to Influence Certain Federal Transactions.	52.203-12
		Payments under Fixed-Price Architect-Engineer Contracts.	52.232-10
		Payments under Fixed-Price Construction Contracts.	52.232-5
		Payments under Fixed-Price Research and Development Contracts.	52.232-2
		Payments under Personal Services Contracts.	52.232-3
		Payments under Time-and-Materials and Labor-Hour Contracts.	52.232-7
		Payments under Transportation Contracts and Transportation-Related Services Contracts.	52.232-4
	Suspension of	payments, termination of contract, and debarment and suspension actions.	23.506
	Administration and payment of commercial financing	payments.	32.207
	Bonds and Other Financial Protections: Withholding contract	payments.	28.106-7
	Suspension or reduction of	payments.	32.503-6
	Advance	Payments.	52.232-12
	Dismantling, Demolition, or Removal of Improvements:	Payments.	37.303 52.232-1
	Limitation on Withholding of	Payments.	52.232-9
	Performance-Based	Payments.	52.232-32
	Vehicle Lease	Payments.	52.208-4
		Payrolls and Basic Records.	52.222-8
		Payrolls and statements.	22.406-6
	Definition:	Penal sum or penal amount	28.001
		Penalties for Unallowable Costs.	52.242-3
	Criminal and civil	penalties, and further administrative remedies.	3.104-8
	Fines,	penalties, and mischarging costs.	31.205-15
	Civil	penalties.	3.807
	Definition:	Penalty	31.205-47(a)
	Assessing the	penalty.	42.709-3
	Waiver of the	penalty.	42.709-5
		Pension Adjustments and Asset Reversions.	52.215-15
	Definition:	Pension plan	31.001

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Pension plan participant	31.001
	Capability to	Perform a Contract for the Relocation of a Federal Office.	52.247-3
	Contractor Versus Government	Performance	7.3
		Performance and payment bonds and alternative payment protections for construction contracts.	28.102
		Performance and payment bonds for other than construction contracts.	28.103
		Performance and Payment Bonds—Construction.	52.228-15
		Performance and Payment Bonds—Other Than Construction.	52.228-16
		Performance bonds.	28.103-2
	Architect-Engineer Services:	Performance evaluation.	36.604
	Incentive Contracts:	Performance incentives.	16.402-2
	Concurrent	performance of firm-fixed-price and other types of construction contracts.	36.208
		Performance of Work by the Contractor.	52.236-1
	Delivery or	Performance Schedules	11.4
	Warranty of Systems and Equipment under	Performance Specifications or Design Criteria.	52.246-19
	Guiding Principles for the Federal Acquisition System:	Performance standards.	1.102-2
	Obligation to continue	performance.	33.213
	Definition:	Performance-based contracting	2.101
		Performance-Based Contracting	37.6
	Elements of	performance-based contracting.	37.602
	Administration and payment of	performance-based payments.	32.1007
	Bases for	performance-based payments.	32.1002
	Suspension or reduction of	performance-based payments.	32.1008
		Performance-Based Payments.	52.232-32
	Invitation to Propose	Performance-Based Payments.	52.232-28
		Permits and responsibilities.	36.507 52.236-7
		Permits, Authorities, or Franchises.	52.247-2
	Definition:	Person	3.502-1 3.801 52.203-7(a) 52.203-12(a)
	Contractor Liability for	Personal Injury and/or Property Damage.	52.247-21
	Definition:	Personal property	2.101
	Excess	Personal Property	8.1
	Information on available excess	personal property.	8.103
	Definition:	Personal services contract	2.101
		Personal services contracts.	37.104
	Payments under	Personal Services Contracts.	52.232-3

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Compensation for	personal services.	31.205-6
	Termination—	Personal Services.	52.249-12
	Two-Phase Design-Build Selection Procedures:	Phase one.	36.303-1
	Two-Phase Design-Build Selection Procedures:	Phase two.	36.303-2
		Physical data.	36.504 52.236-4
		Physical inventories.	45.508
		Physically completed contracts.	4.804-4
	Ex Dock,	Pier, or Warehouse, Port of Importation.	52.247-40
		Place of acceptance.	46.503
		Place of delivery—f.o.b. point.	47.302
	Service Contract Act of 1965, As Amended: Procedures when	place of performance is unknown.	22.1008-4
	Service Contract Act of 1965, As Amended:	Place of performance unknown.	22.1009
	Service Contract Act—	Place of Performance Unknown.	52.222-49
		Place of Performance—Sealed Bidding.	52.214-14
	All possible	places of performance identified.	22.1009-3
	All possible	places of performance not identified.	22.1009-4
	Attempt to identify possible	places of performance.	22.1009-2
	Definition:	Planner	7.101
	Acquisition	Planning	Part 7
		Planning for the Purchase of Supplies in Economic Quantities	7.2
	Definition:	Plans and specifications	36.102
	Definition:	Plant clearance officer	2.101
	Definition:	Plant clearance period	49.001
	Definition:	Plant equipment	45.101
		Plant protection costs.	31.205-29
		Plant reconversion costs.	31.205-31
		Pledges of Assets.	52.228-11
	F.o.b.	Point for Delivery of Government-Furnished Property.	52.247-55
	F.o.b. Designated Air Carrier's Terminal,	Point of Exportation.	52.247-43
	F.o.b. Inland Carrier,	Point of Exportation.	52.247-38
	F.o.b. Designated Air Carrier's Terminal,	Point of Importation.	52.247-44
	F.o.b. Inland	Point, Country of Importation.	52.247-39
	Unsolicited Proposals: Agency	points of contact.	15.604
	Subcontracting	Policies and Procedures	Part 44
		Policy requirements.	44.402
	Lobbying and	political activity costs.	31.205-22
	Definition:	Pollution prevention	2.101
		Pollution Prevention and Right-to-Know Information.	52.223-5

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Federal Compliance with Right-to-Know Laws and	Pollution Prevention Requirements	23.10
	Definition:	Pool	9.701
	Contracting with individual	pool members.	9.703
	Contractor Qualifications: Defense Production	Pools and Research and Development Pools	9.7
	Contracting with	pools.	9.702
	Ex Dock, Pier, or Warehouse,	Port of Importation.	52.247-40
	F.a.s. Vessel,	Port of Shipment.	52.247-36
	F.o.b. Vessel,	Port of Shipment.	52.247-37
	Definition:	Positions that will be filled from within the Contractor's organization	52.222-35
	Use and	Possession Prior to Completion.	52.236-11
	Violations or	possible violations.	3.104-7
		Postaward conference arrangements.	42.503-1
		Postaward conference procedure.	42.503-2
		Postaward conference report.	42.503-3
		Postaward conferences.	42.503
	Contracting by Negotiation:	Postaward debriefing of offerors.	15.506
	Buy American Act—Construction Materials:	Postaward determinations.	25.205
		Postaward letters.	42.504
		Postaward matters.	32.503
	Contracting by Negotiation: Preaward, Award, and	Postaward Notifications, Protests, and Mistakes	15.5
		Postaward Orientation	42.5
	Selecting contracts for	postaward orientation.	42.502
		Postaward responsibilities of the contracting officer.	19.705-6
		Postaward subcontractor conferences.	42.505
		Postaward utilization requests.	45.203
	Definition:	Postconsumer material	11.301
	Synopsis and	posting requirements.	13.105
	Sealed Bidding:	Postponement of openings.	14.402-3
	Definition:	Power of attorney	2.101
	Definition:	Practical application	27.301 52.227-11 52.227-12 52.227-13
	Cost Accounting Standards	Preambles and Regulations.	Appendix
		Preaward considerations.	19.809
	Contracting by Negotiation:	Preaward debriefing of offerors.	15.505
	Buy American Act—Construction Materials:	Preaward determinations.	25.203
	Responsible Prospective Contractors: Disclosure of	preaward information.	9.105-3
	Testing:	Preaward in-use evaluation.	11.801

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Preaward matters.	32.502
		Preaward On-Site Equal Opportunity Compliance Evaluation.	52.222-24
	Definition:	Preaward survey	2.101
	Responsible Prospective Contractors:	Preaward surveys.	9.106
	Contracting by Negotiation:	Preaward, Award, and Postaward Notifications, Protests, and Mistakes	15.5
	Sealed Bidding:	Pre-bid conference.	14.207
	Order of	precedence for requirements documents.	11.101
	Definition:	Precious metals	45.601
		Preconstruction conference.	36.522 52.236-26
		Preconstruction orientation.	36.212
		Precontract costs.	31.205-32
		Predetermined Indirect Cost Rates.	52.216-15
	Incentive Contracts: Application of	predetermined, formula-type incentives.	16.402
	Notice of Price Evaluation	Preference for HUBZone Small Business Concerns.	52.219-4
		Preference for Privately Owned U.S.-Flag Commercial Vessels.	52.247-64
		Preference for U.S.-Flag Air Carriers.	52.247-63
	Order of	preference.	32.106
		Prenegotiation objectives.	15.406-1
	F.o.b. Origin,	Prepaid Freight—Small Package Shipments.	52.247-65
	F.o.b. Origin—Government Bills of Lading or	Prepaid Postage.	52.242-10
	Synopses of Contract Awards:	Preparation and transmittal of synopses of awards.	5.302
	Synopses of Proposed Contract Actions:	Preparation and transmittal of synopses.	5.207
		Preparation of solicitations and contracts.	47.206
	Definition:	Preponderance of the evidence	2.101
		Prescription of Forms	53.2
	Solicitation of Bids:	Presolicitation notices.	14.205
	Special Aspects of Contracting for Construction:	Presolicitation notices.	36.213-2
	Synopses of Proposed Contract Actions:	Presolicitation notices.	5.204
		Presolicitation planning.	47.202
	Leasing of Motor Vehicles:	Presolicitation requirements.	8.1102
	Pollution	Prevention and Right-to-Know Information.	52.223-5
	Definition:	Price	15.401
	Fair Labor Standards Act and Service Contract Act—	Price Adjustment (Multiple Year and Option Contracts).	52.222-43
	Fair Labor Standards Act and Service Contract Act—	Price Adjustment.	52.222-44
		Price Evaluation Adjustment for Small Disadvantaged Business Concerns	19.11
		Price evaluation preference for HUBZone small business concerns.	19.1307
	Notice of	Price Evaluation Preference for HUBZone Small Business Concerns.	52.219-4
	Special procedures for	price negotiation in construction contracting.	36.214

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Price negotiation.	15.405
		Price or Fee Adjustment for Illegal or Improper Activity.	52.203-10
	Use of standing	price quotations.	13.103
	Determination of	price reasonableness.	12.209
	Fixed-ceiling-price contracts with retroactive	price redetermination.	16.206
	Fixed-price contracts with prospective	price redetermination.	16.205
	Cost-Reimbursement Contracts:	Price Redetermination—Prospective.	52.216-5
	Cost-Reimbursement Contracts:	Price Redetermination—Retroactive.	52.216-6
		Price Reduction for Defective Cost or Pricing Data—Modifications.	52.215-11
		Price Reduction for Defective Cost or Pricing Data—Modifications—Sealed Bidding.	52.214-27
	Progress Payments Based on Costs: Adjustments for	price reduction.	32.503-11
	Federal Supply Schedules:	Price reductions.	8.405-4
	Sealed Bidding:	Price related factors.	14.201-8
	Responsible bidder—reasonableness of	price.	14.408-2
	Changes—Fixed-	Price.	52.243-1
	Definition:	Pricing	2.101
	Memorandum of	pricing agreement with refund.	32.609
	Special cost or	pricing areas.	15.407
		Pricing aspects of fixed-price incentive contract warranties.	46.707
	Subcontract	pricing considerations.	15.404-3
	Prohibition on obtaining cost or	pricing data (10 U.S.C. 2306a and 41 U.S.C. 254b).	15.403-1
	Requiring cost or	pricing data (10 U.S.C. 2306a and 41 U.S.C. 254b).	15.403-4
	Other circumstances where cost or	pricing data are not required.	15.403-2
	Instructions for submission of cost or	pricing data or information other than cost or pricing data.	15.403-5
	Defective cost or	pricing data.	15.407-1
	Obtaining cost or	pricing data.	15.403
	Requiring information other than cost or	pricing data.	15.403-3
	Certificate of Current Cost or	Pricing Data.	15.406-2
	Table 15-2—Instructions for Submitting Cost or	Pricing Data.	15.408
		Pricing fixed-price construction contracts.	36.207
	Records of	pricing information.	45.505-2
		Pricing policy.	15.402
	Forward	pricing rate agreements.	15.407-3 42.17
		Pricing the 8(a) contract.	19.806
	Independent	pricing.	3.103
	Definition:	Primary sponsor	35.017(b)

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Prime contract	3.502-1 52.203-7
	Audit of	prime contract settlement proposals and subcontract settlements.	49.107
	Definition:	Prime contractor	3.502-1 22.801 52.203-7
	Duties of	prime contractor after receipt of notice of termination.	49.104
	Definition:	Prime contractor employee	3.502-1 52.203-7
		Prime contractor's rights and obligations.	49.108-2
	Subcontracts under	prime contracts providing progress payments.	32.504
	Application of	principles and procedures.	31.204
	Statement of guiding	principles for the Federal Acquisition System.	1.102
		Printed or Copied Double-Sided on Recycled Paper.	52.204-4
	Definition:	Printed/copied double-sided	4.301
	Acquisition of	Printing and Related Supplies	8.8
	Special construction and	printing.	53.106
		Priorities and Allocations	11.6
		Priorities for use of Government supply sources.	8.002
	Definition:	Priority chemical	23.1003 52.223-5
	Notice of	Priority Rating for National Defense Use.	52.211-14
	Protection of Individual	Privacy	24.1
		Privacy Act Notification.	52.224-1
		Privacy Act.	52.224-2
	Protection of	Privacy and Freedom of Information	Part 24
		Privacy or Security Safeguards.	52.239-1
		Privacy.	39.105
	Determining availability of	private commercial sources.	7.303
	Definition:	Privately owned U.S.-flag commercial vessel	47.501
	Preference for	Privately Owned U.S.-Flag Commercial Vessels.	52.247-64
		Privileged and confidential information.	30.202-4
		Procedure after discontinuing vouchers.	49.303
	Special	procedure for cost-reimbursement contracts for construction.	36.215
	Contract Cost Principles and	Procedures	Part 31
	Simplified Acquisition:	Procedures	13.1
	Subcontracting Policies and	Procedures	Part 44
		Procedures for acquiring end products on the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor.	22.1503
		Procedures for closing out contract files.	4.804-5

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Procedures for filing complaints.	3.904
		Procedures for investigating complaints.	3.905
	Special	procedures for price negotiation in construction contracting.	36.214
	Special	procedures for sealed bidding in construction contracting.	36.213
	Acquisition of Commercial Items:	Procedures for solicitation, evaluation, and award.	12.203
	Acquisition Planning: General	procedures.	7.104
	Agency Acquisition Regulations: Agency control and compliance	procedures.	1.304
	Application of principles and	procedures.	31.204
	Contracting by Negotiation: Agency	procedures.	15.606
	First Article Testing and Approval: Government administration	procedures.	9.307
	Full and Open Competition: Use of competitive	procedures.	6.102
	Interagency Acquisitions Under the Economy Act: Ordering	procedures.	17.504
	Publicizing Contract Actions: Release	procedures.	5.404-1
	Definition:	Proceeding	31.205-47(a)
	Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled: Allocation	process.	8.705-3
	Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled: Direct-order	process.	8.705-2
	Novation and Change-of-Name Agreements:	Processing agreements.	42.1203
		Processing cases.	50.305
		Processing suspected violations.	3.806
		Processing value engineering change proposals.	48.103
	Definition:	Procurement	2.101
	Small Business Administration breakout	procurement center representative.	19.403
	Small Business Administration	procurement center representatives.	19.402
	Federal	Procurement Data System.	4.602
		Procurement integrity.	3.104
	Definition:	Procurement List	8.701
		Procurement List.	8.703
	Definition:	Procuring activity	2.101
		Production Progress Reports.	52.242-2
		Production Surveillance and Reporting	42.11
	Qualified	products.	14.210
		Professional and consultant service costs.	31.205-33
	Definition:	Professional employee	22.1102
		Professional Employee Compensation	22.11
	Evaluation of Compensation for	Professional Employees.	52.222-46
	Definition:	Profit center	31.001

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Profit.	15.404-4 49.202
	Make-or-buy	programs.	15.407-2
	Small business	programs.	53.219
	Customary	progress payment rates.	32.501-1
	Approval of	progress payment requests.	32.503-4
	Initiation of	progress payments and review of accounting system.	32.503-3
		Progress Payments Based on Costs	32.5
	Notice of Availability of	Progress Payments Exclusively for Small Business Concerns.	52.232-14
		Progress Payments Not Included.	52.232-15
		Progress payments under construction contracts.	32.103
	Administration of	progress payments.	32.503-5
	Subcontracts under prime contracts providing	progress payments.	32.504
	Supervision of	progress payments.	32.503-2
	Unusual	progress payments.	32.501-2
	Use of customary	progress payments.	32.502-1
		Progress Payments.	52.232-16
	Notice of	Progress Payments.	52.232-13
	Production	Progress Reports.	52.242-2
		Prohibited Sources	25.7
		Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor	22.15
		Prohibition of Assignment of Claims.	52.232-24
		Prohibition of Segregated Facilities.	52.222-21
	Ethics advisory opinions regarding	prohibitions on a former official's acceptance of compensation from a contractor.	3.104-6
	Statutory and related	prohibitions, restrictions, and requirements.	3.104-3
	Freedom of Information Act:	Prohibitions.	24.202
	Limitations on the Payment of Funds to Influence Federal Transactions:	Prohibitions.	3.802
	Unsolicited Proposals:	Prohibitions.	15.608
	Definition:	Projected average loss	2.101
	Definition:	Projected benefit cost method	31.001
	Sealed Bidding:	Prompt payment discounts.	14.408-3
		Prompt Payment for Construction Contracts.	52.232-27
		Prompt Payment for Fixed-Price Architect-Engineer Contracts.	52.232-26
		Prompt Payment.	32.9 52.232-25
	Discounts for	Prompt Payment.	52.232-8
	Definition:	Proper invoice	2.101

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Property	45.101
	Excess Personal	Property	8.1
	Government	Property	Part 45
	Government	Property (Consolidated Facilities).	52.245-7
	Government	Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts).	52.245-5
	Liability for Government	Property (Demolition Services Contracts).	52.245-6
	Government	Property (Facilities Acquisition).	52.245-10
	Government	Property (Facilities Use).	52.245-11
	Government	Property (Fixed-Price Contracts).	52.245-2
	Government-Furnished	Property (Short Form).	52.245-4
	Definition:	Property administrator	45.501
	Research and Development Contracting: Government	property and title.	35.014
	Contractor Liability for Personal Injury and/or	Property Damage.	52.247-21
	Government	Property Furnished ÓAs Is. Ó	52.245-19
		Property in possession of subcontractors.	45.510
		Property Records.	52.245-1
	Forms: Government	property.	53.245
	Information on available excess personal	property.	8.103
	Insurance against loss of or damage to Government	property.	28.303
	Obtaining nonreportable	property.	8.104
	Responsibility and liability for Government	property.	45.103
	F.o.b. Point for Delivery of Government-Furnished	Property.	52.247-55
	Identification of Government-Furnished	Property.	52.245-3
	Definition:	Proposal	31.001 52.242-3
		Proposal analysis techniques.	15.404-1
	Information to support	proposal analysis.	15.404-2
	Contracting by Negotiation:	Proposal analysis.	15.404
		Proposal evaluation.	15.305
	Termination settlement	proposal forms.	49.602-1
	Disclosure, protection, and marking of contractor bid or	proposal information and source selection information.	3.104-4
	Definition:	Proposal modification	15.001 52.215-1
	Definition:	Proposal revision	15.001 52.215-1
	Contracting by Negotiation:	Proposal revisions.	15.307
	Criteria for acceptance and negotiation of an unsolicited	proposal.	15.607
	Unsolicited	Proposals	15.6

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Solicitation and Receipt of	Proposals and Information	15.2
	Handling	proposals and information.	15.207
	Content of unsolicited	proposals.	15.605
	Contracting by Negotiation: Requests for	proposals.	15.203
	Delay in settling subcontractor settlement	proposals.	49.108-6
	Exchanges with industry before receipt of	proposals.	15.201
	Exchanges with offerors after receipt of	proposals.	15.306
	Rights to technical data in successful	proposals.	27.407
	Sealed bidding and competitive	proposals.	6.401
	Submission, modification, revision, and withdrawal of	proposals.	15.208
	Two-Step Sealed Bidding: Multiple Technical	Proposals.	52.214-24
	Solicitation and receipt of	proposals.	53.215-1
	Preparation of	Proposals—Construction.	52.236-28
	Synopses of	Proposed Contract Actions	5.2
	Certification regarding debarment, suspension,	proposed debarment, and other responsibility matters.	9.408 52.209-5
	Agency and Public Participation in Rule Making: Unsolicited	proposed revisions.	1.502
	Contractor Qualifications: Obtaining access to	proprietary information.	9.505-4
	Forms: Responsible	prospective contractors.	53.209-1
		Prospective Subcontractor Requests for Bonds.	52.228-12
	Fixed Price Contracts: Price Redetermination—	Prospective.	52.216-5
		Protection of existing vegetation, structures, equipment, utilities, and improvements.	36.509 52.236-9
		Protection of Government Buildings, Equipment, and Vegetation.	52.237-2
		Protection of Individual Privacy	24.1
		Protection of Privacy and Freedom of Information	Part 24
	Disclosure,	protection, and marking of contractor bid or proposal information and source selection information.	3.104-4
	Whistleblower	Protections for Contractor Employees	3.9
	Definition:	Protest	33.101
		Protest after Award.	52.233-3
	Service of	Protest.	52.233-2
		Protesting a firm's status as a HUBZone small business concern.	19.306
		Protesting a representation of disadvantaged business status.	19.305
		Protesting a small business representation.	19.302
		Protests	33.1
	Contracting by Negotiation:	Protests against award.	15.507
	Sealed Bidding:	Protests against award.	14.408-8
		Protests to GAO.	33.104

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Protests to the agency.	33.103
Contracting by Negotiation: Preaward, Award, and Postaward Notifications,		Protests, and Mistakes	15.5
		Protests, Disputes, and Appeals	Part 33
		Providing agency-peculiar property.	45.310
		Providing evaluation services.	9.505-3
		Providing existing special tooling.	45.306-1
		Providing Government production and research property as is.	45.308
		Providing Government production and research property under special restrictions.	45.309
		Providing Government property by transfer.	45.311
		Providing Government Property to Contractors	45.3
		Providing material.	45.303
		Providing motor vehicles.	45.304
		Providing special test equipment.	45.307
		Providing special tooling.	45.306
		Providing systems engineering and technical direction.	9.505-1
		Provision and Clause Matrix	52.3
	Tailoring of	provisions and clauses for the acquisition of commercial items.	12.302
		Provisions and clauses prescribed in Subpart 52.1.	52.107
	Identification of	provisions and clauses.	52.103
	Incorporating	provisions and clauses.	52.102
	Solicitation	Provisions and Contract Clauses	Part 52
	Solicitation	provisions and contract clauses for the acquisition of commercial items.	12.301
	Solicitation	Provisions Incorporated by Reference.	52.252-1
	Other data rights	provisions.	27.405
	Authorized Deviations in	Provisions.	52.252-5
	Service	Provisions.	52.241-6
	Applying	Pub. L. 85-804 to advance payments under sealed bid contracts.	32.405
	Definition:	Public building, or public work	22.401
Agency and Public Participation in Rule Making: Opportunity for		public comments.	1.501-2
Other Than Full and Open Competition:		Public interest.	6.302-7
Indemnification Under		Public Law 85-804.	52.250-1
Vehicular and General		Public Liability Insurance.	52.228-10
Agency and Public Participation in Rule Making:		Public meetings.	1.503
Agency and		Public Participation in Rule Making	1.5
		Public relations and advertising costs.	31.205-1
Agency and Public Participation in Rule Making: Solicitation of agency and		public views.	1.501
Release of Information: General		public.	5.402
Definition:		Publication	5.501

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Federal Acquisition Regulations System:	Publication and code arrangement.	1.105-1
	Agency Acquisition Regulations:	Publication and codification.	1.303
	Publicizing Contract Actions:	Publicizing and response time.	5.203
		Publicizing contract actions.	Part 5 53.205
		Publicizing Multi-Agency Use Contracts	5.6
	Acquisition Planning: Equipment Lease or	Purchase	7.4
	Simplified Acquisition Methods: Blanket	purchase agreements (BPAs).	13.303
	Simplified Acquisition Methods: Governmentwide commercial	purchase card.	13.301
	Payment by Governmentwide commercial	purchase card.	32.1108
	Describing Agency Needs:	Purchase descriptions for service contracts.	11.106
	Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled:	Purchase Exceptions.	8.706
	Actions At or Below the Micro-Purchase Threshold:	Purchase guidelines.	13.202
	Planning for the	Purchase of Supplies in Economic Quantities	7.2
	Definition:	Purchase order	2.101
	Simplified Acquisition Methods: SF 44,	Purchase Order—Invoice—Voucher.	13.306
	Simplified Acquisition Methods: Obtaining contractor acceptance and modifying	purchase orders.	13.302-3
	Simplified Acquisition Methods: Termination or cancellation of	purchase orders.	13.302-4
	Simplified Acquisition Methods: Unpriced	purchase orders.	13.302-2
	Simplified Acquisition Methods:	Purchase orders.	13.302
	Acquisition from Federal Prison Industries, Inc.:	Purchase priorities.	8.603
	Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled:	Purchase priorities.	8.704
	Economic	purchase quantities (supplies).	14.212
	Terms for Financing of	Purchases of Commercial Items.	52.232-29
	Federal Acquisition Regulations System:	Purpose, Authority, Issuance	1.1
	Qualifications Requirements:	QPL's, QML's, and QBL's.	9.203
	Opportunity for	qualification before award.	9.205
	Definition:	Qualification requirement	2.101
	Definition:	Qualification requirement	52.209-1
	Responsibilities for establishment of a	qualification requirement.	9.204
	Acquisitions subject to	qualification requirements.	9.206
	Changes in status regarding	qualification requirements.	9.207
	Text of Provisions and Clauses:	Qualification Requirements.	52.209-1
	Testing,	Qualification, and Use of Industrial Resources Developed Under Title III, Defense Production Act	34.1
	Major System Acquisition: Testing and	qualification.	34.103

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Qualifications of offerors.	47.207-1
		Qualifications Requirements	9.2
	Collecting data on and appraising firms'	qualifications.	36.603
	Sealed Bidding: All or none	qualifications.	14.404-5
	Contractor	Qualifications.	Part 9 53.209
	Definition:	Qualified bidders list (QBL)	9.201
	Status as a	qualified HUBZone small business concern.	19.1303
	Definition:	Qualified manufacturers list (QML)	9.201
	Definition:	Qualified pension plan	31.001
	Definition:	Qualified products list (QPL)	2.101
	Sealed Bidding:	Qualified products.	14.210
	Government Contract	Quality Assurance	46.4
	Government contract	quality assurance at destination.	46.403
	Government contract	quality assurance at source.	46.402
	Government contract	quality assurance for acquisitions at or below the simplified acquisition threshold.	46.404
	Acquisition of Commercial Items: Contract	quality assurance.	12.208
	Performance-Based Contracting:	Quality assurance.	37.602-2
		Quality Assurance.	Part 46
	Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled:	Quality complaints.	8.711
	Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled:	Quality of merchandise.	8.710
	Higher-level contract	quality requirement.	46.311 52.246-11
	Contract	Quality Requirements	46.2
	Criteria for use of contract	quality requirements.	46.203
	Higher-level contract	quality requirements.	46.202-4
	Types of contract	quality requirements.	46.202
		Quantitative and monetary control.	45.508-3
	Estimated Weights or	Quantities Not Guaranteed.	52.247-8
	Estimated	Quantities or Weights for Evaluation of Offers.	52.247-20
	Specific	Quantities Unknown.	52.247-62
		Quantity analysis, direct delivery, and reduction of crosshauling and backhauling.	47.305-7
		Quantity surveys.	36.516 52.236-16
	Text of Provisions and Clauses: Variation in	Quantity.	52.211-16
		Quick-closeout procedure.	42.708

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Soliciting competition, evaluation of	quotations or offers, award and documentation.	13.106
	Legal effect of	quotations.	13.004
	Notice of	Radioactive Material.	23.6 52.223-7
	Forward Pricing	Rate Agreements	42.17
		Rate changes and regulatory intervention.	41.402
	Definition:	Rated order	11.601
	Definition:	Rates	41.101
		Rates and charges.	47.207-6
	Cost-sharing	rates and limitations on indirect cost rates.	42.707
	Statement of equivalent	rates for Federal hires.	22.1016 52.222-42
	Change in	Rates or Terms and Conditions of Service for Regulated Services.	52.241-7
	Change in	Rates or Terms and Conditions of Service for Unregulated Services.	52.241-8
	Billing	rates.	42.704
	Final indirect cost	rates.	42.705
	Approval of Wage	Rates.	52.222-16
	Definition:	Ratification	1.602-3(a)
	Contracting Authority:	Ratification of unauthorized commitments.	1.602-3
	Definition:	Real property	45.101
	Acceptance of	real property.	28.203-3
	Records of	real property.	45.505-7
	Definition:	Reasonable compensation	3.801 52.203-12
	Definition:	Reasonable payment	3.801 52.203-12
	Determining	reasonableness.	31.201-3
	Unsolicited proposals:	Receipt and initial review.	15.606-1
	Sealed Bidding:	Receipt and safeguarding of bids.	14.401
	Designation of Office for Government	Receipt of Electronic Funds Transfer Information.	52.232-35
	Contracting by Negotiation: Solicitation and	Receipt of Proposals and Information	15.2
	Contracting by Negotiation: Exchanges with industry before	receipt of proposals.	15.201
	Contracting by Negotiation: Exchanges with offerors after	receipt of proposals.	15.306
	Prescription of Forms: Solicitation and	receipt of proposals.	53.215-1
	Contractor Responsibility for	Receipt of Shipment.	52.247-14
		Receipts for Government property.	45.502-1
	Inspection of Shipping and	Receiving Facilities.	52.247-4
	Definition:	Receiving report	2.101

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Recipient	3.801 52.203-12(a)
		Recommendations concerning forms.	53.108
	Definition:	Reconditioned	11.001 52.211-5
	Definition:	Record	24.101 52.224-2(c)(2)
	Definition:	Record drawings	36.102
		Record requirements.	4.601
	Sealed Bidding:	Recording of bids.	14.403
		Records of completed products.	45.505-10
		Records of Government property.	45.105
	Sealed Bidding:	Records of invitations for bids and records of bids.	14.204
		Records of misdirected shipments.	45.505-12
		Records of plant equipment.	45.505-5
		Records of property returned for rework.	45.505-13
		Records of real property.	45.505-7
		Records of special tooling and special test equipment.	45.505-4
		Records of transportation and installation costs of plant equipment.	45.505-11
	Contractor	Records Retention	4.7
	Acquisition and supply	records.	4.705-3
	Financial and cost accounting	records.	4.705-1
		Records.	3.406 50.105
	Property	Records.	52.245-1
	Audit and	Records—Negotiation.	52.215-2
	Definition:	Recoupment	35.001
	Definition:	Recovered material	2.101 11.301 52.211-5
		Recovered Material Certification.	52.223-4
	Estimate of Percentage of	Recovered Material Content for EPA-Designated Products.	52.223-9
	Cancellation, Rescission, and	Recovery of Funds for Illegal or Improper Activity.	52.203-8
	Definition:	Recruiting and training agency	22.801
		Recruitment costs.	31.205-34
	Definition:	Recurring costs	17.103
	Printed or Copied Double-Sided on	Recycled Paper.	52.204-4
	Quantity analysis, direct delivery, and	reduction of crosshauling and backhauling.	47.305-7
	Suspension or	reduction of payments.	32.503-6
	Suspension or	reduction of performance-based payments.	32.1008

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Reduction or suspension of contract payments upon finding of fraud.	32.006
		Refrigeration Equipment and Air Conditioners.	52.223-12
		Refund of Royalties.	52.227-9
	Definition:	Registered in the CCR database	2.101
	Requirements for	registration of designers.	36.609-4 52.236-25
	Definition:	Regularly employed	3.801 52.203-12(a)
	Change in Rates or Terms and Conditions of Service for	Regulated Services.	52.241-7
	Agency Acquisition	Regulations	1.3
	Federal Acquisition	Regulations System	Part 1
	Agency	regulations.	3.101-3
	Department of Labor	regulations.	22.403-4
	Federal Acquisition Regulations System: Arrangement of	regulations.	1.105-2
	Cost Accounting Standards Preambles and	Regulations.	Appendix
	Walsh-Healey Public Contracts Act:	Regulatory exemptions.	22.604-2
	Labor Standards for Contracts Involving Construction: Statutory and	regulatory requirements.	22.403
	Definition:	Reinsurance	28.001
		Rejecting Small Business Administration recommendations.	19.505
	Sealed Bidding: Notice to bidders of	rejection of all bids.	14.404-3
	Sealed Bidding:	Rejection of bids.	14.404
	Sealed Bidding:	Rejection of individual bids.	14.404-2
	Definition:	Related contract	52.245-7 52.245-10 52.245-11
	Interagency Fleet Management System (IFMS) Vehicles and	Related Services.	52.251-2
	Definition:	Related supplies	8.801
		Release of excess funds under terminated contracts.	49.604
	Publicizing Contract Actions:	Release of Information	5.4
		Release of lien.	28.203-5
	Publicizing Contract Actions:	Release of long-range acquisition estimates.	5.404
	Publicizing Contract Actions:	Release procedures.	5.404-1
		Relief from responsibility.	45.503
		Relocation costs.	31.205-35
	Capability to Perform a Contract for the	Relocation of a Federal Office.	52.247-3
	Repair distinguished from	remanufacturing of equipment.	22.1003-6
	Federal Supply Schedules:	Remedies for nonconformance.	8.406-3
	Criminal and civil penalties, and further administrative	remedies.	3.104-8
		Remedies.	3.906

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Remedy coordination official	32.006-2
	Dismantling, Demolition, or	Removal of Improvements	37.3
Termination for Convenience of the Government (Dismantling, Demolition, or		Removal of Improvements).	52.249-3
	Contracts for dismantling, demolition, or	removal of improvements.	46.313
	Inspection—Dismantling, Demolition, or	Removal of Improvements.	52.246-13
	Definition:	Renewable energy	2.101
	Definition:	Renewable energy technology	2.101
	Management and Operating Contracts: Award,	renewal, and extension.	17.605
	Competitive Advantage:	Rent.	45.202-2
		Rental costs.	31.205-36
		Rental equivalents.	45.202-1
		Rental—Use and Charges clause.	45.403
		Rent-free use.	45.404
		Repair distinguished from remanufacturing of equipment.	22.1003-6
		Repetitive acquisitions.	19.804-4
	Follow-on and	repetitive requirements.	37.602-5
Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled:		Replacement commodities.	8.715
		Report of shipment (REPSHIP).	42.1406 52.242-12
	Contractor Compliance With Toxic Chemical Release	Reporting	23.9
	Production Surveillance and	Reporting	42.11
		Reporting contract information to the IRS.	4.903
		Reporting labor disputes.	22.101-3
		Reporting of royalties—anticipated or paid.	27.204
		Reporting payment information to the IRS.	4.904
	Data collection and	reporting requirements.	19.202-5
	Production Surveillance and Reporting:	Reporting requirements.	42.1106
		Reporting results of inventories.	45.508-2
		Reporting suspected antitrust violations.	3.303
		Reporting, Reutilization, and Disposal	45.6
	Contract	reporting.	4.6
	Suspension of Payments for Fraud:	Reporting.	32.006-5
	Material Inspection and Receiving	Reports	46.6
		Reports of Government property.	45.505-14
	Special	reports of plant equipment.	45.505-6
	Employment	Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans.	52.222-37
	Department of Labor notices and	reports.	22.1306

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Research and Development Contracting: Scientific and technical	reports.	35.010
	Semiannual enforcement	reports.	22.406-13
	Termination status	reports.	49.105-1
	Contractors' Purchasing Systems Reviews:	Reports.	44.307
	Previous Contracts and Compliance	Reports.	52.222-22
	Production Progress	Reports.	52.242-2
	Responsible Prospective Contractors:	Reports.	9.106-4
		Representation by the offeror.	19.301
		Representation of Limited Rights Data and Restricted Computer Software.	52.227-15
	Annual	Representations and Certifications	4.12 52.204-8
	Report of shipment	REPSHIP.	42.1406 52.242-12
		Repurchase against contractor's account.	49.402-6
		Requests for Assistance	41.3
	Contracting by Negotiation:	Requests for proposals.	15.203
	Service Contract Act of 1965, As Amended:	Requests for status or expediting of response.	22.1011-2
		Requests from Members of Congress.	5.403
	Authorized or	required by statute.	6.302-5
		Required Sources for Helium and Helium Usage Data.	52.208-8
		Required Sources of Supplies and Services	Part 8
	Competition	Requirements	Part 6
	Federal Compliance with Right-to-Know Laws and Pollution Prevention	Requirements	23.10
		Requirements contracts.	16.503
	Selecting and Developing	Requirements Documents	11.1
	Using and Maintaining	Requirements Documents	11.2
	Order of precedence for	requirements documents.	11.101
	Additional	requirements for acquisitions involving bundling.	7.107
	Acquisition Plans: Additional	requirements for major systems.	7.106
		Requirements for Registration of Designers.	52.236-25
		Requirements for security.	28.201
		Requirements for setting aside acquisitions.	19.502-1
		Requirements for use of forms.	53.101
	Acquisitions subject to qualification	requirements.	9.206
	Agency distribution	requirements.	4.202
	Changes in status regarding qualification	requirements.	9.207
	Consent to Subcontracts: Advance notification	requirements.	44.201-2
	Consent to Subcontracts: Consent	requirements.	44.201-1
	Consent to Subcontracts: Consent and advance notification	requirements.	44.201

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Contractor Qualifications: Solicitation	requirements.	9.306
	Establishing and Administering Federal Supply Schedules: Coordination	requirements.	38.201
	Interagency Acquisitions Under the Economy Act: Determinations and findings	requirements.	17.503
	Leasing of Motor Vehicles: Contract	requirements.	8.1103
	Leasing of Motor Vehicles: Presolicitation	requirements.	8.1102
	Policy	requirements.	44.402
	Record	requirements.	4.601
	Reporting	requirements.	42.1106
	Service Contracting: Special acquisition	requirements.	37.114
	Standby or layaway	requirements.	45.302-5
	Statutory	requirements.	3.402 19.702 22.602 22.1002
	Statutory and related prohibitions, restrictions, and	requirements.	3.104-3
	Subcontracting plan	requirements.	19.704
	Surveillance	requirements.	42.1104
		Requirements.	6.303-1 41.301 52.216-21
	Contractor Inspection	Requirements.	52.246-1
	Clearance and Documentation	Requirements—Shipments to DoD Air or Water Terminal Transshipment Points.	52.247-52
	Definitions:	Requiring agency	8.401
	Voiding and	Rescinding Contracts	3.7
	Cancellation,	Rescission, and Recovery of Funds for Illegal or Improper Activity.	52.203-8
	Market	Research	Part 10
	Definition:	Research and development	31.205-48
	Inspection of	Research and Development (Short Form).	52.246-9
	Cosponsored	research and development activities.	27.408
		Research and Development Contracting	Part 35
		Research and development contracting (SF 298).	53.235
		Research and development contracts (short form).	46.309
	Cost-reimbursement	research and development contracts.	46.308
	Fixed-price	research and development contracts.	46.307
	Payments under Fixed-Price	Research and Development Contracts.	52.232-2
		Research and development costs.	31.205-48
	Subcontracting	research and development effort.	35.009
	Defense Production Pools and	Research and Development Pools	9.7

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Use of Government production and research property on independent	research and development programs.	45.406
	Publicizing requirements and expanding	research and development sources.	35.004
	Default (Fixed-Price	Research and Development).	52.249-9
	Liquidated Damages—Supplies, Services, or	Research and Development.	52.211-11
	Inspection of	Research and Development—Cost Reimbursement.	52.246-8
	Inspection of	Research and Development—Fixed Price.	52.246-7
	Other Than Full and Open Competition: Industrial mobilization; engineering, developmental, or	research capability; or expert services.	6.302-3
	Contracts for	research with educational institutions and nonprofit organizations.	35.015
	Settlement Agreements:	Reservations.	49.109-2
		Residual Powers	50.4
	Definition:	Residual value	2.101
		Residual value of special tooling and special test equipment.	45.204
	Publicizing and	response time.	5.203
	Career Development, Contracting Authority, and	Responsibilities	1.6
	Contracting authority and	responsibilities (SF 1402).	53.201-1
		Responsibilities and cooperation among Government officials.	32.605
		Responsibilities for establishment of a qualification requirement.	9.204
		Responsibilities of contracting officers.	3.603 4.403 7.204 47.301-1
	Acquisition Planning: Agency-head	responsibilities.	7.103
	Advisory and Assistance Services: Contracting officer	responsibilities.	37.205
	Cognizant Federal agency	responsibilities.	30.201-7
	Competition Advocates: Duties and	responsibilities.	6.502
	Nonpersonal Health Care Services: Contracting officer	responsibilities.	37.402
	Organizational and Consultant Conflicts of Interest: Contracting officer	responsibilities.	9.504
	Permits and	responsibilities.	36.507 52.236-7
	Contracting by Negotiation: Source Selection:	Responsibilities.	15.303
	Certificates of Competency and Determinations of	Responsibility	19.6
		Responsibility and liability for Government property.	45.103
		Responsibility for acceptance.	46.502
		Responsibility for executing agreements.	42.1202
	Contractor	Responsibility for Loading and Unloading.	52.247-15
	Contractor	Responsibility for Receipt of Shipment.	52.247-14
	Contractor	Responsibility for Returning Undelivered Freight.	52.247-16
		Responsibility for supplies.	46.316 52.246-16

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Responsibility of the Architect-Engineer Contractor.	52.236-23
	Service Contracting: Contracting officer	responsibility.	37.103
	Subcontractor	responsibility.	9.104-4
	Definition:	Responsible audit agency	2.101
		Responsible bidder—reasonableness of price.	14.408-2
	Definition:	Responsible official	32.601
	Definition:	Responsible prospective contractor	2.101
		Responsible Prospective Contractors.	9.1 53.209-1
	Only one	responsible source and no other supplies or services will satisfy agency requirements.	6.302-1
		Responsiveness of bids.	14.301
	Definition:	Restricted computer software	27.401 52.227-14 52.227-19 52.227-20
	Definition:	Restricted rights	27.401
		Restriction on Severance Payments to Foreign Nationals.	52.237-8
		Restrictions on Certain Foreign Purchases.	52.225-13
	Sealed Bidding:	Restrictions on disclosure of descriptive literature.	14.404-4
	Debarment, Suspension, and Ineligibility:	Restrictions on subcontracting.	9.405-2
		Restrictions on Subcontractor Sales to the Government.	52.203-6
	Unreasonable	restrictions on subcontractor sales.	3.503
	Contractor Records	Retention	4.7
	Patent Rights—	Retention by the Contractor (Long Form).	52.227-12
	Patent Rights—	Retention by the Contractor (Short Form).	52.227-11
	Calculation of	retention periods.	4.704
	Specific	retention periods.	4.705
	Fixed-Price Contracts: Price Redetermination—	Retroactive.	52.216-6
		Returnable cylinders.	47.305-17 52.247-66
	Contractor Responsibility for	Returning Undelivered Freight.	52.247-16
		Reutilization of Government property.	45.602
	Contracting by Negotiation: Submission, modification,	revision, and withdrawal of proposals.	15.208
	Technical Data Declaration,	Revision, and Withholding of Payment—Major Systems.	52.227-21
		Right of First Refusal of Employment.	52.207-3
	Prime contractor's	rights and obligations.	49.108-2
		Rights In Data and Copyrights	27.4
		Rights in Data—Existing Works.	52.227-18
		Rights in Data—General.	52.227-14

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Rights in Data—SBIR Program.	52.227-20
		Rights in Data—Special Works.	52.227-17
		Rights to Proposal Data (Technical).	52.227-23
		Rights to technical data in successful proposals.	27.407
	Pollution Prevention and	Right-to-Know Information.	52.223-5
	Federal Compliance with	Right-to-Know Laws and Pollution Prevention Requirements	23.10
	Acquisition of Information Technology: Management of	risk.	39.102
		Risk.	9.305
		Risk-pooling arrangements.	28.304
	Federal Acquisition Regulations System:	Role of the Acquisition Team.	1.102-4
		Royalties and other costs for use of patents.	31.205-37
	Adjustment of	royalties.	27.205
	Clause for refund of	royalties.	27.206-2
	Refund of	royalties.	27.206 52.227-9
	Reporting of	royalties—anticipated or paid.	27.204
	Solicitation provision for	royalty information.	27.204-2
		Royalty Information.	52.227-6
	General	rules for solicitation of bids.	14.202
	Walsh-Healey Public Contracts Act:	Rulings and interpretations of the Act.	22.605
		Safeguarding Classified Information Within Industry	4.4
		Safeguarding classified information within industry (DD Form-254, DD Form-441).	53.204-1
	Receipt and	safeguarding of bids.	14.401
		Safeguards	3.1
		Sale of surplus property.	45.604-3
	Definition:	Salvage	45.501
	Definition:	Sanctioned European Union country construction	25.003
	Definition:	Sanctioned European Union country end product	25.003 52.225-15
		Sanctioned European Union Country End Products.	52.225-15
	Definition:	Sanctioned European Union country services	25.003
		Sanctioned European Union Country Services.	52.225-16
	Definition:	Sanctioned European Union member state	25.003 52.225-15 52.225-16
	Only one responsible source and no other supplies or services will	satisfy agency requirements.	6.302-1
		SBA acceptance.	19.804-3
		SBA appeals.	19.810

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	SBIR data	52.227-20
	Rights in Data—	SBIR Program.	52.227-20
	Definition:	SBIR rights	52.227-20
		SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA).	52.222-47
	Federal Supply	Schedules	8.4
	Definitions:	Schedules e-Library	8.401
		Schedules for construction contracts.	36.515 52.236-15
	Factors to consider in establishing	schedules.	11.402
		Scientific and technical reports.	35.010
		Scope and Duration of Contract.	52.241-3
	Definition:	Scrap	2.101
	Records of	scrap or salvage.	45.505-8
	Clauses for	sealed bid contracts (excluding construction).	27.203-2
	Applying Pub. L. 85-804 to advance payments under	sealed bid contracts.	32.405
	Two-Step	Sealed Bidding	14.5
	Use of	Sealed Bidding	14.1
		Sealed Bidding and Competitive Proposals	6.4
	Special procedures for	sealed bidding in construction contracting.	36.213
	Elements of	sealed bidding.	14.101
		Sealed bidding.	Part 14 53.214
	Audit and Records—	Sealed Bidding.	52.214-26
	Contract Award—	Sealed Bidding.	52.214-10
	Late Submissions, Modifications, Revisions, and Withdrawals of Technical Proposals under Two-Step	Sealed Bidding.	52.214-23
	Order of Precedence—	Sealed Bidding.	52.214-29
	Place of Performance—	Sealed Bidding.	52.214-14
	Price Reduction for Defective Cost or Pricing Data—Modifications—	Sealed Bidding.	52.214-27
	Step Two of Two-Step	Sealed Bidding.	52.214-25
	Subcontractor Cost or Pricing Data—Modifications—	Sealed Bidding.	52.214-28
	Contract Award—	Sealed Bidding—Construction.	52.214-19
	Notice of Cost Comparison	Sealed-Bid.	52.207-1
	Definition:	Secretarial level	50.001
	FAR	Secretariat.	1.201-2
	Definitions	Secretary	22.1601
	Competition Requirements:	Section 8(a) competition.	6.204

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Sureties and Other	Security for Bonds	28.2
		Security for Government financing.	32.202-4
		Security interests by an individual surety.	28.203-1
		Security Requirements.	52.204-2
	Privacy or	Security Safeguards.	52.239-1
		Security, supervision, and covenants.	32.409-3
	Additional bond or	security.	28.106-3
	Other Than Full and Open Competition: National	security.	6.302-6
	Sureties and Other Security for Bonds: Requirements for	security.	28.201
	Additional Bond	Security.	52.228-2
	Definition:	Segment	2.101
	Definition:	Segregated facilities	52.222-21
	Prohibition of	Segregated Facilities.	52.222-21
		Segregation of Government property.	45.507
		Selecting and Developing Requirements Documents	11.1
		Selecting Contract Types	16.1
	Architect-Engineer Contracts:	Selection authority.	36.602-4
	Architect-Engineer Contracts:	Selection criteria.	36.602-1
		Selection of firms for architect-engineer contracts.	36.602
	Two-Phase Design-Build	Selection Procedures	36.3
	Use of two-phase design-build	selection procedures.	36.301
	Service Contracting:	Selection procedures.	37.602-3
	Contracting by Negotiation: Source	Selection Processes and Techniques	15.1
	Contracting Officer:	Selection, appointment, and termination of appointment.	1.603
	Release of information on firm	selection.	36.607
	Contracting Officer:	Selection.	1.603-2
	Definition:	Self-insurance	2.101
	Definition:	Self-insurance charge	31.001
		Self-insurance.	28.308
		Selling costs.	31.205-38
	Definition:	Senior procurement executive	2.101
		Seniority lists.	22.1020
	Definition:	Sensitive property	45.601
	Definition:	Separate contract	41.101
		Separate contracts.	41.205
	Definition: Bundling—	Separate smaller contract	2.101
		Service and warranty costs.	31.205-39
	Nonrefundable, Nonrecurring	Service Charge.	52.241-12

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Service contract	22.1001 37.101
	Definition:	Service Contract Act	22.1001
		Service Contract Act of 1965, as Amended.	22.10 52.222-41
		Service Contract Act of 1965.	37.107
	Exemption from Application of	Service Contract Act Provisions for Contracts for Maintenance, Calibration, and/or Repair of Certain Information Technology, Scientific and Medical, and/or Office and Business Equipment—Contractor Certification.	52.222-48
		Service Contract Act—Place of Performance Unknown.	52.222-49
	Fair Labor Standards Act and	Service Contract Act—Price Adjustment (Multiple Year and Option Contracts).	52.222-43
	Fair Labor Standards Act and	Service Contract Act—Price Adjustment.	52.222-44
		Service Contracting	Part 37
	Competition in	service contracting.	37.105
	Management Oversight of	Service Contracts	37.5
	Payment under Communication	Service Contracts with Common Carriers.	52.232-6
	Clauses for supply or	service contracts.	48.201
	Cost-reimbursement	service contracts.	46.305
	Describing Agency Needs: Purchase descriptions for	service contracts.	11.106
	Fixed-price	service contracts.	46.304
	Funding and term of	service contracts.	37.106
		Service Contracts—General	37.1
	Definition:	Service employee	22.1001 52.222-41
	Additional classes of	service employees.	22.1019
	Change in Rates or Terms and Conditions of	Service for Regulated Services.	52.241-7
	Change in Rates or Terms and Conditions of	Service for Unregulated Services.	52.241-8
	Definition:	Service life	31.001
	Multiple	Service Locations.	52.241-11
		Service of Protest.	52.233-2
		Service Provisions.	52.241-6
	Means of obtaining	service.	51.203
	Definition:	Service-disabled veteran-owned small business concern	2.101
	Contract Administration	Services	42.2
	Definition:	Services	29.401-4(a) 52.246-4 52.246-5
	Architect-engineer	services (SF's 252, 330, and 1421).	53.236-2
	Termination for Convenience of the Government	Services (Short Form).	52.249-4
	Liability for Government Property (Demolition)	Services Contracts).	52.245-6

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Services of quasi-military armed forces.	37.109
	Termination (Personal	Services).	52.249-12
	Extension of	services.	37.111
	Providing evaluation	services.	9.505-3
	Continuity of	Services.	52.237-3
	Limitation of Liability—	Services.	52.246-25
	Warranty of	Services.	52.246-20
	Inspection of	Services—Cost-Reimbursement.	52.246-5
	Inspection of	Services—Fixed-Price.	52.246-4
	Accessorial	Services—Moving Contracts.	52.247-13
	Very Small Business	Set-Aside	52.219-5
	HUBZone	set-aside procedures	19.1305
	Automatic dissolution of a small business	set-aside.	19.507
	Notice of Emerging Small Business	Set-Aside.	52.219-20
	Notice of Partial Small Business	Set-Aside.	52.219-7
	Full and Open Competition After Exclusion of Sources:	Set-asides for HUBZone small business concerns.	6.205
		Set-Asides for Small Business	19.5
	Full and Open Competition After Exclusion of Sources:	Set-asides for small business concerns.	6.203
	Small Business Programs: Methods of conducting	set-asides.	19.502-4
	Small Business Programs: Partial	set-asides.	19.502-3
	Total small business	set-asides.	19.502-2
	Withdrawing or modifying small business	set-asides.	19.506
	Routine	setoff.	32.611
	Withholding and	setoff.	32.612
		Setting aside a class of acquisitions for small business.	19.503
	Requirements for	setting aside acquisitions.	19.502-1
		Setting aside acquisitions.	19.502
	Insufficient causes for not	setting aside an acquisition.	19.502-5
	Definition:	Settlement agreement	49.001
		Settlement agreement.	49.109 49.602-5
	Formats for termination for convenience	settlement agreements.	49.603
	Granting subcontract	settlement authorization.	49.606
		Settlement by determination.	49.109-7
	Definition:	Settlement date	32.902
		Settlement negotiation memorandum.	49.110
		Settlement of reservations.	49.603-9
		Settlement of subcontract settlement proposals.	49.108
		Settlement of terminated incentive contracts.	49.115

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Settlement procedure.	49.108-3
	Definition:	Settlement proposal	49.001
	Submission of	settlement proposal (fee only).	49.304-2
	Audit of	settlement proposal.	49.303-3
	Submission of	settlement proposal.	49.303-1
	Audit of prime contract	settlement proposals and subcontract settlements.	49.107
	Bases for	settlement proposals.	49.206-2
	Joint settlement of two or more	settlement proposals.	49.109-6
	Request to settle subcontractor	settlement proposals.	49.605
	Submission of	settlement proposals.	49.206-1
		Settlement proposals.	49.206
	Methods of	settlement.	49.103
	No-cost	settlement.	49.109-4
	Limitation on	settlements.	49.207
	Partial	settlements.	49.109-5
	Review of proposed	settlements.	49.111
		Severance payments to foreign nationals.	37.113
	Restriction on	Severance Payments to Foreign Nationals.	52.237-8
	Waiver of Limitation on	Severance Payments to Foreign Nationals.	52.237-9
	Contracting authority and responsibilities	SF 1402.	53.201-1
	Contract financing	SF 1443.	53.232
	Research and development contracting	SF 298.	53.235
	Contract Modifications	SF 30.	53.243
	Novation and change-of-name agreements	SF 30.	53.242-1
	Simplified Acquisition Methods:	SF 44, Purchase Order—Invoice—Voucher.	13.306
	Preparation of Notice	SF 98/98a.	22.1008-1
	Procedures for preparing and submitting Notice	SF 98/98a.	22.1008
	Requirement to submit Notice	SF 98/98a.	22.1007
	Preparation of	SF 98a.	22.1008-2
	Simplified acquisition procedures	SF's 18, 30, 44, 1165, 1449, OF's 336, 347, 348.	53.213
	Taxes	SF's 1094, 1094-A.	53.229
	Architect-engineer services	SF's 252, 330, and 1421.	53.236-2
	Application of labor laws to Government acquisitions	SF's 99, 308, 1093, 1413, 1444, 1445, 1446, WH-347.	53.222
	Standard forms	SF's.	53.301
	Definition:	Shall	2.101
		Sharing alternative—no-cost settlement method.	48.104-4
		Sharing arrangements.	48.104
	Definition:	Sharing base	48.001
			52.248-1

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Sharing period	48.001 52.248-1
	Value Engineering: Determining	sharing period.	48.104-1
	Definition:	Shipment	2.101
	Report of	Shipment (REPSHIP).	52.242-12
	Discrepancies incident to	shipment of supplies.	42.1405
	Contractor Responsibility for Receipt of	Shipment.	52.247-14
	F.a.s. Vessel, Port of	Shipment.	52.247-36
	F.o.b. Destination—Evidence of	Shipment.	52.247-48
	F.o.b. Vessel, Port of	Shipment.	52.247-37
		Shipments by parcel post or other classes of mail.	42.1404
	Clearance and Documentation Requirements—	Shipments to DoD Air or Water Terminal Transshipment Points.	52.247-52
		Shipments to ports and air terminals.	47.305-6
		Shipments within CONUS.	47.304-2
	Parcel post eligible	shipments.	42.1404-1
	Payment for	shipments.	51.105
	Records of misdirected	shipments.	45.505-12
	Shipping documents covering f.o.b. origin	shipments.	42.1403
	F.o.b. Origin, Prepaid Freight—Small Package	Shipments.	52.247-65
	F.o.b. Origin—Carload and Truckload	Shipments.	52.247-59
	F.o.b. Origin—Minimum Size of	Shipments.	52.247-61
	Loading, Blocking, and Bracing of Freight Car	Shipments.	52.247-58
	Multiple	Shipments.	52.247-18
	Annotation and distribution of	shipping and billing documents.	47.207-9
	Inspection of	Shipping and Receiving Facilities.	52.247-4
	Transportation in Supply Contracts:	Shipping characteristics.	47.305-16
	Guaranteed	Shipping Characteristics.	52.247-60
		Shipping documents covering f.o.b. origin shipments.	42.1403
		Shipping Point(s) Used in Evaluation of F.o.b. Origin Offers.	52.247-46
	Definition:	Shop drawings	2.101
	Government-Furnished Property	Short Form.	52.245-4
	Inspection of Research and Development	Short Form.	52.246-9
	Termination for Convenience of the Government (Fixed-Price)	Short Form.	52.249-1
	Termination for Convenience of the Government (Services)	Short Form.	52.249-4
		Short selection process for contracts not to exceed the simplified acquisition threshold.	36.602-5
	Definition:	Should	2.101
		Should-cost review.	15.407-4
	Determinations and Findings:	Signatory authority.	1.707

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Signature or signed	2.101
	Contracting officer's	signature.	4.101
	Contractor's	signature.	4.102
	Definition:	Significant revisions	1.501-1
		Simplified Acquisition Methods	13.3
	Definition:	Simplified acquisition procedures	2.101
		Simplified Acquisition Procedures	Part 13
		Simplified acquisition procedures (SF's 18, 30, 44, 1165, 1449, OF's 336, 347, 348).	53.213
		Simplified acquisition procedures financing.	32.003
	Definition:	Simplified acquisition threshold	2.101
Government contract quality assurance for acquisitions at or below the		simplified acquisition threshold.	46.404
Short selection process for contracts not to exceed the		simplified acquisition threshold.	36.602-5
	Terms and Conditions—	Simplified Acquisitions (Other Than Commercial Items).	52.213-4
	Sealed Bidding:	Simplified contract format.	14.201-9
	Definition: Bundling	Single contract	2.101
	Indefinite-Delivery Contracts:	Single or Multiple Awards.	52.216-27
	Definition:	Single, Governmentwide point of entry	2.101
		Single-movement contracts.	47.204
	Differing	Site Conditions.	52.236-2
		Site investigation and conditions affecting the work.	36.503 52.236-3
	Definition:	Site of construction	22.801
	Definition:	Site of the work	22.401
		Site Visit (Construction).	52.236-27
		Site visit.	36.523 52.237-1
Determining North American Industry Classification System (NAICS) codes and		size standards.	19.303
		Size standards.	19.102
	Set-Asides for	Small Business	19.5
	Cooperation with the	Small Business Administration	19.4
	Contracting with the	Small Business Administration (The 8(a) Program)	19.8
		Small Business Administration procurement center representatives.	19.402
	Rejecting	Small Business Administration recommendations.	19.505
Resolving differences between the agency and the		Small Business Administration.	19.602-3
	The	Small Business Administration's role in carrying out the program.	19.707
	Service Contracting:	Small business Certificate of Competency.	37.108
Small Business Concern Representation for the		Small Business Competitiveness Demonstration Program.	52.219-19

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Small Business Size Representation for Targeted Industry Categories under the	Small Business Competitiveness Demonstration Program.	52.219-21
	Status as a qualified HUBZone	small business concern	19.1303
	Definition:	Small business concern	19.001 52.212-3 52.219-1 52.219-7 52.219-8
	Definition:	Small business concern owned and controlled by socially and economically disadvantaged individuals	52.219-8
	Definition:	Small business concern owned and controlled by women	52.219-8
		Small Business Concern Representation for the Small Business Competitiveness Demonstration Program.	52.219-19
	Full and Open Competition After Exclusion of Sources: Set-asides for	small business concerns.	6.203
	Full and Open Competition After Exclusion of Sources: Set-asides for HUBZone	small business concerns.	6.205
	Notice of Availability of Progress Payments Exclusively for	Small Business Concerns.	52.232-14
	Notice of Price Evaluation Preference for HUBZone	Small Business Concerns.	52.219-4
	Utilization of	Small Business Concerns.	52.219-8
		Small Business Contract Administration	42.16
	Definition:	Small business firm	27.301 52.227-11 52.227-12
	Encouraging	small business participation in acquisitions.	19.202-1
		Small Business Program Representations.	52.219-1
		Small business programs.	Part 19 53.219
	Protesting a	small business representation.	19.302
	Automatic dissolution of a	small business set-aside.	19.507
	Notice of Emerging	Small Business Set-Aside.	52.219-20
	Notice of Total	Small Business Set-Aside.	52.219-6
	Very	Small Business Set-Aside.	52.219-5
	Total	small business set-asides.	19.502-2
	Withdrawing or modifying	small business set-asides.	19.506
		Small Business Size Representation for Targeted Industry Categories under the Small Business Competitiveness Demonstration Program.	52.219-21
	Locating	small business sources.	19.202-2
	Determination of	Small Business Status for Small Business Programs	19.3
		Small Business Subcontracting Plan.	52.219-9
	The	Small Business Subcontracting Program	19.7
	Definition:	Small business subcontractor	2.101

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Setting aside a class of acquisitions for	small business.	19.503
	Federal Supply Schedules:	Small business.	8.405-5
	Definition:	Small disadvantaged business concern	2.101
	Definition:	Small disadvantaged business concern	52.219-23
	Price Evaluation Adjustment for	Small Disadvantaged Business Concerns	19.11
	Incentive subcontracting with	small disadvantaged business concerns.	19.1203
		Small Disadvantaged Business Participation Program	19.12
		Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting.	52.219-25
		Small Disadvantaged Business Participation Program—Incentive Subcontracting.	52.219-26
		Small Disadvantaged Business Participation Program—Targets.	52.219-24
		Small Disadvantaged Business Status.	52.219-22
	F.o.b. Origin, Prepaid Freight—	Small Package Shipments.	52.247-65
	Consolidation of	small shipments and the use of stopoff privileges.	47.305-8
		Socioeconomic Programs	Subchapter D
	Other	Socioeconomic Programs	Part 26
	Computer	software.	12.212
	Definition:	Sole source acquisition	2.101
	HUBZone	sole source awards.	19.1306
	Federal Supply Schedules:	Sole source justification and approval.	8.405-6
	8(a) Negotiation:	Sole source.	19.808-1
	Definition:	Solicitation	2.101
		Solicitation and acceptance of gratuities by Government personnel.	3.101-2
		Solicitation and Receipt of Proposals and Information	15.2
		Solicitation and Receipt of Proposals.	53.215-1
	Streamlined Procedures for Evaluation and	Solicitation for Commercial Items	12.6
	Streamlined	solicitation for commercial items.	12.603
	Request for Information or	Solicitation for Information or Planning Purposes.	52.215-3
	FAR Rule Making:	Solicitation of agency and public views.	1.501
		Solicitation of Bids	14.2
	General rules for	solicitation of bids.	14.202
		Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.	28.311
		Solicitation provision for royalty information.	27.204-2
	Definition:	Solicitation provision or provision	2.101
		Solicitation Provisions and Contract Clauses	Part 52
		Solicitation provisions and contract clauses (Matrix).	52.301

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items	12.3
	Contractor Qualifications:	Solicitation requirements.	9.306
	Acquisition of Commercial Items: Procedures for	solicitation, evaluation, and award.	12.203
	Contracting by Negotiation: Amending the	solicitation.	15.206
	Major System Acquisition: Mission-oriented	solicitation.	34.005-2
	Preparing the	solicitation.	19.705-3
	Sealed Bidding: Master	solicitation.	14.203-3
	Alterations in	Solicitation.	52.252-3
	Sealed Bidding:	Solicitations for informational or planning purposes.	14.105
		Solicitations issued without wage determinations.	22.404-4
	Availability of	solicitations.	5.102
	Contracting by Negotiation: Issuing	solicitations.	15.205
	Contracting for Construction: Distribution of advance notices and	solicitations.	36.211
	Methods of	soliciting bids.	14.203
		Soliciting competition, evaluation of quotations or offers, award and documentation.	13.106
	Only one responsible	source and no other supplies or services will satisfy agency requirements.	6.302-1
	Contracting by Negotiation:	Source Selection	15.3
	Contracting by Negotiation:	Source selection decision.	15.308
	Definition:	Source selection evaluation board	3.104-1
	Definition:	Source selection information	2.101
	Disclosure, protection, and marking of contractor bid or proposal information and	source selection information.	3.104-4
	Contracting by Negotiation:	Source selection objective.	15.302
	Contracting by Negotiation: Lowest price technically acceptable	source selection process.	15.101-2
	Contracting by Negotiation:	Source Selection Processes and Techniques	15.1
	Required	Sources for Helium and Helium Usage Data.	52.208-8
	Required	Sources of Supplies and Services	Part 8
		Special Aspects of Contracting for Construction	36.2
		SPECIAL CATEGORIES OF CONTRACTING	Subchapter F
	Definition:	Special competency	2.101
	Matters requiring	special consideration.	29.304
		Special construction and printing.	53.106
		Special Contracting Methods	Part 17
		Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	22.13
	Definitions:	Special Item Number (SIN)	8.401
		Special procedure for cost-reimbursement contracts for construction.	36.215

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Multi-Year Contracting:	Special procedures applicable to DoD, NASA, and the Coast Guard.	17.106-3
		Special procedures for price negotiation in construction contracting.	36.214
		Special procedures for sealed bidding in construction contracting.	36.213
		Special procedures for unusually hazardous or nuclear risks.	50.403
		Special Requirements for the Acquisition of Commercial Items	12.2
	Synopses of Proposed Contract Actions:	Special situations.	5.205
	Responsible Prospective Contractors:	Special standards.	9.104-2
	Definition:	Special test equipment	45.101 52.245-18
	Special tooling and	special test equipment costs.	31.205-40
	Acquiring	special test equipment.	45.307-2
	Records of special tooling and	special test equipment.	45.505-4
	Residual value of special tooling and	special test equipment.	45.204
		Special Test Equipment.	52.245-18
	Definition:	Special tooling	45.101 52.245-17
		Special tooling and special test equipment costs.	31.205-40
	Records of	special tooling and special test equipment.	45.505-4
	Residual value of	special tooling and special test equipment.	45.204
		Special tooling under cost-reimbursement contracts.	45.306-2
		Special tooling under fixed-price contracts.	45.306-3
	Providing	special tooling.	45.306
	Providing existing	special tooling.	45.306-1
		Special Tooling.	52.245-17
		Specific Quantities Unknown.	52.247-62
		Specific retention periods.	4.705
	Definition:	Specifically Authorized Representative (SAR)	52.243-7
	Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled:	Specification changes.	8.712
		Specifications and drawings for construction.	36.521 52.236-21
	Availability of	Specifications Listed in the DoD Index of Specifications and Standards (DoDISS) and Descriptions Listed in the Acquisition Management Systems and Data Requirements Control List, DoD 5010.12-L.	52.211-2
	Availability of	Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29.	52.211-1
	Availability for Examination of	Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.	52.211-4
	Availability of	Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.	52.211-3

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Warranty of Systems and Equipment under Performance	Specifications or Design Criteria.	52.246-19
	Contractor Qualifications: Preparing	specifications or work statements.	9.505-2
	Identification and availability of	specifications.	11.201
	Contracting for Construction:	Specifications.	36.202
	Definition:	Specified payment date	32,902
	Definition:	Sponsor	35.017(b)
	Definition:	Spread-gain actuarial cost method	31.001
		Standard and Optional Forms for Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements	36.7
		Standard and optional forms for use in contracting for construction or dismantling, demolition, or removal of improvements.	36.701
	Definition:	Standard cost	31.001
		Standard forms (SF's).	53.301
	Maintenance of	standardization documents.	11.202
	Selecting and Developing Requirements Documents:	Standardization program.	11.102
		Standards for use.	50.401
		Standards of conduct.	3.101
	Guiding Principles of the Federal Acquisition System: Performance	standards.	1.102-2
	Responsible Prospective Contractors: Application of	standards.	9.104-3
	Responsible Prospective Contractors: General	standards.	9.104-1
	Responsible Prospective Contractors: Special	standards.	9.104-2
	Responsible Prospective Contractors:	Standards.	9.104
		Standby or layaway requirements.	45.302-5
	Definition:	State	3.801 52.203-12(a)
	Federal, State, and Local Taxes	State and Local Adjustments.	52.229-4
		State and local governments.	42.705-4
	North Carolina	State and Local Sales and Use Tax.	52.229-2
	Definition:	State and local taxes	2.101
		State and Local Taxes.	29.3 52.229-1
	Federal and	State labor requirements.	22.102
	Federal,	State, and Local Taxes (State and Local Adjustments).	52.229-4
	Federal,	State, and Local Taxes.	52.229-3
	Contracts with	State, Local, and Federally Recognized Indian Tribal Governments	31.6
		Statement of Equivalent Rates for Federal Hires.	52.222-42
		Statement of guiding principles for the Federal Acquisition System.	1.102
	Ordering procedures for supplies and services not requiring a	statement of work.	8.405-1
	Financial	Statement.	52.247-6

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Changes in	status regarding qualification requirements.	9.207
	Other Than Full and Open Competition: Authorized or required by	statute.	6.302-5
		Statutory and delegated authority.	41.103
	Labor Standards for Construction:	Statutory and regulatory requirements.	22.403
		Statutory and related prohibitions, restrictions, and requirements.	3.104-3
		Statutory authority.	32.201 32.401
	Contracting for Construction:	Statutory cost limitations.	36.205
	Walsh-Healey Public Contracts Act: Service Contract Act of 1965, As Amended:	Statutory exemptions.	22.604-1 22.1003-3
	Contingent Fees:	Statutory requirements.	3.402
	Contract Work Hours and Safety Standards Act: Service Contract Act: Walsh-Healey Public Contracts Act:	Statutory requirements.	22.301 22.1002 22.602
	Small Business Programs:	Statutory requirements.	19.702
	Definition:	Stock record	45.501
	Consolidation of small shipments and the use of	stopoff privileges.	47.305-8
		Stopping in Transit for Partial Unloading.	52.247-19
		Stop-work order.	42.1303 52.242-15
		Stop-Work Order—Facilities.	52.242-16
	Suspension of Work,	Stop-Work Orders, and Government Delay of Work	42.13
	Operations and	Storage Areas.	52.236-10
	Government Contract Files:	Storage, handling, and disposal of contract files.	4.805
		Streamlined evaluation of offers.	12.602
		Streamlined Procedures for Evaluation and Solicitation for Commercial Items	12.6
		Streamlined solicitation for commercial items.	12.603
	Federal Acquisition	Streamlining Act of 1994 list of inapplicable laws.	13.005
	Protection of Existing Vegetation,	Structures, Equipment, Utilities, and Improvements.	52.236-9
		Structuring multiple-incentive contracts.	16.402-4
	Definition:	Subcontract	3.502-1 12.001 15.401 19.701 22.801 44.101 52.203-7 52.219-9 52.244-2 52.244-6
		Subcontract administration.	30.603

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Special 8(a)	Subcontract Conditions.	52.219-12
		Subcontract pricing considerations.	15.404-3
	Granting	subcontract settlement authorization.	49.606
	Settlement of	subcontract settlement proposals.	49.108
	Audit of prime contract settlement proposals and	subcontract settlements.	49.107
	Responsibilities of the contracting officer under the	subcontracting assistance program.	19.705
	Notices of	subcontracting opportunities.	5.206
		Subcontracting plan requirements.	19.704
	Determining the need for a	subcontracting plan.	19.705-2
	Reviewing the	subcontracting plan.	19.705-4
	Liquidated Damages—	Subcontracting Plan.	52.219-16
	Small Business	Subcontracting Plan.	52.219-9
	Awards involving	subcontracting plans.	19.705-5
		Subcontracting Policies and Procedures	Part 44
	The Small Business	Subcontracting Program	19.7
	Incentive	Subcontracting Program.	52.219-10
		Subcontracting research and development effort.	35.009
	Protecting the Government's Interest when	Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.	52.209-6
	Incentive	subcontracting with small disadvantaged business concerns.	19.1203
	Debarment, Suspension, and Ineligibility: Restrictions on	subcontracting.	9.405-2
	Competition in	Subcontracting.	52.244-5
	Limitations on	Subcontracting.	52.219-14
	Definition:	Subcontractor	3.502-1 22.801 44.101 52.203-7
		Subcontractor assertions of nonpayment.	32.112-1
	Postaward	subcontractor conferences.	42.505
		Subcontractor Cost or Pricing Data.	52.215-12
		Subcontractor Cost or Pricing Data—Modifications.	52.215-13
		Subcontractor Cost or Pricing Data—Modifications—Sealed Bidding.	52.214-28
		Subcontractor Disclosure Statements.	30.202-8
	Definition:	Subcontractor employee	52.203-7(a)
		Subcontractor kickbacks.	3.502
	Prospective	Subcontractor Requests for Bonds.	52.228-12
	Payments:	Subcontractor requests for information.	32.112-2
	Contractor Qualifications:	Subcontractor responsibility.	9.104-4
	Unreasonable restrictions on	subcontractor sales.	3.503

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Delay in settling	subcontractor settlement proposals.	49.108-6
	Request to settle	subcontractor settlement proposals.	49.605
		Subcontractors and Outside Associates and Consultants (Architect-Engineer Services).	52.244-4
	Bonds and Other Financial Protections: Payment to	subcontractors or suppliers.	28.106-8
		Subcontractor's rights.	49.108-1
	Nonpayment of	subcontractors under contracts for noncommercial items.	32.112
	Property in possession of	subcontractors.	45.510
	Consent to	Subcontracts	44.2
		Subcontracts (Labor Standards).	52.222-11
		Subcontracts for Commercial Items and Commercial Components.	44.4
		Subcontracts under prime contracts providing progress payments.	32.504
	Assignment of rights under	subcontracts.	49.108-8
	Government assistance in settling	subcontracts.	49.108-7
	Loan guarantees for	subcontracts.	32.306
		Subcontracts.	52.244-2
	Labor Standards for Construction:	Subcontracts.	22.406-5
	Patent Rights under Government Contracts:	Subcontracts.	27.304-4
	Quality Assurance:	Subcontracts.	46.405
	Definition:	Subject invention	27.301 52.227-11 52.227-12 52.227-13
		Submission of Bids.	14.3 52.214-5
		Submission of Commercial Transportation Bills to the General Services Administration for Audit.	52.247-67
	Instructions for	submission of cost or pricing data or information other than cost or pricing data.	15.403-5
		Submission of Electronic Funds Transfer Information with Offer.	52.232-38
		Submission of inventory disposal schedules.	49.206-3 49.303-2
	Required time of	submission of Notice.	22.1008-7
		Submission of settlement proposal (fee only).	49.304-2
		Submission of settlement proposal.	49.206-1 49.303-1
		Submission of vouchers.	49.304-3
	Sealed Bidding:	Submission, modification, and withdrawal of bids.	14.304
	Contracting by Negotiation:	Submission, modification, revision, and withdrawal of proposals.	15.208
	Bid	submission.	14.302
	Definition:	Substantial evidence	2.101

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Substantially as follows or substantially the same as	2.101
		Substitution of assets.	28.203-4
	Contracting by Negotiation: Award to	successful offeror.	15.504
	Incentive Contracts: Incentive Price Revision—	Successive Targets.	52.216-17
	Required Sources of Supplies and Services: Change-of-name and	successor in interest procedures.	8.716
	Definition:	Summary record	45.501
		Superintendence by the Contractor.	52.236-6
	Determinations and Findings:	Supersession and modification.	1.705
	Security,	supervision, and covenants.	32.409-3
		Supervision, Labor, or Materials.	52.247-12
	Definition:	Supplemental agreement	2.101
	Definition:	Supplies	2.101 52.246-2 52.246-3 52.246-17 52.246-18 52.246-19
	Required Sources of	Supplies and Services	Part 8
	Warranty of	Supplies of a Complex Nature.	52.246-18
	Warranty of	Supplies of a Noncomplex Nature.	52.246-17
	Other Than Full and Open Competition: Only one responsible source and no other	supplies or services will satisfy agency requirements.	6.302-1
	Nonconforming	supplies or services.	46.407
	Liquidated Damages—	Supplies, Services, or Research and Development.	52.211-11
	Sealed Bidding: Economic purchase quantities—	supplies.	14.212
	Fixed-Price Contracts: Economic Price Adjustment—Semistandard	Supplies.	52.216-3
	Fixed-Price Contracts: Economic Price Adjustment—Standard	Supplies.	52.216-2
	Responsibility for	Supplies.	52.246-16
	Inspection of	Supplies—Cost-Reimbursement.	52.246-3
	Inspection of	Supplies—Fixed-Price.	52.246-2
	Default (Fixed-Price	Supply and Service).	52.249-8
	Transportation in	Supply Contracts	47.3
		Supply contracts.	11.701
	Acquisition and	supply records.	4.705-3
	Authorization to use Government	supply sources.	51.102
	Ordering from Government	supply sources.	51.103
	Use of other Government	supply sources.	8.003
	Government	Supply Sources.	52.251-1
		Sureties and Other Security for Bonds	28.2
	Definition:	Surety	2.101

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Contract	surety bonds and loan guarantees.	32.304-7
	Bonds and Other Financial Protection: Substitution of	surety bonds.	28.106-2
	Consent of	surety.	28.106-5
	Security interests by an individual	surety.	28.203-1
		Surety-takeover agreements.	49.404
	Definition:	Surplus property	45.601
	Production	Surveillance and Reporting	42.11
		Surveillance requirements.	42.1104
		Surveillance.	44.304
	Definition:	Surveying activity	9.101
	Responsible Prospective Contractors:	Surveys of nonprofit agencies serving people who are blind or have other severe disabilities under the Javits-Wagner-O'Day (JWOD) Program.	9.107
	Responsible Prospective Contractors: Conditions for preaward	surveys.	9.106-1
	Responsible Prospective Contractors: Interagency preaward	surveys.	9.106-3
	Responsible Prospective Contractors: Preaward	surveys.	9.106
	Responsible Prospective Contractors: Requests for preaward	surveys.	9.106-2
	Quantity	Surveys.	52.236-16
	Reports of	Suspected Antitrust Violations	3.3
	Definition:	Suspending official	9.403
	Definition:	Suspension	2.101
	Suspension of payments, termination of contract, and debarment and	suspension actions.	23.506
	Reduction or	suspension of contract payments upon finding of fraud.	32.006
	Withholding from or	suspension of contract payments.	22.406-9
		Suspension of Work, Stop-Work Orders, and Government Delay of Work	42.13
		Suspension of work.	42.1302 52.242-14
		Suspension or reduction of payments.	32.503-6
		Suspension or reduction of performance-based payments.	32.1008
	Debarment,	Suspension, and Ineligibility	9.4
	Certification regarding debarment,	suspension, proposed debarment, and other responsibility matters.	9.408 52.209-5
	Causes for	suspension.	9.407-2
	Period of	suspension.	9.407-4
	Scope of	suspension.	9.407-5
		Suspension.	9.407
	Preparation and transmittal of	synopses of awards.	5.302
		Synopses of Contract Awards	5.3
		Synopses of Proposed Contract Actions	5.2
	Synopses of Proposed Contract Actions: Preparation and transmittal of	synopses.	5.207

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Synopsis and posting requirements.	13.105
	Definition:	System of records on individuals	24.101 52.224-2
Availability of Specifications Listed in the DoD Index of Specifications and Standards (DoDISS) and Descriptions Listed in the Acquisition Management		Systems and Data Requirements Control List, DoD 5010.12-L.	52.211-2
	Warranty of	Systems and Equipment under Performance Specifications or Design Criteria.	52.246-19
	Definition:	Systems and other concept formulation studies	31.205-18
	Contractor Qualifications: Providing	systems engineering and technical direction.	9.505-1
		Table 15-2—Instructions for Submitting Cost or Pricing Data	15.408
		Tailoring of provisions and clauses for the acquisition of commercial items.	12.302
	Definition:	Tangible capital asset	31.001
	Definition:	Tanker	47.501
	Definition:	Target cost	52.216-10
	Definition:	Target fee	52.216-10
	Definition:	Task order	2.101
	Definition:	Task order contract	16.501-1
		Tax credit.	32.607
	Other Federal	tax exemptions.	29.203
	State and local	tax exemptions.	29.305
	Resolving	tax problems.	29.101
	Definition:	Tax, and Taxes	52.229-6
	New Mexico gross receipts and compensating	tax.	29.401-4
	North Carolina State and Local Sales and Use	Tax.	52.229-2
	State of New Mexico Gross Receipts and Compensating	Tax.	52.229-10
	Federal Excise	Taxes	29.2
		Taxes (SF's 1094, 1094-A).	53.229
	Federal, State, and Local	Taxes (State and Local Adjustments).	52.229-4
	Application of State and local	taxes to Government contractors and subcontractors.	29.303
	Application of State and local	taxes to the Government.	29.302
		Taxes.	Part 29 31.205-41
	Federal, State, and Local	Taxes.	29.401-3 52.229-3
	State and Local	Taxes.	29.3 52.229-1
		Taxes—Cost-Reimbursement Contracts with Foreign Governments.	52.229-9
		Taxes—Fixed-Price Contracts with Foreign Governments.	52.229-7
		Taxes—Foreign Cost-Reimbursement Contracts.	52.229-8
		Taxes—Foreign Fixed-Price Contracts.	52.229-6

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Taxpayer identification information.	4.203
	Definition:	Taxpayer Identification Number (TIN)	2.101 52.204-3(a)
	Administrative Matters:	Taxpayer Identification Number Information	4.9
		Taxpayer Identification.	52.204-3
	Transportation Documentation and Audit Regulation	TDA.	47.103
	Contractor Qualifications: Contractor	Team Arrangements	9.6
	Guiding Principles for the Federal Acquisition System: Acquisition	Team.	1.102-3
	Guiding Principles for the Federal Acquisition System: Role of the Acquisition	Team.	1.102-4
	Foreign License and	Technical Assistance Agreements	27.6
	Definition:	Technical data	27.401 52.227-14 52.227-20
		Technical Data Declaration, Revision, and Withholding of Payment—Major Systems.	52.227-21
	Rights to	technical data in successful proposals.	27.407
	Acquisition of Commercial Items:	Technical data.	12.211
	Contractor Qualifications: Providing systems engineering and	technical direction.	9.505-1
	Late Submissions, Modifications, Revisions, and Withdrawals of	Technical Proposals under Two-Step Sealed Bidding.	52.214-23
	Multiple	Technical Proposals.	52.214-24
	Research and Development Contracting: Scientific and	technical reports.	35.010
	Trade, business,	technical, and professional activity costs.	31.205-43
	Additional requirements for	telecommuting	7.108
	Sealed Bidding:	Telegraphic bids.	14.202-2 52.214-13
		Telegraphic notice.	49.601-1
	Government use of private sector	temporaries.	37.112
	Availability of	term contracts and basic ordering agreements for transportation or for transportation-related services.	47.205
	Loan guarantees for	terminated contracts.	32.305
	Additional Principles for Cost-Reimbursement Contracts	Terminated for Convenience	49.3
	Additional Principles for Fixed-Price Contracts	Terminated for Convenience	49.2
	Settlement of	terminated incentive contracts.	49.115
	Definition:	Terminated portion of the contract	2.101
		Termination (Cost-Reimbursement).	52.249-6
		Termination (Personal Services).	52.249-12
		Termination case file.	49.105-3
	Other	termination clauses.	49.505
	Definition: Contracting officer/	Termination contracting officer (TCO)	2.101
		Termination costs.	31.205-42

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Federal Supply Schedules:	Termination for cause.	8.406-4
	Definition:	Termination for convenience	2.101
		Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements).	52.249-3
		Termination for Convenience of the Government (Educational and Other Nonprofit Institutions).	52.249-5
		Termination for Convenience of the Government (Fixed-Price) (Short Form).	52.249-1
		Termination for Convenience of the Government (Fixed-Price).	52.249-2
	Definition:	Termination for default	2.101
	Effect of	termination for default.	49.402-2
	Procedure in lieu of	termination for default.	49.402-4
	Federal Supply Schedules:	Termination for the Government's convenience.	8.406-5
	Definition:	Termination inventory	2.101
	Definition:	Termination liability	41.101
		Termination Liability.	52.241-10
	Contracting Officer: Selection, appointment, and	termination of appointment.	1.603
	Suspension of payments,	termination of contract, and debarment and suspension actions.	23.506
		Termination of contracts.	Part 49 53.249
		Termination of cost-reimbursement contracts for default.	49.403
	Definition:	Termination of employment gain or loss	31.001
		Termination of Work (Consolidated Facilities or Facilities Acquisition).	52.249-11
	Inventories upon	termination or completion.	45.508-1
		Termination settlement proposal forms.	49.602-1
		Termination status reports.	49.105-1
	Duties of prime contractor after receipt of notice of	termination.	49.104
	Notice of	termination.	49.102
	Acquisition of Commercial Items:	Termination.	12.403
	Career Development, Contracting Authority, and Responsibilities:	Termination.	1.603-4
	Contracting Officer Appointment:	Termination.	1.603-4
	Contract	Termination—Debarment.	52.222-12
	Contract	terminations.	22.406-11
	Definitions of Words and	Terms	Part 2
	Unique Requirements Regarding	Terms and Conditions for Commercial Items	12.4
	Change in Rates or	Terms and Conditions of Service for Regulated Services.	52.241-7
	Change in Rates or	Terms and Conditions of Service for Unregulated Services.	52.241-8
	Contract	Terms and Conditions Required to Implement Statutes or Executive Orders— Commercial Items.	52.212-5
	Contract	Terms and Conditions—Commercial Items.	52.212-4

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Terms for Financing of Purchases of Commercial Items.	52.232-29
	Special	Test Equipment.	52.245-18
	Definition:	Testing	46.101
	Describing Agency Needs:	Testing	11.8
	First Article	Testing and Approval	9.3
		Testing and qualification.	34.103
	First Article Testing and Approval:	Testing performed by the contractor.	9.308-1
	First Article Testing and Approval:	Testing performed by the Government.	9.308-2
		Testing, Qualification, and Use of Industrial Resources Developed Under Title III, Defense Production Act	34.1
		Text of Provisions and Clauses	52.2
	Definition:	Third party draft	13.001
	Actions At or Below the Micro-Purchase	Threshold	13.2
	Definition:	Time	52.215-1
		Time Extensions.	52.211-13
	Evaluation of Options Exercised at	Time of Contract Award.	52.217-4
		Time of Delivery.	52.211-8 52.211-9
	Duration of contract and	time of performance.	47.207-2
		Time-and-material and labor-hour contracts.	46.306
	Inspection—	Time-and-Material and Labor-Hour.	52.246-6
	Government Property (Cost-Reimbursement,	Time-and-Material, or Labor-Hour Contracts).	52.245-5
	Payments under	Time-and-Materials and Labor-Hour Contracts.	52.232-7
		Time-and-materials contracts.	16.601
	Changes—	Time-and-Materials or Labor-Hours.	52.243-3
		Time-and-Materials, Labor-Hour, and Letter Contracts	16.6
	Service Contract Act of 1965, As Amended: Response to	timely submission of Notice—no collective bargaining agreement.	22.1012-2
	Service Contract Act of 1965, As Amended: Response to	timely submission of Notice—with collective bargaining agreement.	22.1012-3
	Definition:	Title III industrial resource	52.234-1
	Definition:	Title III project contractor	52.234-1
	Application of Government	title terms.	32.503-15
	Transfer of	Title to the Facilities.	52.245-15
	Protection of Government	title.	32.503-14
	Research and Development Contracting: Government property and	title.	35.014
		Title.	32.1009 51.106
	Administrative limitations, variations,	tolerances, and exemptions.	22.1003-4
	Variations,	tolerances, and exemptions.	22.304
	Special	Tooling.	52.245-17

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Notice of	Total Small Business Set-Aside.	52.219-6
		Total small business set-asides.	19.502-2
	Definition:	Toxic chemical	23.001 52.223-5
	Certification of	Toxic Chemical Release Reporting.	52.223-13
	Contractor Compliance With	Toxic Chemical Release Reporting.	23.9 52.223-14
		Trade Agreements	25.4 52.225-5
	Agreement on	Trade in Civil Aircraft.	25.407
		Trade Sanctions	25.6
		Trade, business, technical, and professional activity costs.	31.205-43
	Contracting by Negotiation:	Tradeoff process.	15.101-1
		Traffic and Transportation Management	42.14
	Definition:	Trainee	22.401
	Apprentices and	trainees.	22.406-4 52.222-9
		Training and education costs.	31.205-44
		Transfer of title and risk of loss.	46.505
		Transfer of Title to the Facilities.	52.245-15
		Transit arrangements.	47.305-13 52.247-56
	Stopping in	Transit for Partial Unloading.	52.247-19
	Transportation	Transit Privilege Credits.	52.247-57
	Inconsistency between English Version and	Translation of Contract.	52.225-14
	Synopses of Proposed Contract Actions: Preparation and Synopses of Contract Awards:	transmittal of synopses.	5.207 5.302
		Transportation	Part 47
		Transportation (U.S. Government Bill of Lading).	53.247
		Transportation assistance.	47.105
	Submission of Commercial	Transportation Bills to the General Services Administration for Audit.	52.247-67
	Payments under	Transportation Contracts and Transportation-Related Services Contracts.	52.232-4
		Transportation contracts.	46.314
		Transportation cost determinations.	47.306-1
	Lowest overall	transportation costs.	47.306-2
	No Evaluation of	Transportation Costs.	52.247-50
		Transportation Documentation and Audit Regulation (TDA).	47.103
		Transportation factors in the evaluation of offers.	47.306
	Solicitation provisions, contract clauses, and	transportation factors.	47.305
		Transportation in Supply Contracts	47.3

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Transportation insurance.	47.102
	Traffic and	Transportation Management	42.14
	Participation of	transportation officers.	47.301-2
	Contracts for	Transportation or for Transportation-Related Services	47.2
	Availability of term contracts and basic ordering agreements for	transportation or for transportation-related services.	47.205
	Contract clauses for insurance of	transportation or transportation-related services.	28.313
		Transportation term contracts.	47.203
		Transportation Transit Privilege Credits.	52.247-57
	Mode of	transportation.	47.305-14
	Inspection of	Transportation.	52.246-14
	Clearance and Documentation Requirements Shipments to DoD Air or Water Terminal	Transshipment Points.	52.247-52
		Travel costs.	31.205-46
	Federal Acquisition Regulations System: Deviations pertaining to	treaties and executive agreements.	1.405
		Treatment of violations.	3.204
	F.o.b. Origin—Carload and	Truckload Shipments.	52.247-59
	Federal Acquisition Regulations System: The	two councils.	1.201-1
	Definition:	Two-phase design-build selection procedures	36.102
		Two-Phase Design-Build Selection Procedures	36.3
	Use of	two-phase design-build selection procedures.	36.301
		Two-Step Sealed Bidding.	14.5 52.214-23 52.214-25
		Types of contract adjustment.	50.302
		Types of contract quality requirements.	46.202
		Types of contracts.	Part 16 53.216
	Definition:	U.S.-flag air carrier	47.401 52.247-63
	Availability and unavailability of	U.S.-Flag Air Carrier Service.	47.403-1
	Air Transportation by	U.S.—Flag Carriers	47.4
	Preference for Privately Owned	U.S.-Flag Commercial Vessels.	52.247-64
	Definition:	U.S.-flag vessel	47.501
	Ocean Transportation by	U.S.—Flag Vessels	47.5
	Definition:	U.S.-made end product	25.003 52.225-5
	Definition:	Unallowable cost	2.101
	Accounting for	unallowable costs.	31.201-6
	Penalties for	Unallowable Costs.	52.242-3
	Definition:	Unauthorized commitment	1.602-3(a)

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Contracting Authority: Ratification of	unauthorized commitments.	1.602-3
	Sealed Bidding:	Unclassified bids.	14.402-1
	Sealed Bidding: Award of	unclassified contracts.	14.409-1
	Definition:	Uncompensated overtime	52.237-10
	Definition:	Uncompensated overtime rate	52.237-10
	Contractor Responsibility for Returning	Undelivered Freight.	52.247-16
	Definition:	Unfair trade practices	9.403
	Contracting by Negotiation: Table 15-1—	Uniform Contract Format	15.204-1
	Sealed Bidding: Contracting by Negotiation:	Uniform contract format.	14.201-1 15.204-1
	Contracting by Negotiation: Order of Precedence—	Uniform Contract Format.	52.215-8
	Definition:	Unique and innovative concept	2.101
		Unique Requirements Regarding Terms and Conditions for Commercial Items	12.4
	Definition:	Unit	48.001 52.248-1
	Definition:	United States	2.101 22.801 22.1001 22.1301 22.1601 25.003 47.401 52.222-39 52.225-1 52.225-3 52.225-5 52.225-9 52.225-11 52.247-63
	Air transport agreements between the	United States and foreign governments.	47.403-2
	Historically Black Colleges and	Universities and Minority Institutions.	26.3
	Destination	Unknown.	52.247-49
	Definition:	Unlimited rights	27.401 52.227-14 52.227-17 52.227-20
	Progress Payments Based on Costs: Maximum	unliquidated amount.	32.503-12
	Contractor Responsibility for Loading and	Unloading.	52.247-15
	Stopping in Transit for Partial	Unloading.	52.247-19
	Change in Rates or Terms and Conditions of Service for	Unregulated Services.	52.241-8
	Definition:	Unsettled contract change	49.001
	Definition:	Unsolicited proposal	2.101

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Unsolicited proposal	15.601
	Criteria for acceptance and negotiation of an	unsolicited proposal.	15.607
		Unsolicited Proposals	15.6
	Content of	unsolicited proposals.	15.605
		Unsolicited proposed revisions.	1.502
	Contracting by Negotiation: Notifications to	unsuccessful offerors.	15.503
	Other Than Full and Open Competition:	Unusual and compelling urgency.	6.302-2
	Definition:	Unusual contract financing	32.001
	Rental—	Use and Charges clause.	45.403
		Use and Charges.	52.245-9
	Construction Contracting:	Use and Possession Prior to Completion.	52.236-11
	Publicizing Contract Actions:	Use of advertising agencies.	5.504
	Selecting and Developing Requirements Documents:	Use of brand name or equal purchase descriptions.	11.104
	Contracting by Negotiation: Limited	use of data.	15.609
	Federal Supply Schedules:	Use of Federal Supply Schedules.	8.404
		Use of foreign currency.	25.1002
	Requirements for	use of forms.	53.101
		Use of Government Facilities.	52.245-14
		Use of Government property.	45.509-2
		Use of Government Sources by Contractors	Part 51
	Contractor	use of Government supply sources (OF 347).	53.251
	Testing, Qualification, and	Use of Industrial Resources Developed Under Title III, Defense Production Act	34.1
	Required Sources of Supplies and Services:	Use of other Government supply sources.	8.003
		Use of Recovered Materials	23.4
		Use of two-phase design-build selection procedures.	36.301
	Availability and	Use of Utility Services.	52.236-14
		Using and Maintaining Requirements Documents	11.2
	Protection of Existing Vegetation, Structures, Equipment,	Utilities, and Improvements.	52.236-9
	Order of Precedence—	Utilities.	52.241-2
	Definition:	Utility distribution system	45.501
	Definition:	Utility service	41.101
	Formats for annual	utility service review.	41.702
	Acquiring	Utility Services	41.2
		Utility services contract form.	41.601
		Utility Services Provisions and Clauses.	52.241
	Availability and use of	utility services.	36.514 52.236-14
		Utilization of Indian Organizations and Indian-Owned Economic Enterprises.	52.226-1
		Utilization of Small Business Concerns.	52.219-8

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Definition:	Value engineering	2.101
	Definition:	Value engineering	52.248-2
	Definition:	Value engineering change proposal (VECP)	2.101 52.248-1 52.248-3
	Definition:	Value engineering proposal	48.001 52.248-2
		Value Engineering.	Part 48 52.248-1
		Value Engineering—Architect-Engineer.	52.248-2
		Value Engineering—Construction.	52.248-3
	Definition:	Variance	31.001
		Variation in Estimated Quantity.	52.211-18
	Describing Agency Needs:	Variation in Quantity	11.7
	Administrative limitations,	variations, tolerances, and exemptions.	22.1003-4
		Variations, tolerances, and exemptions.	22.304
	Protection of Existing	Vegetation, Structures, Equipment, Utilities, and Improvements.	52.236-9
	Protection of Government Buildings, Equipment, and	Vegetation.	52.237-2
		Vehicle Lease Payments.	52.208-4
	Interagency Fleet Management System (IFMS)	Vehicles and Related Services.	52.251-2
	Contract clause for insurance of leased motor	vehicles.	28.312
		Vehicular and General Public Liability Insurance.	52.228-10
	Definition:	Very small business concern	19.001 52.219-5
		Very Small Business Set-Aside.	52.219-5
	F.a.s.	Vessel, Port of Shipment.	52.247-36
	F.o.b.	Vessel, Port of Shipment.	52.247-37
	Preference for Privately Owned U.S.-Flag Commercial	Vessels.	52.247-64
	Definition:	Veteran of the Vietnam era	52.222-35
	Definition:	Veteran-owned small business concern	2.101
	Special Disabled	Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	22.13
	Employment Reports on Special Disabled	Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans.	52.222-37
	Equal Opportunity for Special Disabled	Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans.	52.222-35
	Compliance with	Veterans' Employment Reporting Requirements.	52.222-38
	Special Disabled Veterans, Veterans of the	Vietnam Era, and Other Eligible Veterans	22.13
	Reports of Suspected Antitrust	Violations	3.3
	Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor:	Violations and remedies.	22.1504
	Misrepresentations or	violations of the Covenant Against Contingent Fees.	3.405
	Reporting suspected	violations of the Gratuities clause.	3.203

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Violations or possible violations.	3.104-7
	Processing suspected	violations.	3.806
	Reporting suspected antitrust	violations.	3.303
	Treatment of	violations.	3.204
	Definition:	Virgin material	2.101 52.211-5
	Notification of	Visa Denial.	52.222-29
		Voiding and Rescinding Contracts	3.7
		Volume movements within the contiguous United States.	42.1402
		Voluntary changes.	30.602-3
	Discontinuance of	vouchers.	49.302
	Submission of	vouchers.	49.304-3
	Definition:	Wage and Hour Division	22.1001
	Regional jurisdictions of the Department of Labor,	Wage and Hour Division.	22.609
	Definition:	Wage determination	22.1001
		Wage determination appeals.	22.404-11
	Notification of improper	wage determination before award.	22.404-8
	Award of contract without required	wage determination.	22.404-9
	Late receipt or nonreceipt of	wage determination.	22.1012
	Review of	wage determination.	22.1013
	Posting	wage determinations and notice.	22.404-10
		Wage determinations based on collective bargaining agreements.	22.1002-3
		Wage determinations based on prevailing rates.	22.1002-2
	Correction of	wage determinations containing clerical errors.	22.404-7
	Davis-Bacon Act	wage determinations.	22.404
	Expiration of project	wage determinations.	22.404-5
	Modifications of	wage determinations.	22.404-6
	Procedures for requesting	wage determinations.	22.404-3
	Solicitations issued without	wage determinations.	22.404-4
	Types of	wage determinations.	22.404-1
	Definition:	Wages	22.401
		Wages, fringe benefits, and overtime.	22.406-2
		Waiver of Buy American Act for Civil Aircraft and Related Articles.	52.225-7
	Service Contracts:	Waiver of cost allowability limitations.	37.113-1
		Waiver of Facilities Capital Cost of Money.	52.215-17
		Waiver of Indemnity.	52.227-5
		Waiver of Limitation on Severance Payments to Foreign Nationals.	52.237-9
	Additional Foreign Acquisition Regulations:	Waiver of right to examination of records.	25.1001
		Waiver of the penalty.	42.709-5

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		Waiver.	9.503 30.201-5
	Employment of Workers with Disabilities:	Waivers.	22.1403
	Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans:	Waivers.	22.1305
		Walsh-Healey Public Contracts Act.	22.6 52.222-20
	Ex Dock, Pier, or	Warehouse, Port of Importation.	52.247-40
	Workers' Compensation and	War-Hazard Insurance Overseas.	52.228-4
		Warranties of commercial items.	46.709
		Warranties of data.	46.708
	Authority for use of	warranties.	46.704
	Criteria for use of	warranties.	46.703
	Pricing aspects of fixed-price incentive contract	warranties.	46.707
		Warranties.	12.404 46.7
	Definition:	Warranty	2.101
	Service and	warranty costs.	31.205-39
		Warranty of Construction.	52.246-21
		Warranty of Services.	52.246-20
		Warranty of Supplies of a Complex Nature.	52.246-18
		Warranty of Supplies of a Noncomplex Nature.	52.246-17
		Warranty of Systems and Equipment under Performance Specifications or Design Criteria.	52.246-19
		Warranty terms and conditions.	46.706
	Definition:	Waste reduction	2.101 52.223-10
		Waste Reduction Program.	52.223-10
	Definition:	Weakness	15.001
	Definition:	Weighted average cost	31.001
	Agreed	Weight—General Freight.	52.247-9
	Net	Weight—General Freight.	52.247-10
	Net	Weight—Household Goods or Office Furniture.	52.247-11
	Estimated Quantities or	Weights for Evaluation of Offers.	52.247-20
	Estimated	Weights or Quantities Not Guaranteed.	52.247-8
	Determination of	weights.	47.207-4
		Whistleblower Protections for Contractor Employees	3.9
	Modification or	withdrawal of bids.	14.303
	Sealed Bidding: Submission, modification, and	withdrawal of bids.	14.304
	Submission, modification, revision, and	withdrawal of proposals.	15.208

INDEX			
FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
	Late Submissions, Modifications, and	Withdrawals of Bids.	52.214-7
	Late Submissions, Modifications, Revisions, and	Withdrawals of Technical Proposals under Two-Step Sealed Bidding.	52.214-23
	Granting, withholding, or	withdrawing approval.	44.305
		Withdrawing or modifying small business set-asides.	19.506
		Withholding and setoff.	32.612
	Bonds and Other Financial Protections:	Withholding contract payments.	28.106-7
		Withholding from or suspension of contract payments.	22.406-9
		Withholding of contract payments.	22.1022
		Withholding of Funds.	52.222-7
	Technical Data Declaration, Revision, and	Withholding of Payment—Major Systems.	52.227-21
	Limitation on	Withholding of Payments.	52.232-9
		Withholding or withdrawing approval.	44.305-3
	Granting,	withholding, or withdrawing approval.	44.305
		Women-Owned Business (Other Than Small Business).	52.204-5
	Definition:	Women-owned business concern	52.204-5
	Definition:	Women-owned small business concern	2.101
	Definition:	Women-owned small business concern	52.212-3 52.219-1
	Definitions of	Words and Terms	Part 2
	Definition:	Work	52.246-12
	Insurance—	Work on a Government Installation.	52.228-5
		Work Oversight in Architect-Engineer Contracts.	52.236-24
		Work Oversight in Cost-Reimbursement Construction Contracts.	52.236-18
	Research and Development Contracting: Performance-Based Contracting:	Work statement.	35.005 37.602-1
	Preparing specifications or	work statements.	9.505-2
	Removal of items from contractors' facilities affected by	work stoppages.	22.101-4
	Government Delay of	Work.	52.242-17
	Organization and Direction of the	Work.	52.236-19
	Suspension of	Work.	52.242-14
		Workers' Compensation and War-Hazard Insurance Overseas.	52.228-4
		Workers' Compensation Insurance (Defense Base Act).	52.228-3
	Employment of	Workers with Disabilities	22.14
	Affirmative Action for	Workers with Disabilities.	52.222-36
	Definition:	Work-in-process	45.501
	Material and	workmanship.	36.505 52.236-5
	Definition:	World Trade Organization Government Procurement Agreement (WTO GPA) country	25.003

INDEX

FAR Subjects:	Context Preceding the Keyword	Keyword, and Context Following the Keyword	FAR Reference
		World Trade Organization Government Procurement Agreement and Free Trade Agreements.	25.403
	Definition:	Writing or written	2.101
	Contents of	written acquisition plans.	7.105
	Definition:	WTO GPA country end product	25.003 52.225-5
		WTO GPA/Caribbean Basin Trade Initiative/FTAs..	25.504-2
	Acquisition of Information Technology:	Year 2000 compliance.	39.106
	Definition:	Year 2000 compliant	39.002

FAR Correction(s)

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