

TABLE OF CONTENTS

SECTION A	SOLICITATION/CONTRACT FORM SF-33	5
SECTION B	SERVICES AND PRICES.....	7
B.1.	SERVICES	7
B.2.	PRICES	9
B.2.1	GENERAL	9
B.2.2	PRICING WORKSHEET	11
SECTION C	STATEMENT OF WORK AND QUALITY REQUIREMENTS	12
C.1.	INTRODUCTION	12
C.2.	SCOPE.....	12
C.3.	DEFINITIONS	13
C.4.	DETAILED TASK DESCRIPTIONS	19
C.4.1	GENERAL	19
C.4.1.1	CONTRACTOR’S RESPONSE REQUIREMENT TO AN AWARDED TASK ORDER	19
C.4.1.2	CONTRACTOR OFFICE LOCATION AND RESPONSE TIMES	19
C.4.1.3	CONTRACTOR PERSONNEL	20
C.4.1.4	APPROVALS	20
C.4.1.5	CHANGES TO A TASK ORDER AFTER AWARD	20
C.4.1.6	COMMISSION AND COMMISSION CREDITS	20
C.4.1.7	QUALITY STANDARDS.....	21
C.4.1.8	COMMUNICATIONS, SUBMISSIONS	21
C.4.1.9	DISPOSITION OF LEASE FILE RECORDS.....	21
C.4.1.10	COORDINATION WITH GSA LEGAL COUNSEL	21
C.4.2	TASK 1 – LEASE ACQUISITION SERVICES	22
C.4.2.1	GENERAL	22
C.4.2.2	REQUIREMENTS DEVELOPMENT/SPACE REQUEST PACKAGE.....	23
C.4.2.3	ORIENTATION & PROJECT SCHEDULE	25
C.4.2.4	MARKET SURVEY AND REPORT	27
C.4.2.5	DEVELOP AND ISSUE SOLICITATION FOR OFFERS (SFO) AND AMENDMENTS.....	30
C.4.2.6	REVIEW AND EVALUATE INITIAL OFFERS	32
C.4.2.7	NEGOTIATE INITIAL OFFERS (NOT APPLICABLE WHEN AWARD IS MADE BASED ON INITIAL OFFERS)	35
C.4.2.8	EVALUATE FINAL PROPOSAL REVISIONS (FPR’S).....	36
C.4.2.9	PREPARE LEASE DOCUMENTS	37
C.4.2.10	POST AWARD SERVICES	38
C.4.3	TASK 2 – LEASE EXPANSION	43
C.4.4	TASK 3 – LEASE EXTENTION	44
C.5.	DISPUTES, PROTESTS, CLAIMS AND APPEALS, CONGRESSIONAL INQUIRIES AND FREEDOM OF INFORMATION ACT (FOIA INQUIRIES)	45
C.5.1	DISPUTES/PROTESTS	46
C.5.2	CLAIMS/APPEALS.....	46
C.5.3	FOIA/CONGRESSIONAL/OTHER INQUIRIES	46
C.6.	REPORTS	46
C.6.1	NEW TASK ORDERS/MODIFICATIONS RECEIVED	47
C.6.2	LEASES AWARDED	47
C.6.3	COMMISSIONS COLLECTED AND COMMISSION CREDITS	47
C.6.4	TASK ORDERS COMPLETED.....	48
C.6.5	OTHER SERVICES PROVIDED	48
C.7.	MARKET DATA.....	48
C.8.	QUALITY CONTROL REQUIREMENTS.....	49
C.9	MINIMUM STANDARDS FOR TASK ORDER ACCEPTANCE	49

C.9.1	LEASE ACQUISITION AND POST AWARD SERVICES	49
C.9.1.1	TECHNICAL QUALITY	49
C.9.1.2	DOCUMENTATION QUALITY	49
C.9.1.3	TIMELINESS.....	49
C.9.1.4	RESPONSIVENESS	50
C.9.2	SUPPLEMENTAL TASK ORDER AND CONTRACTOR EVALUATION CRITERIA.....	50
C.9.2.1	RESPONSIVENESS	51
C.9.2.2	QUALITY OF PERSONNEL ASSIGNED TO TASK ORDERS AND WRITTEN SUBMISSIONS SUBMITTED TO THE GOVERNMENT	51
C.9.2.3	SUBMISSIONS TO THE CONTRACTING OFFICER AND ORDERING OFFICIALS	51
C.9.2.4	COMPLIANCE WITH SUBCONTRACTING PLANS	51
C.10	NATIONAL INSTITUTE OF HEALTH CONTRACTOR PAST PERFORMANCE SYSTEM (NIHCPS)	52
SECTION D PACKING AND MARKING		53
D.1.	PAYMENT OF POSTAGE AND FEES.....	53
D.2.	MARKING	53
D.3.	SOFTWARE REQUIREMENTS.....	53
D.4.	ENCRYPTION REQUIREMENTS FOR EMAILING OF BUILDING DRAWING FILES	53
SECTION E INSPECTION AND ACCEPTANCE		54
E.1.	GENERAL	54
E.2.	52.246-4 INSPECTION OF SERVICES—FIXED PRICE (AUG 1996) DEVIATION.....	54
SECTION F DELIVERY AND PERFORMANCE		55
F.1.	PLACE OF PERFORMANCE	55
F.2.	TERM OF CONTRACT	55
F.3.	ORDERING PROCEDURES	55
F.4.	PERFORMANCE CRITERIA	57
SECTION G CONTRACT ADMINISTRATION DATA		58
G.1.	ROLES AND RESPONSIBILITIES OF GOVERNMENT PERSONNEL.....	58
G.1.1	PROCURING CONTRACTING OFFICER (PCO)	58
G.1.2	NATIONAL PROGRAM MANAGER (NPM)	58
G.1.3	REGIONAL PROGRAM MANAGER (RPM).....	59
G.1.4	REGIONAL CONTRACTING OFFICERS (RCO).....	59
G.1.5	CONTRACTING OFFICER TECHNICAL REPRESENTATIVES (COTR).....	59
G.1.6	TENANT AGENCY.....	60
G.2.	FINANCE DATA – COMMISSIONS AND COMMISSION CREDITS	60
G.2.1	COMMISSIONS	60
G.2.2	APPLICATION OF COMMISSION CREDITS TO THE LEASE	60
G.2.3	TERMINATION OF LEASE ACQUISITION TASK ORDER PRIOR TO COMPLETION	61
G.2.4	SUBMISSION OF SUBCONTRACTING REPORTS.....	61
SECTION H SPECIAL CONTRACT REQUIREMENTS.....		62
H.1.	QUALIFICATION REQUIREMENTS FOR CONTRACTOR’S FIRM.....	62
H.2.	LOCATION OF THE CONTRACTOR OFFICES.....	62
H.3.	PERSONNEL	62
H.3.1	AVAILABILITY	62
H.3.2	IDENTIFICATION	62
H.3.3	SECURITY.....	62
H.3.4	ADDITIONAL TENANT AGENCY SECURITY REQUIREMENTS	63
H.3.5	STANDARDS OF CONDUCT.....	63
H.3.6	REMOVAL FROM CONTRACT WORK.....	63
H.3.7	PERSONNEL QUALIFICATIONS	64
H.3.7.1	GENERAL	64

H.3.7.2	PROJECT MANAGER(S).....	65
H.3.7.3	LEASING PERSONNEL.....	65
H.3.7.4	CONSTRUCTION INSPECTION PERSONNEL.....	66
H.4.	RESTRICTIONS ON OTHER WORK.....	66
H.5.	ORGANIZATIONAL CONFLICTS OF INTEREST.....	66
H.6.	POST AWARD ORIENTATION AND TRAINING.....	69
SECTION I CONTRACT CLAUSES.....		71
I.1.	52.202-1 DEFINITIONS (DEC 2001).....	71
I.2.	52.203-3 GRATUITIES (APR 1984).....	72
I.3.	52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984).....	72
I.4.	52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)DEVIATION**.....	72
I.5.	52.203-7 ANTI-KICKBACK PROCEDURES (JUL 1995)DEVIATION**.....	73
I.6.	52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997).....	73
I.7.	52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997).....	74
I.8.	52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997)DEVIATION**.....	74
I.9.	52.203-71 RESTRICTION ON ADVERTISING (SEP 1999).....	77
I.10.	52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000).....	77
I.11.	52.204-7 CENTRAL CONTRACTOR REGISTRATION (OCT 2003).....	78
I.12.	52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUL 1995)DEVIATION**.....	79
I.13.	52.215-2 AUDIT AND RECORDS--NEGOTIATION (JUNE 1999).....	79
I.14.	52.215-8 ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT (OCT 1997).....	80
I.15.	52.215-70 EXAMINATION OF RECORDS BY GSA (FEB 1996)DEVIATION**.....	80
I.16.	52.216-18 ORDERING (OCT 1995).....	80
I.17.	52.216-19 ORDER LIMITATIONS (OCT 1995)DEVIATION.....	81
I.18.	52.216-22 INDEFINITE QUANTITY (OCT 1995).....	81
I.19.	52.217-8 OPTION TO EXTEND SERVICES (NOV 1999).....	81
I.20.	52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000).....	81
I.21.	52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (JAN 1999)DEVIATION.....	81
I.22.	52.219-6 - NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE.....	82
I.23.	52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2000).....	83
I.24.	52.219-9 II SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2002)--ALTERNATE II (OCT 2001)DEVIATION**& PARA(D)(2).....	83
I.25.	52.219-14(DEVIATION)**.....	86
I.26.	52.219-16 LIQUIDATED DAMAGES--SUBCONTRACTING PLAN (JAN 1999).....	87
I.27.	52.219-23 I NOTICE OF PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS (MAR 2001)--ALTERNATE I (OCT 1998)DEVIATION.....	87
I.28.	52.219-25 SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM--DISADVANTAGED STATUS AND REPORTING (OCT 1999).....	88
I.29.	52.222-3 CONVICT LABOR (AUG 1996).....	89
I.30.	52.222-26 EQUAL OPPORTUNITY (APR 2002) DEVIATION**.....	89
I.31.	52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS. [DEC 2001] DEVIATION**.....	90
I.32.	52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998) DEVIATION**.....	92
I.33.	52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001) DEVIATION**.....	93
I.34.	52.223-6 DRUG-FREE WORKPLACE (MAY 2001)DEVIATION**.....	93

I.35.	52.223-14 TOXIC CHEMICAL RELEASE REPORTING (OCT 2000) DEVIATION**	94
I.36.	52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES. (JULY 2000)	95
I.37.	52.226-1 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (JUNE 2000)	95
I.38.	52.229-3 FEDERAL, STATE, AND LOCAL TAXES (JAN 1991)	96
I.39.	52.229-5 TAXES--CONTRACTS PERFORMED IN U.S. POSSESSIONS OR PUERTO RICO (APR 1984)	96
I.40.	52.232-17 INTEREST (JUNE 1996)	97
I.41.	52.233-1 I DISPUTES (JUL 2002)--ALTERNATE I (DEC 1991)	97
I.42.	52.233-3 PROTEST AFTER AWARD (AUG 1996)	98
I.43.	52.237-3 CONTINUITY OF SERVICES (JAN 1991)	98
I.44.	52.242-13 BANKRUPTCY (JUL 1995)	99
I.45.	52.243-1 II CHANGES--FIXED-PRICE (AUG 1987)--ALTERNATE II (APR 1984) DEVIATION	99
I.46.	52.243-7 NOTIFICATION OF CHANGES (APR 1984)DEVIATION	99
I.47.	52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (MAY 2002)DEVIATION**	100
I.48.	52.246-1 CONTRACTOR INSPECTION REQUIREMENTS (APR 1984)	101
I.49.	52.246-25 LIMITATION OF LIABILITY--SERVICES (FEB 1997)	101
I.50.	52.249-4 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (SERVICES) (SHORT FORM) (APR 1984)DEVIATION	101
I.51.	52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984)	101
I.52.	52.252-6 AUTHORIZED DEVIATIONS OR VARIATIONS IN CLAUSES (DEVIATION FAR 52.252-6) (SEP 1999)	102
I.53.	52.253-1 COMPUTER GENERATED FORMS (JAN 1991)	102
SECTION J LIST OF EXHIBITS		103

SECTION K, L, M (IN SOLICITATION ONLY)

VOLUME II

EXHIBITS	DESCRIPTION	Page
1	Regional Office Locations	104
2	Federal Lease Laws, Statutes, Executive Orders, and Regulations	106
3	Lease File Checklist	114
4A, B, C	Conflict of Interest, Nondisclosure, and Dual Agency Statements	123
5	Best Value Trade Off Source Selection	127
6	Sample Project Schedule	128
7	Comprehensive Market Survey Checklist	129
8	Model Small Business Subcontracting Plan	**
9	Small Business Source Information	**

VOLUME III

EXHIBIT 10 Estimated Workload FY-06-10	**
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*****These exhibits in solicitation only***

Section A
SOLICITATION/CONTRACT FORM SF-33

SOLICITATION, OFFER AND AWARD		This Contract is a Rated Order Under DPAS (15 CFR 350)		Rating NA	Page 1	of pages 257
2. Contract No.	3. Solicitation No. GS-04P-02-BVD-0035		4. Solicitation Type <input type="checkbox"/> Sealed Bid (IFB) <input checked="" type="checkbox"/> Negotiated (RFP)	5. Date Issued March 5, 2004	6. Requisition/Purchase No. PE-02-0001	
7. Issued By GSA -Realty Services Division 4PED Martin Luther King Fed Bldg 77Forsyth St. Rm 500 Atlanta, GA 30303			Code BV000	8. Address Offer To (If other than item 7)		Code 4PED

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

SOLICITATION

9. Sealed offers (see section L) 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 (same address as item 7) until 04:30 PM EST April 19, 2004.

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.NANCY K. SELLERS CONTRACTING OFFICER	B. Telephone No. (404 562-0795) (NO COLLECT CALLS)
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11. TABLE OF CONTENTS (See pages 2 – 6)

(x)	Sec	Description	Page(s)	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 Attachments		
	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				
	G	Contract Administration Data		L	Instr., Conds., and Notices to Offerors	
	H	Special Contract Requirements		M	Evaluation Factors for Award	

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 (120 calendar days unless a different period is inserted by the offeror) from the data 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)	10 Calendar Days %	20 Calendar Days %	30 Calendar Days %	_____ Calendar Days %
14. Acknowledgment of Amendments <i>The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated.</i>	Amendment No.	Date	Amendment No.	Date

15A. Name and Address of Offeror	Code	Facility	16. Name and Title of Person Authorized to Sign Offer (Type or print)
15B. Telephone No. (Include area code)	15C. Check if Remittance Address is difference from above. Enter such address in Schedule.		17. Signature
			18. Offer Date

AWARD (To be completed by Government)

19. Accepted as to Items Numbered	20. Amount	21. Accounting and Appropriation	
22. Authority for Using Other Than Full and Open Competition: <input type="checkbox"/> 10 U.S.C. 2304 (c)() <input type="checkbox"/> 41 U.S.C. 253 (c)()		23. Submit Invoices to Address Shown in Section G	Item
24. Administered By (If other than Item 7) Code		Payment Will be Made By Code	
26. Name of Contracting Officer (Type or print) Nancy K. Sellers		27. United States of America (Signature of Contracting Officer)	28. Award Date

IMPORTANT – Award will be made on this form, or on Standard Form 26, or by other authorized official written notice.

Section B SERVICES AND PRICES

B.1. SERVICES

This is a Request for Proposals (RFP) for national real estate broker service contracts. The contracts are to support GSA's National Office of Realty Services and eleven Regional Offices, as listed in **Exhibit I**, in the acquisition of leasehold interests and related real estate services for GSA's Federal tenants. GSA intends to make award of approximately four no cost, indefinite delivery, indefinite quantity (IDIQ) contracts, with a base year and four one-year option periods. Each contract will have a geographic coverage area of all eleven GSA Regions. One contract award will be set-aside for a qualified small business entity as outlined in Sections L and M of this RFP.

Award of these contracts will not preclude the Government from awarding additional contracts for similar services in the future in the event GSA determines additional contracts are necessary.

Definitions of key terms in this RFP are in [Section C.3](#).

Prior to performance of any contract services, a task order will be awarded in accordance with the ordering procedures stated in [Section F](#). Contractors shall accept only written task orders issued on a GSA Form 300 by an authorized Ordering Official. **Verbal orders are not authorized**. The roles and authorities of Government personnel are stated in [Section G](#).

Contractors must comply with personnel qualification requirements including certification, experience, conflict of interest, nondisclosure, and clearances, stated in Section H.

Technical proposals shall be submitted in accordance with instructions in Section L and will be evaluated in accordance with the methodology stated in Section M. Offerors, other than small business concerns, are required to submit a subcontracting plan in support of GSA's Small Business Subcontracting goals and programs.

Performance of contract services requires expertise in both commercial real estate practices and Federal procurement regulations related to Federal lease acquisition. Federal lease acquisitions are required to be performed in compliance with Federal lease acquisition regulations, Federal lease law, applicable Executive Orders, and other procurement regulations listed in **Exhibit 2** or referenced in this RFP. **Information related to a Federal acquisition is protected by the Federal Procurement Integrity Act and disclosure to other than authorized parties is prohibited as outlined in [Section H](#).**

All decisions regarding a lease acquisition made on behalf of the Government are reserved for the Lease Contracting Officer (LCO) who serves a dual role as the LCO for the lease and the Contracting Officer's Technical Representative (COTR) for a task order awarded under the contract for the lease acquisition. The Contractor is prohibited from performing any inherently governmental functions listed in FAR Part 7.5.

The Contractor is responsible for providing all deliverables in a timely and professional manner. Multiple task orders may run concurrently, so the Contractor must have the capacity to supply sufficient staff and resources to successfully complete services and meet required delivery dates.

This is a "nonpersonal services contract" as defined in FAR 37.101. It is therefore understood and agreed that the Contractor and/or Contractor employees: (1) shall perform the services specified herein as independent Contractors, not as employees of the Government; (2) shall be responsible for their own management and administration of the work required and bear sole responsibility for complying with any and all technical, schedule, or financial requirements or constraints attendant to the performance of the contract; (3) shall be free from supervision or control by any Government employee but (4) shall, pursuant to the Government's right and obligation to inspect, accept or reject the work, comply with such general direction of the Contracting Officer or the duly authorized representative of the Contracting Officer as necessary to ensure accomplishment of contract objectives.

Websites referenced in the RFP are to provide Contractors access to forms; sample documents; and statutes, executive orders, and regulations that govern Federal lease acquisition. As necessary, during the term of the contract, the Contracting Officer or a designated representative may provide updated web addresses. Forms and other samples are for information only and do not relieve the Contractor from responsibility for ensuring all work performed is in accordance with the required statutes, executive orders, regulations or other requirements of the contract.

During the term of the contract, PBS may adopt new technologies or procedures to improve the lease acquisition process. Currently PBS is in the process of developing an Electronic Lease Management System or E-leasing process. If it is determined to be in the best interest of the Government to implement a new system or process, by accepting award, the Contractor agrees to follow the new procedures or processes. Contractors shall be required to follow new technologies, procedures, regulations or policies that are implemented by the Government during the term of the contract at no cost to the Government. The Government will provide access to governmental software if required for the Contractor to implement new procedures. The Government may provide guidance or training on new procedures during the term of the contract.

The Government may also implement nontraditional and innovative procurement methods and techniques. Currently electronic reverse auction techniques are being developed. If it is determined to be in the best interest of the Government to employ new methods or techniques for lease procurements, a Contractor accepting award of a national broker contract agrees to conduct lease acquisitions utilizing the new methods at no additional cost to the Government. In the event new procedures are implemented, guidance will be provided to the Contractors by the Government.

A unilateral modification to the contract will be issued if needed to provide a scope of work for any changed procedures. There will be no change in the compensation arrangement under the contract for the implementation of such changes.

B.2. PRICES

B.2.1 GENERAL

There are substantial changes to the terms and conditions of the contract from previous contracts awarded by GSA for similar services. Offerors, especially, previous GSA real estate service contractors are cautioned to note the changes in this solicitation and not rely on knowledge of previous contracts when preparing proposals.

The Government will not make any direct payment or reimbursement to a contractor for contract services including, but not limited to any expense associated with the performance of the services, such as travel. Under the terms and conditions of the contract and in accordance with industry practice, a contractor has the opportunity to obtain a substantial monetary benefit by collecting the real estate commission paid by a building owner. The commission negotiated for lease acquisitions performed by a contractor under the contract will be based on a lease term not to exceed the firm term of the lease contract. Commissions will not be negotiated or collected on option periods or for lease terms beyond the firm term of the lease. Leases generally have a firm term of five years; however, they may be longer or shorter.

Task 1 through 3 in the statement of work, Section C of this RFP, are tasks where a contractor has an opportunity to collect a commission. To be considered for award an Offeror's price proposal must state a percentage of their commission that they will forego in the form of a rental credit to the lease. If the Government orders an expedited lease acquisition as described in Section F and G, the Contractor is not required to share a percentage of the commission. Price proposals shall be submitted on the Pricing Worksheet attached in this Section. Complete instructions for submitting the price proposal are in Section L and the complete price evaluation method is stated in Section M.

Exhibit 10 is a list of the projected nationwide expiring lease workload for a five-year period (FY 2006 through FY 2010). GSA intends to procure follow-on leases utilizing contract services for at least 50 percent of this workload for each year of the contract. In addition GSA may order lease acquisition services for new requirements or to replace an existing lease prior to its normal expiration. It has been GSA's experience for the past 10 years that the inventory increases by approximately two percent per year for new requirements. For price evaluation purposes, the value of the lease acquisitions to be ordered from the contracts was estimated based on existing square footage, existing annual rates, and for five year firm terms. An estimated commission percentage of 3.5 % was used to compute the potential commissions (revenues) available to a contractor for the purpose of price evaluation. The estimated value of the lease inventory and the estimated commissions are considered by the Government to be conservative estimates. Offerors should assume that the Government intends to have each awardee performing projects on a nationwide basis in both rural and urban areas and will distribute the workload in this manner as long as performance is acceptable. Due to the changing nature of client agency requirements this is the Government's best estimate of possible future workload. For planning purposes, after award, GSA will provide awardees a listing of projected expiring leases for which tasks orders may be awarded during the first year of the contract. Projected workload data is for informational purposes only and does not constitute a guarantee. The Government reserves the right to delete or add to the listing.

As described in the RFP awardees are required to attend post award orientation sessions and quarterly contract meetings; provide support to the COTR or Legal Counsel for protests, claims, Freedom of Information Act (FOIA), Congressional, or other matters related to task orders performed by the Contractor, to prepare monthly reports and to provide market analysis data. These services will not be reimbursed by the Government.

B.2.2 PRICING WORKSHEET

Estimated annual commissions are per contract and assume award of four contracts.

LINE ITEMS	(A) ESTIMATED ANNUAL COMMISSIONS (\$)	(B) PROPOSED COMMISSION CREDIT (%)	(C) (A) x (B) PRICE
I. BASE YEAR (Year 1)			
Tasks (1, 2, & 3)	\$8,047,000	_____	\$ _____
II. OPTION YEAR 1 (Year 2)			
Tasks (1, 2, & 3)	\$7,142,000	_____	\$ _____
III. OPTION YEAR 2 (Year 3)			
Tasks (1, 2, & 3)	\$8,006,000	_____	\$ _____
IV. OPTION YEAR 3 (Year 4)			
Tasks (1, 2, & 3)	\$4,692,000	_____	\$ _____
IV. OPTION YEAR 4 (Year 5)			
Tasks (1, 2, & 3)	\$5,216,000	_____	\$ _____
Grand total (\$) Task 1, 2, & 3 (Base year & 4 Option Years)			
			\$ _____

Section C

STATEMENT OF WORK AND QUALITY REQUIREMENTS

C.1. INTRODUCTION

GSA provides workspace for more than one million Federal workers through the Public Buildings Service (PBS). Whenever possible, GSA satisfies tenant agency needs in existing GSA-controlled owned or leased space. When suitable space is not available within the existing inventory, GSA acquires space in privately owned buildings. PBS leases various types of space, such as, office space, laboratories, clinics, border stations, and courthouses in both urban and rural areas throughout the United States, the District of Columbia, and the U.S. Territories listed on the cover sheet of the solicitation. Federal laws and regulations require the Government to procure leased space utilizing competitive procedures, unless otherwise justified. All requirements for space over 10,000 ANSI BOMA Office Area square feet are advertised in local newspapers or at the Federal Business Opportunity website, <http://www.fedbizopps.gov/>, the Government's point of entry for procurement notices and procurement opportunities. Space requirements of less than 10,000 ANSI BOMA Office Area square feet, can be leased by following the simplified lease acquisition procedures. Lease acquisitions are usually started 15 to 18 months prior to the expiration date of an existing lease.

The Office of Realty Services is the PBS entity responsible for acquisition and administration of leasehold interests. In 1997, GSA awarded eight zonal real estate service contracts. Subsequently additional regional contracts were awarded for similar services, but with varying terms and conditions. Many of these contracts have or will soon expire. The National Office of Realty Services, in support of GSA's strategic goal of "Operating Effectively and Efficiently", has identified a need to award fewer broker service contracts to achieve national consistency and to better manage the Realty Services Program. Changes have been incorporated into the scope of work, based on lessons learned from previous contracts. In addition, a decision by the General Accounting Office allows contractors to collect the real estate commission paid by the building owner in lieu of direct payment by the Government for services performed under this contract. Therefore there are substantial changes to the terms and conditions of this contract from previous contracts awarded by GSA for similar services.

One of the goals of the national contracts is to provide consistency in policies and procedures for PBS lease acquisition services nationwide. Most lease acquisitions follow the procedures stated in this document; however, some lease acquisitions may have complex requirements and require a deviation from normal procedures. Minor deviations from the procedures stated require the approval of the COTR for the task order. Any significant deviations from the procedures stated in the contract shall be directed to the Procuring Contracting Officer (PCO).

C.2. SCOPE

Contractors shall perform both competitive and noncompetitive lease acquisition services, described in Tasks 1 through 3, in all geographic areas served by the eleven GSA Regional Offices, as listed in **Exhibit 1**.

In addition to the three lease acquisition tasks, described in [Section C.4](#), the Contractor shall provide necessary assistance to the Government on disputes, protests, claims, and appeals related to services that they have performed or they are performing under this contract. The Contractor is also required to provide assistance to the Government related to work they are performing or have performed in the event the Government receives a congressional inquiry, a Freedom of Information Act (FOIA) request, or other similar inquiry. Monthly reports as described in [Section C.6](#) shall be submitted to the Procuring Contracting Officer (PCO.) And the Contractor shall attend quarterly meetings with the PCO and other Government representatives at their own expense. If requested by the Government, the Contractor is responsible for providing market analysis information as described in [Section C.7](#) at no cost to the Government.

C.3. DEFINITIONS

The terms below are defined for this solicitation, for any contracts awarded as a result of this solicitation, and for task orders issued against the contracts. For clarification of any terms which are not included below, contact the Procuring Contracting Office (PCO) specified in [Section G.1.1](#).

Acquisition

Acquisition means the acquiring by lease an interest in real property for use by the Federal government, whether the space already exists or must be constructed.

Advanced Acquisition Program (AAP)

The National Capital Region (NCR) utilizes AAP lease acquisition procedures. These procedures provide for a fast track, multi award procurement platform for non-prospectus actions based on a generic solicitation for offers (SFO). NCR is responsible for developing and updating the AAP inventory by advertising, marketing, soliciting and negotiating rental rates for a range of square footage, for a specified geographic area, and for various lease terms. Property owners who respond to an advertisement are solicited and their offers are evaluated by the Government and placed in a non-binding AAP inventory master file of properties available to satisfy space needs for both new and expiring lease requirements. The AAP SFO re-opens quarterly to solicit new offers and to allow existing offerors to modify their pricing. In the future, AAP may be automated through an e-platform that will allow for a monthly reopening.

ANSI/BOMA Space Measurement Standard

The Government recognizes the American National Standards Institute/Building Owners and Managers Association (ANSI/BOMA) international standard (Z65.1-1996) definition for Office Area, which means “the area where a tenant normally houses personnel and/or furniture, for which a measurement is to be computed.” ANSI/BOMA Office Area square feet is computed by measuring the area enclosed by the finished surface of the room side of corridors (corridors in place as well as those required by local codes and ordinances to provide an acceptable level of safety and/or to provide access to essential building elements) and other permanent walls, the dominant portion (refer to Z65.1) of building exterior walls, and the center of tenant separating partitions. Where alcoves, recessed

entrances, or similar deviations from the corridor are present, ANSI/BOMA Office Area square feet shall be computed as if the deviation were not present.

Approval

Approval means the Government has reviewed submittals, deliverables, or administrative documents, has determined the services or submissions conform to contract requirements, and has issued written approval to the Contractor.

Building Shell

Building shell is the complete enveloping structure, the base-building systems, and the finished common areas (building common and floor common) of a building that bound the tenant areas. Where the building shell ends is the beginning point for tenant improvements. A complete Shell definition in its entirety is in the lease Solicitation for Offers (SFO).

Central Business Area (CBA)

In accordance with Executive Order 12072, the CBA is the centralized community business area and adjacent areas of similar character, including other specific areas which may be recommended by local officials, typically the Mayor's office. Consult the Executive Order for a complete description.

Contract and Contractor

"Contract" means this IDIQ contract and "Contractor" means the party who has entered into this contract with the Government.

Day

In this contract, unless explicitly indicated otherwise, day refers to Federal working days (Monday through Friday, excluding Federal holidays).

Delineated Area

The delineated area is the area identified by the Government to be suitable for soliciting space. The delineated area is defined by specific geographic boundaries for each task order.

Expedited Lease Acquisition

A task order for expedited services for a lease acquisition with a required occupancy date of 120 calendar days or less

Final Proposal Revision (FPR)

Final revisions to a proposal submitted by an Offeror after discussions/negotiations are closed. Previously called "best and final offer."

Firm Term of Lease

Firm Term is the non-cancelable term of the lease that guarantees the Government's rental payments with or without occupancy.

Fiscal Year

The Government's fiscal year covers the period from October 1 through September 30.

General Clauses

General Clauses are the provisions and clauses required for acquisition of leasehold interests in real property set out in Section 570.6 of the General Services Administration Acquisition Manual (GSAM). These clauses are included in a Solicitation for Offers for leased space and may be updated from time to time. The general clauses are included in GSA Form 3517, General Clauses, Acquisition of Leasehold Interests in Real Property and they also appear in other places in an SFO.

Government Personnel

Procuring Contracting Officer (PCO), National Program Manager, (NPM), Regional Contracting Officer, (RCO), Regional Program Managers (RPMs) and Contracting Officer's Technical Representatives (COTRs). [Section G](#) describes the roles and responsibilities of Government personnel.

Hard Copy

A hard copy document is one that has been transmitted from its source on the original paper, rather than through an electronic transmission method such as facsimile or e-mail.

Landlord or Lessor

Any individual, firm partnership, trust, association, State or local Government, or legal entity that leases real property to the Government.

Lease or Leasehold Interest in Real Property

A conveyance to the Government to the right of exclusive possession of real property for a definite period of time by a landlord. It may include operational services provided by the landlord.

Lease Award Date

The date the Lease Contracting Officer signs an award letter indicating Government acceptance of an Offer. If an award letter is not issued, the date the Lease Contracting Officer (COTR) executes (signs) the lease.

Lease Effective Date

The commencement date of the lease. Normally the start date for tenant agency rent.

Lease Extension

A continuation of the original lease usually for a short-term with substantially the same terms and conditions. An extension is generally executed when there are evolving agency requirements, delays in delivery of a longer-term lease, or delays in a move to other Federally controlled space. See GSAM 570.405, Lease Extensions.

Lessee or Tenant

In all leases entered into under this contract, the General Services Administration of the United States of America shall be the Lessee. The tenant under a lease entered into under this contract shall be the tenant agency or other entity so designated by the Lessee.

Net Annual Rent

Net annual rent is the gross rent less cost of operating expenses for a one-year period.

New Lease

A lease with new terms and conditions and a new lease contract number, applicable for either a new requirement or to replace an existing expiring lease.

NonPriced Evaluation Factor

An evaluation factor other than price, used by the Government to select awardees, normally in best value trade off procurements, where award is based on the best value to the Government after considering price and technical (non-priced) evaluation factors.

Normal Regional Office Work Hours

The normal work hours of the Regional Offices in each time zone covered by the contract are from 8:00 a.m. to 4:30 p.m.

Occupancy Agreement (OA)

A complete concise statement of a tenant agency's agreement to the financial terms and conditions for occupying GSA-controlled space. The tenant agency and GSA sign the OA. The document has two parts: (1) the signed agreement and (2) a financial summary. The Government prepares the OA.

Offeror

A party making an Offer in response to a Solicitation for Offers (SFO.)

Operational Services

Services that support use of a leased property, such as heating, ventilation, air conditioning, utilities, custodial services, landscaping, pest control, etc.

Ordering Official (Regional Contracting Officer)

Section G describes the roles and responsibilities of Government personnel.

Prospectus Threshold (lease)

The prospectus threshold is a limit on the leasing authority available to GSA at the point of lease award. An annual prospectus threshold amount is determined by GSA under applicable law (40 U.S. C. 3307) and provided by letter to Congress for the specific fiscal year capital investment and leasing program being considered by Congress. The threshold amount defines the limitation above which a prospectus is required. Prospectus packages are prepared by the Government.

Rent and Related Services

The consideration paid for the use of leased property, plus the costs of operational services whether furnished by the lessor, the Government, or both.

Rentable Space

Rentable space is the area for which a tenant agency is charged rent. It is determined by the building owner. The rentable space may include a share of building support/common areas such as elevator lobbies, building corridors, and floor service areas. Floor service areas typically include restrooms, janitor rooms, telephone closets, electrical closets, and mechanical rooms. The rentable space does not include vertical building penetrations and their enclosing walls, such as stairs, elevator shafts, and vertical ducts.

Replication or Cost Benefit Analysis

An analysis of the cost incurred by the Government over and above the rental rate to reproduce/build out the space and infrastructure to meet the tenant agency's mission. This

cost along with move costs are evaluated to determine if the overall cost to the Government is greater or lesser than the cost of remaining at the current location under a succeeding lease. GSAM 570.402-6 provides a detailed description.

Rural Area

Rural area means a city, town, or unincorporated area that has a population of 50,000 inhabitants or less, other than an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population in excess for 50,000 inhabitants, as specified in the Rural Development Act, as amended. (See 7 USC § 1991(a) (13).

Scoring

Scoring is a method by which the Federal Government distinguishes between capital expenditures and operating expenditures for budget purposes. Capital expenditures are those expenditures that are equivalent to the purchase of a capital, or fixed asset (such as a building). Operating expenditures represent costs that keep the Government operating (such as leases that do not result in the Government assuming the risks of ownership or that do not result in the Government ownership of the leased asset). Budgeting for Capital leases and Operating leases is accounted for differently; therefore, proper classification of lease(s) is important to the Government's budgetary process (OMB Circular A-11 applies). The circular is available at the Office of Management and Budget (OMB) website at www.whitehouse.gov. Each lease acquisition is scored three times by the Government during the lease acquisition process to ensure the lease is an operating and not a capital lease. Scoring is performed at project initiation, as part of evaluation of initial Offers, and at project completion.

Simplified Lease Acquisition Procedures

Procedures for awarding a lease at or below the simplified lease acquisition threshold.

Simplified Lease Acquisition Threshold (SLAT)

Presently \$100,000 average net annual rent for the term of the lease, including option periods and excluding the cost of operational services.

Small Business Size Standard for Leasing of Building Space to the Federal Government by Owners, North American Industry Classification System (NAICS) Code, 531190)

A size standard of \$17.5 million in gross receipts applies to the owners of building space leased to the Federal Government.

Space Allocation Standards (SAS) and or Agency Design Guide

A basic written agreement reached between a tenant agency and GSA, which provides standardization of space requirements for the agency. If applicable to a particular task order, the SAS or appropriate Design Guide will be made available to the Contractor by the COTR.

Solicitation for Offers (SFO)

A document used to solicit Offers for a lease acquisition. The SFO describes Government requirements and performance criteria against which a lessor is expected to perform and the evaluation criteria that the Government will use to evaluate Offers. As listed below, there are several different SFO's that may be used. The COTR for a specific task order will determine the SFO for the lease acquisition.

(A) Simplified Lease Acquisition Threshold Lease (SLAT lease)

A simplified SFO format that may be used for a lease acquisition under the Simplified Lease Acquisition Threshold, unless another format is required by the COTR.

(B) Standard or Unit Cost SFO

With this SFO, each Offeror includes a tenant allowance. A firm fixed price for tenant improvements is negotiated prior to lease award. The SFO establishes quantity standards for unit cost items for alterations (i.e. ceiling-high partitioning, doors, electrical/telephone/data receptacles, or floor coverings). Negotiations determine prices for installing each unit cost item. The cost for providing tenant improvements is reconciled by calculating the number and price of items installed, as compared to the number authorized by the SFO.

(C) Tenant Improvement Solicitation for Offers (TI SFO)

This is the SFO used for the majority of PBS lease acquisitions. With this SFO each Offeror agrees to provide a Tenant Allowance established by GSA. The actual tenant improvement price is typically negotiated after lease award.

Source Selection - Best Value Trade Off Method

A source selection method where award is based on the evaluation of cost or price and other nonpriced factor(s) to determine the best value to the Government. The best value concept provides the opportunity for a cost/technical trade-off and does not require that award be made to the Offeror submitting the lowest cost or price or to the highest technically rated Offer, although the ultimate decision may be to select the lowest priced Offer or the highest technically rated Offer. The Source Selection Authority (SSA) has the authority to make the cost/technical trade-offs in a manner consistent with the award methodology stated in an SFO.

Substantially as Follows or Substantially the Same As

Used in prescribing a provision or clause, means that you may prepare and use a variation of that provision or clause to accommodate requirements peculiar to an individual acquisition. The variation must include the salient features of the FAR or GSAR provision or clause. It must also be consistent with the intent, principle, and substance of the FAR or GSAR provision or clause and related coverage on the subject matter.

Succeeding Lease

For the purpose of this contract, a succeeding lease is a non-competitive (sole source) lease acquisition secured to cover continued occupancy of the current premises at the end of a lease term without a break in continuous tenancy. It establishes new terms and conditions and has a new lease contract number. Such a lease would generally be used where (1) acceptable new locations are not identified or (2) acceptable locations are identified but a cost-benefit analysis indicates that award to an Offeror other than the current lessor will result in substantial relocation costs or duplication of costs to the Government, and the Government cannot expect to recover such costs through competition.

Superceding Lease

A new lease that replaces an existing lease prior to expiration. It is procured following non-competitive sole source procedures. It establishes new terms and conditions and has a new lease contract number. The Government considers executing a superceding lease to

replace an existing lease when the Government needs numerous or detailed modifications to a space that would cause complications or substantially change the existing lease.

Supplemental Lease Agreement (SLA), GSA Form 276

An SLA is used to change or modify an existing lease (e.g., acquisition of additional space; partial release of space; revision in terms or rental payments, payment of overtime services, change in ownership or payee, or any other action that changes the lease.)

TAB 1

Refers to the TAB 1 of the Lease File Checklist, **Exhibit 3**.

Tenant Agency

Section G describes the roles and responsibilities of Government personnel.

Tenant Agency Special Requirements

Unique or special requirements i.e., security enhancements, location, upfit enhancements, or increased floor loading requirements, special HVAC requirements, etc., that exceed improvements required for standard office space.

Tenant Improvements (TI)

Tenant improvements are generally the finishes and fixtures that typically take space from the “shell” condition to a finished, usable condition. A tenant improvement allowance is the funding source provided by the building owner that enables the space to be fitted out for occupancy to meet a customer agency’s specific requirements. The PBS tenant improvement definition is found in its entirety in the lease SFO.

C.4. DETAILED TASK DESCRIPTIONS

C.4.1 GENERAL

All services will be ordered by the Government with a written task order, GSA Form 300, signed by an authorized Ordering Official in accordance with the ordering procedures in Section F.

C.4.1.1 Contractor’s Response Requirement to an Awarded Task Order

The Contractor shall submit a conflict of interest and nondisclosure statement, **Exhibit 4A and 4B**, to the Regional Contracting Officer (RCO) within three working days of receipt of a task order. The Contractor shall submit a statement fully explaining a conflict of interest. The RCO after consulting with GSA Legal Counsel will make a decision whether the Contractor shall be required to perform the task order or whether the task order will be reassigned to another Contractor. Task orders may be sent to the Contractor from the Government via mail, (regular or express) email or facsimile. The COTR designated for the task order shall be contacted by the Contractor to schedule orientation no later than three days after submission of the conflict of interest and nondisclosure statements. If a conflict has been identified, then the COTR shall be contacted no later than three days after being advised by the RCO to proceed with the task order.

C.4.1.2 Contractor Office Location and Response Times

At a minimum, due to the nature of the National Capital Region’s (NCR) workload and limited geographic area, the Contractor shall have a minimum of one office located within the boundaries of the NCR. The boundaries are Alexandria City; the counties of

Montgomery and Prince George's in the State of Maryland; and the counties of Arlington, Fairfax, Loudoun, and Prince William in the State of Virginia and includes the District of Columbia. The Contractor's key personnel shall be available to meet with NCR COTR's within a two-hour notification from the Government. For all other GSA Regional Office locations, the Contractor shall respond to calls from Government personnel, at minimum with a returned phone call, on the same day and within the normal business hours of the Region initiating the call.

C.4.1.3 Contractor Personnel

Only qualified personnel who meet the requirements stated in [Section H.3.7](#) shall be assigned by the Contractor to perform services ordered by the Government. The Government reserves the right to review the resumes of personnel assigned to a task order and to request the removal of personnel who do not perform satisfactorily or who have not submitted documents necessary to conduct business on the behalf of the Government. Requests to remove personnel from contract work will be coordinated by the PCO.

C.4.1.4 Approvals

Roles of Government personnel are described in [Section G](#), Contract Administration Data. Contractor personnel assigned to a task order shall obtain written approval from the COTR at each milestone where written approval is required, as stated in a task description, prior to proceeding with additional work on the task. Failure to do so may result in Contractor re-performance of the work at the Contractor's expense and a performance rating on the task order that might impact the Contractor being considered for future task orders.

C.4.1.5 Changes to a Task Order after Award

After receipt of a task order, any change to the requirements or the required delivery date established in the task order requires a modification to the task order by the Regional Contracting Officer/Ordering Official. The Contractor shall not proceed with a change without a modification. Failure to adhere to this requirement may result in Contractor re-performance of services at their own expense.

C.4.1.6 Commission and Commission Credits

Unless the Government has ordered expedited delivery for a task order, the Contractor shall forego the percentage of the commission proposed in their offer. The lessor shall apply this amount as an offset to the shell rent as outlined in [Section G.2.2](#). Where the Contractor is entitled to receive a real estate commission or has any right to receive any form of payment from a broker, potential Lessor, or other party, for work performed under the contract, the Contractor shall document the total commission amount when submitting their negotiation objectives to the COTR. The final negotiated commission including the percentage and dollar amount credited to the Government in the lease transaction shall be documented on the SF-2 at lease award. The amount credited to the Government will be the percentage specified in the contractor's pricing offer. If any changes occur after lease award that would affect the amount of commissions and credits, the final Supplemental Lease Agreement (SLA) must reflect the change. Criminal penalties for making a false statement to the United States are contained in 18 U.S.C. 1001.

The commission amount credited to the shell rent is included in the lease acquisition Present Value Analysis (PVA) performed to determine the successful offeror. The instructions for performing the PVA are outlined in the SFO. The commission paid to the Contractor by the lessor shall not be included in the PVA calculation.

Subcontractors are required to follow the same procedures specified for the prime Contractor. The prime Contractor is responsible for tracking and reporting all commissions collected and those credited to the Government and for ensuring Government a percentage of the commission is applied to the shell rent of the lease in accordance with the terms of the contract.

C.4.1.7 Quality Standards

All services performed by the Contractor, including work performed by subcontract, shall meet the Quality Standards stated in Section C.8 and C.9.

C.4.1.8 Communications, Submissions

Contractors must have email capability and use software designated for electronic submissions as stated in [Section D](#), Markings.

Draft submissions for the Government's review shall normally be submitted electronically via email unless a hardcopy is requested by the COTR.

C.4.1.9 Disposition of Lease File Records

Once the task order is completed, all documents pertaining to the acquisition shall be turned over to the Government. For security reasons and procurement confidentiality, the Contractor shall not keep any Government acquisition records. If the Contractor is required to submit records to a State licensing authority in regard to an audit of commissions collected, the Contractor shall notify the COTR and the COTR will coordinate with GSA Legal Counsel concerning records or documentation that are releasable. The COTR will provide copies of releasable documentation to the Contractor or a written statement that identifies the reason the requested documentation may not be released.

C.4.1.10 Coordination with GSA Legal Counsel

A GSA Contracting Officer or designated representative is responsible for interfacing with GSA Legal Counsel on matters related to the contract or an individual task order. This does not preclude GSA Legal Counsel from contacting Contractor personnel to obtain additional information concerning services performed by the Contractor under this contract.

C.4.2 TASK 1 – LEASE ACQUISITION SERVICES

Lease acquisition services may include competitive lease acquisitions such as simplified lease acquisitions, lease acquisitions above the simplified acquisition threshold, or noncompetitive lease acquisitions such as succeeding or superceding leases. Exceptions to normal competitive procedures that shall be followed for noncompetitive acquisitions, succeeding and superseding leases, are stated at the end of this task.

Certain lease acquisitions for the National Capitol Region (NCR) may be required to be competed using the Advanced Acquisition Platform (AAP), see definition in Section C.3. When utilizing the AAP platform, the Contractor shall coordinate the acquisition with the designated AAP Manager. In addition the Contractor is not required to advertise the acquisition and must utilize the AAP SFO. Otherwise the procedures for this task 1, Lease Acquisition Services, are followed.

C.4.2.1 General

Prior to placing a task order for lease acquisition services, the Government will make a determination concerning the availability of Federal space; obtain specialized clearances that may be required by the tenant agency regulations prior to initiating an acquisition, such as, Title 10 Clearance for the Department of Defense, or the relocation notification report required by Department of Justice; perform the initial scoring, and prepare the agency Occupancy Agreement (OA) and the Acquisition Plan if one is required..

If a lease acquisition is subject to the Davis-Bacon Act, the appropriate wage determination that must be included in the SFO will be provided to the Contractor with the task order or prior to development of the SFO.

The Contractor shall conduct this task from the receipt of a written task order, issued by an authorized Government Ordering Official, through post award services. The General Services Acquisition Manual (GSAM), Part 570, includes the GSA regulations applicable to GSA lease acquisition. Lease acquisition procedures and regulations vary depending on the complexity of an acquisition. An acquisition may range from a simplified acquisition to one that follows Best Value Trade Off Source Selection procedures. The Lease File Checklist, **Exhibit 3**, will be provided with the task order and will be annotated by the COTR to identify the required steps for the specific acquisition. Some steps can be performed concurrently; however, at points where the Government's review and approval are required, the Contractor shall obtain written approval from the COTR before proceeding to the next stage of the acquisition.

Simplified acquisition procedures described in the GSAM may be followed for acquisitions under the Simplified Lease Acquisition Threshold (SLAT). Under simplified procedures, "competition" is redefined so that solicitation of at least three sources is considered to promote competition to the maximum extent practicable. The Contractor shall review the sources considered for competition with the COTR prior to issuing the solicitation. Leases procured utilizing simplified procedures may use an abbreviated solicitation for Offers (SFO) and lease forms. Guidance regarding utilization of forms for a simplified acquisition is provided in the "Develop Solicitation for Offers", paragraph [C.4.2.5](#) of the task description.

Guidance on acquisitions conducted following Best Value Trade Off Source Selection procedures is included in **Exhibit 5**.

The lease acquisition task typically includes the following steps: 1) assisting the tenant agency with development of requirements (unless performed by the COTR); 2) participating in an orientation with the COTR and the tenant agency; 3) developing a project schedule; 4) advertising the requirement; analyzing and surveying the market and preparing a market survey report; 5) if required, preparing a cost benefit analysis for the approval of COTR as described in GSAM Part 570. 6) developing and issuing an SFO and, if required, SFO amendments; 7) reviewing and evaluating Offers; 8) negotiating Offers; 9) preparing the lease contract documents and obtaining signatures; and 10) performing post award services. The level of effort required for each acquisition may differ. Four to seven site visits are typically required in connection with a lease acquisition task. Larger projects may exceed seven visits.

Specific requirements are as follows:

C.4.2.2 Requirements Development/Space Request Package

The Government will determine if the Contractor or the Government will coordinate the Requirements Development/Space Request Package with the tenant agency. The Requirements Development/Space Request Package becomes part of TAB 1 of the lease file.

If the Government coordinates the Requirements Development package with the tenant agency, then the Government will submit the package to the Contractor with the task order or at orientation. Where the Government has provided the requirements to the Contractor, the Contractor may still need to clarify requirements with the tenant agency. Clear and unambiguous requirements are critical for development of the SFO and to prevent acquisition delays

If the Government requires the Contractor to obtain agency requirements as part of the task, the COTR will hold an orientation with the tenant agency and the Contractor to ensure that all parties understand their roles and responsibilities for requirements development and to establish a submission date for completed requirements. The Contractor shall work with the tenant agency to ensure that all data require for the lease acquisition is addressed. The Contractor shall then review the requirements to ensure they include, at minimum, the information outlined below. If an agency has Space Allocation Standards (SAS) or a Design Guide, a copy or a website where SAS or Guide can be accessed will be provided to the Contractor with the task order or by the COTR at orientation. The Contractor shall review the SAS or Guide to ensure the requirements package is in compliance with the agency's standard or guide and with Federal Laws and regulations pertaining to the acquisition of Federal space. The Contractor shall notify the COTR if requirements are not in compliance with any regulation or agency standard. If the tenant agency requires space programming assistance to determine their requirements, the Contractor shall notify the COTR who may order these services from in-house personnel or from a GSA space planning contractor.

A tenant agency requirements package includes the following information:

1. The name, address, and phone number of the tenant agency's primary and secondary contacts and the tenant agency approving official for the project.

This is the agency official with the authority to approve the requirements package, the market survey, the SFO, or other documents requiring agency approval.

2. The requirement for ANSI/BOMA Office Area square feet, including circulation, the parking requirements, and the number of personnel to be housed, (identified by gender to determine facility restroom requirements). The tenant agency can submit this information using a Standard Form 81 and 81a, or on another agency specific form.
3. The tenant agency's delineated area for the acquisition (boundaries on North, East, South, and West) shall be clearly defined, using roads, streets, railroads, or water boundaries. In accordance with the Rural Development Act of 1972, the agency must provide a written statement indicating that they gave first consideration to locating in a rural area and a written justification if a rural area does not meet their needs. If the agency must locate in an urban area, they are required to follow Executive Order 12072 and GSA's implementing guidance and regulations, that requires Federal agencies to be located in a Central Business Area (CBA) unless locating outside the CBA is justified. The Contractor shall contact the city government to determine the boundaries for the CBA and any other economic development area the city would like to have the Government consider. If the agency's delineated area is outside the CBA or does not include all a city's CBA, the Contractor shall request a signed, written justification from the tenant agency to support the request to locate outside the CBA. The Contractor shall discuss the justification with the COTR and, if directed, prepare on GSA letterhead for the signature of the COTR, a letter to the appropriate city official explaining the agency's need for locating outside the CBA. If the justification is not acceptable to the city, the contractor shall work with the tenant agency contact and COTR to develop a delineated area acceptable to all parties.
4. The tenant agency's firm term commitment for the lease.
5. The tenant agency's standard work hours (used to provide HVAC and utilities, and determine overtime hour utilization). Standard working hours will not exceed 11 hours per day, 5 days per week, excluding weekends and Federal Government holidays. Determine if the tenant agency works multiple shifts. All hours beyond standard working hours will be treated as overtime hours when providing HVAC.
6. The tenant agency's special requirements, those special needs above shell (as defined in the SFO) such as increased floor-loading; raised floors; column spacing; unique electrical, data, telephone requirements; special HVAC requirements; roof/wall penetrations; antenna requirements; parking requirements; security requirements; location limitations; amenities requirements, etc.
7. A statement whether the acquisition is likely to exceed the Prospectus Threshold. This shall be based on the agency's square footage requirement and the Society of Industrial and Office REALTORS (SIOR) rate for the market, or other fair market value criteria if a SIOR rate is not available. The Prospectus

Threshold is updated annually and the Contractor shall coordinate with the COTR to determine the threshold in effect at the time of the acquisition. The threshold for Fiscal Year (FY) 2004 is \$2.29 Million

8. If determined during orientation with the COTR and tenant agency that non priced factors will be used to evaluate offers, the Contractor shall assist the agency with the development of the factors, the standard to be used to evaluate the factors, their weight and relative importance. All proposed nonpriced factors require approval by the COTR before inclusion in an SFO.
9. The written approval (signature) of the tenant agency approving official identified in the requirements package.

Submit the complete requirements package to the COTR for **written approval** prior to proceeding with work on the task order. Client provided data and data prepared by the Contractor for GSA use only, such as the Prospectus Threshold statement shall be submitted on separate pages.

C.4.2.3 Orientation & Project Schedule

As stated above, if the Contractor is required to assist the tenant agency with requirements development, a preliminary orientation shall be conducted by the COTR to establish roles, responsibilities, and a required delivery date. This orientation will normally be conducted by phone. The Contractor shall provide a written confirmation of the orientation discussion to the COTR and tenant agency if requested by the COTR. The required delivery date for submission of the requirements package should be established and documented in the discussion notes.

Upon the COTR's review and approval of TAB 1 functions identified on the Lease File Checklist, **Exhibit 3**, the COTR will give the Contractor a written notice to proceed with the lease acquisition at which time the Contractor shall coordinate and schedule an orientation meeting with the COTR, the tenant agency representative(s), and other appropriate Government personnel as identified by the COTR.

The purpose of orientation is to ensure all parties understand the scope of a particular lease acquisition and may include agenda topics, such as, other services that may be required and scheduled by the tenant agency prior to occupancy (installation of phones, furniture, or other equipment); planned move and occupancy dates; the roles and responsibilities of each party participating in the acquisition; procurement integrity and ethics issues related to the procurement; and submission requirements including regional lease file conventions. The COTR may elect to hold an orientation with the Contractor and a second orientation with the Contractor and tenant agency depending on the complexity of the acquisition. A project schedule with required milestones shall be provided to the tenant agency at orientation so that milestone dates for completion of agency reviews, approval of submissions, for agency certification of funds for relocation, occupancy, etc can be established. The schedule establishes the required delivery date for completion of the task order (30 days after occupancy). The 30 days are for the Contractor to obtain as built drawings from the Lessor and to submit the complete tabbed lease file to the Government. Once the schedule and occupancy date are approved by the COTR and the tenant agency, any change that impacts the required delivery date for the task order requires a modification to the task order by the Regional Contracting Officer.

The following actions are required in connection with project orientation and schedule development once TAB 1 steps, including requirements development, are completed.

1. The Contractor shall develop a mutually agreed upon schedule that considers the expectations of each party. **Exhibit 6** is a sample schedule. Milestones to be included in a schedule will vary depending on the complexity of the acquisition. The schedule shall be submitted to the COTR within the timeframe agreed to at orientation. **Within two days of COTR approval, the Contractor shall provide a copy of the schedule to the tenant agency and the Regional Contracting Officer (RCO).** The contract shall keep the schedule current during the life of the task order. Copies of any changes to the schedule approved by the COTR shall be provided to the tenant agency and the RCO.
2. Schedules shall include milestones and dates for agency required occupancy services, such as, physical relocation; furniture procurement and installation; space planning; telecommunication, data, or computer installations; and other similar services. These services are usually procured directly by the tenant agency but in some cases may be provided by other sources.
3. Schedules shall include milestones appropriate to the complexity of the project, including, if known, milestone dates. Milestones where COTR approval is required are annotated below in bold and shall be included on the schedule. If the acquisition will be impacted by requirements related to the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), or other statutory or regulatory requirements, appropriate milestones and their dates shall be included on the schedule.
 - (a) Project Orientation (COTR/Contractor)
 - (b) **Requirements Development and Approval**
 - (c) Tenant Project Orientation (COTR/Contractor/Tenant Agency)
 - (d) **Source Selection Strategy Approved**
 - (e) **Advertisement or Fed Biz Opps posting**
 - (f) Market Survey Date
 - (g) **Market Survey Report Due**
 - (h) **Prelease security review**
 - (i) **Draft SFO Due**
 - (j) **SFO Approved by COTR and Tenant Agency**
 - (k) SFO Issue Date
 - (l) **Amendment approved**
 - (m) Amendment Issued
 - (n) Initial Offers Due
 - (o) **Abstract of Offers and Negotiations Objectives Approved**
 - (p) Start Negotiations
 - (q) **Negotiation Memorandum Approved**
 - (r) Request for Final Revised Proposals Issued,
 - (s) **Final Proposal Evaluation Due**
 - (t) **Source Selection Report**
 - (u) **Contracting Officer responsibility determination**
 - (v) **Source Selection Decision**

- (w) Agency Approval of Successful Offer
- (x) **Draft Lease Due**
- (y) COTR Draft Lease Review Complete
- (z) Lease submitted to Successful Offeror for Execution
- (aa) **Lease Award Date (execution by COTR)**
- (bb) Layouts Submitted by Tenant Agency
- (cc) GSA Fire Safety Review of Construction Documents
- (dd) Pre-Construction Conference
- (ee) Construction/Build-out Phase
- (ff) Inspection Dates
- (gg) **Substantial Completion**
- (hh) Final Inspection
- (ii) Tenant Agency Occupancy
- (jj) Complete Lease File, as-builts, submit (NLT 30 days after occupancy).

C.4.2.4 Market Survey and Report

The Competition in Contracting Act (CICA) requires that full and open competition be solicited for each lease acquisition unless simplified procedures are authorized. The Contractor shall solicit potential sources by posting a notice to the Federal Business Opportunity website or advertising in a local newspaper, conducting market research, and then conducting a market survey of potential properties to allow both the prospective Offerors and the Government to more fully inform each other about the requirements and the property being offered. Guidance on accessing and posting to the FEDBIZOPPS.gov website will be provided during the post award contract orientation.

The tenant agency's approved requirements will identify a delineated area for the acquisition. It is the Contractor's responsibility to develop adequate sources for competition within the specified delineated area. In the event adequate competition is not identified (three or more potential sources) and the delineated area must be expanded or otherwise changed, after approval by the COTR, the Contractor shall re-advertise or post a notice to the Federal Business Opportunity website of the changed area and then survey the additional sites. In addition to the requirement to be knowledgeable of Federal lease acquisition regulations, Contractor personnel performing the market survey shall have experience in the local market unless otherwise authorized by the COTR.

A market survey includes, at minimum, performance of the following:

1. The Contractor shall solicit information on the availability of space through the use of as many of the following or other methods necessary to obtain adequate competition: circulars, posting a notice to the Federal Business Opportunity website or in a local newspaper (required for requirements of 10,000sf or greater), consulting with real estate brokers, building owners, and/or by any other means available to the Contractor to maximize competition. **The current Lessor for an expiring lease shall be contacted and provided notice of the acquisition and shall be requested to submit a statement in writing indicating whether they are interested in participating in the acquisition.** GSA will provide Contractor personnel with access to the Federal Business Opportunity website for the purpose of posting required notices. The COTR will review and approve notices prior to their posting. Before proceeding with the market survey, the number of potential sources identified and all expressions of interest received shall be discussed with the COTR to determine if

adequate competition has been identified. The Contractor shall include in the market survey report a list of **all** expressions of interest for the acquisition regardless of their potential to be included in the market survey. The list shall identify all expressions of interest by name, phone number and the date of contact. In the event the Contractor will be acting as a dual agent, a dual agency disclosure statement must be prepared and be signed by each potential offeror prior to conducting the market survey. See **Exhibit 4C** for a dual agency disclosure statement.

2. The Contractor shall physically inspect the properties (buildings and/or sites) to determine if it can meet the requirements of the SFO. The Contractor shall invite the COTR and the tenant agency representative to attend the market survey. If requested by the COTR, a local GSA representative shall also be invited.

3. Procurement regulations prohibit divulging acquisition information to a potential Offeror that is not provided to all potential Offerors at the same time. During a market survey only the potential of an Offeror's property of meeting the requirements of the SFO shall be discussed with the property owner or representative. Contractor personnel shall not discuss other properties being surveyed or any other aspect of the procurement with property owners or their representatives. Prior to the start of a market survey the COTR will remind all personnel who will participate in the survey of properties of procurement integrity issues. In the absence of the COTR, the Contractor has this responsibility. The number or identity of Offerors participating in the procurement shall not be disclosed at any time prior to award without the approval of the COTR.

4. Document the findings of the survey of each property using the Comprehensive Market Survey Checklist, **Exhibit 7**. In addition to the checklist, the areas below shall be addressed in the market survey report.

5. Identification of any buildings surveyed that are located in a 100-year or a 500-year flood plain as determined under Federal guidelines. A Federal Emergency Management Agency (FEMA) floodplain map shall be included with the written report to document findings. It shall reflect the location of the property/site surveyed in relation to the floodplain plan included in the report. FEMA flood plain maps are available at the website <http://www.esri.com/hazards/makemap.html>. See Executive Order 11988.

6. In accordance with Executive Order 13006, the Government must give first priority to historic properties located within historic districts, particularly those located in the Central Business District. If no such property is suitable, then Federal agencies shall consider other developed or undeveloped sites within historic districts. If a suitable site does not exist within the district, then the historic properties outside of the historic districts shall be considered. The Contractor shall identify buildings or properties surveyed that are on the National Register of Historic Places, formally listed as eligible for inclusion in the National Register of Historic Places, or located in historic districts listed in the National Register. The Contractor shall provide a statement for each historic property assessing its potential suitability for the proposed lease acquisition. The publication date of the register used for the determination shall be included in the report. Final decisions regarding suitability of a Historic property will be made by the COTR. The National Register of Historic Places is available on-line

at the National Register Information System, <http://www.nr.nps.gov>. In addition, an overview on how to use the site is available at <http://www.cr.nps.gov/places.htm>.

7. Identify if the buildings surveyed are in compliance with the seismic safety requirements stated in the solicitation for offers (SFO) for the lease procurement. See Executive Order 12941.

8. Identify buildings surveyed and the tenant agency representative's written opinion as to whether the property/block of space meets or does not meet the agency's requirements, as stated in the SFO. For any properties where an agency opinion is provided that a property does not meet the agency's requirements, the market survey report shall include the agency's written justification. The justification shall clearly document why the building or block of space does not meet or cannot meet the requirements of the SFO and include the signature of the tenant agency's representative's participating in the survey. The COTR will make the final decision regarding properties to be solicited.

9. The estimated market rental range rates based on information obtained during the survey or from the Contractor's knowledge of the market or from any other sources available to the Contractor. Sources used to develop the estimated rental range, fair market values, etc. shall be identified in the market survey report. The market rental range shall be expressed (1) in terms of cost per Rentable Square Foot and (2) in terms of cost per ANSI BOMA Office Area Square Foot. The market rental range expressed in terms of cost per ANSI BOMA Office Area Square Foot shall be adjusted to include the estimated cost for the level of finish (work letter) and the level of services required by the Government.

10. The market survey report shall clearly identify steps taken to maximize competition and include copies of flyers, advertisements, Federal Business Opportunity notices, etc.

11. The market survey report shall include a summary listing of all expressions of interest including those whose properties have the potential to meet the requirements of the SFO and those whose properties do not have the potential to meet the requirements of the SFO. Include the building owner's name and their contact person's name, address, phone number, and email address. For those properties that do not have the potential to meet the requirements of the SFO state the reason why it does not.

12. If after advertising and performing a market survey for the designated delineated area only one source meets the requirements of the SFO, consult with the COTR to determine whether to expand the delineated area or to solicit the single source. If a single source will be solicited, the Contractor shall include a statement in the market survey report explaining the absence of competition.

13. Recommend properties that should have a pre-lease security survey.

14. Submit a copy of the market survey report to the COTR for approval within the timeframe agreed to in the project schedule and be available to discuss report findings. The solicitation for offers (SFO) shall not be issued until the market survey report has been approved in writing by the COTR.

15. After approval of the market survey report, prepare a letter on GSA letterhead for the signature of the COTR advising property owners that based on the market survey, their property does not appear to have the potential to meet the requirements of the SFO. Identify the specific reason why the property does not meet the requirements. Respond to inquiries from property owners or their agents. In the event that the owner is not satisfied with the Contractor's response, the owner shall be referred to the COTR.

NOTE Regardless of whether a property has the potential to meet the requirements of the SFO, any party who requests an SFO must be provided a copy when it is issued. Such request shall be coordinated with the COTR.

C.4.2.5 Develop and Issue Solicitation for Offers (SFO) and Amendments

1. Unless directed by the COTR at orientation to use a different SFO format, the TI SFO format shall be used. A "boilerplate" TI SFO format is available at <http://www.gsa.gov/leasingform>. The boilerplate TI SFO may be updated and revised during the terms of the contract to conform to current regulations. An SFO must be tailored to the specific acquisition. For instance, if the boilerplate includes alternate clauses, select the correct clause for the acquisition and delete the one that does not apply.

If the TI SFO is used, the Contractor shall ensure that clauses are the current version and that applicable laws, regulations, and policies and other terms and conditions are accurately reflected. The Contractor shall notify the COTR concerning any problems identified in the boilerplate. The COTR is responsible for authorizing a change

2. If the COTR determines an SFO format other than the TI SFO format is required for the acquisition, the COTR will provide the Contractor an electronic version for use on the specific lease acquisition.
3. Timeframes for publicizing and issuing a solicitation and for establishing the date for receipt of Offers shall be in accordance with GSAM 505.203.
4. When a TI SFO format is used for the acquisition, the tenant agency's special requirements are negotiated with the successful Offeror after lease award. If directed by the COTR, the special requirements may be included in the SFO.
5. If non-priced evaluation factors have been approved by the COTR for the acquisition, the factors, their relative importance, and the award methodology shall be included in the SFO. The complete evaluation standards and weights are not included in the SFO but are used to evaluate offers.
6. The Contractor shall verify appropriate clauses, representations and certifications, specifications and standards, and any other forms necessary for an Offeror to submit a complete Offer are included in the SFO. GSA includes the forms listed below in a typical SFO to meet statutory requirements. These forms are available on the Realty Service Office homepage <http://www.gsa.gov/leasingform>.

- For lease acquisitions where the net annual rental is expected to exceed the Simplified Lease Acquisition Threshold, as discussed at task order orientation and documented in an agency's occupancy agreement, the SFO includes the following:
 - GSA Form 1364, Proposal to Lease Space.
 - GSA Form 1217, Lessor's Annual Cost Statement.
 - Solicitation Provisions, GSA Form 3516
 - General Clauses, GSA Form 3517 (Incorporated by Reference) or GSA Form 3517B (Full text).
 - Representations and Certifications, GSA Form 3518
 - Tenant Agency Special Requirements (may not be included in a TI SFO)
 - A blank copy of the Standard Form-2, U.S. Government Lease for Real Property marked as "DRAFT For the Offerors information only".

(b) For lease acquisitions where the net annual rental (gross rental, less services) is not expected to exceed the Simplified Lease Acquisition Threshold (SLAT) the SFO includes the documents listed below. The COTR may request the Contractor to use the lease forms identified for an acquisition above the SLAT in lieu of the SLAT forms and format listed here. The COTR shall specify if clauses shall be incorporated by reference or provided in full text in the SFO.

- GSA Form 3626, U.S. Government Lease for Real Property (Short Form) to be completed by the Offeror. Used in lieu of the SF-2.
 - General Clauses, GSA Form 3517A(Incorporated by reference) or GSA Form 3517C (Full text)
 - Representations and Certifications, GSA Form 3518A
 - Tenant Agency Special Requirements
 - Additional attachments as applicable to the particular lease acquisition.
7. After completion of the draft SFO submit a copy to the tenant agency for review and comment. A draft copy and the agency comments shall then be sent to the COTR for review and approval. The Contractor shall update the draft SFO based on the tenant agency and COTR comments and resubmit the SFO to the COTR for final approval.
 8. Check the debarred or parties excluded list @ <http://www.epls.gov> and advise the COTR if any party to be solicited in on the list.
 9. Simultaneously distribute the approved SFO to potential Offerors who are capable of meeting the requirements defined in the SFO. A copy of the SFO must be provided to the current Lessor unless the current Lessor indicates in writing that he/she is not interested in participating in the acquisition. The Contractor shall maintain a record of parties who receive a copy of the SFO. A copy of the SFO shall be provided to any party who requests it, regardless of whether they are potentially capable of meeting the Government's requirements. Contact the COTR upon receiving a request for an SFO from a party whose property was not surveyed during the market survey to determine the proper action to be taken.

NOTE: Prior to award, any responses (either verbal or written) to questions posed by Offerors about the SFO shall be promptly furnished to all prospective Offerors. This shall be done by a formal amendment to the SFO after a draft amendment is approved by the COTR. Prepare and issue the amendment simultaneously to all Offerors.

C.4.2.6 Review and Evaluate Initial Offers

NOTE: Late Submissions, Modifications, and Withdrawals of Offers must be handled in accordance with GSAM 552.270-1(c).

Consistent with procurement regulations, all Offers must be reviewed and evaluated to determine which are fair and reasonable and in compliance with the terms and conditions stated in the SFO. The exact steps may vary depending on the SFO used for the acquisition. Typically, if a unit cost SFO was used, the unit costs of tenant improvements above shell are evaluated and negotiated prior to award. If a TI SFO was used, Offers are submitted and negotiations conducted for tenant improvements above shell after lease award. If best value trade off source selection procedures were followed and non-priced factors are being evaluated, evaluations must be in accordance with the evaluation methodology stated in the SFO. Failure to do so may result in protests and, in some instances, starting the acquisition over. The Contractor shall, at minimum:

1. Safeguard the confidentiality of all Offers in accordance with statutory and regulatory requirements. All proposals shall be locked in a cabinet or similarly secured environment when not in use. Anyone in the Contractor's firm with access to Offers shall complete a Nondisclosure/Conflict of Interest Statement, **Exhibit 4B** unless these documents were previously submitted when the task order was issued. Conflict of Interest requirements are stated in Section H, Special Requirements. At no time will information regarding the number or identity of the Offerors or any other information relative to a particular Offer or Offeror be disclosed to anyone other than the COTR, or his/her designee(s).
2. Review compliance of an Offer with terms and conditions of the SFO and document whether it is in compliance or noncompliance. Areas of noncompliance and deficiencies shall be documented in the written negotiation objectives and, after approval by the COTR, provided to the Offeror in writing and discussed with the Offeror during negotiations. Offer evaluation includes, but is not limited to ensuring compliance with the following:
 - (a) The Offeror is the building owner or has the authority to act in the owner's behalf. Obtain a written statement verifying this authority from the building owner or attach other acceptable evidence.
 - (b) The Offeror has initialed and dated each page of the SFO.
 - (c) The Offeror has provided the evidence of capability to perform and it meets the criteria stated in the SFO.
 - (d) The Offer is in compliance with the Randolph-Sheppard Act, if required for the acquisition.
 - (e) The Offer is in compliance with the Resource Conservation and Recovery Act (RCRA) or has submitted the required waiver. (See GSAM 523.4)

- (f) The appropriate seismic safety certifications or other certifications required by the SFO have been provided.
 - (g) The GSA Form 3518 or 3518A, Representations and Certification, is complete and the Offeror is presently in compliance with required Federal regulations.
 - (h) The Offer is in compliance with any other requirement stated in the SFO, including, but not limited to, the quality of the building, TI allowance, parking services, term, occupancy date, ADA and UFAS standards, etc.
 - (i) Measurement of the floor plans indicates the offered space and the location of the offered space within the building meet the ANSI BOMA Office Area square footage offered and has the potential for efficient layout in accordance with standards in the SFO. The Contractor shall provide a statement indicating that space meets the requirements and sign and date the plans to indicate that scaling of plans was accomplished.
 - (j) The offered space and building meets fire and life safety requirements. Special requirements apply if the space is three or more stories above grade or six or more stories above grade. If the COTR determines a certified Fire/Safety Engineer must perform an additional review, GSA will obtain such services from other Government personnel or from another GSA contractor.
 - (k) There are no exceptions taken to SFO language or General Clauses by the Offeror. The Contractor will notify the COTR of any exceptions to the SFO language or General clauses prior to any discussions with the Offeror. Changes to the SFO language or clauses require COTR approval. Consultation with the GSA legal counsel on such issues will be performed by the COTR. If a change to the language or a clause is approved the SFO shall be amended and the change provided to all Offerors simultaneously.
3. Evaluate the price and recommend negotiation strategies to minimize Government lease costs. The Contractor shall at minimum document the following in their price evaluation analysis:
- (a) The price reasonableness of the Offer by evaluating the base cost of services on the GSA Form 1364 and the Lessor's Annual Cost Statement, GSA Form 1217. The base cost for operating expenses on the GSA Form 1364 should equal line 27 of the GSA Form 1217. The Contractor shall perform cost and price analysis of the cost elements outlined on the GSA Form 1217 where the total operating cost exceeds researched market rates or there is reason to question whether the proposed rates are fair and reasonable. Compare prices with SIOR rates and BOMA market rates and cite comparables or other market data used for the evaluation. Provide an explanation if the rental rate exceeds the SIOR rate or other fair market rate identified for the acquisition. If sufficient competition or other measure of price reasonableness is not provided by the Contractor to substantiate price reasonableness, the Contractor may be required to obtain an independent rent appraisal at their own expense.

- (b) Perform a Present Value Price Analysis on each Offer per the methodology contained in the SFO.
 - (c) If an Offeror's building qualifies for the historic building preference, apply the current preference percentage to the Offers in accordance with the instructions in the SFO.
 - (d) Evaluate the reasonableness of the overtime rate for heating, ventilation, and air-conditioning (HVAC) for Offers where utilities and/or HVAC are included in the rental rate and the Offeror wishes to charge a fee for overtime utility usage. If payment of utilities will be separate from rent confirm that Government costs will be separately metered.
 - (e) If a unit cost SFO is used or an agency's special requirements are included in a TI SFO, the Contractor shall notify the COTR if the Offeror's proposal for tenant improvements exceeds the agency's TI allowance. For all lease acquisitions, GSA will have in place a negotiated Occupancy Agreement (OA) with the tenant agency which outlines the tenant agency's financial agreement with GSA, including such things as total tenant improvement allowance and any other financial arrangements entered into with GSA, such as buy down of the TI costs or lump sum payment requirements.
 - (f) If a unit cost SFO was issued for the acquisition, the Contractor shall determine whether build-out costs are reasonable. In the absence of sufficient price competition (at least two competitive Offers) or other standard of price reasonableness as allowed by FAR Part 15, the Contractor shall provide an independent and supported cost estimate in the CSI format to substantiate price reasonableness. A party who has not seen the Offers shall prepare the estimate.
 - (g) Evaluate the reasonableness of percentage of occupancy proposed for tax adjustments.
4. Evaluate Subcontracting Plans. If subcontracting plans were required to be submitted with initial Offers, review the Small Business Subcontracting Plan to determine if the Offeror's subcontracting plan goals are sufficient. The COTR will submit the plan to GSA's Office of Small Business Utilization for review and comment. In the event weakness or deficiencies are identified in the plan, include targeted goals in negotiation objectives. Plans are not required from small business concerns. Offerors indicate on the Representations and Certifications document, GSA 3518 or 3518A, if they meet the SBA small business size standard. If directed by the COTR, subcontracting plans may be requested with Final Proposal Revisions or only from the successful Offeror after lease award.
5. If nonpriced factors were included in the SFO, evaluate in accordance with the methodology in the SFO.
6. For certain tenant agencies, it may be necessary to address special security requirements. If so, GSA will arrange for a pre-lease security survey. This survey may be performed by the Department of Homeland Security or by another source designated by

the COTR. The pre-lease security survey report will be provided to the Contractor in the event changes are required to the SFO that need to be addressed during negotiations

7. Prepare an abstract of each Offer documenting the points identified above, the annual rental expressed in rentable and ANSI BOMA Office Area square feet for the firm term and any additional terms; the length of the firm term and any additional terms; the base cost of services; the Present Value Price Analysis; any concerns regarding the rent including alterations and reimbursable alterations (non-amortized) required by the SFO; ADA/UFAS compliance; and Fire and Life Safety considerations, and the commission and commission credit arrangement, etc.
8. Develop written negotiation objectives for each Offer. The negotiation objectives shall include those items requiring only clarification and those items that need to be discussed during negotiations (weaknesses and deficiencies). If directed by the COTR, prepare a letter for the signature of the COTR outlining the weakness or deficiencies in the Offer. If best value trade off procedures were followed see **Exhibit 5** for additional procedures.
9. Prior to the commencement of discussions/negotiations, the Contractor shall submit the Offers, the abstract, and the written negotiation objectives to the COTR who will review and approve all negotiation objectives/targets prior to the start of negotiations.
10. The COTR will score Offers and advise the Contractor if objectives related to scoring need to be included in the negotiation objectives.
11. When non-priced factors are evaluated using best value trade off procedures, if an Offer is not included in the competitive range, the Contractor shall prepare written notification on GSA letterhead for the signature of the COTR notifying the unsuccessful Offeror advising that their Offer has been excluded from the competitive range. In accordance with FAR Part 15, only the most highly qualified proposals are included in the competitive range unless the competitive range is limited for efficiency. The Contractor may be requested to assist the COTR in debriefings of Offerors not included in the competitive range.

C.4.2.7 Negotiate Initial Offers (Not applicable when award is made based on initial Offers)

NOTE: In negotiations with competitive Offerors the following actions are prohibited

- (a) Favoring one Offeror over another
- (b) Revealing an Offeror's technical solution
- (c) Revealing an Offeror's price without the Offeror's permission.
- (d) Revealing the names of individuals providing reference information about an Offeror's past performance.
- (e) Knowingly furnishing source selection information in violation of FAR 3.104.

The Contractor shall:

1. Advise Offerors in writing and verbally of the weakness and deficiencies in their Offers, including adverse past performance information to which the Offeror has not had an opportunity to respond. Names of personnel who provided the past performance information **shall not** be provided to the Offeror. Offerors whose proposals are included

in the competitive range will be given the opportunity to submit revised proposals after negotiations/ discussions are closed.

2. Conduct independent discussions/negotiations with each Offeror within the approved negotiation targets. Negotiations may be conducted in person, in writing, or telephonically. The COTR and a tenant agency representative may be present during negotiations. The Contractor shall invite the COTR to the negotiations. The tenant agency may be invited if approved by the COTR.
3. Unless submitted with the initial Offer or if only the apparent successful Offeror will be required to submit a subcontracting plan, advise Offerors, except small business concerns, of the requirement to submit a Small Business Subcontracting Plan with their Final Proposal Revisions. If a subcontracting plan was requested with initial Offers, negotiate targets and submit to the COTR for coordination with the GSA Small Business Technical Advisor and final approval.
4. If errors, omissions, or deviations to the SFO are necessary as a result of discussions, prepare an amendment to the SFO for the approval of the COTR.
5. Prepare a record of negotiations for each Offer and submit to the COTR for review and approval.
6. Discussions shall be closed by issuing written notification to Offerors on GSA letterhead and for the signature of the COTR, the date and time that negotiations are closed and the date that Final Proposal Revisions (FPR's) are due. If using simplified procedures, FPR's may be requested orally. Requests for FPR's shall include an Offer's deficiencies or corrections discussed during negotiations but not previously provided to an Offeror in writing. If subcontracting plans are required with FPR's include a request for plans with the written notification. **Discussions or negotiations shall not be conducted after the date negotiations are closed.**

NOTE: Late Submissions, Modifications, and Withdrawals of Offers must be handled in accordance with GSAM 552.270-1(c).

C.4.2.8 Evaluate Final Proposal Revisions (FPR's)

1. Each FPR shall be evaluated with the objective of determining the most advantageous final Offer based on compliance with the SFO, the price, and if applicable the non-priced evaluation factors. Offers shall only be evaluated in accordance with the evaluation methodology stated in the SFO. Use of any other method may result in a protest.
2. If required, request clarifications of the FPR's. If any element of an FPR is not clear, a clarification must be requested from the Offeror. It is important that such inquiries be made in the form of a clarification of the existing Offer and not as a request for additional information or an invitation to change the Offer.
3. Prepare a written determination identifying the apparent successful Offeror consistent with evaluation and award factors stated in the SFO. The determination will include the annual rent for the space, the rentable rate per square foot, and the ANSI BOMA Office Area rate per square foot. A statement as to why the proposed rental rate is fair and reasonable is required. A present value price analysis as described in the SFO must be

included to support the successful Offer. A justification or cost benefit analysis may be required to support award at the existing location if the existing Lessor is not the successful Offeror.

4. Subcontracting Plan - Submit subcontracting plans submitted with FPR's to the COTR who will coordinate approval with the Office of Small Business Utilization. Plans are not required from concerns that indicate in their Representations and Certifications (GSA 3518 or 3518A) that they are a small business concern. Failure to negotiate an acceptable Subcontracting Plan may result in an otherwise successful Offer being unacceptable.
5. Prepare a record of negotiations and submit to the COTR for review and approval. The price negotiation record will include a brief discussion of the negotiation objectives, an abstract of all FPR's, the rationale for the award decision, all factors considered, and other attachments as necessary. If the acquisition was conducted using best value trade off source selection procedures see FAR Part 15 for requirements for the Source Selection Evaluation report and the Source Selection Authority Decision document.
6. In situations where the total aggregate lease acquisition contract value is equal to or greater than \$10,000,000, Equal Employment Opportunity (EEO) approval from the Department of Labor for the successful Offeror is required before lease award. A letter addressed to the appropriate Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) Regional Office shall be prepared for the signature of the COTR. At a minimum the information required by FAR 22.805(5) (i) through (vi) shall be included in the letter.
7. Verify the Offeror is not on the Excluded Parties Listing System (EPLS). The EPLS can be accessed at the website at <http://www.EPLS.gov>.
8. If only the successful Offeror is required to submit a subcontracting plan, after notification by the COTR, request a plan and submit to the COTR for coordination with GSA's Office of Small Business Utilization.

NOTE: Upon receipt of the FPR's and evaluation documents, the COTR will perform a scoring analysis, make a responsibility determination, and obtain tenant agency clearance. The COTR will provide written approval to the Contractor to prepare lease documents after completion of the above steps.

C.4.2.9 Prepare Lease Documents

After receipt of the EEO clearance, if required, and notification from the COTR to proceed:

1. Draft the lease contract and submit an original and one copy along with an award letter, if required by the COTR, on GSA letterhead for the signature of the COTR. The lease contract will typically include most of the documents contained in the SFO; a Standard Form (SF) 2, U.S. Government Lease for Real Property; floor plans, and any pertinent information from the Offeror's Final Proposal Revision. The total commission arrangement and the commission credit shall be documented on the SF-2. Submit the completed lease file tabs 1 through 5 and a partial tab 6 -- the documents completed to date, which require review prior to lease award. Submit a copy of the SF-2 to the RCO after approval by the COTR.

2. Submit a data worksheet (format to be provided) that includes the proposed annual rental, the square footage, and any other costs that are not provided for in the annual rental such as utilities, services and above-standard alterations.
3. After the COTR reviews the draft lease, incorporate needed changes or corrections to the lease contract documents.
4. Prepare a cover letter on GSA letterhead and forward an original and one copy of the approved lease contract to the successful Offeror for signature. Upon receipt of the signed leases (original and one copy) from the Lessor, review to ensure the Lessor has made no changes and submit both copies of the lease to the COTR for signature. If changes have been made by the Lessor notify the COTR in writing of the changes. The lease is considered awarded upon signature of the lease by the Lease Contracting Officer or upon signature of an award letter by the Lease Contracting Officer indicating the Government has accepted the lease. Upon receipt of a fully executed lease from the COTR, prepare a transmittal letter for the signature of the COTR and transmit a lease with original signatures to the successful Offeror.
5. Prepare a notice on GSA letterhead for the signature of the COTR advising unsuccessful Offerors of the name of the successful Offeror, the building address, and the awarded rental rate. A sample notification letter will be provided with post award contractor training materials or by the COTR. If an unsuccessful Offeror requests a debriefing, the Contractor may be required to assist the COTR with the debriefing.
6. Copies of the fully executed lease shall be forwarded to the tenant agency, the Property Management Customer Service Center designated by the COTR, and any other GSA function deemed necessary by the COTR, but not to exceed two additional copies
7. Immediately following lease award, when required by Federal procurement regulations, post the required lease contract award notice on the Federal Business Opportunity website. In accordance with FAR 5.301(a), this is required for awards over \$25,000 that are likely to result in the award of any subcontracts.

C.4.2.10 Post Award Services

NOTE: If utilities are not included in the lease, the COTR will submit the request for utility service(s) to the appropriate GSA procurement office.

Post Award Services includes the following:

1. Notify the agency in writing of the due date in the lease for agency layouts. Layouts may be prepared by the tenant agency, GSA, by a GSA contractor, or by the Lessor. Follow up with the tenant agency as necessary and notify the COTR if agency layouts will not be submitted within timeframes agreed to by the tenant agency in the project schedule.
2. Review agency layouts to determine if they are in compliance with the National Fire Protection Act Section-101 (Life Safety Code), GSA program guidelines, OSHA standards, and other applicable codes or regulations. Any changes required by virtue of

this review must be coordinated and approved by the tenant agency and the COTR. If the Government requires certification by a certified Fire/Safety Engineer, the certification may be obtained from the Lessor, GSA personnel, or from another GSA contractor. The Contractor may be required to participate in discussions concerning the layouts with Fire/Safety personnel and to coordinate required changes with the Lessor or tenant agency.

3. If a TI SFO was used for the acquisition and tenant improvement costs were not evaluated prior to award, as described in the Tenant Improvement section of the SFO, the Contractor shall request a proposal from the Lessor for tenant improvement work and determine price reasonableness in accordance with the terms of the SFO and FAR Part 15. If price proposals exceed the tenant agency's tenant improvement allowance, notify the COTR. If the Lessor does not submit three independent and competitive bids from qualified contractors or there is reason to question the reasonableness of the lessor's proposal, the Contractor shall obtain an independent cost estimate in the CSI format and compare it with the lessor's proposal to substantiate the price reasonableness of the lessor's proposal. The party preparing the independent cost estimate shall not have had access to the lessor's bids. If the lessor's price proposal is not determined to be reasonable, the contractor shall negotiate a reasonable price for the tenant improvements.
4. When required, obtain the Lessor's disposal of construction waste plan. Also, if reused materials or equipment will be used, obtain the Lessor's reuse plan. The timeframe for submission of these reports shall be established at the preconstruction meeting. The COTR will obtain the review of the Regional Environmental Quality Advisor (REQA) when required. If requested by the COTR, the Contractor may be required to assist in discussions with the REQA.
5. Obtain a copy of the Lessor's construction schedule, required by the SFO. Ensure that it reflects required milestones. Submit a construction monitoring and inspection plan based on the Lessor's schedule to the COTR for approval. The plan will identify the personnel, including their qualifications, who will attend the pre-construction conference and the contractors plan for monitoring and inspecting the construction or alteration work to ensure the project is on schedule and being constructed in accordance with the specifications and standards in the SFO.
6. Schedule a pre-construction conference with the Lessor and tenant agency. The COTR will be invited to the conference, but may decline to attend. The Contractor is responsible for coordinating the meeting and ensuring all concerns of GSA and the tenant agency are addressed at the meeting. Determine dates for submission of documents required to comply with the SFO, such as, plans for the disposal or recycling of construction waste, landscape plans, finish selection samples, color boards, etc. Advise the Lessor if Material Safety Data Sheets (MSDS) are required by the SFO. If the Davis-Bacon Act applies, advise the Lessor of submission requirements. If any issues arise that will impact the delivery schedule, notify the COTR.
7. The Contractor will prepare and distribute meeting minutes within seven calendar days after this or any subsequent meeting or conference call to the COTR, tenant agency, and Lessor unless the COTR determines meeting notes are not necessary. The COTR should be kept informed of project status including communications with the Lessor

through written documentation consisting of either e-mail or project reports at intervals requested by the COTR.

8. Monitor and perform inspections during construction to ensure that work is proceeding according to the Lessor's approved construction schedule. Construction may range from simple alterations to the construction of a new building. Inspect in accordance with the monitoring plan. The Contractor is required to perform inspections to ensure that the space meets the requirements of the SFO. A locally available construction inspector shall perform the inspections. The Government may elect to schedule additional technical inspections for complex projects for detailed inspection of the HVAC, electrical, or structural components. These type inspections are normally performed by GSA technical personnel or by other GSA contractors. The Contractor shall cooperate with GSA technical personnel or other GSA contractors to coordinate inspections dates in order to not delay the Lessor's construction contractor with excessive inspections.
9. Notify the COTR in writing of any delays or problems identified during inspection that might impact the planned occupancy date. If directed by the COTR, prepare a letter or email to the lessor outlining the deficiencies identified during the inspection that require corrective action. Follow-up to ensure deficiencies are corrected.
10. Obtain all submissions required from the Lessor in accordance with requirements and timeframes stated in the SFO, for example, payroll submissions are required by Davis-Bacon Act, color boards, finish samples, etc. and submit to the COTR for review or to the agency if direct to do so by the COTR.
11. If the Davis-Bacon applies, the Contractor shall review lessor payrolls, conduct any required interviews as required by the Davis-Bacon Act clauses in the SFO. The results of the payroll reviews and interviews shall be submitted to the COTR for review.
12. Review schedule dates for occupancy services, for instance, physical relocation of the tenant agency's personal property, installation of telecommunications service, installation of computer cabling, furniture delivery, or other similar services with the tenant agency, GSA, and the Lessor during the construction period. The Contractor will not perform these services, but merely ensure planned delivery dates for the services and/or installations are scheduled for performance at the appropriate times for occupancy and that parties are notified of changes that may impact schedule dates. Notify the COTR of any problems that may delay occupancy and effect these planned dates. The COTR shall coordinate with the agency concerning any delays that will impact the occupancy date.
13. As approved by the COTR, negotiate change orders and prepare Supplemental Lease Agreements (SLA's) for signature of the COTR. Change orders are defined as alterations associated with new space, which were not included in the original lease. When required by the COTR, the Contractor shall develop an independent cost estimate and review the current approved project schedule to determine if the change will have an impact on the schedule. The Contractor shall obtain the Lessor's price and, if applicable, a time extension. The Contractor shall negotiate a fair and reasonable price and time extension with the Lessor after approval of negotiation objectives by the COTR and then prepare the SLA for signature of the COTR. The final SLA shall establish the lease commencement date, address all modifications to the initial lease

contract, and document the total commission arrangement including the expected final commission payment, the commission credit, and the shell rent adjustment.

14. Perform pre-occupancy inspection

- a. Inspect the space at the completion of the Lessor's construction period for substantial completion. The tenant agency and Lessor shall participate in the inspection.
- b. Prepare a list of "punch-list" items the tenant agency and the Contractor determine are not in compliance with the lease or are not complete.
- c. Provide the COTR, the tenant agency, and the Lessor, a copy of the written report of the findings from the pre-occupancy inspection. Schedule a final inspection of "punch-list" items.
- d. Compare design intent drawings with actual space delivered and verify that all alterations required by the lease whether or not reflected on the drawings have been delivered.
- e. Measure and categorize the ANSI BOMA Office Area Square footage delivered to the Government. The Government will provide a format for this information during Contractor post award orientation.
- f. Obtain a copy of the Lessor's occupancy permit, unless the local jurisdiction does not issue occupancy permits. In that case contact the COTR who will procure a Fire and Life Safety review. The Contractor may be required to participate in discussions with Fire and Life Safety personnel, the Lessor, and the tenant agency.

15. Perform a final inspection to ensure punch list items are complete. Advise the COTR and Lessor, if directed by the COTR, of any incomplete items and reschedule another inspection.

16. Calculate the required cost adjustments and provide a list of item quantities and a total debit/credit reconciliation to the COTR. Prepare an SLA, obtain approval of the COTR, and submit the SLA to the Lessor and then to the COTR for signature.

17. A fully executed SLA with original signatures shall be furnished to the Lessor. Copies of all fully executed SLA's shall be forwarded to the tenant agency, the Property Management Customer Service Center designated by the COTR, and to any other GSA function deemed necessary by the COTR, but not to exceed two additional copies.

18. As specified in the SFO, obtain from the Lessor as-built drawings (CAD and Mylars). Verify the accuracy of the drawings and submit to the COTR. Drawings shall not be transmitted electronically unless encrypted in accordance with GSA policy. The COTR shall distribute copies of the drawings to any other party who may require a copy.

19. Submit the complete lease contract file with original documentation to the COTR for final approval and acceptance. Lease file documents are to be filed and tabbed in accordance with the Lease File Checklist, **Exhibit 3**, and set up in the folders/format specified by the Region who placed the task order. Filing conventions may vary from Region to Region.

20. Prepare an SLA for final acceptance and include the acceptance date, adjusted rental rates, outstanding deficiencies, the commission payment, the commission credit, and

any other information required by the COTR. Submit to the COTR for execution with the complete lease file.

Exceptions to Competitive Procedures for Succeeding and Superceding Non Competitive Lease Acquisitions

A succeeding lease is a new lease contract at the existing lease location to cover continued occupancy of the premises at the end of the lease term without a break in continuous tenancy. A superceding lease replaces an existing lease before it expires. Both succeeding and superceding lease acquisitions require award of a new lease. Certain competitive acquisition may also result in a succeeding lease if after competition the current Lessor is the successful Offeror. The following procedures relate only to noncompetitive acquisitions. Succeeding and Superceding noncompetitive lease acquisitions shall be performed by following the procedures for a competitive lease acquisition with the following exceptions:

Since succeeding and superceding lease acquisitions that exceed the Simplified Acquisition Threshold, are noncompetitive (sole source) actions, they must be justified, documented and approved by the COTR in accordance with acquisition regulations in GSAM 570.402 and GSAM 570.404. After development and approval of requirements, orientation, and development of a schedule as described above for competitive actions, the following additional actions are required unless the task order states the Government has performed them.

1. Publish the notice required by GSAM 570.404-2.
2. Conduct a survey of the market to identify potential source in accordance with GSAM 570.301.
3. If no potential sources are identified, prepare a sole source justification to award to the current Lessor in accordance with FAR 6.3 and GSAM 506.3.
4. If potential locations are identified, conduct a cost-benefit analysis in accordance with GSAM 570.402-6. If the cost benefit analysis indicates the Government cannot expect to recover relocation costs and duplication costs through competition, prepare a justification for the approval of the COTR in accordance with FAR 6.3 and GSAM 506.3.
5. If the determination resulting from steps 3 or 4 indicates the Government will only negotiate with the current Lessor, the following must be performed:
 - (a) After approval of the requirements, inspect the existing space to determine whether alterations are necessary to comply with fire and life safety and accessibility requirements. Obtain a copy of the IRIS report from the COTR that reflects any outstanding fire and life safety deficiencies for the current location. These issues as well as any other tenant agency requirement changes shall be addressed during negotiations.
 - (b) Verify the space is in compliance with flood plain and seismic requirements.

- (c) Prior to requesting an Offer, prepare and submit to the COTR an itemized cost estimate of tenant agency reimbursable alterations/installations to be performed/provided and installed by the Lessor. An estimated cost for alterations to be amortized in the annual rent shall be provided. The Contractor shall consult with the COTR to determine whether alterations are to be amortized in the rental, paid for as a lump sum, or a combination of both. Cost estimates will be in the CSI format and include the following.

- Description of Work
- Number of units and unit measurement, if applicable
- Unit cost (to include material cost, labor, overhead and profit)
- Total cost per line item
- Total tenant improvement costs
- Total Cost for all reimbursable alterations/installations

- (d) Identify commissions and commission credit.

Normal lease acquisition procedures as described above for the competitive lease acquisition task are followed from this point in the process.

- 6. If potential locations are identified, but a cost-benefit analysis indicates that the Government can expect to recover relocation and duplication costs through competition proceed with full and open competition procedures unless the COTR determines that the Contractor shall proceed with a noncompetitive action. If so the COTR will prepare and approve a Justification for Other Than Full and Open Competition (JOTFOC.) After approval the Contractor shall proceed with the noncompetitive action.

C.4.3 TASK 2 – LEASE EXPANSION

Lease expansion normally requires a supplemental lease agreement (SLA) to the existing lease in lieu of a new lease. The following actions are required.

1. Review the tenant agency occupancy agreement (OA), conduct an orientation, and develop a project schedule. A limited schedule is required. Appropriate milestones to be included in the schedule should be determined with the tenant agency and COTR during orientation.
2. Coordinate with the tenant agency and COTR to develop requirements necessary to perform requested alterations.
3. The Contractor shall consolidate the requirements into a detailed scope of work and obtain the approval of the scope of work from the tenant agency and the COTR.
4. The Contractor shall review agency layouts for compliance with the requirements of the National Fire Protection Act Section-101 (the Life Safety Code), GSA program guidelines, OSHA standards and all other applicable codes and regulations. Layouts may be prepared by the Lessor or in some cases by a GSA space planning contractor.

If the COTR determines a certified Fire/Safety engineer is required to review and certify the floor plans, the Government will obtain the certification.

5. Prepare and submit to the COTR an itemized cost estimate in the CSI format of all build out costs including the tenant improvements within the tenant improvement allowance and any tenant agency reimbursable alterations/installations (improvements above the allowance) to be performed/provided and installed by the lessor. The cost estimate shall include the following and be shall be submitted to the COTR prior to requesting an Offer:
 - (a) Description of work.
 - (b) Number of units and unit measurement, if applicable.
 - (c) Unit cost (to include material cost, labor, overhead and profit).
 - (d) Total cost per line item.
 - (e) Total cost for tenant improvements within tenant improvement allowance.
 - (f) Total cost for all reimbursable alterations/installations (not covered by the tenant improvement allowance).
6. Prior to requesting an Offer from the Lessor, the Contractor shall consult with the COTR to determine whether the lease alterations will be amortized in the rental or paid for as a lump sum.
7. After approval by the COTR, provide the scope of work to the lessor and request an Offer.
8. Review and evaluate the Offer to determine if the proposed rate is fair and reasonable in terms of current market rates and conditions. Ensure any costs previously amortized in the rent are not included in the proposed rental rate. Establish negotiation objectives for approval of the COTR. After approval, negotiate a fair and reasonable price. This may include the rental rate, the cost of services, overtime utilities, lump sum reimbursable items/installations, and/or a Small Business Subcontracting Plan (if the contract modification has an aggregate value over \$500,000 and the lessor is a large business concern). The Contractor shall document all negotiations and discussions with Lessor and submit a price negotiation memorandum to the COTR for review and approval.
9. Prepare a Supplemental Lease Agreement (SLA) for signature by the Lessor and the COTR, incorporating the negotiated terms. The SLA shall document the total commission payment and the amount of the commission credit applied to reduce the shell rent. Submit the SLA in draft to the COTR. The Contractor shall incorporate the COTR's comments and provide two copies of the final SLA to the lessor for original signatures. The SLA is then submitted to the COTR for signature. Distribution of SLA copies is the same as for the lease acquisition task.
10. Submit a copy of the SLA to the Regional Contracting Officer

C.4.4 TASK 3 – LEASE EXTENTION

NOTE: (If the Government has not prepared a justification for other than full and open competition (JOTFOC), the Contractor may be required to prepare the justification as part of the task).

The COTR shall obtain BA 53 funded prior to ordering this task.

If an existing lease requires an extension beyond its original term, the Contractor shall perform the following services.

1. Determine the appropriate term of the required extension based on discussions with COTR and tenant agency.
2. Submit a request for an extension of the lease to the Lessor on GSA letterhead for the signature of the COTR.
3. Upon receipt of the Lessor's proposal, review and evaluate the Offer to determine if the proposed rental rate is fair and reasonable in terms of current market rates and conditions. Verify that any amortized build out paid for the previous lease is not included in the proposed rental rate, prepare and obtain approval of negotiation objectives; negotiate price, term, or any other changes/alterations necessary to meet the tenant agency's needs. At conclusion of negotiations, submit the negotiated price and terms in writing to the COTR for approval including the proposed annual rental, any change in square footage (rentable and ANSI BOMA Office Area), and any other changes to lease costs not provided for in the annual rental, such as utilities and services, commission and commission credits.
4. After approval of negotiated terms, draft and submit to the COTR a Supplemental Lease Agreement (SLA) with the terms of the lease extension. The SLA shall document the total commission arrangement including the total amount of commission to be paid by the lessor, the term the commission is based on, and the amount of the commission credited to shell rent. After review by the COTR, submit two originals to the lessor for signature. Upon receipt from the lessor of the signed SLA, review it to ensure that no changes have been made and forward both originals to the COTR for signature. After signature by the COTR returned a fully executed copy (original signatures) to the Lessor and a copy to the appropriate GSA Property Management Customer Service Center, tenant agency, or other party (not to exceed two additional offices) as directed by the COTR.
5. A copy of the SLA shall be provided to the Regional Contracting Officer.

C.5. DISPUTES, PROTESTS, CLAIMS AND APPEALS, CONGRESSIONAL INQUIRIES AND FREEDOM OF INFORMATION ACT (FOIA INQUIRIES)

In the event of a protest, dispute, claim, appeal, or congressional inquiry, FOIA or other such inquiry, the Contractor shall provide necessary services to address the issue for any tasks they have performed. The Government will not reimburse the Contractor for these type services.

In the event coordination with GSA Legal Counsel on matters related to the Contractor's performance on the contract or a task order is required, the COTR or RCO will handle the

coordination. The Contractor will not contact Legal Counsel directly. If GSA Legal Counsel needs to contact the Contractor personnel directly to resolve an issue, the Contractor shall respond to requests for information either verbally or in writing within the timeframe requested.

C.5.1 DISPUTES/PROTESTS

If a protest is filed on a lease acquisition where services were performed by the Contractor (whether filed with the GSA, the General Accounting Office, or a court of jurisdiction), the Contractor shall:

As directed by the COTR, prepare documents required to adequately address the issues raised in the protest. Documentation may include, but is not limited to, Notice of Receipt of Protest, Contracting Officer's Statement of Fact and Position, or a Findings and Determination to authorize contract award and performance.

Assemble a protest file in accordance with FAR 33.1.

Participate as fact witness in meetings, alternative dispute resolutions, depositions, hearings or trials related to the lease acquisition as may be required by the Government.

C.5.2 CLAIMS/APPEALS

If a claim is filed by a lessor on a lease awarded by GSA as a result of a task order issued under this contract, the Contractor shall prepare, for the signature of the COTR, a Contracting Officer's Final Decision memo with all related supporting documentation. This work would be related to a claim that may arise from a build out on a lease awarded under a task order where the Contractor was responsible for monitoring the lessor's performance.

Assemble a claim file in accordance with FAR 33.2.

Participate as fact witnesses in meetings, alternative dispute resolutions, depositions, hearings or trials related to the lease as may be required by the Government.

C.5.3 FOIA/CONGRESSIONAL/OTHER INQUIRIES

Prior to completion of a task order, the Contractor shall, as requested by the COTR, provide input concerning Freedom of Information Act (FOIA) requests, Congressional inquiries, or other similar requests for information.

C.6. REPORTS

The Contractor shall provide monthly reports to the Contracting Officer at the following address

GSA, PBS
Attn: Nancy K. Sellers, Contracting Officer (4PED)
77 Forsyth Street, SW., RM 500
Atlanta, GA 30303

The reports listed below shall be submitted to the Contracting Officer within five working days after the end of each month via email in a Microsoft Office Excel format that will be provided after award.

C.6.1 NEW TASK ORDERS/MODIFICATIONS RECEIVED

- Contract Number
- Contractor Name, Contact Name and Phone Number
- Region
- Task Order Number
- Modification Number (when applicable)
- Issue Date
- Regional Contracting Officer/Ordering Official
- COTR
- Tenant Agency
- Location (City, State)
- ANSI BOMA Office Area SF
- Task
- Estimated Occupancy Date/Complete date

C.6.2 LEASES AWARDED

- Contract Number
- Contractor Name, Contact Name and Phone Number
- Region
- Lease Number
- Lease Award date
- Task Order Number
- Task Order Issue Date
- Regional Contracting Officer/ Ordering Official
- COTR
- Tenant Agency
- Location (City, State)
- ANSI BOMA Office Area SF
- Task Ordered
- Estimated or actual Occupancy Date
- Lease rate negotiated (*added by amendment #1*)
- SIOR rate (*added by amendment #1*)
- If SIOR Rate is not available, the market range identified in the market survey report (*added by amendment #1*)

C.6.3 COMMISSIONS COLLECTED AND COMMISSION CREDITS

- Contract Number
- Contractor Name, Contact Name, Phone No.
- Region
- Task Order Number
- Issue Date
- Regional Contracting Officer/Ordering Official
- COTR
- Tenant Agency
- Location (City, State)
- Square Footage

- Lease Number
- Lease award date (initial)
- Occupancy Date (Final)
- Total Lease Commission Percentage
- Total Lease Commission Dollar Amount
- Commission Percentage Credited to the lease
- Commission Dollar Amount Credited to the lease
- Term that commission was paid on (added by amendment #1)

C.6.4 TASK ORDERS COMPLETED

- Contract Number
- Contractor Name, Contact Name and phone number
- Region
- Task Order Number
- Issue Date
- Regional Contracting Officer/Ordering Official
- COTR
- Tenant Agency
- Location (City, State)
- ANSI BOMA Office Area SF
- Lease Number
- Lease Award Date
- Occupancy Date
- Date Final Submission to COTR, Lease files, as built, etc

C.6.5 OTHER SERVICES PROVIDED

Identify any services provided for disputes, protests, FOIA, Congressional or other inquiries, and requests for market data. Identify the Region requesting the information and if the information or service is related to a task order or lease include the task order number and lease number.

C.7. MARKET DATA

Occasionally, the Government has a need for limited market data that real estate firm's typically provide to clients at no cost. Therefore, if requested by the Government, the Contractor shall provide the following types of market data to the Government

1. Summary market information such as:
 - (a) Number of buildings and total square footage by type of space and buildings available for a tenant agency's intended use.
 - (b) Specific class vacancy rate.
 - (c) Typical market concessions, tenant work letters, tenant services and building common area factors, where applicable.
 - (d) Estimated per rentable square foot costs for operating expenses and property taxes.
 - (e) Asking rental rate per rentable SF and per ANSI BOMA Office area SF.

2. Comparable market range:

The Contractor shall provide a range of market rental rates, broken down by components, for each applicable class of buildings surveyed. Comparable leases obtained as part of the market analysis shall substantiate the rental ranges quoted. Components of the analysis shall include:

- (a) Base rent (e.g., recovery of investment on ownership costs of land, building, financing plus profit).
- (b) Space build-out cost amortized over lease term.
- (c) Property tax cost.
- (d) Operating costs.
- (e) Other costs not included in lease.

The total of these items will constitute total gross rental cost.

If it is not possible to provide comparable data on at least three buildings, the Contractor shall provide a written explanation of the market conditions preventing the collection of the required data.

C.8. QUALITY CONTROL REQUIREMENTS

The Contractor is responsible for quality control of all services provided under the contract. Inspection by the Government does not relieve the Contractor of this responsibility.

C.9 MINIMUM STANDARDS FOR TASK ORDER ACCEPTANCE

C.9.1 LEASE ACQUISITION AND POST AWARD SERVICES

C.9.1.1 Technical Quality

Performance of most services will result in a lease contract for the Federal Government. Therefore, all services must be in compliance with regulations listed in **Exhibit 2**, and with the terms and conditions of the contract to be acceptable to the Government. Services and submissions will be inspected and accepted by the COTR at stages specified in the work description. The purpose of inspection is to determine technical compliance with applicable laws, statutes, and regulations and with any other contract requirement. The Lease File Checklist, **Exhibit 3**, documents steps that must be performed during a Federal lease acquisition and will be the primary document used by the COTR to evaluate compliance with technical requirements. Services not performed in accordance with regulations and the terms of this contract will not be considered acceptable.

C.9.1.2 Documentation Quality

Documentation submitted shall be complete, accurate, neat, and assembled in accordance with contract requirements or it will not be accepted.

C.9.1.3 Timeliness

Work must be performed in accordance with timeframes/dates agreed to by the Contractor and approved by the COTR in writing and reflected in the project schedule or included in

the task order. Unless an excusable delay is identified and approved by a Regional Contracting Officer (RCO) in writing, failure to meet required delivery dates or to meet milestones which endangers performance of a task order may result in termination of a task order for default in accordance with the default clause of the contract or by other remedies available to the Government.

C.9.1.4 Responsiveness

Failure to keep appropriate parties apprised of project status in a timely manner will be considered in evaluating performance and could result in termination of a task order for default if it endangers successful performance of the task order.

C.9.2 SUPPLEMENTAL TASK ORDER AND CONTRACTOR EVALUATION CRITERIA

The Office of Management and Budget (OMB) evaluates GSA on its achievement of certain long term goals for the leasing program. In addition to performance on a specific task order, the Contractor's performance will be evaluated to determine whether their services are helping GSA to meet these goals. The level to which a Contractor is impacting the attainment of these goals will be considered when determining which Contractor's will receive task orders and whether contract option years will be exercised. These goals may be updated during the terms of the contracts. The current long-term measures are as follows:

1. Average lease rates are 8.25 % below industry average rates. *(This measure compares GSA's cost in leasing space to average lease rates in the commercial market.)*
2. 90% of tenants rated leased space services as highly satisfactory or better. *(This measure tracks the percentage of customers highly satisfied with the leased space provided by GSA.)*
3. Percent of space delivered when the customer says they need it. *(This measure tracks whether GSA delivers the leased space to customer agencies by the required date.)*
4. Percent of non-revenue producing space in the leased inventory. *(This measure tracks how much leased space is vacant.)*

The COTR will conduct a post performance assessment upon completion of each task order. One goal of the assessment is to promote maximum performance on future task orders. The Government's findings regarding Contractor performance will also be used to assist the Government in placing future task orders under the fair opportunity provisions of the contract, to determine if contract options will be exercised, and to document problems that endanger successful performance under the contract. The COTR will document the performance discussion in writing and provide a copy to the Contractor and the Regional Contracting Officer. The data will be considered by the PCO when preparing the annual contract evaluation data that will be entered into the NIH Contractor Performance System (CPS). The Government will address, at minimum, the following areas in each task order assessment:

C.9.2.1 Responsiveness

Work under the contract requires a high level of coordination with GSA officials, such as the COTR, Contracting Officers, tenant agencies, City and State officials, Offerors, Lessors, etc. The Contractor is expected to represent GSA in a professional manner in dealing with all parties and to provide excellent customer service to the tenant agencies.

The Contractor shall keep the COTR and agency informed of a project's status. Any issues, which will delay the acquisition, shall be reported to the COTR immediately.

Calls from a CO or COTR should be responded to the same day and within the normal office hours of the Regional Office who initiated the call.

C.9.2.2 Quality of Personnel Assigned to Task Orders and Written Submissions Submitted to the Government

An evaluation will be made to determine if:

Qualified personnel with a thorough understanding of the contract requirements and Federal acquisition regulations performed services.

Submissions were on time, complete, accurate, and neat.

Contract personnel demonstrated in depth knowledgeable of the local market and their efforts resulted in adequate competition.

The Contractor displayed expertise in their analytical and negotiating abilities resulting in lease at or below fair market rates or, if specified, GSA performance targets.

Contractor personnel were responsive and kept appropriate parties informed of project status during the performance of Post Award Services. The COTR was advised of problems that would impact the schedule. There were no significant delays due to performance by the Contractor.

C.9.2.3 Submissions to the Contracting Officer and Ordering Officials

The Contractor followed proper procedures in contacts with Government personnel with delegated authority to perform contract functions as outlined in Section G, Contract Administration.

Administrative submissions, i.e. conflict of interest, nondisclosure statements, reports, etc. were submitted in a timely manner, were complete accurate and were in compliance with contract requirements.

Assistance with requests for services in connection with protests, claims, inquiries, market analysis data were performed within timeframes requested and submissions were complete and accurate.

C.9.2.4 Compliance with Subcontracting Plans

If subcontracting plans are required, they will be reviewed by the PCO to determine if the Contractor is making a good faith effort to comply with their approved plan. In accordance with FAR Clause 52.219-1 Liquidated Damages Subcontracting Plans, failure to make a

good faith effort to comply with subcontracting plans may result in liquidated damages or other remedies available in the contract.

Subcontracting plans were based on estimated commissions (revenues). Plans will be monitored based on actual revenues to see if the percentages proposed in the plan for subcontract to the designated categories have been met.

C.10 NATIONAL INSTITUTE OF HEALTH CONTRACTOR PAST PERFORMANCE SYSTEM (NIHCPS)

Performance data related to quality, cost control, timeliness of performance, business relations, subcontracts, key personnel, compliance with subcontracting plans, and customer satisfaction will be entered annually at the end of each contract performance period into the National Institute of Health's (NIH) Contractor Performance System (CPS).

Contractors should register at the NIH website <https://cpscontractor.nih.gov>. After registering a PIN number will be issued via email. When performance data concerning a Contractor's firm is posted, a registered contractor receives an email notification and is provided an opportunity to submit comments. You must have the PIN number issued at the time of registration to access the system. Data from this system is transmitted to the Past Performance Information Retrieval System (PPIRS) which is accessible Government-wide to Federal Contracting Officers who evaluate contractor past performance prior to the award of a contract. Unsatisfactory performance on this contract could have an adverse impact on the award of other Government contracts.

Section D PACKING AND MARKING

D.1. PAYMENT OF POSTAGE AND FEES

The Contractor shall pay all postage and fees related to contract services performed.

The Contractor is not required to use express mail as long as they can meet required submission dates using regular mail.

D.2. MARKING

All correspondence, including emails, shall include the Contract Number and Task Order Number.

All documents prepared by the Contractor for signature by a GSA official must be prepared on GSA letterhead.

In accordance with FAR 11.106(c), all documents prepared by the Contractor must be marked to indicate the Contractor prepared them.

D.3. SOFTWARE REQUIREMENTS

The Contractor shall submit data to the Government using the Microsoft Office Suite, specifically, Word and Excel. Documents must be prepared using the most current publicly available version of the above listed software or one release prior, provided it is compatible with the current version of each used by the Public Buildings Service.

D.4. ENCRYPTION REQUIREMENTS FOR EMAILING OF BUILDING DRAWING FILES

Building drawing files may NOT be transmitted via email unless encrypted in accordance with GSA procedures. If available, GSA encryption procedures will be provided to after award.

Section E INSPECTION AND ACCEPTANCE

E.1. GENERAL

Contractors are responsible for their own quality control including the day-to-day inspection and monitoring of all work performed to ensure compliance with the contract requirements.

Services must be in compliance with contract requirements including, applicable laws and regulations and submissions must be complete, accurate and professionally prepared prior to acceptance by the Government.

The COTR designated for a task order will perform inspection and acceptance services for the Government.

E.2. 52.246-4 INSPECTION OF SERVICES—FIXED PRICE (AUG 1996) DEVIATION

(a) Definitions. "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 to 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) to increase the amount of the contractor's offset to the lease 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)

Section F DELIVERY AND PERFORMANCE

F.1. PLACE OF PERFORMANCE

Services are required within the service areas of the eleven GSA Regional Offices, including the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI), the Federated States of Micronesia (FSM), the Republic of the Marshall Islands, and the Republic of Palau.

F.2. TERM OF CONTRACT

The performance period of this contract is one year with four one-year option periods. Exercise of an option is a unilateral right of the Government. Prior to exercise of an option, small business concerns are required to provide a re-certification regarding their small business status. When a previously awarded small business re-represents itself as other than a small business, for contracts that were not awarded as a small business set-aside, the contracting officer will determine the estimated value of the remainder of the contract option period. If the subcontracting threshold is met, the contractor must negotiate an acceptable subcontracting plan before the option is exercised. (amendment #1 revision).

F.3. ORDERING PROCEDURES

This is an indefinite delivery, indefinite quantity contract where contractor performance is initiated when the Government awards a written task order to the Contractor. Since this is a no cost contract, these procedures represent a deviation from the fair opportunity procedures stated in FAR 16. The following criteria will be considered when making a fair opportunity determination.

(1) Task Orders will be distributed as equally as possible to each Contractor awarded a contract as a result of this solicitation until a record of performance history on task orders is available. Contractors will be awarded similar size projects in similar geographic areas to the maximum extent possible within the existing workload available. A Contractor's conflict of interest or potential conflict of interest will be considered by the contracting officer for the task order in accordance with the conflict of interest clause in Section H of the contract.

(2) Contractor performance on existing task orders including such factors as the quality of deliverables and timely performance. If the Contractor is endangering performance of any task order by not meeting required project schedule delivery dates (through no fault of the Government) or performing unsatisfactory work, the Government may determine that the Contractor will not receive any additional orders until the milestone dates for task orders being performed are in accordance with project schedules and/or performance is otherwise satisfactory.

(3) Specialized experience or knowledge that better qualifies a Contractor to perform a specific lease acquisition task.

Fair opportunity requirements do not require that proposals be requested from each Contractor prior to awarding a task order. **Regional Contracting Officers shall consider the criteria stated above when making a determination and shall document the task order file in writing with the rationale for their fair opportunity determination.** The RCO shall submit a copy of the fair opportunity determination to the PCO with a copy of the task order. If an order is logical follow on to an order already issued to the contractor. Fair opportunity procedures do not have to be followed. The RCO shall document the file.

DONALD J. SUDA, Office of Acquisition Policy (MV) is the GSA Ombudsman for task order contracts and shall review complaints about fair opportunity concerns consistent with the procedures in the contract. He can be reach at the address below:

GSA (MV)
1800 F Street NW
Washington, DC 20405-0001

PHONE: (202) 501-4770
Email: DonaldJ.Suda@gsa.gov

Contractors shall accept only written task orders issued on a GSA Form 300 by a Regional Contracting Officer/Ordering Official authorized by the Procuring Contracting Office (PCO). Performance of any services for the Government, which have not been ordered in accordance with the terms and conditions of this contract, may result in Contractor performance of work with no compensation. Task orders may be issued by facsimile or by electronic commerce methods.

The Contractor must inform the Regional Contracting Officer/Ordering Official in writing not later than three working days following the receipt of a task order whether a conflict of interest exists. Task orders must be accepted unless the Contractor documents that a conflict of interest exists and the RCO after consultation with Legal Counsel concurs that performance of the task order by the Contractor is not in the best interest of the Government. Detailed requirements related to conflict of interest are in Section H.5.

The Contractor shall submit conflict of interest and non disclosure statements, **Exhibits 4A and B** to the Regional Contracting Officer/Ordering Official no later than three working days after receipt of a task order for Contractor or subcontract personnel who will perform services in connection with the task order. If multiple personnel will be involved in performing services in connection with the task order, the services to be performed by each person shall be identified as well as the person who has overall responsibility for the task order. If additional personnel are assigned to the task order at a later date, a nondisclosure/conflict of interest statement shall be provided to the Regional Contracting Officer prior to their starting work on the task order. If requested by the RCO, the Contractor shall submit documentation demonstrating that personnel assigned to a task order hold the appropriate state license to perform the services required by the task order. The Contractor shall contact the COTR to schedule a date for orientation no later than three (3) days after submission of nondisclosure/conflict of interest statement. If a potential conflict is identified, then the COTR shall be contacted to schedule orientation within three days of notification of the RCO's determination to proceed with the order.

The COTR will hold an orientation with the Contractor and tenant agency contact prior to the Contractor starting work on a task order to ensure all parties clearly understand the

roles and responsibilities of each party and to ensure the Contractor clearly understands tenant agency requirements and concerns. Orientation is normally conducted telephonically. The Contractor shall document areas discussed at orientation and provide a copy to the COTR with the project schedule.

Only GSA, PBS, Warranted Contracting Officers with delegated ordering authority from the PCO may place orders against this contract.

The Contractor must accept all modifications to existing task orders regardless of the amount.

A firm delivery date will be established for each task order. The date shall either be established prior to award of the task order and included on the task order; or if it is necessary to establish the required delivery date during orientation after award of the task order, it shall be established in the approved project schedule. A copy of the approved schedule shall be provided to the RCO/Ordering Official after approval by the COTR. After COTR approval, no changes may be made to the required delivery date (occupancy date) unless the task order is modified by the RCO.

If GSA requests an expedited lease acquisition, the Contractor is not required to share a percentage of the commission with the Government. The task order must state that "expedited services" are required and include a firm required delivery date that must be met by the Contractor.

Contractors shall accept only written task orders issued on a GSA Form 300 by an RCO/Ordering Official authorized by the Procuring Contracting Officer/PCO. Performance of services, which have not been ordered in accordance with the terms and conditions of this contract, could result in the Contractor having to reperform services at their own expense.

F.4. PERFORMANCE CRITERIA

Performance criteria are stated in Section C.9.

Section G CONTRACT ADMINISTRATION DATA

G.1. ROLES AND RESPONSIBILITIES OF GOVERNMENT PERSONNEL

G.1.1 PROCURING CONTRACTING OFFICER (PCO)

The PCO has the overall responsibility for administration of the contract. The PCO alone, without delegation, is authorized to take action on behalf of the Government to amend, modify, or deviate from the contract terms, conditions, requirements, specifications, details and/or delivery schedules; make final decisions on disputes; terminate the contract for convenience or default; and issue final decisions regarding contract matters. The PCO may delegate certain other responsibilities to authorized representatives.

The Procuring Contracting Officer is:

Nancy K. Sellers
GSA, PBS (4PE)
77 Forsyth St. SW, Rm 500
Atlanta, GA 30303

Phone: (404) 562-0795
Fax: (404) 562-0792
Email: nancy.sellers@gsa.gov

G.1.2 NATIONAL PROGRAM MANAGER (NPM)

The NPM will be delegated COR responsibilities by the PCO to assist with the administration of the contract. The NPM is the technical expert for matters related to the Federal lease acquisitions policies and procedures. The NPM will review regulations and program changes and as necessary submit requests for contract modifications to the PCO. Authority not delegated to the NPM is reserved for the PCO.

The National Program Manager is:

Mary Pesina
GSA (PE)
1800 F Street, RM 2320
Washington, DC –20405-0001
Phone: (202) 501-4381
Fax: (202) 208-7859
Email: mary.pesina@gsa.gov

G.1.3 REGIONAL PROGRAM MANAGER (RPM)

Each of the eleven GSA PBS Regional Offices will designate a Regional Program Manager (RPM) who will be responsible for coordinating regional contract issues and work requirements primarily with the National Program Manager. The RPM may be delegated authority to coordinate regional task order issues with the Contractor and to participate in Contractor evaluations. The designation of a Program Manager does not preclude the Region from having multiple Regional Contracting Officers (RCO's) who will award and administer task orders. The names and contact information for RPM's will be provided after award. The RPM do not have authority to award, change or modify the contract or a task order. The RCO for a task order shall approve all task order changes.

G.1.4 REGIONAL CONTRACTING OFFICERS (RCO)

Any PBS warranted contract specialist is authorized, within the limits of their Contracting Officer's Warrant authority, to award task orders under the contract after receipt of an ordering official delegation by the PCO. Regional Ordering Officials also referred to in contract clauses as Administrative Contracting Officers (ACO's) or Ordering Officials shall award and administer task orders. They do not have authority to modify the contract. However, they have full authority to take any contract action regarding a task order within the limits of their contracting authority. They will delegate certain responsibilities to COTR's for the day-to-day monitoring of Contractor performance. Responsibilities of the RCO's include, but are not limited to:

- Awarding task orders in accordance with Fair Opportunity Procedures in Section F, including documenting in writing the rationale used to make the fair opportunity determination.
- Participating in task order orientation. This is optional at the discretion of the RCO or in accordance with regional procedures (amendment #1 revision added)
- Determining the adequacy of performance by the Contractor in accordance with the terms and conditions of the contract and with input from the COTR.
- Ensuring compliance with contract requirements, terminating task orders for the convenience of the government. Advising the RPM and PCO of performance problems or issues that impact the administration of the contract as a whole. Task orders terminated for default must be coordinated with the Procuring Contracting Officer.
- Delegating certain contract administration responsibilities to authorized representatives (COTR's). Only lease contracting officers may be delegated COTR task order administration functions.
- Ensuring the PCO is provided copies of task orders, fair opportunity determinations, and Contractor performance assessments or evaluations. Notifying the RPM and PCO of issues that may impact the contract.

G.1.5 CONTRACTING OFFICER TECHNICAL REPRESENTATIVES (COTR)

A COTR will be delegated in writing on each task order. The COTR is responsible for task order orientation with the tenant agency and Contractor, for day-to-day monitoring of

Contractor performance, for inspection, and acceptance of services and submissions, and for resolving problems and issues within their delegated authority. Responsibilities include reviewing and inspecting deliverables to ensure compliance with contract requirements; ensuring defects or omissions are corrected; conferring with representatives of the Contractor regarding any problems encountered in the performance of the work; preparing performance assessments and discussing them with the Contractor; reporting performance problems to the Regional Contracting Officer and accepting services.

The COTR for a task order is the Lease Contracting Officer (LCO) for any lease award or leasing action resulting from the issued task order and is GSA's primary contact with the tenant agency.

G.1.6 TENANT AGENCY

The tenant agency is the Federal client for who leased space is being acquired. The tenant agency will assign a representative responsible for coordinating the project with GSA. The Contractor should coordinate with the tenant agency representative only to the extent directed by the COTR. Any issues that may affect schedule, cost or scope must be directed to the COTR. A tenant agency has no authority to direct Contractor performance, to change requirements provided to the Contractor by GSA, or to change the schedule or any other thing that might impact services ordered on a task order. The tenant agency shall direct requests for changes to the COTR who, if appropriate, will submit a request for a modification of the task order to the Regional Contracting Officer. If the tenant agency notifies the Contractor directly of a change in the requirements, the Contractor shall notify the COTR who will coordinate the requested changes with the tenant agency.

G.2. FINANCE DATA – COMMISSIONS AND COMMISSION CREDITS

G.2.1 COMMISSIONS

The Contractor shall document on the SF-2, the commission negotiated with an offeror, the percentage and amount of the commission to be applied to shell rent at lease award and if there is any change after award on the final SLA for the acquisition.

The commission negotiated for a lease acquisition by the Contractor shall be based on a lease term not to exceed the firm term of the lease. Commissions will not be negotiated or collected on option periods of lease terms beyond the firm term.

If the Contractor collects a commission from a lessor or other party and does not complete all services required by the Contract for satisfactory performance of the task order, the contract may be terminated for default and the Contractor may be liable for damages to the Government.

G.2.2 APPLICATION OF COMMISSION CREDITS TO THE LEASE

The Contractor shall have the Lessor credit to the lease transaction the percentage of their commission proposed for this contract, except where the Government has ordered expedited lease acquisitions services (i.e. FEMA, TSA, 9/11 lease actions) with a delivery date for occupancy of 120 calendar days or less. For these expedited acquisitions, the Contractor is not required to forego a percentage of their commission as a shell rent credit. The Contractor will collect the entire commission if the task order is completed by the specified occupancy date and in less than 120 calendar days. The Government task order must state expedited services are being ordered.

Commission credits will be evaluated when evaluating offers. In the Present Value Analysis credits will be reflected as a reduction to the shell rent applied as a one-time lump sum rental deduction or if the rental credit exceeds the monthly rental amount, the credit shall be applied in the shortest time period possible.

G.2.3 TERMINATION OF LEASE ACQUISITION TASK ORDER PRIOR TO COMPLETION

In the event a task order is terminated for the convenience of the Government prior to award of a lease, the Government will not reimburse the Contractor for any costs associated with the task order.

G.2.4 SUBMISSION OF SUBCONTRACTING REPORTS

For Offerors (other than small business concerns) the subcontracting plan and goals for award to Small Disadvantaged Business concerns will become a part of the contract.

In accordance with FAR clause 52-219-9, (j) Small Business Subcontracting Plan, the following reports must be submitted by the dates below. Reports are sent to the Contracting Officer, the Central Office SBTA, and the GSA Office of Small Business Utilization at end of each reporting period. Names and addresses for submission of reports will be provided with award letters.

1. If an individual plan was submitted the following reports are due:

<u>Calendar Period</u>	<u>Report Due</u>	<u>Date Due</u>
10/01-03/31	SF-294	4/30/
04/01-9/30	SF 294	10/30
10/01-9/30	SF-295	10/30
Contract Completion	SF294	

If an activity is covered by a commercial plan

<u>Calendar Period</u>	<u>Report Due</u>	<u>Date Due</u>
10/01-09/30	SF-295	10/30

SDB Participation Targets Reporting

In accordance with FAR Clause 52.219-25 all Contractors (Small and Other than Small) shall submit reports at the end of each contract performance period.

Section H SPECIAL CONTRACT REQUIREMENTS

H.1. QUALIFICATION REQUIREMENTS FOR CONTRACTOR'S FIRM

Other than small business Contractors shall have a minimum of three years commercial real estate experience providing services for at least two national clients who had requirements for lease acquisition services, such as performing market surveys, negotiating lease transaction, and preparing lease contract documents, in a geographic area similar to that required by this solicitation (nationwide services in both rural and urban areas). Contractors must have experience with performing at least 150 transactions per year. A small business entity is required to have three years experience performing a at least 150 lease acquisitions transactions per year in geographic areas as described in Section M, Evaluation for Award. All contractors are required to have licenses required by States, local, or other governing laws or regulations necessary to perform all contract services, including collecting commissions and crediting a percentage of the commission to the shell rent of a lease transaction.

H.2. LOCATION OF THE CONTRACTOR OFFICES

The Contractor shall, as a minimum, have an office located within the boundaries of the National Capital Region.

H.3. PERSONNEL

H.3.1 AVAILABILITY

Contractor personnel assigned to a task order shall be available during the normal working hours of the Region where a task order is being performed.

H.3.2 IDENTIFICATION

In accordance with FAR 11.106 Contractor personnel who attend meetings or work in situations where their actions could be construed as acts of Government officials must be clearly identified as Contractor personnel.

H.3.3 SECURITY

A Contracting Officer or a designated representative may require the Contractor to remove any employee(s) from GSA controlled buildings or other real property should it be determined that the individual(s) is either unsuitable for security reasons or otherwise unfit to work on GSA controlled property.

The Contractor shall fill out and cause each of his employees on the contract work to fill out, for submission to the Government, such forms as may be necessary for security or other reasons.

Each employee of the Contractor shall be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by Alien Registration Receipt Card, Form I-151, or, who presents other evidence from the

Immigration and Naturalization Service that employment will not affect his immigration status. All contract employees and subcontractor employees working on task orders under this contract must have command of the English language and be able to fluently speak and write in English.

H.3.4 ADDITIONAL TENANT AGENCY SECURITY REQUIREMENTS

A Contractor is required to comply with all security requirements of a tenant agency in buildings where work is performed. The Contractor is responsible for coordinating with a tenant agency and providing all information required of him/her or his/her employees for any required clearance. Employees that can not meet security or clearance requirements will not be allowed to work in, or around, an agency's space. Certain agencies may require that employees be escorted and/or that work only be performed during normal duty hours of the tenant agency. For example, Contractor personnel must be cleared by the FBI prior to working on a task order for the FBI.

When a controlled personnel identification system is used by a tenant agency at a site where work is performed, the tenant agency will provide any required identification. Each employee of the Contractor must have in his/her possession while on the premises the identification issued by the agency. The identification shall be displayed at all times or as required by the agency. The Contractor shall ensure that all Government identification is returned to the issuing agency when an employee is terminated or upon expiration of the task order.

H.3.5 STANDARDS OF CONDUCT

The Contractor is responsible for maintaining satisfactory standards of employee competency, conduct, appearance, and integrity and is responsible for taking such disciplinary action with respect to his/her employees as may be necessary. Each employee is expected to adhere to standards of behavior that reflect credit on him/herself, his/her employer, and the Federal Government.

H.3.6 REMOVAL FROM CONTRACT WORK

The Procuring Contracting Officer may request that the Contractor immediately remove any contract employee(s) from contract work who the Government deems incompetent, careless, insubordinate, unsuitable or otherwise objectionable; or whose continued employment the Government deems contrary to the public interest, inconsistent with the best interests of security, or is identified as a potential threat to the health, safety, security, general well being or operational mission of the facility and its population.

The Contracting Officer may also request that the Contractor immediately remove any employee(s) from contract work should it be determined that individuals have been disqualified for either suitability or security reasons, or who are found to be unfit for performing duties.

The Contractor must comply with any removal request. For clarification, a determination of unfit may be made from, but not limited to, incidents involving the most immediately identifiable types of misconduct or delinquency as set forth below:

- A. Failure to receive a suitability determination, temporary clearance, or clearance from GSA or a tenant agency.
- B. Violation of Federal, State, or local law.
- C. Violation of the Rules and Regulations Governing Public Buildings and Grounds, 41 CFR 101-20.3. This includes the carrying or possession of explosives, or items intended to be used to fabricate an explosive or incendiary device.
- D. Neglect of duty, unreasonable delays or failures to carry out assigned tasks,
- E. Falsification or unlawful concealment, removal, mutilation, or destruction of any official documents or records, or concealment of material facts by willful omissions from official documents or records.
- F. Disorderly conduct, use of abusive or offensive language, quarreling, intimidation by words or actions, or fighting. Also participation in disruptive activities that interfere with the normal and efficient operations of the Government.
- G. Theft, vandalism, immoral conduct, or any other criminal actions.
- H. Selling, consuming, or being under the influence of intoxicants, drugs, or substances that produce similar effects.
- I. Improper use of official authority or credentials.
- J. Unauthorized use of communications equipment on Government property.
- K. Violation of security procedures or regulations.
- M. Violation of Title 18, U.S.C., Section 930, which prohibits the knowing possession or the causing to be present of firearms or other dangerous weapons in Federal facilities and Court facilities.

The Procuring Contracting Officer will make all determinations regarding the removal of an employee(s), except under certain conditions. When the Contracting Officer is not available, either during the day or after hours, or in situations where a delay would not be in the best interest of the Government or is identified as a potential threat to the health, safety, security, general well being or operational mission of the facility and its population, the Regional Contracting Officer for the task order or the Contracting Officer's Representative will have the authority to immediately remove the contract employee from contract work. Law enforcement officers of the Federal Protective Service (Police Officers, Physical Security Specialists, or Criminal Investigators) will have the authority to immediately remove any contract employee from the work site who is found to be in violation of any of the items mentioned above and where a delay in removal would not be in the best interests of the Government, security, or is identified as a potential threat to the health, safety, security, general well being or operational mission of the facility and its population. The Procuring Contracting Officer would be notified as soon after the incident as practical or at the beginning of the next business day if an action happened after hours. The Procuring Contracting Officer would make all official notifications to the Contractor. In the event of a dispute, the Procuring Contracting Officer will make the final determination. Specific reasons for removal of an employee(s) will be provided to the Contractor in writing.

The Contractor is responsible for providing replacement employees if contract employees are removed from contract work.

H.3.7 PERSONNEL QUALIFICATIONS

H.3.7.1 General

The Contractor shall ensure that employees, including manager(s) and subcontractor personnel have the required certifications, licenses, experience, and training specified in

the contract in order to efficiently and effectively perform the services. If requested by the PCO, RCO or their designees, Contractors may be required to submit resumes for personnel proposed to perform duties required under this contract. At minimum, resumes should address education, experience, knowledge and expertise of the person, and suitability for the particular task order to which they are assigned.

The Contractor shall utilize the personnel named or otherwise identified to perform the services for each task order. In the event personnel, other than the designated personnel, are proposed to perform the services, the Contractor shall notify the Regional Contracting Officer and, if requested, provide a complete resume for proposed substituted personnel. No delay in Contractor performance will be allowed as a result of the Contractor's substitution of personnel.

While the Contractor may have several personnel performing work in connection with a task order, one person with overall responsibility for successful completion of the task order must be designated for each task order.

Contractors and their subcontractors must be licensed brokers who have the authority to collect commissions on behalf of the Contractor for all locations where services may be required. It is the Contractor's responsibility to obtain all required State or other licenses required to perform services described in the contract.

Subcontractor firms and their personnel must meet the same standards as the Contractor's personnel. The prime Contractor is responsible for all work performed by their subcontractors.

H.3.7.2 Project Manager(s)

The Contractor must provide a Project Manager for the overall contract who will be the primary contact for the Procuring Contracting Officer (PCO) and the National Program Manager (NPM) for matters related to the contract. The Project Manager or an alternate must have the full authority to make decisions on behalf of the Contractor and must be available on a daily basis. In addition, a primary contact for each GSA Regional Office must be designated and available on a daily basis to respond to issues on matters related to task orders awarded for the Region.

The Project Manager and alternate are considered key personnel and résumés for these individuals must be included as part of the technical proposal as stated in Section L. The Project Manager designated as the national contact for interface with the PCO and NPM may be the same person or a different person than the designee for the regional contacts. However, the regional contact person must be available on a daily basis to respond to concerns related to task orders issued by a specific Region during the Region's normal work hours. In the event the designated regional contact is unavailable, an alternate contact with the same authority shall be available.

H.3.7.3 Leasing Personnel

Commercial real estate services described in the contract must be performed by licensed, qualified commercial real estate personnel with a minimum of three years experience in performing commercial real estate transactions (tenant representation services) similar to those described in the contract. They shall have a thorough knowledge of the local real estate market for the delineated area for the lease acquisition, know which areas fit a client's needs and budget, and be familiar with local zoning laws, etc. They must be fully

familiar with the requirements of the contract and with all Federal laws and regulations that must be followed for a Federal lease acquisition. The Contractor is required to meet all State and local licensing requirements for their personnel performing lease transactions for any location where services may be required. Personnel assigned to a task order shall be available during the normal work hours of the Region where work is being performed. If multiple personnel will perform services in connection with a task order, a primary contact with overall responsibility for successful completion of the task order must be identified for each task order.

H.3.7.4 Construction Inspection Personnel

Must be a registered architect or have a minimum of 5 years experience performing construction inspections services similar to those required by the contract.

H.4. RESTRICTIONS ON OTHER WORK

Upon award of a task order, Contractors shall disclose that they are acting as an exclusive representative of GSA for the transaction.

The Contractor, its employees, or subcontractors and their employees, performing services under any task order issued hereunder shall neither solicit other work to be performed under this GSA contract nor accept additional work under this contract from any Federal agency other than GSA.

The Contractor must represent themselves as a GSA Contractor and shall not, while representing the GSA, market their company or services of their company to GSA clients or property owners while conducting GSA business.

H.5. ORGANIZATIONAL CONFLICTS OF INTEREST

(a) General. Subpart 9.5 of the Federal Acquisition Regulation, 48 C.F.R. 9.5, prescribes responsibilities, general rules, and procedures for identifying, evaluating, and resolving organizational conflicts of interest.

(b) Purpose. The purpose of this clause is to avoid, neutralize, or otherwise mitigate organizational conflicts of interest that might exist related to a Contractor's performance of work required by this contract. Such conflicts may arise in situations including, but not limited to: a Contractor's participation as an offeror or representative of an offeror, in a procurement in which it has provided assistance in the preparation of the Government's requirements and specifications; a Contractor's providing advisory assistance to the Government in a procurement in which the Contractor's firm, or one which the Contractor represents, is an actual or potential offeror; and a Contractor's participation, as an offeror or representative of an offeror, in a procurement where the Contractor has obtained confidential or proprietary information relating to competing offerors as a result of the Contractor's work on prior task orders.

(c) Definitions. For purposes of this clause

- (1) "Contractor" means: an individual or other legal entity that
 - a. Directly or indirectly (e.g. through an affiliate), submits offers

for or is awarded, or reasonably may be expected to submit offers for or be awarded, a Government contract, including a contract for carriage under Government or commercial bills of lading, or a subcontract under a Government contract; or

b. Conducts business, or reasonable may be expected to conduct business, with the Government as an agency or representative of another contractor, and

c. Includes the Contractor; any of the Contractor's parents, affiliates or other entities in which the Contractor or such parents or affiliates have a financial interest; successors in interest to the Contractor or any of its parents or affiliates; proposed consultants or subcontractors at any tier; and employees thereof.

(2) "Parent" means a business concern, organization, or individuals that has/have a controlling interest in another business concern, organization, or individual. Indicum of controlling interest includes, but is not limited to, ownership of more than one-half interest.

(3) "Affiliates mean a business concern, organization, or individuals that, directly or indirectly, (1) either one controls or has the power to control the other, or (2) a third party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a business entity organized following the debarment, suspension, or proposed debarment of a contractor which has the same or similar management, ownership, or principal employees as the contract that was debarred, suspended, or proposed for debarment.

(d) Restrictions. The Contractor agrees:

1. As a condition of its award of this Contract, to establish a "conflict wall", in form and manner satisfactory to the Contracting Officer. Any such "conflict wall" shall, at a minimum:

- Inform all members of the Contractor of the existence of the "conflict wall" and the restrictions set forth in this Clause;
- Ensure the establishment and maintenance, during the term of this Contract, of separate electronic file servers and other electronic safeguards to prevent access to documents, files and information related to Contractor's work under this Contract to other than Contractor personnel working under this Contract, including Contractor personnel representing building owners or lessors;
- Ensure that paper files and documents are kept, safeguarded and maintained in separate, secure locations that will preclude access to Contractor personnel not working under this Contract, including Contractor personnel representing building owners or lessors;
- Be maintained at all times during the term of this Contract

2. To remain subject, during the term of the Contract, to periodic inspection and verification of the "conflict wall" and the processes and procedures to be maintained in connection therewith.

3. To execute, in connection with any awarded Task Order under this Contract, such certifications as the Contracting Officer may deem necessary and appropriate

confirming the continuing existence of the "conflict wall" and the processes and procedures included there under.

4. That none of Contractor's personnel (including without limitation employees, consultants or subcontractors) performing work under this Contract will participate, in any capacity, in providing any advice or representation to a building owner, representative, lessor or other third-party in connection with any Government leasing transaction during the term of this Contract and for an additional period of six (6) months following conclusion of Contractor's work under the Contract.

5. That any person performing services under this Contract shall be and remain, during the term of this Contract, ineligible to share in any fees or commissions received by or payable to Contractor by virtue of Contractor's representation of a building owner, representative, lessor or other third-party in a lease transaction involving the Government; **provided**, any such person shall be entitled to share in any cooperating tenant fee or commission available to Contractor under this Contract.

6. That all personnel performing work in connection with an awarded task order under this Contract may be required to execute such Confidentiality and Non-Disclosure Agreements, or other documents which the Contracting Officer, in his/her sole discretion, may require in order to protect the proprietary nature or confidentiality of information provided by the Government or otherwise received by the Contractor in connection with its work under this Contract. Such Agreements or documents may provide that violations of their terms may result in criminal and civil penalties in accordance with, among other laws and regulations, 41 U.S.C. §423. Failure of the Contractor to provide required Agreements or documents under this paragraph from all required personnel may result in termination of Contractor's work under the task order at issue at no cost to the Government.

7. That all personnel performing work in connection with an awarded task order under this Contract may be required to execute the agreements contemplated by Section 9.505-4(b) of the Federal Acquisition Regulation, 48 C.F.R. §9.505-4(b).

8. That all personnel performing services under this Contract will treat any and all information generated and received in connection with their work as proprietary and confidential, continue to do so in perpetuity, and disclose and utilize such information only in connection with their work under the Contract.

9. Prior to the acceptance of a task order request, to immediately notify the Contracting Officer of any potential conflict of interest that would prevent or limit the Contractor's ability to perform the work requested. If any such conflict is identified, and the Contractor nonetheless desires to undertake the requested work, consistent with the other requirements and restrictions of this Clause, the Contractor shall provide the certification required by paragraph three (3) above and, if awarded the task order for the transaction at issue, an executed dual agency notification and consent statement from any other interested parties affected by Contractor's performance of work related to the task order.

10. To immediately notify the Contracting Officer of any conflict of interest discovered during Contractor's performance of work pursuant to a Government-issued task order; **provided** that the Contracting Officer shall have the right to impose such

restrictions as he/she deems appropriate on Contractor's performance based on the existence of such a conflict or, if the Contracting Officer determines that such restrictions would not adequately address the conflict of interest at issue, to terminate the Contractor's performance of work under the task order at no cost to the Government.

11. That in the event that the Contractor knowingly withholds the existence of a conflict of interest from the Government, that the Contracting Officer may terminate this Contract at no cost to the Government; **provided** that the foregoing shall be in addition to all other remedies and causes of action which the Government may have against the Contractor, including the suspension and/or debarment of the Contractor.

12. To include this Conflict of Interest clause, including this subparagraph, in all of Contractor's subcontracts at all tiers (appropriately modified to preserve the Government's hereunder) which involve the performance of work by subcontractors in support of this Contract.

13. That, in addition to the remedies enumerated above, the Government may terminate this Contract for cause in the event of Contractor's breach of any of the above restrictions.

(e) The restrictions provided in paragraph (d) 1.,2.,3.,5.,6.,7.,9.,10.,11.,12., and 13 above shall not apply to a Contractor who, as a condition of its award of this Contract, agrees and covenants (1) that it will not, during the term of the Contract, represent any building owner, representative, lessor or other third-party to the Government in connection with a Government-issued leasing action; or (2) that it is and will remain, during the term of the Contract, an exclusive provider of tenant representation services.

H.6. POST AWARD ORIENTATION AND TRAINING

After award, key Contractor personnel shall attend an orientation to be provided by GSA in order to review contract requirements, discuss procedures for interfacing with the Government personnel responsible for ordering, monitoring, and approving the Contractor's performance and submissions, and to provide other appropriate orientation materials. It is anticipated this orientation will take 3-4 days. The cost to attend the orientation will not be reimbursed by the Government. At minimum, the contractor's key personnel, the primary contacts for the CO and COR, and regional project managers shall attend orientation. Other attendees are at the discretion of the Contractor. The location for the training will be determined after contract award. The number of slots available for Contractor attendees will be limited to approximately 25 per Contractor. The exact number of slots will be determined after award.

Commercial training is available on Federal Lease Law and Acquisition. Government personnel who perform lease acquisition functions attend the courses listed below. These courses and vendors are provided for information only. Contractor personnel are not required by this contract to attend these courses. However, Contractor personnel are required to know and understand the Federal laws and regulations related to the acquisition of leased space in order to perform satisfactorily on the contract. Personnel who do not demonstrate sufficient knowledge to perform functions will not be allowed to perform work on task orders issued under the contract. In the event the Contractor's personnel attend these courses, the Government will not reimburse any costs associated with training.

- Federal Real Property Leasing or Basic Lease Contracting
- Cost and Price Analysis of Lease Proposals
- Real Estate Law or Federal Real Property Lease Law
- Real Estate Appraisal Principles
- Techniques of Negotiating Federal Real Property Leases

The vendors listed below have provided training for GSA lease contracting personnel. Each vendor may not offer all courses listed above.

--Management Concepts, www.managementconcepts.com

--Northwest Procurement Institute (NPI) www.npi@npi-training.com

--Business Management Research Associates (BMRA) @ www.bmra.com

Vendors who offer lease acquisition training for GSA personnel can change and other vendors may also be approved to provide such training. The provision of these vendors in no way serves as an endorsement of these firms by the Government. Other vendors may be available who provide similar training.

During the term of the contract, GSA may hold "In-house" training on various subjects related to lease acquisition work that the Contractor may be invited to attend. There is no charge for the training. However if Contractor personnel attend, it shall be at their own cost. This training may at times be available via conference call.

Section I CONTRACT CLAUSES

This is a no cost contract. Deviations to normal clause language have been approved for clauses marked Deviation. For clauses marked Deviation followed by a double asterisk (**) the deviation is as follows: The dollar thresholds at which the clause become applicable is based on the estimated value of commissions available to a contractor during the term of the contract. The estimated contract value per contract, if four contracts are awarded, all options are exercised, and task orders are distributed evenly is \$33,000,000.

1.1. 52.202-1 DEFINITIONS (DEC 2001)

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

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

(c) "Commercial item" means--

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

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

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

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

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

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

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

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

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

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

(ii) The source of such services provides similar services contemporaneously to the

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

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

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

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

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

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

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

(f) "Nondevelopmental item" means--

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

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

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

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

(End of clause)

1.2. 52.203-3 GRATUITIES (APR 1984)

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

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

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

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

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

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

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

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

1.3. 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

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

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

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

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

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

1.4. 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)Deviation**

(a) Except as provided in (b) below, 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) above 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)

1.5. 52.203-7 ANTI-KICKBACK PROCEDURES (JUL 1995)Deviation**

(a) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

(c)(1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation.

Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

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

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

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

1.6. 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

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

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

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

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

- (A) Exchanging the information covered by such subsections for anything of value; or
 - (B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or
 - (ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsection 27(e)(1) of the Act.
 - (b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.
 - (c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.
- (End of clause)

1.7. 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

- (a) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of subsection 27(a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.
- (b) The price or fee reduction referred to in paragraph (a) of this clause shall be--
 - (1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;
 - (2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or "fee floor" specified in the contract;
 - (3) For cost-plus-award-fee contracts--
 - (i) The base fee established in the contract at the time of contract award;
 - (ii) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the Contractor for each award fee evaluation period or at each award fee determination point.
 - (4) For fixed-price-incentive contracts, the Government may--
 - (i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or
 - (ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract. The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.
 - (5) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award.
- (c) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.
- (d) In addition to the remedies in paragraphs (a) and (c) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract. (End of clause)

1.8. 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997)Deviation**

- (a) Definitions.
 - "Agency," as used in this clause, means executive agency as defined in 2.101.
 - "Covered Federal action," as used in this clause, means any of the following Federal actions:
 - (1) The awarding of any Federal contract.
 - (2) The making of any Federal grant.
 - (3) The making of any Federal loan.
 - (4) The entering into of any cooperative agreement.
 - (5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - "Indian tribe" and "tribal organization," as used in this clause, have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) and include Alaskan Natives.
 - "Influencing or attempting to influence," as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an

officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

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

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

(1) An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment.

(2) A member of the uniformed services, as defined in subsection 101(3), title 37, United States Code.

(3) A special Government employee, as defined in section 202, title 18, United States Code.

(4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, United States Code, appendix 2.

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

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

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

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

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

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

(b) Prohibitions.

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

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

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

(i) Agency and legislative liaison by own employees.

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

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

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

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

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

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

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

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

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

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

(ii) Professional and technical services.

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

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

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

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

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

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

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

(c) Disclosure.

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

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

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

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

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

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

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

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

(e) Penalties.

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

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

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

1.9. 552.203-71 RESTRICTION ON ADVERTISING (SEP 1999)

The Contractor shall not refer to this contract in commercial advertising or similar promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by the White House, the Executive Office of the President, or any other element of the Federal Government, or is considered by these entities to be superior to other products or services. Any advertisement by the Contractor, including price-off coupons, that refers to a military resale activity shall contain the following statement: "This advertisement is neither paid for nor sponsored, in whole or in part, by any element of the United States Government." (End of clause)

1.10. 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)

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

"Postconsumer material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of "recovered material." For paper and paper products, postconsumer material means "postconsumer fiber" defined by the U.S. Environmental Protection Agency (EPA) as--

(1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or

(2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not

(3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

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

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

(1) Postconsumer fiber; and

(2) Manufacturing wastes such as--

(i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

(ii) Repulped finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others.

(b) In accordance with Section 101 of Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, the Contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed or copied double-sided on recycled paper that meet minimum content standards specified in Section 505 of Executive Order 13101, when not using electronic commerce methods to submit information or data to the Government.

(c) If the Contractor cannot purchase high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock meeting the 30 percent postconsumer material standard for use in submitting paper documents to the Government, it should use paper containing no less than 20 percent postconsumer material. This lesser standard should be used only when paper meeting the 30 percent postconsumer material standard is not obtainable at a reasonable price or does not meet reasonable performance standards. (End of clause)

I.11. 52.204-7 CENTRAL CONTRACTOR REGISTRATION (OCT 2003)

(a) Definitions. As used in this clause-

"Central Contractor Registration (CCR) database" means the primary Government repository for Contractor information required for the conduct of business with the Government.

"Data Universal Numbering System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

"Data Universal Numbering System +4 (DUNS+4) number" means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same parent concern.

"Registered in the CCR database" means that-

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

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

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number-

(i) If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company Physical Street Address, City, State, and Zip Code.

(iv) Company Mailing Address, City, State and Zip Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g) (1) (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of

Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

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

(End of clause)

1.12. 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUL 1995)DEVIATION**

(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 List of Parties Excluded from Federal Procurement and Nonprocurement Programs). The notice must include the following:

(1) The name of the subcontractor.

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

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

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

1.13. 52.215-2 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)

1.14. 52.215-8 ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT (OCT 1997)

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

(a) The Schedule (excluding the specifications).

(b) Representations and other instructions.

(c) Contract clauses.

(d) Other documents, exhibits, and attachments.

(e) The specifications. (End of clause)

1.15. 552.215-70 EXAMINATION OF RECORDS BY GSA (FEB 1996) DEVIATION**

The Contractor agrees that the Administrator of General Services or any duly authorized representatives shall, until the expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of the Contractor involving transactions related to this contract or compliance with any clauses thereunder. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Administrator of General Services or any authorized representatives shall, until the expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of such subcontractor involving transactions related to the subcontract or compliance with any clauses thereunder. The term "subcontract" as used in this clause excludes (a) purchase orders not exceeding \$100,000 and (b) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public. (End of clause)

1.16. 52.216-18 ORDERING (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from award date through contract expiration date.

(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 by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(End of clause)

I.17. 52.216-19 ORDER LIMITATIONS (OCT 1995)DEVIATION

There is no minimum or maximum order limitation for this contract. The contractor is required to accept all task orders unless the Contracting Officer for the task order determines that a conflict of interest exists which would preclude the contractor from performing the work.

I.18. 52.216-22 INDEFINITE QUANTITY (OCT 1995)

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

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

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

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; *provided*, that the Contractor shall not be required to make any deliveries under this contract after completion of task orders issued prior to contract expiration date. (End of clause)

I.19. 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 30 days prior to the end of the performance period. (End of clause)

I.20. 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)

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

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

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed five years and six months (End of clause)

I.21. 52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (JAN 1999)DEVIATION

(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 **deducting** 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 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 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 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.
- (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.
- (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)

1.22. 52.219-6 - NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE

(THE FOLLOWING CLAUSE APPLIES ONLY TO THE ONE CONTRACT TO BE AWARDED UNDER THIS SOLICITATION AS A SMALL BUSINESS SET-ASIDE.)

- (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. (JUN 2003) (End of clause)

1.23. 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2000)

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

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

(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 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)

1.24. 52.219-9 II SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2002)--ALTERNATE II (OCT 2001) DEVIATION & PARA(D)(2)**

(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

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

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

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

(c) Proposals submitted in response to this solicitation shall include a subcontracting plan, which 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.

(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. Service-disabled veteran-owned small business concerns meet the definition of veteran-owned small business concerns, and offerors may include them within the subcontracting plan goal for veteran-owned small business concerns. A separate goal for service-disabled veteran-owned small business concerns is not required. 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 **commissions** 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, service-disabled veteran-owned small business, 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, HUB-Zone, 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, 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 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 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 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)

1.25. 52.219-14(DEVIAION)**

(THE FOLLOWING CLAUSE APPLIES ONLY TO THE ONE CONTRACT TO BE AWARDED UNDER THIS SOLICITATION AS A SMALL BUSINESS SET-ASIDE.)

(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)

1.26. 52.219-16 LIQUIDATED DAMAGES--SUBCONTRACTING PLAN (JAN 1999)

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

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

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

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

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

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

1.27. 52.219-23 I NOTICE OF PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS (MAR 2001)--ALTERNATE I (OCT 1998)DEVIATION

(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 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 on 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 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)).

"United States" means the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, and the District of Columbia.

(b) Evaluation adjustment. (1) The Contracting Officer will evaluate offers by **deducting** a factor of **10 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 nonmanufacturer 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 agrees to furnish in performing this contract only end items manufactured or produced by small business concerns in the United States. This paragraph does not apply in connection with construction or service contracts. (End of clause)

1.28. 52.219-25 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 each year of the contract. (End of clause)

I.29. 52.222-3 CONVICT LABOR (AUG 1996)

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

- (a)(1) The worker is paid or is in an approved work training program on a voluntary basis;
 - (2) Representatives of local union central bodies or similar labor union organizations have been consulted;
 - (3) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and
 - (4) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and
- (b) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943. (End of clause)

I.30. 52.222-26 EQUAL OPPORTUNITY (APR 2002) DEVIATION**

(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.

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

[Note: Executive Order 11246 requires each nonconstruction prime contractor and each subcontractor with 50 or more employees and either a contract or Subcontract of \$50,000 or more to develop a written affirmative

action program for each of its establishments within 120 days of commencement of its first such Government contract. Details on the requirements of this program and several "compliance tools" to assist contractors who must develop plans are available at the Department of Labor website://www.dol.gov.]

(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)

1.31. 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS. [DEC 2001] DEVIATION**

(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)

1.32. 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998) DEVIATION**

(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 handicap. 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)

I.33. 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001) DEVIATION**

(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)

I.34. 52.223-6 DRUG-FREE WORKPLACE (MAY 2001)DEVIATION**

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

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

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.35. 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (OCT 2000) DEVIATION**

(a) Unless otherwise exempt, the Contractor, as owner or operator of a facility used in the performance of this contract, shall file by July 1 for the prior calendar year an annual Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023(a) and (g)), and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106). The Contractor shall file, for each facility subject to the Form R filing and reporting requirements, the annual Form R throughout the life of the contract.

(b) A Contractor owned or operated facility used in the performance of this contract is exempt from the requirement to file an annual Form R if--

(1) The facility does not manufacture, process, or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);

(2) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

(3) The facility does not meet the reporting thresholds of toxic chemicals established under 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 Standard Industrial Classification Code (SIC) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or

(5) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

(c) If the Contractor has certified to an exemption in accordance with one or more of the criteria in paragraph (b) of this clause, and after award of the contract circumstances change so that any of its owned or operated facilities used in the performance of this contract is no longer exempt--

(1) The Contractor shall notify the Contracting Officer; and

(2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall (i) submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible; and (ii) continue to file the annual Form R for the life of the contract for such facility.

(d) The Contracting Officer may terminate this contract or take other action as appropriate, if the Contractor fails to comply accurately and fully with the EPCRA and PPA toxic chemical release filing and reporting requirements.

(e) Except for acquisitions of commercial items, as defined in FAR Part 2, the Contractor shall--

(1) For competitive subcontracts expected to exceed **\$100,000** (including all options), include a solicitation provision substantially the same as the provision at FAR 52.223-13, Certification of Toxic Chemical Release Reporting; and

(2) Include in any resultant subcontract exceeding **\$100,000** (including all options), the substance of this clause, except this paragraph (e). (End of clause)

1.36. 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES. (JULY 2000)

(a) The Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through, countries whose products are banned from importation into the United States under regulations of the Office of Foreign Assets Control, Department of the Treasury. Those countries are Cuba, Iran, Iraq, Libya, North Korea, Sudan, the territory of Afghanistan controlled by the Taliban, and Serbia (excluding the territory of Kosovo).

(b) The Contractor shall not acquire for use in the performance of this contract any supplies or services from entities controlled by the government of Iraq.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts. (End of clause)

1.37. 52.226-1 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 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)

1.38. 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (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.

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

"After-imposed Federal tax," as used in this clause, 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," as used in this clause, 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.

(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)

1.39. 52.229-5 TAXES--CONTRACTS PERFORMED IN U.S. POSSESSIONS OR PUERTO RICO (APR 1984)

The term "local taxes," as used in the Federal, State, and local taxes clause of this contract, includes taxes imposed by a possession of the United States or by Puerto Rico. (End of clause)

I.40. 52.232-17 INTEREST (JUNE 1996)

(a) Except as otherwise provided in this contract under a Price Reduction for Defective Cost or Pricing Data clause or a Cost Accounting Standards clause, all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481)) shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(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)

I.41. 52.233-1 I DISPUTES (JUL 2002)--ALTERNATE I (DEC 1991)

(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 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 or relating to the contract, and comply with any decision of the Contracting Officer. (End of clause)

1.42. 52.233-3 PROTEST AFTER AWARD (AUG 1996)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if--

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

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

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

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

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government. (End of clause)

1.43. 52.237-3 CONTINUITY OF SERVICES (JAN 1991)

(a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption and that, upon contract expiration, a successor, either the Government or another contractor, may continue them. The Contractor agrees to (1) furnish phase-in training and (2) exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

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

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

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

(End of clause)

I.44. 52.242-13 BANKRUPTCY (JUL 1995)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract. (End of clause)

**I.45. 52.243-1 II CHANGES--FIXED-PRICE (AUG 1987)--ALTERNATE II (APR 1984)
DEVIATION**

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

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

(b) If any such change causes an increase or decrease in the 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 delivery schedule and shall modify the task order. No adjustment in contract price shall be made.

(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)

I.46. 52.243-7 NOTIFICATION OF CHANGES (APR 1984)DEVIATION

(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 subparagraph 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 10 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 communication 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 10 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 subparagraphs (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 delivery schedule; 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 failure to provide notice or to continue performance as provided, respectively, in (b) and (c) of this clause.

(End of clause)

1.47. 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (MAY 2002) DEVIATION**

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

"Commercial item" has the meaning contained in the clause at 52.202-1, Definitions.

"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c)(1) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.219-8, Utilization of Small Business Concerns (OCT 2000) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds **\$500,000** (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

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

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

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

(v) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (JUN 2000) (46 U.S.C. Appx 1241) (flowdown not required for subcontracts awarded beginning May 1, 1996).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract. (End of clause)

I.48. 52.246-1 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)

I.49. 52.246-25 LIMITATION OF LIABILITY--SERVICES (FEB 1997)

(a) Except as provided in paragraphs (b) and (c) below, and except to the extent that the Contractor is expressly responsible under this contract for deficiencies in the services required to be performed under it (including any materials furnished in conjunction with those services), the Contractor shall not be liable for loss of or damage to property of the Government that (1) occurs after Government acceptance of services performed under this contract, and (2) results from any defects or deficiencies in the services performed or materials furnished.

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

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

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

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

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

I.50. 52.249-4 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (SERVICES) (SHORT FORM) (APR 1984) DEVIATION

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 not be liable for payment for any services rendered before the effective date of termination.

I.51. 52.249-8 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 subparagraph (a)(2) of this clause); or

(iii) Perform any of the other provisions of this contract (but see subparagraph (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)

1.52. 552.252-6 AUTHORIZED DEVIATIONS OR VARIATIONS IN CLAUSES (DEVIATION FAR 52.252-6) (SEP 1999)

(a) Deviations to FAR clauses.

(1) This solicitation or contract indicates any authorized deviation to a Federal Acquisition Regulation (48 CFR Chapter 1) clause by the addition of "(DEVIATION)" after the date of the clause, if the clause is not published in the General Services Administration Acquisition Regulation (48 CFR Chapter 5).

(2) This solicitation indicates any authorized deviation to a Federal Acquisition Regulation (FAR) clause that is published in the General Services Administration Acquisition Regulation by the addition of "(DEVIATION (FAR clause no.))" after the date of the clause.

(b) Deviations to GSAR clauses: This solicitation indicates any authorized deviation to a General Services Administration Acquisition Regulation clause by the addition of "(DEVIATION)" after the date of the clause. "Substantially the same as" clauses. Changes in wording of clauses prescribed for use on a "substantially the same as" basis are not considered deviations. (End of clause)

1.53. 52.253-1 COMPUTER GENERATED FORMS (JAN 1991)

(a) Any data required to be submitted on a Standard or Optional Form prescribed by the Federal Acquisition Regulation (FAR) may be submitted on a computer generated version of the form, provided there is no change to the name, content, or sequence of the data elements on the form, and provided the form carries the Standard or Optional Form number and edition date.

(b) Unless prohibited by agency regulations, any data required to be submitted on an agency unique form prescribed by an agency supplement to the FAR may be submitted on a computer generated version of the form provided there is no change to the name, content, or sequence of the data elements on the form and provided the form carries the agency form number and edition date.

(c) If the Contractor submits a computer generated version of a form that is different than the required form, then the rights and obligations of the parties will be determined based on the content of the required form. (End of clause)

Section J LIST OF EXHIBITS

- Exhibit 1** Regional Office Locations and Geographic Areas of Responsibility
- Exhibit 2** Federal Lease Laws, Statutes, Executive Orders, and Regulations
- Exhibit 3** Lease File Checklist
- Exhibit 4** **A.** Organizational Conflict of Interest, **B.** Individual Conflict of Interest/Nondisclosure, and **C.** Dual Agency Statements
- Exhibit 5** Best Value Trade Off Source Selection Procedures
- Exhibit 6** Project Schedule
- Exhibit 7** Comprehensive Market Survey Checklist
- Exhibit 8** Model Small Business Subcontracting Plan (solicitation information not included in the contract).
- Exhibit 9** List of Small Business Concerns Previously Awarded GSA Real Estate Contracts (solicitation information not included in the contract).
- Exhibit 10** FY 06-10 Expiring Lease Listing (solicitation information not included in the contract).

NOTE: *The Government may update these Exhibits during the term of the contract to incorporate changes as a result of changes in Laws, regulations, policy, etc. The contractor shall accept such changes at no cost to the Government.*