

<b>SOLICITATION, OFFER AND AWARD</b>		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING <b>DO - C9</b>	PAGE OF PAGE(S) <b>1</b> OF <b>87</b>
2. CONTRACT NO. <b>NAS1-00095</b>	3. SOLICITATION NO. <b>1-41-0BB.1006</b>	4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)		5. DATE ISSUED <b>12/16/99</b>	6. REQUISITION/PURCHASE NO. <b>OBB.1006</b>
7. ISSUED BY <b>National Aeronautics and Space Administration Langley Research Center Hampton, VA 23681-2199</b>		8. ADDRESS OFFER TO (If other than Item 7) <b>Building 1195B, Room 125 NASA, Langley Research Center 9A Langley Boulevard, Hampton, VA 23681-2199</b>			

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

### SOLICITATION

9. Sealed offers in original and 9 copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in 9A Langley Boulevard, Building 1195B, Room 125 until 3 p.m. local time January 20, 2000. CAUTION LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL:	A. NAME <b>Nancy M. Sessoms</b>	B. TELEPHONE NO. (NO COLLECT CALLS)			C. E-MAIL ADDRESS <b>n.m.sessoms@larc.nasa.gov</b>
		AREA CODE <b>757</b>	NUMBER <b>864 - 2471</b>	EXT.	

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### 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 90 calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)	10 CALENDAR DAYS (%) <b>%</b>	20 CALENDAR DAYS (%) <b>%</b>	30 CALENDAR DAYS (%) <b>%</b>	CALENDAR DAYS (%) <b>%</b>
14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated:	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME AND ADDRESS OF OFFEROR	CODE	FACILITY	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)	
15B. TELEPHONE NUMBER		<input type="checkbox"/> 15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.	17. SIGNATURE	18. OFFER DATE
AREA CODE	NUMBER	EXT.		

### AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT <b>See Section B-2</b>	21. ACCOUNTING AND APPROPRIATION		
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c) ( ) <input type="checkbox"/> 41 U.S.C. 253(c) ( )		23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	ITEM	
24. ADMINISTERED BY (If other than Item 7)	CODE	25. PAYMENT WILL BE MADE BY <b>Financial Management Office, MS 175 Langley Research Center Hampton, VA 23681-2199</b>		
26. NAME OF Contracting Officer (Type or print) <b>David H. Jones</b>		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.

**PART I - THE SCHEDULE****Section B - Supplies Or Services And Prices/Costs****B. 1 SUPPLIES AND/OR SERVICES TO BE FURNISHED**

The Contractor shall, to the extent specified herein, furnish all personnel, facilities, services, supplies, equipment and materials (except as expressly stated in the task order as furnished by the Government) for Space Science Studies and Assessments as specified in Task Orders issued pursuant to Clause G.5, entitled Procedures for Issuing Task Orders. The type of work to be performed under such Task Orders is limited to the types of work incorporated by Clause C.1, Statement of Work and delivery of task plans.

**B. 2 INDEFINITE DELIVERY/INDEFINITE QUANTITY CONTRACT**

Pursuant to the Federal Acquisition Regulation (FAR) Parts 16.501-2 and 16.504, this contract is defined as an indefinite quantity type. The contract provides for an indefinite quantity, within stated limits, of supplies or services to be furnished during a fixed period, with deliveries or performance to be scheduled by placing orders with the Contractor. The total minimum and maximum dollar value of supplies or services to be acquired under the contract are set forth below:

Contract Minimum: The Government will issue Task Order(s) (TOs) under this contract that provide for a minimum of \$10,000 in services.

Contract Maximum: The Government issued Task Order(s) under this contract shall not exceed a maximum of \$25,000,000 in services for the entire period of performance.

**B. 3 CONTRACT FUNDING INFORMATION**

Funds for task orders are obligated on each task order. Section I, Clause 52.232-22, Limitation of Funds (APR 1984), may apply individually to Task Orders issued under this contract.

In accordance with the Limitation of Funds clause, each cost-type task order shall specify the total amount allotted by the Government for purposes of payment of cost, exclusive of fee. In addition, each cost-type task order which includes fee shall specify an additional amount as obligated for payment of fee.

**B. 4 TASK ORDER TYPE**

Task orders for delivery of all task plans (refer to G.5, para. (b)(3)) will be issued on a firm-fixed price (FFP) basis. Task orders for the types of work set forth in Clause C.1, Statement of Work will be issued either on a firm-fixed price (FFP) basis or cost-plus fixed fee (CPFF) basis. The type of task order (FFP or CPFF) anticipated will be specified in the FFP task order for a task plan.

**B. 5 CONSIDERATION**

(a) The total fixed price will be set forth on individual FFP task orders.

(b) The total estimated cost and fee will be set forth on individual cost-plus fixed fee task orders.

**B.6 FIRM FIXED-PRICE TASK PLANS**

The total firm-fixed price for each task plan is \$5,000. This price shall include all administrative, management, direct, and indirect hours and costs required to prepare and deliver a task plan.

**B.7 ADVANCE AGREEMENT ON RATES FOR PRICING TASK ORDERS**

The labor rates for each labor category, SAIC fringe benefits, overhead and G & A rates, as set forth below, shall be used as the basis for establishing the estimated cost or price for those cost elements of individual task orders. The minimum qualifications for labor categories are set forth in Section J, Exhibit C. Travel, publication and communication services, ADP resources, and conference room rental will be negotiated on an individual task order basis.

<b>Year 1</b>		
	SAIC/Intercompany Support	Subcontractors/ Consultants (fully burdened through profit/fee)
Fringe Benefits Rate	%	N/A
Overhead Rate	%	N/A
G & A Rate	%	N/A
<u>Labor Category</u>	<u>Hourly Rate</u>	<u>Hourly Rate</u>
Study Manager	\$	\$
Senior Scientist	\$	\$
Scientist	\$	\$
Senior Engineer	\$	\$
Engineer	\$	\$
Senior Management Analyst	\$	\$
Senior Mathematician/Analyst	\$	\$
Mathematician/Analyst	\$	\$
Senior Analyst (WWW Support)	\$	\$
Senior Analyst (MIS Support)	\$	\$
Editor/Technical Writer	\$	\$
Clerical/Secretarial (General)	\$	\$
Clerical/Secretarial (Conference)	\$	\$

**Year 2**

	SAIC/Intercompany Support	Subcontractors/Consultants (fully burdened through profit/fee)
Fringe Benefits Rate	%	N/A
Overhead Rate	%	N/A
G & A Rate	%	N/A
<u>Labor Category</u>	<u>Hourly Rate</u>	<u>Hourly Rate</u>
Study Manager	\$	\$
Senior Scientist	\$	\$
Scientist	\$	\$
Senior Engineer	\$	\$
Engineer	\$	\$
Senior Management Analyst	\$	\$
Senior Mathematician/Analyst	\$	\$
Mathematician/Analyst	\$	\$
Senior Analyst (WWW Support)	\$	\$
Senior Analyst (MIS Support)	\$	\$
Editor/Technical Writer	\$	\$
Clerical/Secretarial (General)	\$	\$
Clerical/Secretarial (Conference)	\$	\$

**Year 3**

	SAIC/Intercompany Support	Subcontractors/Consultants (fully burdened through profit/fee)
Fringe Benefits Rate	%	N/A
Overhead Rate	%	N/A
G & A Rate	%	N/A
<u>Labor Category</u>	<u>Hourly Rate</u>	<u>Hourly Rate</u>
Study Manager	\$	\$
Senior Scientist	\$	\$
Scientist	\$	\$
Senior Engineer	\$	\$
Engineer	\$	\$
Senior Management Analyst	\$	\$
Senior Mathematician/Analyst	\$	\$
Mathematician/Analyst	\$	\$
Senior Analyst (WWW Support)	\$	\$
Senior Analyst (MIS Support)	\$	\$
Editor/Technical Writer	\$	\$
Clerical/Secretarial (General)	\$	\$
Clerical/Secretarial (Conference)	\$	\$

**Year 4**

	SAIC/Intercompany Support	Subcontractors/Consultants (fully burdened through profit/fee)
Fringe Benefits Rate	%	N/A
Overhead Rate	%	N/A
G & A Rate	%	N/A
<u>Labor Category</u>	<u>Hourly Rate</u>	<u>Hourly Rate</u>
Study Manager	\$	\$
Senior Scientist	\$	\$
Scientist	\$	\$
Senior Engineer	\$	\$
Engineer	\$	\$
Senior Management Analyst	\$	\$
Senior Mathematician/Analyst	\$	\$
Mathematician/Analyst	\$	\$
Senior Analyst (WWW Support)	\$	\$
Senior Analyst (MIS Support)	\$	\$
Editor/Technical Writer	\$	\$
Clerical/Secretarial (General)	\$	\$
Clerical/Secretarial (Conference)	\$	\$

**Year 5**

	SAIC/Intercompany Support	Subcontractors/Consultants (fully burdened through profit/fee)
Fringe Benefits Rate	%	N/A
Overhead Rate	%	N/A
G & A Rate	%	N/A
<u>Labor Category</u>	<u>Hourly Rate</u>	<u>Hourly Rate</u>
Study Manager	\$	\$
Senior Scientist	\$	\$
Scientist	\$	\$
Senior Engineer	\$	\$
Engineer	\$	\$
Senior Management Analyst	\$	\$
Senior Mathematician/Analyst	\$	\$
Mathematician/Analyst	\$	\$
Senior Analyst (WWW Support)	\$	\$
Senior Analyst (MIS Support)	\$	\$
Editor/Technical Writer	\$	\$
Clerical/Secretarial (General)	\$	\$
Clerical/Secretarial (Conference)	\$	\$

Note: On occasion the Government may require expertise at a labor rate higher than the schedule of rates set forth above. The Contractor shall provide rationale for use of a higher rate. The total cost or price of the task order will include a fair and reasonable dollar amount for such experts. These occasions will require approval of NASA's Associate Administrator of the Office of Space Science.

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**PART I - THE SCHEDULE****Section C - Description/Specifications/Work Statement****C.1 STATEMENT OF WORK - SPACE SCIENCES STUDIES AND ASSESSMENTS****I. Proposal and Mission Concept Evaluations**

The contractor shall conduct evaluations of proposals and competitive mission concepts covering the technical, management, cost, and other program factors.

Evaluation activities include: Prepare supplementary material to accompany the Announcement of Opportunity (AO), NASA Research Announcement (NRA), Cooperative Agreement Notice (CAN), or other Broad Agency Announcement (BAA); plan the logistics of the evaluation, identify expertise needed for the evaluation, evaluate compliance with administrative requirements of the BAA; and evaluate offered investigations, and report on panel findings. Supplementary materials that accompany AO's include technical information related to the opportunity, report formats, and logistics guidelines needed by proposers responding to the AO. The cost assessment capability covers technology development, space systems (including instruments) and related ground systems, and life-cycle costs.

**II. Assessments**

The contractor shall conduct assessments of current and potential NASA programs. Types of assessments include technical; management; cost; risk; environmental impact; mission trajectory; resource utilization; analyses of instruments, spacecraft and launch vehicle designs; systems engineering; fabrication; and Assembly, Test and Launch Operations. Technical assessment activities include assessing the likely performance of technical systems and the impact of new technologies on technical systems. Management assessment activities include assessing the effectiveness of management systems, processes, and tools and assessing components of NASA programs. Cost assessment activities include estimating mission development and life-cycle costs and assessing cost risk.

**III. Studies**

The contractor shall conduct the following types of studies: Management, scientific, and technical. Management study activities include gathering information and analyzing options for possible management systems in OSS programs; gathering information and analyzing the structure and performance of actual management systems in NASA programs and in similar endeavors; and assembling and maintaining an inventory of the content and status of NASA programs.

Scientific study activities include gathering information and analyzing systems for handling and analyzing samples of extraterrestrial materials; defining payloads to meet scientific goals; investigating potential science objectives for small, low-cost missions; and investigating the applicability of science concepts to particular missions.

Technical study activities include analyzing the feasibility of instrument, spacecraft and mission design; investigating mission options and associated performance expectations; analyzing system designs; analyzing technologies needed to accomplish specific goals; analyzing propulsion and mission operations capabilities; and analyzing data handling and analysis systems.

**IV. Administrative Support**

In support of the evaluations, assessments, and studies above, the contractor shall provide support for meetings and related workshops which includes generating and distributing explanatory materials,



providing logistical support as necessary, preparing and distributing documentation on conference results, and making appropriate number of copies of videos, handouts, and other materials developed during the conference. The explanatory materials include specifics about how the goals of the conference will be achieved. Logistical support includes audio-visual equipment, copiers, computers and printers. Preparing documentation on conference results ranges from a straightforward compilation of material presented at the conference to the generation of a narrative report.

#### **IV. Information Management**

The contractor shall provide information management services including web-based information management systems in support of evaluations, assessments, and studies; data bases; quality management; reference documents; and web site development and maintenance.

Web-based information management systems that support evaluations and assessments include secure web-based data entry and report-reading support for evaluation and assessment teams. Web-based information management systems that support studies are similar, but do not have to be secure.

Data bases to be maintained include the OSS Solicitation Database, the SSSO Reviewer Database, and other SSSO data bases. The SSSO quality management effort includes documenting requirements for the products of SSSO; developing and maintaining templates for SSSO documents; and developing and maintaining checklists, process flow diagrams, and other process control tools.

The information management system for reference documents will support the preparation, verification, publication, distribution and posting on the web of documents that are meant to serve as a reference to the community.

SSSO Website support includes developing and maintaining the SSSO homepage, web-based libraries, presentations from conferences, and other related requirements as needed.

**PART I - THE SCHEDULE**

**Section D - Packaging And Marking**

None

**PART I - THE SCHEDULE****Section E - Inspection And Acceptance****E.1 FINAL INSPECTION AND ACCEPTANCE (LaRC 52.246-94) (OCT 1992)**

Final inspection and acceptance of all items specified for delivery under this contract shall be accomplished by the Contracting Officer or his duly authorized representative at destination as specified in TOs.

**E.2 CONSEQUENCES OF CONTRACTOR'S FAILURE TO DELIVER TASK PLANS ON TIME**

The Government may deduct from the Contractor's invoice or otherwise withhold payment for the Contractor's failure to submit a task plan (refer to G.5, para. (b)(3)) within 7 working days after receipt of the Contracting Officer's request. The schedule of deductions is as follows:

- |     |                                     |                                |
|-----|-------------------------------------|--------------------------------|
| a.) | Delivery within 8-10 working days:  | deduct 10% of task plan price  |
| b.) | Delivery within 11-13 working days: | deduct 30% of task plan price  |
| c.) | Delivery within 13-15 working days: | deduct 60% of task plan price  |
| d.) | Delivery after 15 working days:     | deduct 100% of task plan price |

**PART I - THE SCHEDULE****Section F - Deliveries Or Performance**F.1 DELIVERY

A. The documentation and reports required by each Task Order produced under this contract shall be delivered f.o.b. destination in accordance with the schedule specified therein.

B. The reports and documentation required by Section J. Exhibit A, Contract Documentation Requirements, shall be delivered at the times and to the places specified therein.

F.2 PERIOD OF PERFORMANCE - TASK ORDERS

A. The period for issuance of Task Orders is June 1, 2000, through May 31, 2005.

B. Any Task Orders issued prior to the expiration of the period for issuance of Task Orders shall be completed, subject to the limitations specified in FAR 52.216-22, Paragraph (d).

F.3 PLACE(S) OF PERFORMANCE (LaRC 52.211-98) (OCT 1992)

The place(s) of performance shall be the Contractor and/or subcontractor's facility; and other sites as may be designated by TO.

F.4 NOTICE OF DELAY

If, because of technical difficulties, the Contractor becomes unable to complete the work specified in C.1 within the time set forth in the task order, notwithstanding the exercise of good faith and diligent efforts in performing of the work, the Contractor shall give the Contracting Officer written notice of the anticipated delay and the reasons for it. The notice and reasons shall be delivered promptly after the condition creating the anticipated delay becomes known to the Contractor but in no event less than 15 working days before the completion date specified in the task order, unless otherwise directed by the Contracting Officer. When notice is given, the Contracting Officer may extend the time specified in the Schedule.

**PART I - THE SCHEDULE****Section G - Contract Administration Data****G.1 DESIGNATION OF NEW TECHNOLOGY REPRESENTATIVE AND PATENT REPRESENTATIVE (NASA 1852.227-72) (JUL 1997)**

(a) For purposes of administration of the clause of this contract entitled "New Technology" or "Patent Rights - Retention by the Contractor (Short Form)", whichever is included, the following named representatives are hereby designated by the CO to administer such clause:

<u>Title</u>	<u>Office Code</u>	<u>Address (including zip code)</u>
New Technology Representative	212	NASA, Langley Research Center Hampton, VA 23681-2199
Patent Representative	212	NASA, Langley Research Center Hampton, VA 23681-2199

(b) Reports of reportable items, and disclosure of subject inventions, interim reports, final reports, utilization reports, and other reports required by the clause, as well as any correspondence with respect to such matters, should be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquiries or requests regarding disposition of rights, election of rights, or related matters should be directed to the Patent Representative. This clause shall be included in any subcontract hereunder requiring a "New Technology" clause or "Patent Rights - Retention by the Contractor (Short Form)" clause, unless otherwise authorized or directed by the CO. The respective responsibilities and authorities of the above-named representatives are set forth in 1827.305-370 of the NASA FAR Supplement.

**G.2 SUBMISSION OF REQUESTS FOR PROGRESS PAYMENTS (NASA 18-52.232-82)(MAR 1989)**

NOTE: THIS CLAUSE IS APPLICABLE TO FIXED-PRICE TASK ORDERS.

The Contractor shall request progress payments in accordance with the Progress Payments clause by submitting to the Contracting Officer an original and two copies of Standard Form (SF) 1443, Contractor's Request for Progress Payment, and the Contractor's invoice (if applicable). The Contracting Officer's office is the designated billing office for progress payments for purposes of the Prompt Payment clause.

**G.3 NASA CONTRACTOR FINANCIAL MANAGEMENT REPORTING (NASA 1852.242-73) (JUL 1997)**

NOTE: CLAUSE IS APPLICABLE TO COST TYPE TASK ORDERS, SEE EXHIBIT A, CONTRACT DOCUMENTATION REQUIREMENTS

(a) The Contractor shall submit NASA Contractor Financial Management Reports on NASA Forms 533 in accordance with the instructions in NASA Policy Guidance (NPG) 9501.2, NASA Contractor Financial Management Reporting, and on the reverse side of the forms, as supplemented in the Schedule of this contract. The detailed reporting categories to be used, which shall correlate with technical and schedule reporting, shall be set forth in the Schedule. Contractor implementation of reporting requirements under this clause shall include NASA approval of the definitions of the content of each reporting category and give due regard to the Contractor's established financial management information system.

- (b) Lower level detail used by the Contractor for its own management purposes to validate information provided to NASA shall be compatible with NASA requirements.
- (c) Reports shall be submitted in the number of copies, at the time, and in the manner set forth in the Schedule or as designated in writing by the Contracting Officer. Upon completion and acceptance by NASA of all contract line items, the Contracting Officer may direct the Contractor to submit Form 533 reports on a quarterly basis only, report only when changes in actual cost incur, or suspend reporting altogether.
- (d) The Contractor shall ensure that its Form 533 reports include accurate subcontractor cost data, in the proper reporting categories, for the reporting period.
- (e) If during the performance of this contract NASA requires a change in the information or reporting requirements specified in the Schedule, or as provided for in Paragraph (a) or (c) of this clause, the Contracting Officer shall effect that change in accordance with the Changes clause of this contract.

#### G.4 SUBMISSION AND PAYMENT OF VOUCHERS

A. Task orders placed on a fixed price basis will be paid no more frequently than monthly and in accordance with the following:

1. Public vouchers for fixed price task orders shall include a reference to this contract NAS1-00095 and the Task Order Number. The Contractor's taxpayer identification number shall be included on the invoice.

2. Pursuant to Section I Clause 52.232-2 Payments Under Fixed Price Research and Development Contracts (APR 1984), payments for fixed price Task Orders for less than \$100,000 will be made after delivery and acceptance of all deliverable items and completion of all task order requirements. For Task Orders over \$100,000, the task order will provide for customary progress payments if the Contractor will not be able to bill for the first delivery of products, or other performance milestones, for four months or more for small business, six months or more for large business, and will make expenditures for contract performance during the pre-delivery period that have a significant impact on the Contractor's working capital. Partial payments may be authorized. Partial payments, if authorized, will be made on no more than a monthly basis for partial delivery of services accepted during the month.

3. Pursuant to Section I Clause 52.232-16 Progress Payments (JUL 1991) with its Alternate 1 (AUG 1987) for small business concerns, progress payments will be based on costs for the progress payment and liquidation rate indicated.

4. Requests for progress payments will be in accordance with Clause 1852.232-82 entitled, "Submission of Requests for Progress Payments (MAR 1989)", as set forth in G.2.

B. Task orders placed on a cost reimbursement basis shall be paid no more frequently than monthly and in accordance with the following:

1. The designated billing office for cost vouchers for purposes of the Prompt Payment clause of this contract is identified below. Public vouchers for payment of costs shall include a reference to the number of this contract NAS1-00095 and the task orders.

2. (a) If the Contractor is authorized to submit interim cost vouchers directly to the NASA paying office, the original voucher should be submitted to:

Attn: Financial Management Division, MS 175  
NASA Langley Research Center  
Hampton, VA 23681-2199

(b) For any period that the Defense Contract Audit Agency has authorized the Contractor to submit interim cost vouchers directly to the Government paying office, interim vouchers

are not required to be sent to the Auditor, and are considered to be provisionally approved for payment, subject to final audit.

(c) Copies of vouchers should be submitted as directed by the CO.

3. If the Contractor is not authorized to submit interim cost vouchers directly to the paying office as described in paragraph (2), the Contractor shall prepare and submit vouchers as follows:

(a) One original Standard Form (SF) 1034, SF 1035, or equivalent Contractor's attachment to:

[Insert the appropriate NASA or DCAA mailing office address for submission of cost vouchers.]

(b) Five copies of SF 1034, SF 1035A, or equivalent Contractor's attachment to the following offices by insertion in the memorandum block of their names and addresses:

- (i) Copy 1 NASA CO;
- (ii) Copy 2 Auditor;
- (iii) Copy 3 Contractor;
- (iv) Copy 4 Contract administration office; and
- (v) Copy 5 Space Science Support Office.

(c) The CO may designate other recipients as required.

4. Public vouchers of payment of fixed fee shall be made in monthly installments based upon the percentage of completion of work as determined by the Contracting Officer and be forwarded to:

Attn: Contracting Officer, M/S 126  
NASA Langley Research Center  
Hampton, VA 23681-2199

This is the designated billing office for fee vouchers for purposes of the Prompt Payment clause of this contract.

5. In the event that amounts are withheld from payment in accordance with provisions of this contract, a separate voucher for the amount withheld will be required before payment for that amount may be made.

C. On a monthly basis, the Contractor shall provide the cognizant DCAA (if applicable), the CO and the NASA paying office a summary invoice for all issued cost and fixed price delivery orders. The invoice shall include a breakout of each delivery order being invoiced for the monthly period.

#### G. 5 TASK ORDERING PROCEDURE (NASA 1852.216-80) (OCT 1996)

(a) Only the Contracting Officer may issue task orders to the Contractor, providing specific authorization or direction to perform work within the scope of the contract and as specified in the schedule. The Contractor may incur costs under this contract in performance of task orders and task order modifications issued in accordance with this clause. No other costs are authorized unless otherwise specified in the contract or expressly authorized by the Contracting Officer.

(b) Prior to issuing a task order, the Contracting Officer shall provide the Contractor with the following data:

(1) A functional description of the work identifying the objectives or results desired from the contemplated task order.

(2) Proposed performance standards to be used as criteria for determining whether the work requirements have been met.

- (3) A request for a task plan from the Contractor to include the technical approach, period of performance, appropriate cost information, and any other information required to determine the reasonableness of the Contractor's proposal.
- (c) Within 7 work days after receipt of the Contracting Officer's request, the Contractor shall submit a task plan conforming to the request.
- (d) After review and any necessary discussions, the Contracting Officer may issue a task order to the Contractor containing, as a minimum, the following:
- (1) Date of the order.
  - (2) Contract number and order number.
  - (3) Functional description of the work identifying the objectives or results desired from the task order, including special instructions or other information necessary for performance of the task.
  - (4) Performance standards, and where appropriate, quality assurance standards.
  - (5) Maximum dollar amount authorized (cost and fee or price). This includes allocation of award fee among award fee periods, if applicable.
  - (6) Any other resources (travel, materials, equipment, facilities, etc.) authorized.
  - (7) Delivery/performance schedule including start and end dates.
  - (8) If contract funding is by individual task order, accounting and appropriation data.
- (e) The Contractor shall provide acknowledgment of receipt to the Contracting Officer within 1 work day after receipt of the task order.
- (f) If time constraints do not permit issuance of a fully defined task order in accordance with the procedures described in paragraphs (a) through (d), a task order which includes a ceiling price may be issued.
- (g) The Contracting Officer may amend tasks in the same manner in which they were issued.
- (h) In the event of a conflict between the requirements of the task order and the Contractor's approved task plan, the task order shall prevail.

#### G.6 TASK ORDER LIMITATIONS

Each Task Order shall specify a fixed price or total cost plus fixed fee limitation. The Contractor shall not exceed the authorized firm fixed price or cost estimate set forth in each Task Order. In regards to cost reimbursement Task Orders, if it becomes necessary to increase the cost limitation, when appropriate, the CO will do so in writing via a Task Order modification.

#### G.7 CONTRACT CLOSEOUT (LaRC 52.242-90) (MAY 1999)

A. Reassignment--After receipt, inspection, and acceptance by the Government of all required articles and/or services, and resolution of any pending issues raised during the Period of Performance, this contract will be reassigned to the NASA Langley Research Center Contracting Officer for Contract Closeout, James W. Cresawn. All transactions subsequent to the physical completion of the contract should, therefore, be addressed to the said Contracting Officer at NASA Langley Research Center, Mail Stop 127, who may be reached by telephone at (757) 864-2500.

B. "Quick Closeout"--Paragraph (f) of the Allowable Cost and Payment clause of this contract addresses the "Quick Closeout Procedure" delineated by Subpart 42.7 of the Federal Acquisition Regulation (FAR). It should be understood that the said procedure applies to the settlement of indirect costs for a specific contract in advance of the determination of final indirect cost rates when the amount of unsettled indirect cost to be allocated to the contract is relatively insignificant. Therefore, the "Quick Closeout" procedure does not preclude the provisions of paragraph (d) of the Allowable Cost and Payment clause nor does it constitute a waiver of final audit of the Contractor's Completion Voucher.

C. Completion Voucher Submittal--Notwithstanding the provisions of the Allowable Cost and Payment clause, as soon as practicable after settlement of the Contractor's indirect cost rates applicable to performance of the contract, the Contractor shall submit a Completion Voucher as required by the aforesaid clause. The Completion Voucher shall be supported by a cumulative claim and reconciliation statement and executed NASA Forms 778, Contractor's Release, and 780, Contractor's Assignment of Refunds, Rebates, Credits, and Other Amounts. Unless directed otherwise by the Contracting Officer for



Contract Closeout, the Contractor shall forward the said Completion Voucher directly to the cognizant Government Agency to which audit functions under the contract have been delegated.

**PART I - THE SCHEDULE****Section H - Special Contract Requirements****H.1 PROTECTION OF INFORMATION**

- (a) It is anticipated that in performance of this contract, the Contractor may:
- (1) Have access to or be furnished with information and data relating to NASA's plans, programs, technical requirements, and budgetary matters, and such other information the disclosure of which may give competitive advantage to recipients or would be adverse to the interest of the Government;
  - (2) Have access to or be furnished with information and data which are proprietary, business confidential, financial, or otherwise sensitive and acquired from other private organizations the disclosure of which may give competitive advantage to recipients or would be adverse to the interest of the other parties;
  - (3) Prepare reports, information, and data relating to the information and data described in (1) and (2) above, the disclosure of which may give competitive advantage to the recipient or would be adverse to the interest of the Government or other parties.
- (b) Therefore, in the performance of this contract, the Contractor agrees to:
- (1) Appropriately identify information and data falling within the categories of (a)(1), (2), and (3) above and not disclose such information to anyone, other than those Contractor personnel performing directly under this contract, without the written consent of the Contracting Officer, until such time as the Government may have authorized the release of such information and data to the public; or without the written consent of the other organization that is the source of the data;
  - (2) Apply this provision to any information and data identified by NASA as falling within the categories of (a)(1), (2) and/or (3) above; and
  - (3) Abide by the conditions of restrictive use markings or legends contained on any information and data falling within the categories of (a)(1), (2), and/or (3) above.
- (c) These restrictions do not limit the Contractor's right to use and disclose any information and data obtained from another source without restriction.

**H.2 LIMITATION OF FUTURE CONTRACTING (NFS 18-52.209-71) (DEC 1988)**

- (a) The Contracting Officer has determined that this acquisition may give rise to a potential organizational conflict of interest. Accordingly, the attention of prospective offerors is invited to FAR Subpart 9.5--Organizational Conflicts of Interest.
- (b) The nature of this conflict is that the Contractor may perform studies and analyses which involve elements of systems engineering and technical direction, as defined at FAR 9.505-1. As a result of performing such studies and analyses, the Contractor may be in a position to 1) favor its own products or capabilities; 2) obtain an unfair competitive advantage for future competitive procurements managed by NASA and/or the Jet Propulsion Laboratory (JPL); or 3) obtain proprietary information.
- (c) The restrictions upon future contracting are as follows:

- (1) If the Contractor, under the terms of this contract, or through the performance of tasks pursuant to this contract, is required to develop specifications or statements of work that are to be incorporated into a solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime or first-tier subcontractor under an ensuing NASA contract. This restriction shall remain in effect for a reasonable time, as agreed to by the Contracting Officer and the Contractor, sufficient to avoid unfair competitive advantage or potential bias (this time shall in no case be less than the duration of the initial production contract). NASA shall not unilaterally require the Contractor to prepare such specifications or statements of work under this contract.
- (2) To the extent that the work under this contract requires access to proprietary, business confidential, or financial data of other companies, and as long as these data remain proprietary or confidential, the Contractor shall protect these data from unauthorized use and disclosure and agrees not to use them to compete with those other companies.

### H.3 ORGANIZATIONAL CONFLICT OF INTEREST

The Contractor shall notify the Contracting Officer within ten working days, in writing and telephonically, should an adverse conflict of interest situation arise. Meetings regarding OCI issues will be called on an ad hoc basis by either the Contractor or the Contracting Officer.

### H.4 OBSERVATION OF REGULATIONS AND IDENTIFICATION OF CONTRACTOR'S EMPLOYEES (LaRC 52.211-104) (MAY 1999)

A. Observation of Regulations--In performance of that part of the contract work which may be performed at Langley Research Center or other Government installation, the Contractor shall require its employees to observe the rules and regulations as prescribed by the authorities at Langley Research Center or other installations including all applicable Federal, NASA and Langley or other local installation safety, health, environmental and security regulations.

B. Identification Badges--At all times while on LaRC property, the Contractor shall require its employees, subcontractors and agents to wear badges which will be issued by the NASA Contract Badge and Pass Office, located at 1 Langley Boulevard (Building No. 1228). Badges shall be issued only between the hours of 6:30 a.m. and 3:30 p.m., Monday through Friday. Contractors will be held accountable for these badges, and may be required to validate outstanding badges on an annual basis with the NASA LaRC Security Office. Immediately after employee termination or contract completion, badges shall be returned to the NASA Contract Badge and Pass Office.

### H.5 SECURITY PROGRAM/FOREIGN NATIONAL EMPLOYEE ACCESS REQUIREMENTS (LaRC 52.204-91) (FEB 2000)

Foreign nationals must meet the eligibility requirements outlined in NPG 1371.2 prior to performing any work under a contract. Eligibility determinations will be based solely on the scientific and technical contributions of the contractor, as outlined in the statement of work. Foreign nationals who meet the eligibility requirements will undergo a rigorous approval and investigative process prior to physical access to the Center and/or to NASA information. Foreign nationals must be sponsored by a NASA Civil Service employee. The sponsor must submit a formal request to the Security Management Office for access to the Center and/or NASA information, to include electronic information. The request will be processed through the Center's Export Administrator and subject to approval by the International Visits Coordinator. Normal processing time for a request is between 60 and 90 days depending on the nationality of the foreign national. All approvals will be for a maximum of one year and must be resubmitted annually. Following approval, the foreign national will undergo a National Agency Check Investigation (NACI). As part of the NACI, the foreign national will submit a "Name Check Request" (NASA Form 531) and a completed "applicant" fingerprint card, to the LaRC Security Management Office, Mail Stop 450. Normal processing time for a NACI is between 90 to 120 days. Until the NACI is completed and favorably adjudicated, the foreign national will require complete escort from entry onto and

exit off of the Center, and will not be allowed access to electronic information unless approved by the Center Information Technology Security Manager. Upon completion of the NACI, the foreign national will only be granted unescorted access to an approved workplace and to designated open areas during normal weekday work hours between 6:00 a.m. and 6:00 p.m. The foreign national will not be granted access during non-work hours, weekends, and holidays. Derogatory information developed concerning the foreign national may be grounds for visit termination.

#### H.6 KEY PERSONNEL AND FACILITIES (NASA 1852.235-71) (MAR 1989)

(a) The personnel and/or facilities listed below (or specified in the Contract Schedule) are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed or specified personnel or facilities, the Contractor shall (1) notify the Contracting Officer reasonably in advance and (2) submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract.

(b) The Contractor shall make no diversion without the Contracting Officer's written consent; provided, that the Contracting Officer may ratify in writing the proposed change, and that ratification shall constitute the Contracting Officer's consent required by this clause.

(c) The list of personnel and/or facilities (shown below or as specified in the Contract Schedule) may, with the consent of the contracting parties, be amended from time to time during the course of the contract to add or delete personnel and/or facilities.

John C. Niehoff, Contract Manager

#### H.7 RIGHTS TO PROPOSAL DATA (TECHNICAL) (FAR 52.227-23) (JUN 1987)

Except for data contained on pages none, it is agreed that as a condition of award of this contract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the "Rights in Data - General" clause contained in this contract) in and to the technical data contained in the proposal dated January 20, 2000, upon which this contract is based.

#### H.8 INCORPORATION OF SECTION K OF THE PROPOSAL BY REFERENCE (LaRC 52.215-107) (JUN 1998)

Pursuant to FAR 15.204-1(b) the completed Section K of the proposal dated January 20, 2000, is hereby incorporated herein by reference.

#### H.9 ADVANCE APPROVAL FOR RELEASE OF TECHNICAL INFORMATION (LaRC 52.227-92) (JUL 1998)

The Contractor shall not release technical information based on or containing data first produced in the performance of this contract and describing the work performed under this contract unless prior written approval is given by NASA. The Contractor shall submit technical information regarding the contract effort, such as journal articles, meeting papers, and technical documents to the Contracting Officer's Technical Representative (COTR) for review and concurrence with approval by the Center Export Administrator or designee prior to publication, presentation or release to others. The Contractor may proceed upon receipt of written concurrence by the COTR, unless directed otherwise in the COTR concurrence letter.

#### H.10 ADVANCE AGREEMENT ON INDIRECT RATE(S) (LaRC 52.231-90) (JUN 1988)

A. Notwithstanding the provisions of the Section I clause entitled "Allowable Cost and Payment," the Contractor will be reimbursed at the indirect ceiling rates specified below or the actual rates, whichever are less, for each of the Contractor's fiscal years applicable to this contract. The Contractor's fiscal year is February 1 through January 31. Any costs that are not reimbursed due to the ceilings shall be deemed unallowable costs. These unallowable costs shall not be recovered under this or any other Government contract.

Indirect Cost PoolCeiling PercentageAllocation Base

B. The above rate ceilings are predicated upon the bases listed above and the accounting practices and accounting system in effect on January 20, 2000. If the Contractor changes its accounting practices or accounting system in any way, the Contractor will immediately notify the Government. Within 30 days of such change the Contractor shall present to the CO information that demonstrates that the change will not impact the allowable cost computed using the above rates or shall submit a proposal for adjustment of the ceilings so that the total costs allowable will not exceed the total costs that would have been allowable had the Contractor not changed its accounting practices or accounting system. In the event that the parties cannot agree on new ceilings using the Contractor's new accounting practices or system and the Contractor does not agree to return to the previous accounting practices and system, the CO may equitably adjust the ceilings.

H.11 SUBCONTRACTING PLAN

The approved Contractor plan for subcontracting with small business and small disadvantaged business concerns is attached hereto as Exhibit C and is hereby made a part of this contract.

H.12 TERMINATION

The FAR clauses 52.249-1, Termination for Convenience of the Government (Fixed-Price) (Short Form) (APR 1984), 52.249-2, Termination for Convenience of the Government (Fixed-Price) (SEP 1996), 52.249-6, Termination (Cost-Reimbursement) (SEP 1996) and 52.249-9, Default (Fixed-Price Research and Development) (APR 1984) apply to the contract as a whole and to each individual Task Order issued under this contract. Thus, an individual Task Order may be terminated either for default or for the convenience of the Government.

H.13 SMALL DISADVANTAGED BUSINESS PARTICIPATION—CONTRACT TARGETS  
(LaRC 52.219-91) (JAN 1999)

(a) This clause does not apply to, and should not be completed by, Small Disadvantaged Business (SDB) offerors unless the SDB offeror has waived the price adjustment evaluation adjustment [see Paragraph (c) of FAR clause 52.219-23].

(b) FAR 19.1202-4(a) requires that SDB participation targets be incorporated in the contract. Targets for this contract are as follows: (See [www.sba.gov/sdb](http://www.sba.gov/sdb) for Department of Commerce Major SDB SIC Groups.)

	<u>Department of Commerce</u> <u>Major SIC Group</u>	<u>Dollar Target</u>	<u>Percent of Contract Value</u>
60 month contract period	8731	\$4,407,000	26%

(c) FAR 19.1202-4(b) requires that SDB concerns that are specifically identified by the offeror be listed in the contract when the extent of the identification of such subcontractors was part of the SDB evaluation subfactor. SDB concerns (subcontractors) specifically identified by the offeror are as follows:

Name of Concern(s):

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The Contractor shall notify the Contracting Officer of any substitutions of firms that are not SDB concerns.

H.14 ORGANIZATIONAL CONFLICT OF INTEREST AVOIDANCE PLAN

The contractor shall comply with their approved Organizational Conflict of Interest (OCI) Avoidance/Mitigation Plan.

H.15 ADVANCE AGREEMENT ON FIXED FEE AND PROFIT RATES

Task orders for work set forth in Clause C.1, Statement of Work, will be issued either on a firm-fixed price (FFP) or cost-plus fixed fee (CPFF) basis. Profit and fee will be determined on an individual task order basis. However, the profit rate to be applied to a fixed price task order shall not exceed \_\_\_% and the fee rate to be applied to a cost reimbursement task order shall not exceed \_\_\_%.

**PART II - CONTRACT CLAUSES****Section I - Contract Clauses Applicable To Cost Plus Fixed Fee Task Orders Issued Under This Contract****I.1 LISTING OF CLAUSES INCORPORATED BY REFERENCE:****FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES**

<u>CLAUSE NUMBER</u>	<u>TITLE AND DATE</u>
52.215-17	Waiver of Facilities Capital Cost of Money (OCT 1997)
52.216-8	Fixed Fee (MAR 1997)
52.228-7	Insurance - Liability To Third Persons (MAR 1996)
52.232-22	Limitation of Funds (APR 1984)
52.233-3	Protest After Award (AUG 1996) - Alternate I (JUN 1985)
52.242-1	Notice of Intent to Disallow Costs (APR 1984)
52.242-3	Penalties for Unallowable Costs (OCT 1995)
52.242-4	Certification of Final Indirect Costs (JAN 1997)
52.242-15	Stop-Work Order (AUG 1989) - Alternate I (APR 1984)
52.243-2	Changes--Cost-Reimbursement (AUG 1987) - Alternate V (APR 1984)
52.244-5	Competition In Subcontracting (DEC 1996)
52.245-5	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts) (JAN 1986)(Deviation) (JUL 1995)
52.246-8	Inspection of Research and Development - Cost-Reimbursement (APR 1984)
52.249-6	Termination (Cost-Reimbursement) (SEP 1996)
52.249-14	Excusable Delays (APR 1984)

**NASA FAR SUPPLEMENT (48 CFR CHAPTER 18) CLAUSES**

1852.216-89 Assignment and Release Forms (JUL 1997)

**I.2 CLAUSES IN FULL TEXT**

The clauses listed below follow in full text:

52.216-7	Allowable Cost and Payment (APR 1998)
52.244-2	Subcontracts (AUG 1998)
1852.216-75	Payment of Fixed Fee (DEC 1998)

**I.3 ALLOWABLE COST AND PAYMENT (FAR 52.216-7) (APR 1998)**

(a) Invoicing. The Government shall make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with Subpart 31.2 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract and the terms of this contract. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

(b) Reimbursing costs. (1) For the purpose of reimbursing allowable costs (except as provided in subparagraph (b)(2) of this section, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term "costs" includes only--

(i) Those recorded costs that, at the time of the request for reimbursement, the Contractor has paid by cash, check, or other form of actual payment for items or services purchased directly for the contract;

(ii) When the Contractor is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for--

(A) Materials issued from the Contractor's inventory and placed in the production process for use on the contract;

(B) Direct labor;

(C) Direct travel;

(D) Other direct in-house costs; and

(E) Properly allocable and allowable indirect costs, as shown in the records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts; and

(iii) The amount of progress and other payments that have been paid by cash, check or other form of payment to the Contractor's subcontractors under similar cost standards.

(2) Contractor contributions to any pension or other postretirement benefit, profit-sharing or employee stock ownership plan funds that are paid quarterly or more often may be included in indirect costs for payment purposes; Provided, that the Contractor pays the contribution to the fund within 30 days after the close of the period covered. Payments made 30 days or more after the close of a period shall not be included until the Contractor actually makes the payment. Accrued costs for such contributions that are paid less often than quarterly shall be excluded from indirect costs for payment purposes until the Contractor actually makes the payment.

(3) Notwithstanding the audit and adjustment of invoices or vouchers under paragraph (g) of this clause, allowable indirect costs under this contract shall be obtained by applying indirect cost rates established in accordance with paragraph (d) of this clause.

(4) Any statements in specifications or other documents incorporated in this contract by reference designating performance of services or furnishing of materials at the Contractor's expense or at no cost to the Government shall be disregarded for purposes of cost-reimbursement under this clause.

(c) Small business concerns. A small business concern may be paid more often than every 2 weeks and may invoice and be paid for recorded costs for items or services purchased directly for the contract, even though the concern has not yet paid for those items or services.

(d) Final indirect cost rates. (1) Final annual indirect cost rates and the appropriate bases shall be established in accordance with Subpart 42.7 of the Federal Acquisition Regulation (FAR) in effect for the period covered by the indirect cost rate proposal.

(2)(i) The Contractor shall submit an adequate final indirect cost rate proposal to the Contracting Officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. Reasonable extensions, for exceptional circumstances only, may be requested in writing by the Contractor and granted in writing by the Contracting Officer. The Contractor shall support its proposal with adequate supporting data.

(ii) The proposed rates shall be based on the Contractor's actual cost experience for that period. The appropriate Government representative and the Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

(3) The Contractor and the appropriate Government representative shall execute a written understanding setting forth the final indirect cost rates. The understanding shall specify (i) the agreed-upon final annual indirect cost rates, (ii) the bases to which the rates apply, (iii) the periods for which the rates apply, (iv) any specific indirect cost items treated as direct costs in the settlement, and (v) the affected contract and/or subcontract, identifying any with advance agreements or special terms and the applicable rates. The understanding shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. The understanding is incorporated into this contract upon execution.

(4) Within 120 days after settlement of the final indirect cost rates covering the year in which this contract is physically complete (or longer, if approved in writing by the Contracting Officer), the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates.

(5) Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the Disputes clause.

(e) Billing rates. Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the Contracting Officer or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates--

(1) Shall be the anticipated final rates; and



- (2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.
- (f) Quick-closeout procedures. Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.
- (g) Audit. At any time or times before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be—
- (1) Reduced by amounts found by the Contracting Officer not to constitute allowable costs;
- or
- (2) Adjusted for prior overpayments or underpayments.
- (h) Final payment. (1) Upon approval of a completion invoice or voucher submitted by the Contractor in accordance with paragraph (d)(4) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.
- (2) The Contractor shall pay to the Government any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Contractor or any assignee under this contract, to the extent that those amounts are properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses incurred by the Contractor for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Contracting Officer. Before final payment under this contract, the Contractor and each assignee whose assignment is in effect at the time of final payment shall execute and deliver--
- (i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and
- (ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, except--
- (A) Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;
- (B) Claims (including reasonable incidental expenses) based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided, that the claims are not known to the Contractor on the date of the execution of the release, and that the Contractor gives notice of the claims in writing to the Contracting Officer within 6 years following the release date or notice of final payment date, whichever is earlier; and
- (C) Claims for reimbursement of costs, including reasonable incidental expenses, incurred by the Contractor under the patent clauses of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

#### I.4 SUBCONTRACTS (FAR 52.244-2) (AUG 1998)

- (a) Definitions. As used in this clause--
- "Approved purchasing system" means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).
- "Consent to subcontract" means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.
- "Subcontract" means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.
- (b) This clause does not apply to subcontracts for special test equipment when the contract contains the clause at FAR 52.245-18, Special Test Equipment.
- (c) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (d) or (e) of this clause.
- (d) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that--
- (1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or
- (2) Is fixed-price and exceeds--

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

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

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

(intentionally left blank)

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

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

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

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

- (1) Of the acceptability of any subcontract terms or conditions;
- (2) Of the allowability of any cost under this contract; or
- (3) To relieve the Contractor of any responsibility for performing this contract.

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

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

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

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

Analytical Mechanics Associates, Inc.  
Futron Corporation  
San Juan Capistrano Research Institute  
Science and Technology Corporation  
SM&A Corporation

I.5 PAYMENT OF FIXED FEE (NASA 1852.216-75) (DEC 1988)

The fixed fee shall be paid in monthly installments based upon the percentage of completion of work as determined by the Contracting Officer.

**Section I - Contract Clauses Applicable To Firm-Fixed Price Task Orders Issued Under This Contract.**

I.5 LISTING OF CLAUSES INCORPORATED BY REFERENCE:

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

<u>CLAUSE NUMBER</u>	<u>TITLE AND DATE</u>
52.229-3	Federal, State, and Local Taxes (JAN 1991)
52.229-5	Taxes - Contracts Performed in U.S. Possessions or Puerto Rico (APR 1984)
52.232-2	Payments under Fixed-Price Research and Development Contracts (APR 1984)
52.232-16	Progress Payments (JUL 1991)
52.232-16	Progress Payments (JUL 1991)- Alternate I (AUG 1987)
52.233-3	Protest After Award (AUG 1996)
52.242-15	Stop-Work Order (AUG 1989)
52.243-1	Changes--Fixed Price (AUG 1987) - Alternate V (APR 1984)
52.245-2	Government Property (Fixed-Price Contracts) (DEC 1989)
52.246-7	Inspection of Research and Development - Fixed-Price (AUG 1996)
52.246-16	Responsibility for Supplies (APR 1984)
52.249-1	Termination for Convenience of the Government (Fixed-Price) (Short Form) (APR 1984)
52.249-2	Termination for Convenience of the Government (Fixed-Price) (SEP 1996)
52.249-9	Default (Fixed-Price Research and Development) (APR 1984)

I.6 CLAUSES IN FULL TEXT

None

**Section I - Contract Clauses Applicable To Both Firm-Fixed Price Task Orders And Cost Plus Fixed Fee Task Orders Issued Under This Contract.**

I.8 LISTING OF CLAUSES INCORPORATED BY REFERENCE:

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

<u>CLAUSE NUMBER</u>	<u>TITLE AND DATE</u>
52.202-1	Definitions (OCT 1995)
52.203-3	Gratuities (APR 1984)
52.203-5	Covenant Against Contingent Fees (APR 1984)
52.203-6	Restrictions on Subcontractor Sales to the Government (JUL 1995)
52.203-7	Anti-Kickback Procedures (JUL 1995)
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (JAN 1997)
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997)
52.203-12	Limitation on Payments to Influence Certain Federal Transactions (JUN 1997)
52.204-4	Printing/Copying Double-Sided on Recycled Paper (JUN 1996)
52.209-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (JUL 1995)
52.211-15	Defense Priority and Allocation Requirements (SEP 1990)
52.215-2	Audit and Records--Negotiation (AUG 1996)
52.215-8	Order of Precedence (OCT 1997)
52.215-11	Price Reduction for Defective Cost or Pricing Data - Modifications (OCT 1997)
52.215-13	Subcontractor Cost or Pricing Data - Modifications (OCT 1997)
52.215-14	Integrity of Unit Prices (OCT 1997)
52.215-15	Pension Adjustments And Asset Reversions (DEC 1998)
52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (OCT 1997)
52.215-19	Notification of Ownership Changes (OCT 1997)
52.219-8	Utilization of Small Business Concerns (OCT 1999)
52.219-9	Small Business Subcontracting Plan (OCT 1999)
52.219-16	Liquidated Damages--Subcontracting Plan (JAN 1999)
52.222-1	Notice to the Government of Labor Disputes (FEB 1997)
52.222-3	Convict Labor (AUG 1996)
52.222-21	Prohibition of Segregated Facilities (FEB 1999)
52.222-26	Equal Opportunity (FEB 1999)
52.222-35	Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (APR 1998)
52.222-36	Affirmative Action for Workers with Disabilities (JUN 1998)
52.222-37	Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (JAN 1999)
52.222-41	Service Contract Act of 1965, As Amended (MAY 1989)
52.223-6	Drug-Free Workplace (JAN 1997)
52.223-14	Toxic Chemical Release Reporting (OCT 1996)
52.225-13	Restrictions on Certain Foreign Purchases (FEB 2000)
52.227-1	Authorization and Consent (JUL 1995)
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (AUG 1996)
52.227-11	Patent Rights--Retention by the Contractor (Short Form) (JUN 1997)--as modified by NASA FAR Supplement 1852.227-11
52.227-12	Notice and Assistance Regarding Patent and Copyright Infringement (AUG 1996)
52.227-16	Additional Data Requirements (JUN 1987)
52.230-2	Cost Accounting Standards (APR 1998)

<u>CLAUSE NUMBER</u>	<u>TITLE AND DATE</u>
52.230-6	Administration of Cost Accounting Standards (NOV 1999)
52.232-9	Limitation on Withholding of Payments (APR 1984)
52.232-17	Interest (JUN 1996)
52.232-23	Assignment of Claims (JAN 1986)
52.232-34	Payment by Electronic Funds Transfer - Other than Central Contractor Registration (MAY 1999)
52.233-1	Disputes (DEC 1998)--Alternate I (DEC 1991)
52.246.23	Limitation of Liability (FEB 1997)
52.253-1	Computer Generated Forms (JAN 1991)

NASA FAR SUPPLEMENT (48 CFR CHAPTER 18) CLAUSES

1852.208-81	Restrictions on Printing and Duplicating (AUG 1993)
1852.219-74	Use of Rural Area Small Businesses (SEP 1990)
1852.219-75	Small Business Subcontracting Reporting (MAY 1999)
1852.219-76	NASA 8 Percent Goal (JUL 1997)
1852.227-70	New Technology (NOV 1998)
1852.227-86	Commercial Computer Software--Licensing (DEC 1987)
1852.235-70	Center for Aerospace Information (JUL 1999)
1852.243-71	Shared Savings (MAR 1997)
1852.244-70	Geographic Participation in the Aerospace Program (APR 1985)

I.9 CLAUSES IN FULL TEXT

The clauses listed below follow in full text:

52.215-21	Requirements for Cost and Pricing Data or Information Other Than Cost or Pricing Data - Modifications (OCT 1997)
52.216-18	Ordering (OCT 1995)
52.216-19	Order Limitations (OCT 1995)
52.216-22	Indefinite Quantity (OCT 1995)
52.219-4	Notice of Price Evaluation Preference For HUBZone Small Business Concerns (JAN 1999)
52.219-23	Notice of Price Adjustment for Small Disadvantaged Business Concerns (OCT 1998)
52.219-25	Small Disadvantaged Business Participation Program-Disadvantaged Status And Reporting (OCT 1999)
52.227-14	Rights in Data--General (JUN 1987) (ALTERNATE II) (JUN 1987) AND ALTERNATE III (JUN 1987) - As Modified by NASA FAR Supplement 1852.227-14
52.232-25	Prompt Payment (JUN 1997)
52.242-13	Bankruptcy (JUL 1995)
52.244-6	Subcontracts for Commercial Items and Commercial Components (OCT 1998)
1852.215-84	Ombudsman (OCT 1996)
1852.223-70	Safety and Health (MAR 1997)
1852.225-70	Export Licenses (FEB 2000)
1852.245-73	Financial Reporting of NASA Property in the Custody of Contractors (NOV 1999)

I.10 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST  
OR PRICING DATA--MODIFICATIONS (FAR 52.215-21) (OCT 1997)

- (a) Exceptions from cost or pricing data.
- (1) In lieu of submitting cost or pricing data for modifications under this contract, for price adjustments expected to exceed the threshold set forth at FAR 15.403-4 on the date of the agreement on

price or the date of the award, whichever is later, the Contractor may submit a written request for exception by submitting the information described in the following subparagraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable--

(i) Identification of the law or regulation establishing the price offered. If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) Information on modifications of contracts or subcontracts for commercial items.

(A) If--

(1) The original contract or subcontract was granted an exception from cost or pricing data requirements because the price agreed upon was based on adequate price competition or prices set by law or regulation, or was a contract or subcontract for the acquisition of a commercial item; and

(2) The modification (to the contract or subcontract) is not exempted based on one of these exceptions, then the Contractor may provide information to establish that the modification would not change the contract or subcontract from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

(B) For a commercial item exception, the Contractor shall provide, at a minimum, information on prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the modification. Such information may include--

(1) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), e.g., wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities.

(2) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market.

(3) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(2) The Contractor grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this clause, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the Contractor's determination of the prices to be offered in the catalog or marketplace.

(b) Requirements for cost or pricing data. If the Contractor is not granted an exception from the requirement to submit cost or pricing data, the following applies:

(1) The Contractor shall submit cost or pricing data and supporting attachments in accordance with Table 15-2 of FAR 15.408.

(2) As soon as practicable after agreement on price, but before award (except for unpriced actions), the Contractor shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

#### I.11 ORDERING (FAR 52.216-18) (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 contract award through the end of the contract term.

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

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

I.12 ORDER LIMITATIONS (FAR 52.216-19) (OCT 1995)

(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than guaranteed minimum stated in Clause B.2, Indefinite Delivery/Indefinite quantity Contract (IDIQ) contract, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

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

(1) Any order for a single item in excess of \$10,000,000;

(2) Any order for a combination of items in excess of maximum stated in Clause B.2, IDIQ contract; or

(3) A series of orders from the same ordering office within 180 days that together call for quantities exceeding the limitation in subparagraph (1) or (2) above.

(c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) above.

(d) Notwithstanding paragraphs (b) and (c) above, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 10 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

I.13 INDEFINITE QUANTITY (FAR 52.216-22) (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 66 months from the effective date of the contract.

I.14 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (FAR 52.219-4) (JAN 1999)

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

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

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

(ii) Otherwise successful offers from small business concerns;



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

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

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

(3) A concern that is both a HUBZone small business concern and a small disadvantaged business concern will receive the benefit of both the HUBZone small business price evaluation preference and the small disadvantaged business price evaluation adjustment (see FAR clause 52.219-23). Each applicable price evaluation preference or adjustment shall be calculated independently against an offeror's base offer. These individual preference amounts shall be added together to arrive at the total evaluated price for that offer.

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

\_\_\_\_ Offeror elects to waive the evaluation preference.

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

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

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

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

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

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

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

#### I.15 NOTICE OF PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS (FAR 52.219-23) (OCT 1998)

(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 listed, on the date of its representation, on the register of small disadvantaged business concerns maintained by the Small Business Administration;

(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. 1135d-5(3)) which, for purposes of this clause, includes a Hispanic-serving institution of higher education as defined in Section 316(b)(1) of the Act (20 U.S.C. 1059c(b)(1)).

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) Offers will be evaluated by adding 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) For DOD, NASA, and Coast Guard acquisitions, otherwise successful offers from historically black colleges or universities or minority institutions;

(iii) Otherwise successful offers 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));

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

(v) For DOD acquisitions, otherwise successful offers of qualifying country end products (see sections 225.000-70 and 252.225-7001 of the Defense FAR Supplement).

(2) The factor 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. 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 disadvantaged business concerns in the United States. This paragraph does not apply in connection with construction or service contracts.

I.16 SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM-DISADVANTAGED STATUS AND REPORTING (FAR 52.219-25) (OCT 1999)

(a) Disadvantaged status for joint venture partners, team members, and subcontractors. This clause addresses disadvantaged status for joint venture partners, teaming arrangement members, and subcontractors and is applicable if this contract contains small disadvantaged business (SDB) participation targets. The Contractor shall obtain representations of small disadvantaged status from joint venture partners, teaming arrangement members, and subcontractors through use of a provision substantially the same as paragraph (b)(1)(i) of the provision at FAR 52.219-22, Small Disadvantaged Business Status. The Contractor shall confirm that a joint venture partner, team member, or subcontractor representing itself as a small disadvantaged business concern, is identified as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net) or by contacting the SBA's Office of Small Disadvantaged Business Certification and Eligibility.

(b) Reporting requirement. If this contract contains SDB participation targets, the Contractor shall report on the participation of SDB concerns at contract completion, or as otherwise provided in this contract. Reporting may be on Optional Form 312, Small Disadvantaged Business Participation Report, or in the Contractor's own format providing the same information. This report is required for each contract containing SDB participation targets. If this contract contains an individual Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, reports may be submitted with the final Subcontracting Report for Individual Contracts (Standard Form 294) at the completion of the contract.

I.17 RIGHTS IN DATA--GENERAL (FAR 52.227-14)(JUN 1987) (ALTERNATE II) (JUN 1987) AND ALTERNATE III (JUN 1987) – as modified by NASA FAR Supplement 1852.227-14

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3)(i) The Contractor agrees not to establish claim to copyright, publish or release to others any computer software first produced in the performance of this contract without the Contracting Officer's prior written permission.

(ii) If the Government desires to obtain copyright in computer software first produced in the performance of this contract and permission has not been granted as set forth in paragraph (d)(3)(i) of this clause, the Contracting Officer may direct the contractor to assert, or authorize the assertion of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(iii) Whenever the word "establish" is used in this clause, with reference to a claim to copyright, it shall be construed to mean "assert".

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

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

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

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

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

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

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

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

- (i) Identifies the data to which the omitted notice is to be applied;
- (ii) Demonstrates that the omission of the notice was inadvertent;
- (iii) Establishes that the use of the proposed notice is authorized; and
- (iv) Acknowledges that the Government has no liability with respect to the disclosure,

use, or reproduction of any such data made prior to the addition of the notice or resulting from the omission of the notice.

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

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

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

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

#### Limited Rights Notice (Jun 1987)

(a) These data are submitted with limited rights under Government Contract No. \_\_\_\_\_ (and subcontract \_\_\_\_\_, if appropriate). These data may be reproduced and used by the Government with the express limitation that they will not, without written permission of the Contractor, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose these data outside the Government for the following purposes, if any; provided that the Government makes such disclosure subject to prohibition against further use and disclosure: [Agencies may list additional purposes as set forth in 27.404(d)(1) or if none, so state.]

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

(End of notice)

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

#### Restricted Rights Notice (Jun 1987)

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

(b) This computer software may be--

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

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

- (3) Reproduced for safekeeping (archives) or backup purposes;
- (4) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating restricted computer software are made subject to the same restricted rights;
- (5) Disclosed to and reproduced for use by support service Contractors in accordance with subparagraphs (b)(1) through (4) of this clause, provided the Government makes such disclosure or reproduction subject to these restricted rights; and
- (6) Used or copied for use in or transferred to a replacement computer.
- (c) Notwithstanding the foregoing, if this computer software is published copyrighted computer software, it is licensed to the Government, without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause.
- (d) Any other rights or limitations regarding the use, duplication, or disclosure of this computer software are to be expressly stated in, or incorporated in, the contract.
- (e) This Notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of notice)

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

Restricted Rights Notice Short Form (Jun 1987)

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

(End of notice)

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

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

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

I.18 PROMPT PAYMENT (FAR 52.232-25) (JUN 1997)

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

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

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

(B) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor. On a final invoice where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice; provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

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

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

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

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

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

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

(3) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in subdivisions (a)(3)(i) through (a)(3)(viii) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, edible fats or oils, and food products prepared from edible fats or oils), with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(5) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of the mailing or transmission.)

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

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

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

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



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

(viii) Any other information or documentation required by the contract (such as evidence of shipment).

(ix) While not required, the Contractor is strongly encouraged to assign an identification number to each invoice.

(4) Interest penalty. An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in subdivisions (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

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

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

(5) Computing penalty amount. The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and will be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(3) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils).

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) For incorrect electronic funds transfer (EFT) information, in accordance with the EFT clause of this contract.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than 1 year. Interest penalties of less than \$1 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(6) Prompt payment discounts. An interest penalty also shall be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated as described in subparagraph (a)(5) of this clause on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(7) Additional interest penalty. (i) A penalty amount, calculated in accordance with subdivision (a)(7)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor--

- (A) Is owed an interest penalty of \$1 or more;
- (B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and
- (C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with subdivision (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii)(A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall--

- (1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;
- (2) Attach a copy of the invoice on which the unpaid late payment interest was due; and
- (3) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that--

- (1) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or
- (2) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(iii)(A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty except--

- (1) The additional penalty shall not exceed \$5,000;
- (2) The additional penalty shall never be less than \$25; and
- (3) No additional penalty is owed if the amount of the underlying interest penalty is less than \$1.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in subdivision (a)(5)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in subdivision (a)(7)(iii)(A) of this clause.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

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

(b) Contract financing payments--(1) Due dates for recurring financing payments. If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as

specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the [insert day as prescribed by Agency head; if not prescribed, insert 30th day] day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) Due dates for other contract financing. For advance payments, loans, or other arrangements that do not involve recurring submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) Interest penalty not applicable. Contract financing payments shall not be assessed an interest penalty for payment delays.

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

#### I.18 BANKRUPTCY (FAR 52.242-13) (JUL 1995)

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

#### I.19 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (FAR 52.244-6) (OCT 1998)

(a) Definitions.

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

"Subcontract," as used in this clause, 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) Notwithstanding any other clause of this contract, the Contractor is not required to include any FAR provision or clause, other than those listed below to the extent they are applicable and as may be required to establish the reasonableness of prices under Part 15, in a subcontract at any tier for commercial items or commercial components:

(1) 52.222-26, Equal Opportunity (E.O. 11246);

(2) 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212(a));

(3) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793); and

(4) 52.247-64, Preference for Privately Owned U.S.-Flagged Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996).

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

#### I.20 OMBUDSMAN (NASA 1852.215-84) (OCT 1996)

An ombudsman has been appointed to hear and facilitate the resolution of concerns from offerors, potential offerors, and Contractors during the preaward and postaward phases of this acquisition. When requested, the ombudsman will maintain strict confidentiality as to the source of the concern. The existence of the ombudsman is not to diminish the authority of the Contracting Officer, the Source Evaluation Board, or the selection official. Further, the ombudsman does not participate in the evaluation of proposals, the source selection process, or the adjudication of formal contract disputes. Therefore,

before consulting with an ombudsman, interested parties must first address their concerns, issues, disagreements, and/or recommendations to the Contracting Officer for resolution. If resolution cannot be made by the Contracting Officer, interested parties may contact the installation ombudsman, Belinda Adams, direct inquiries to Sandra S. Ray at (757) 864-2428. Concerns, issues, disagreements, and recommendations which cannot be resolved at the installation may be referred to the NASA ombudsman, the Associate Administrator for Procurement, Thomas S. Luedtke, at 202-358-2090. Please do not contact the ombudsman to request copies of the solicitation, verify offer due date, or clarify technical requirements. Such inquiries shall be directed to the Contracting Officer or as specified elsewhere in this document.

#### I.21 SAFETY AND HEALTH (NASA 1852.223-70) (MAR 1997)

- (a) The Contractor shall take all reasonable safety and health measures in performing under this contract. The Contractor shall comply with all Federal, State, and local laws applicable to safety and health in effect on the date of this contract and with the safety and health standards, specifications, reporting requirements, and provisions set forth in the contract Schedule.
- (b) The Contractor shall take or cause to be taken any other safety and health measures the Contracting Officer may reasonably direct. To the extent that the Contractor may be entitled to an equitable adjustment for those measures under the terms and conditions of this contract, the equitable adjustment shall be determined pursuant to the procedures of the changes clause of this contract; provided, that no adjustment shall be made under this Safety and Health clause for any change for which an equitable adjustment is expressly provided under any other provision of the contract.
- (c) The Contractor shall immediately notify and promptly report to the Contracting Officer or a designee any accident, incident, or exposure resulting in fatality, lost-time occupational injury, occupational disease, contamination of property beyond any stated acceptable limits set forth in the contract Schedule, or property loss of \$25,000 or more arising out of work performed under this contract. The Contractor is not required to include in any report an expression of opinion as to the fault or negligence of any employee. Service contractors (excluding construction contracts) shall provide quarterly reports specifying lost-time frequency rate, number of lost-time injuries, exposure, and accident/incident dollar losses as specified in the contract Schedule. The Contractor shall investigate all work-related incidents or accidents to the extent necessary to determine their causes and furnish the Contracting Officer a report, in such form as the Contracting Officer may require, of the investigative findings and proposed or completed corrective actions.
- (d)(1) The Contracting Officer may notify the Contractor in writing of any noncompliance with this clause and specify corrective actions to be taken. The Contractor shall promptly take and report any necessary corrective action.
- (2) If the Contractor fails or refuses to institute prompt corrective action in accordance with subparagraph (d)(1) of this clause, the Contracting Officer may invoke the stop-work order clause in this contract or any other remedy available to the Government in the event of such failure or refusal.
- (e) The Contractor (or subcontractor or supplier) shall insert the substance of this clause, including this paragraph (e) and any applicable Schedule provisions, with appropriate changes of designations of the parties, in subcontracts of every tier that (1) amount to \$1,000,000 or more (unless the Contracting Officer makes a written determination that this is not required), (2) require construction, repair, or alteration in excess of \$25,000, or (3) regardless of dollar amount, involve the use of hazardous materials or operations.
- (f) Authorized Government representatives of the Contracting Officer shall have access to and the right to examine the sites or areas where work under this contract is being performed in order to determine the adequacy of the Contractor's safety and health measures under this clause.
- (g) As a part of the Contractor's safety plan (and health plan, when applicable) and to the extent required by the Schedule, the Contractor shall furnish a list of all hazardous operations to be performed, including operations indicated in paragraphs (a) and (b) of this clause, and a list of other major or key operations required or planned in the performance of the contract, even though not deemed hazardous by the Contractor. NASA and the Contractor shall jointly decide which operations are to be considered hazardous, with NASA as the final authority. Before hazardous operations commence, the Contractor shall submit for NASA concurrence either or both of the following, as required by the contract Schedule or by the Contracting Officer:

- (1) Written hazardous operating procedures for all hazardous operations.
- (2) Qualification Standards for personnel involved in hazardous operations.

I.22 EXPORT LICENSES (NASA 1852.225-70) (FEB 2000)

- (a) The Contractor shall comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799, in the performance of this contract. In the absence of available license exemptions/exceptions, the Contractor shall be responsible for obtaining the appropriate licenses or other approvals, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance.
- (b) The Contractor shall be responsible for obtaining export licenses, if required, before utilizing foreign persons in the performance of this contract, including instances where the work is to be performed on-site at NASA Headquarters and/or Langley Research Center, where the foreign person will have access to export-controlled technical data or software.
- (c) The Contractor shall be responsible for all regulatory record keeping requirements associated with the use of licenses and license exemptions/exceptions.
- (d) The Contractor shall be responsible for ensuring that the provisions of this clause apply to its subcontractors.

I.23 FINANCIAL REPORTING OF NASA PROPERTY IN THE CUSTODY OF CONTRACTORS (NASA 1852.225-73) (NOV 1999)

- (a) The Contractor shall submit annually a NASA Form (NF) 1018, NASA Property in the Custody of Contractors, in accordance with the provisions of 1845.505-14, the instructions on the form, subpart 1845.71, and any supplemental instructions for the current reporting period issued by NASA. Subcontractor use of NF 1018 is not required by this clause; however, the Contractor shall include data on property in the possession of subcontractors in the annual NF 1018.
- (b)
  - (1) The Contractor shall mail the original signed NF 1018 directly to the Center Deputy Chief Financial Officer, Finance.
  - (2) Three copies shall be submitted (through the Department of Defense (DOD) Property Administrator if contract administration has been delegated to DOD) to the following address: ATTN: INDUSTRIAL PROPERTY OFFICE, NASA LANGLEY RESEARCH CENTER, MAIL STOP 377, HAMPTON, VA 23681-2199, unless the Contractor uses the NASA NF 1018 Electronic Submission System (NESS) for report preparation and submission.
- (c) The annual reporting period shall be from October 1 of each year through September 30 of the following year. The report shall be submitted in time to be received by October 31. The information contained in these reports is entered into the NASA accounting system to reflect current asset values for agency financial statement purposes. Therefore, it is essential that required reports be received no later than October 31. The Contracting Officer may, in the Government's interest, withhold payment until a reserve not exceeding \$25,000 or 5 percent of the amount of the contract, whichever is less, has been set aside, if the Contractor fails to submit annual NF 1018 reports when due. Such reserve shall be withheld until the Contracting Officer has determined that the required reports have been received by the Government. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government right.
- (d) A final report shall be submitted within 30 days after disposition of all property subject to reporting when the contract performance period is complete in accordance with (b)(1) and (2) of this clause.

**PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS**

**Section J - List of Attachments**

- Exhibit A                      Contract Documentation Requirements, 3 pages
- Exhibit B                      Subcontracting Plan, 20 pages
- Exhibit C                      Minimum Qualifications for Labor Categories, 2 pages

## EXHIBIT A

### CONTRACT DOCUMENTATION REQUIREMENTS

#### I. DOCUMENTATION PREPARATION/SUBMISSION INSTRUCTIONS

A. Monthly Progress Report--The Contractor shall submit monthly progress reports which provide the status for each active Task Order due to be completed within 60 days, overdue, or through completion and approval of final deliverables. Reports shall be in narrative form, brief and informal in content. These reports shall include: (1) a narrative statement of work accomplished during the report period; (2) current and potential problem areas and proposed corrective action (3) a discussion of work to be performed during the next report period and expected completion date; and (4) for cost plus fixed fee Task Orders, provide the authorized estimated cost, current actual cost to date and estimated cost to complete the Task Order. The monthly progress report shall be submitted by the 25th day of each month.

B. Final Reports --The Contractor shall submit a signed final report for each task order, which documents and summarizes the results. The contractor shall submit the final report and copies to the Task Monitor and COTR. The Task Monitor will approve the final report.

#### C. Monthly Financial Management Report

1. The Contractor shall submit a monthly financial management report as provided by the Section G clause entitled "NASA Contractor Financial Management Reporting." This report shall be submitted utilizing NASA Form 533M, Monthly Contractor Financial Management Report, in accordance with submission instructions contained on the reverse side of the form. (Columns 8a and 8b, 533M, shall contain estimates for the following two successive months for the reporting a. and b. of Paragraph 2. below.)

2. For this Task Order contract a 533M shall be provided for the reporting levels identified below:

a. Each Authorized Cost Type Task Order

b. Contract Total (Includes the sum of Items a. and b.). Column 9b shall reflect estimated cost of \$\_\_\_ plus fixed fee of \$\_\_\_.)

c. Due not later than the 10th operating day following the close of the Contractor's accounting period being reported.

e. Each 533M shall include a narrative explanation for variances exceeding 15 percent between planned dollars and actual dollars for each reporting category (at the total contract level only).

3. In addition, cost detail associated with the following elements shall be included in each of the above, if applicable.

- a. Direct Labor Hours
- b. Direct Labor Dollars
- c. Overhead
- d. G&A
- e. Subcontract
- f. Material
- g. Travel
- h. ODC

- i. FCCOM
- j. Total Estimated Cost
- k. Fee
- l. Total Estimated Cost and Fee

D. Quarterly Financial Management Report--The Contractor shall submit a financial report at the contract level detailed by categories specified in Paragraph B. above on NASA Form 533Q in accordance with the instructions contained on the reverse side of the form.

E. Subcontracting Reports --The Contractor shall submit Standard Form 294, Subcontracting Report for Individual Contracts, and Standard Form 295, Summary Subcontractor Report, in accordance with the instructions on the reverse of the form.

In addition to the instructions on the reverse of the SF 295, the Contractor is required to comply with Clause 1852.219-75, Small Business Subcontracting Reporting.

F. Federal Contractor Veterans Employment Report--In compliance with Clause 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era, the Contractor shall submit the Federal Contractor Veterans Employment Report (VETS-100) as required by this clause.

G. Property in the Custody of Contractors (NASA Form 1018)--The Contractor shall submit the NASA Form 1018 no later than October 31 of each year in accordance with the Section I clause entitled "Financial Reporting of NASA Property in the Custody of Contractors."

H. Small Disadvantaged Business (SDB) Participation Report--The Contractor shall submit and SDB Participation Report in accordance with the Section I, Clause 52.219-25, Small Disadvantaged Business Program--Disadvantaged Status and Reporting. The Contractor shall report on the participation of SDB concerns using either Option Form 312, Small Disadvantaged Business Participation Report, or the Contractor's own format providing the same information as the Optional Form 312. This report shall be submitted every 12 months during the contract period.

## II. DOCUMENT DISTRIBUTION REQUIREMENTS

A. Unless otherwise specified elsewhere in this contract, reports and other documentation shall be submitted f.o.b. destination as specified below, addressed as follows:

National Aeronautics and Space Administration  
Langley Research Center  
Attn:  
Contract NAS1-00095  
Hampton, VA 23681-2199

B. The following letter codes designate the recipients of reports and other documentation which are required to be delivered to Langley Research Center by the Contractor:

A--Contract Specialist, Mail Stop 126

B--Contracting Officer Technical Representative, Mail Stop 160

C--New Technology Representative, Mail Stop 212

D--Patent Counsel, Mail Stop 212

E--Cost Accounting, Mail Stop 135 (via Mail Stop 175)



F--According to Instructions on Form

G--Small Business Specialist, Mail Stop 144

H—Property Administrator, Mail Stop 377

I—Task Monitor, Mail Stop - In accordance with individual Task Orders

C. The following are the distribution requirements for reports and other documentation required to be delivered f.o.b. destination. The numeral following the letter code specifies the number of copies to be provided:

<u>DOCUMENT</u>	<u>LETTER CODE AND DISTRIBUTION</u>
Monthly Progress Report	A-1, B-2
Financial Management Report (Monthly/Quarterly)	A-1, B-2, E-2
New Technology or Patent Rights Reports	A-1, B-2, C-1, D-1
Subcontracting Report for Individual Contracts (Standard Form 294)	A-1, G-1
Summary Subcontractor Report (Standard Form 295)	F-1
Report of Government-Owned/Contractor Held Property (NASA Form 1018)	H-4
Federal Contractor Veterans Employment Report (VETS-100)	F-1
Final Report (Final Copy)	A-1, B-1, I-*
Small Disadvantaged Business (SDB) Participation Report	A-1, G-1
Organizational Conflict of Interest Status Report	A-1, B-1

\*As specified in the Task Order

**EXHIBIT B**  
SUBCONTRACTING PLAN

## EXHIBIT C

### MINIMUM QUALIFICATIONS FOR LABOR CATEGORIES

**All required degrees must be earned from an accredited institution.**

#### **Contract Manager:**

Experience: Must have 5 years progressively responsible supervisory and management experience managing and coordinating complex technical, scientific and/or engineering contracts.

Education: Must have a bachelor's degree in a science, engineering, technical, management or directly related field.

#### **Study Manager:**

Experience: Must have 5 years progressively responsible experience coordinating and managing complex technical, scientific and/or engineering projects.

Education: Must have a bachelor's degree in a science, engineering, technical, management or directly related field.

#### **Senior Scientist**

Experience: Must have 10 years of work experience in basic or applied research in planetary sciences, astrophysics, or space physics.

Education: Must have a Ph.D. in one of the physical sciences with a record of publication in scientific journals commensurate with experience beyond the Ph.D. level.

#### **Scientist**

Experience: Must have 5 years of work experience in basic or applied research with a record of publication that indicates currency in the field of work related to the contract.

Education: Must have an advanced degree in one of the physical sciences.

#### **Senior Engineer**

Experience: Ten years progressively responsible experience in aerospace engineering, with at least five years experience in the management and technical direction involved in the design or development of space flight hardware programs.

Education: Must at least have a bachelor's degree in an engineering, mathematics or science discipline.

#### **Engineer**

Experience: Five years experience in aerospace engineering.

Education: Must at least have a bachelor's degree in an engineering, mathematics or science discipline.

#### **Senior Management Analyst**

Experience: Ten years experience in analyzing management systems. Must be proficient in gathering management data, developing models of management systems, investigating alternatives, and using personal judgement in analyzing management systems.

Education: Must have a master's degree in administration, accounting, engineering, or a related field.

#### **Senior Mathematician/Analyst**

Experience: Five years progressively responsible experience in probabilistic assessments and/or data analysis.

Education: Must have a master's degree in mathematics, finance or other directly related field.

#### **Mathematician/Analyst**

Experience: Three years experience performing probabilistic assessments and/or data analysis.

Education: Must have a bachelor's degree in mathematics, finance or other directly related field.

**Senior Analyst (WWW Support)**

Experience: Must have 5 years experience designing and developing websites. Must be proficient in web server technology on platforms running Windows NT and platforms running UNIX. Must be proficient in HTML 4, JAVA, JAVAScript, DHTML, cascading style sheets, and Perl scripting.

Education: Must have a bachelor's degree.

**Senior Analyst (MIS Support)**

Experience: Must have 5 years experience developing and maintaining management information systems based on both Macintosh and PC platforms. Must be proficient in flow-charting software for the Macintosh, Filemaker Pro, Adobe PageMaker, InDesign, Illustrator, and Photoshop.

Education: Must have a bachelor of Science Degree in Computer Science, Mathematics, Physical Sciences, Management Information Systems, or a related field.

**Editor/Technical Writer**

Experience: Four years of experience editing, writing, and organizing technical documents and reports.

Education: Bachelor's degree with a major in communications, English, journalism, or a directly related field.

**Clerical/Secretarial: General**

Experience: Must have at least two years of experience typing/preparing contractual and business-related documents and documenting and distributing materials.

Education: Minimum high school diploma or GED from an accredited institution.

**Clerical/Secretarial: Conference**

Experience: Must have at least two years of experience typing/preparing contractual and business-related documents, documenting and distributing materials, and performing conference-related assignments that demonstrate their ability to handle the many tasks needed for successful conferences.

Education: Minimum high school diploma or GED from an accredited institution.

NOTE: Cost assessment is required and may be performed by several positions listed above depending upon the offeror's approach.