

2. CONTRACT (Proc. Inst. Ident.) NO <b>DE-AC26-04NT41820</b>	3. EFFECTIVE DATE <b>July 12, 2004</b>	4. REQUISITION/PURCHASE REQUEST PROJECT NO. <b>26-04NT41820.000</b>
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5. ISSUED BY  <b>U.S. Department of Energy National Energy Technology Laboratory P.O. Box 880 3610 Collins Ferry Road Morgantown, WV 26507-0880</b>	CODE	6. ADMINISTERED BY (if other than Item 5)	CODE
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7. NAME AND ADDRESS OF CONTRACTOR (No. street, city, county, State and ZIP Code)  <b>Prologic Incorporated 1000 Technology Drive, Suite 3140 Fairmont, WV 26554 DUNS: 94-113-4876</b>	8. DELIVERY <input type="checkbox"/> FOB ORIGIN <input type="checkbox"/> OTHER (See below)
	9. DISCOUNT FOR PROMPT PAYMENT
	10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN: ITEM See Article G.2

CODE	FACILITY CODE	11. SHIP TO/MARK FOR CODE <b>See Section D.</b>	12. PAYMENT WILL BE MADE BY CODE <b>See Clause G.2</b>
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13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c)( ) <input checked="" type="checkbox"/> 41 U.S.C. 253(c)( 5 )	14. ACCOUNTING AND APPROPRIATION DATA <b>89X0213.91 AN2006000 251 \$400,000 A221 8092939</b>
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15A. ITEM NO.	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT
<b>ALL</b>	<b>See Clause B.1</b>				<b>See Clause B.2</b>

15G. TOTAL AMOUNT OF CONTRACT	\$ <b>See Clause B.3</b>
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**CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE**

17. <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return <u>2</u> copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein (Attachments are listed herein)	18. <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____, including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.
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19A. NAME AND TITLE OF SIGNER (Type or print) <b>Ken Snyder Director, Finance/Contracts</b>	20A. NAME OF CONTRACTING OFFICER <b>James C. Knudsen</b>
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19B. NAME OF CONTRACTOR By <u>Ken Snyder</u> (Signature of person authorized to sign)	19C. DATE SIGNED <b>06-16-04</b>	20B. UNITED STATES OF AMERICA By <u>James C. Knudsen</u> (Signature of person authorized to sign)	20C. DATE SIGNED <b>6/16/04</b>
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**SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS**

**B.1 SERVICES BEING ACQUIRED (JUNE 2003)**

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

Item 1 - Information Technology and Engineering Support (ITES) core services in accordance with Part III, Section J, Attachment A, Statement of Work, Service Areas 4.1, 4.2, 4.3, 4.4, and 4.6.

Item 2 - Information Technology and Engineering Support (ITES) variable services in accordance with Part III, Section J, Attachment A, Statement of Work, Service Area 4.5.

Item 3 - Reports as prescribed in accordance with Part III, Section J, Attachment B, "Reporting Requirements Checklist."

**B.2 TOTAL ESTIMATED COST/MAXIMUM AVAILABLE PERFORMANCE AWARD FEE (MAY 2003)**

(a) The total estimated costs are as follows:

	<u>Line Item #1</u>	<u>Line Item #2</u> <u>Minimum</u>	<u>Line Item #2</u> <u>Maximum</u>
Base Period	\$12,787,352	\$5,000	20% of estimated cost for Line Item #1
First Option Year	\$ 4,462,837	\$5,000	20% of estimated cost for Line Item #1
Second Option Year	\$ 4,567,829	\$5,000	20% of estimated cost for Line Item #1

(b) The maximum available award fee for Line Item #1 is as follows:

Base Period	<b>\$980,706</b>
First Option Year	<b>\$342,761</b>
Second Option Year	<b>\$351,068</b>

Maximum available award fee for cost plus award fee tasks issued for Line Item #2, Variable Services, shall be established for each task order when issued.

Under cost plus award fee task orders, all fee shall be at risk, there shall be no base fee.

**B.3 CEILING PRICE OF CONTRACT (JUL 1991)**

The ceiling price of this contract, inclusive of Fixed and Award Fee is **\$16,521,670**. All orders including CPFF, CPAF, and FFP count against this ceiling.

**B.4 ESTIMATED LEVEL OF EFFORT (JUNE 2003)**

The Contractor shall provide the following estimated total Direct Productive Labor-Hours (DPLH):

PERIOD	DPLH Line Item #1
[ Base Period (36 months) ]	[ 291600 ]
[ Option Period 1 (12 months) ]	[ 97200 ]
[ Option Period 2 (12 months) ]	[ 97200 ]

DPLH for Line Item #2 task orders shall be established for each task order when issued.

Direct Productive Labor-Hours (DPLH) are defined as actual work hours exclusive of vacation, holiday, sick leave, and other absences. The DPLH indicated above are provided for estimating purposes. Changes in programmatic requirements may cause a substantial increase or decrease in the number of DPLH. The Contractor shall be required to provide all DPLH which may be needed to complete the Task Orders issued during the term of the contract. However, the Contractor shall not proceed beyond the estimated DPLH unless authorized to do so in a contract modification issued by the Contracting Officer.

Nothing in this clause shall be construed to constitute authorization for work not in accordance with the "Limitation of Cost", "Limitation of Funds", "Completion Dates", or "Term of Contract" clauses of the contract.

#### **B.5 TYPES OF TASK ORDERS (AUG 2003)**

Task Orders issued under this contract will be either Cost-Plus-Fixed-Fee, Cost-Plus-Award-Fee, or Firm Fixed Price Task Orders in accordance with the terms and conditions set forth in Section H of this contract. Task Orders issued under this contract will be performance-based. Each task order will describe performance requirements, performance standards, and the means of performance measurement.

(a) Cost-Plus-Fixed-Fee Task Orders

Task Orders may be issued to require the Contractor to complete a specific task (or tasks) for cost plus a fixed fee. The fixed fee shall be determined on an individual task basis. If a task will be issued on a cost-plus-fixed-fee basis, the Contractor will be requested to propose the fee amounts at the time proposals are requested for the task. The amount of fixed fee for each task order is subject to negotiation.

(b) Cost-Plus-Award-Fee Task Orders

Task Orders may be issued to require the Contractor to complete a specific task (or tasks) for cost plus an award fee. The maximum award fee shall be determined on an individual task basis. If a task will be issued on an award fee basis, the Contractor will be requested to propose the award fee amount at the time proposals are requested. The amount of award fee for each task order is subject to negotiation. Maximum available award fee for cost plus award fee tasks issued for the level of effort stated for Line Item #1 in paragraph B.4 shall not exceed the maximum available award fee stated in paragraph B.2.

(c) Firm Fixed Price Task Orders

Task orders may be issued to require the Contractor to complete a specific task (or tasks), for a firm fixed price. The Contractor's task order proposal for firm fixed price completion task orders shall indicate the proposed DPLH and the labor categories utilized. ODC and travel costs required for performance of the task order shall be included in each specific task order proposal, as well as any profit.

#### **B.6 OPTION TO EXTEND SERVICES**

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted in accordance with the pricing requirements of FAR 8.707. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within thirty (30) days of the end of the contract period. Primary application of this authority would occur if delays in awarding a successor contract at the scheduled completion of this award were apparent

#### **B.7 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT. (MAR 2000)**

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

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

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 60 months.

#### **B.8 DISTRIBUTION OF PERFORMANCE AWARD FEE (JUNE 2003)**

The total amount of award fee available for cost plus award fee tasks issued under this contract is assigned as follows:

<b>FEE PERIOD</b>	<b>EVALUATION BEGINNING DATE</b>	<b>EVALUATION ENDING DATE</b>	<b>PLANNED VALUE</b>	<b>AVAILABLE AWARD FEE</b>	<b>FEE EARNED</b>
1	07/12/2004	09/30/2004	*	*	*
2	10/01/2004	03/31/2005	*	*	*
3	04/01/2005	09/30/2005	*	*	*
4	10/01/2005	03/31/2006	*	*	*
5	04/01/2006	09/30/2006	*	*	*
6	10/01/2006	03/31/2007	*	*	*
7	04/01/2007	07/11/2007	*	*	*

In the event of the Government exercising an option period, Fee Period 7 Evaluation Ending Date may be extended to include three months of the option period. In the event of contract termination, either in whole or in part, the amount of award fee available shall be a pro-rata distribution associated with evaluation period activities or events as determined by the Contracting Officer.

\* The Planned Value and Available Award Fee shall be filled in upon the completion of available award fee negotiations for each evaluation period identified. The Fee Earned column shall be filled in based on the amount of fee earned for each evaluation period identified.

#### **B.9 LIMITATION OF FUNDS -- COST PLUS AWARD FEE (AUG 2003)**

Pursuant to FAR 52.232-22, "Limitation of Funds," total funds in the amount of **\$400,000** are obligated herewith and made available for payment of allowable costs and award fee to be incurred from the effective date of this contract through the period estimated to end **August 31, 2004**.

#### **B.10 ANNUAL INDIRECT RATE SUBMISSIONS (MAY 1994)**

(a) Introduction

(1) Indirect billing, revised billing (as necessary), and final rate agreements must be established between a Contractor and the Department of Energy (DOE) for each of the Contractor's fiscal years for the life of the cost reimbursement type contract. These indirect rate agreements allow a Contractor to recover indirect expenses incurred during a fiscal year for which final indirect rates have not been established.

(2) Indirect billing and revised indirect billing rate proposals must represent the Contractor's best estimate of the anticipated indirect expenses to be incurred and the estimated allocation base for the current fiscal year in accordance with their approved accounting system. Revised billing rates allow a Contractor or DOE to adjust the approved billing rates, based upon updated information, in order to prevent significant over or under billings. Revised billing rates, once established, are retroactive to the beginning of the fiscal year involved and require an adjustment voucher to be submitted by the Contractor reconciling all previous indirect billings which used the previously approved billing rates.



(3) A final indirect rate proposal represents the indirect rate expenses actually incurred during a fiscal year and the actual business base experienced. Once established they are retroactive to the beginning of the fiscal year involved and require an adjustment voucher to be submitted by the Contractor reconciling all previous indirect billings if the established final rates differ from the previously approved billing rates.

(4) FAR 42.703(a) stipulates that "A single agency [see FAR 42.705-1(a)] shall be responsible for establishing indirect cost rates for each business unit. These rates shall be binding upon all agencies and their contracting offices, unless otherwise specifically prohibited by statute." This single Government agency is referred to as the Cognizant Federal Agency (CFA). The CFA is normally the Federal agency which has the largest unliquidated contract dollar amount by fiscal year with a Contractor.

(5) The establishment of rates for the reimbursement of independent research and development/bid and proposal costs shall be in accordance with the provisions of FAR 31.205-18, "Independent Research and Development and Bid and Proposal Costs," and both FAR Subpart 42.10 and DEAR 942.10, "Negotiating Advance Agreements for Independent Research and Development/Bid and Proposal Costs."

(6) Sections (b) and (c) or (d) of this clause define the requirements to be followed by the Contractor in establishing indirect rates for contracts when DOE is the CFA and when DOE is not the CFA. Specific instructions for submittal of indirect rate proposals to agencies other than DOE must be obtained from the agency involved.

(b) Requirements whether or not DOE is the CFA

(1) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the applicable sections of FAR Part 30, "Cost Accounting Standards," FAR Part 31 and DEAR 931, "Contract Cost Principles and Procedures," in effect as of the date of this contract.

(2) Pending settlement of the final indirect expense rates for any period, the Contractor shall be reimbursed at billing rates approved by the CFA subject to acknowledgment by the DOE Indirect Rate Contracting Officer (IRCO). These billing rates are subject to appropriate adjustments when revised by mutual agreement or when the final indirect rates are settled, either by mutual agreement or unilateral determination by the CFA subject to acknowledgment by the DOE IRCO.

(3) The Contractor shall continue to use the latest DOE or CFA approved billing rate(s) which have been acknowledged by the DOE IRCO until those rates are superseded by establishment of final rates or more current billing rates. In those cases where current billing rates have not been established, the latest approved final rates shall be used for invoicing, unless it is determined by the DOE IRCO that use of said rates would not provide for an equitable recovery of indirect costs. In those instances the DOE IRCO will take whatever steps are necessary to establish rates that DOE considers to be reasonable for billing purposes.

(4) All Indirect Rate agreements and correspondence shall be submitted to:

U.S. Department of Energy  
National Energy Technology Laboratory  
626 Cochrans Mill Road  
P.O. Box 10940  
Contracting Officer for Indirect Rate Cost Management  
Building 921-I07  
Pittsburgh, PA 15236-0940

(c) Requirements when DOE is the CFA

(1) No later than 90 days after the close of its fiscal year, the Contractor shall identify to the DOE IRCO all of its contracts with Federal agencies, either as a prime or as a subcontractor (any level), and provide the following information for those contracts:

Name of Federal Agency  
Contract Number  
Contract Value (total and by fiscal year)  
Period of performance  
Type of contract (CPFF, FFP, etc.)

(2) In accordance with the "Allowable Cost and Payment" clause (DEAR 952.216-7) the Contractor, as soon as possible but not later than 90 days after the close of its fiscal year, shall submit to the DOE IRCO, identified in paragraph (b)(4) of this clause, a proposal for final indirect rates based on the Contractor's actual costs for the period, together with all supporting data. The Contractor's failure to provide the required rate proposals in a timely manner may impact payment of vouchers and could ultimately result in suspension of payments for the indirect expense portion of the vouchers.

(3) The settlement of the final indirect rates and indirect costs shall be accomplished prior to the Contracting Officer's approval of the final payment.

(4) Pending settlement of the final indirect expense rates for any period, the Contractor shall be reimbursed at billing rates approved by the DOE IRCO. These billing rates are subject to appropriate adjustments when revised by mutual agreement or when the final indirect rates are settled, either by mutual agreement or unilateral determination by the cognizant DOE IRCO (see FAR 42.704).

(5) The Contractor shall provide to the DOE IRCO annually, no later than 30 days after the close of its fiscal year, a billing rate proposal for the ensuing fiscal year, with supporting data. Failure to provide the required rate proposals in a timely fashion may impact payment of vouchers and could ultimately result in suspension of the indirect expense portion of vouchers.

(6) If the projected indirect expenses or bases change substantially during any fiscal year, the Contractor shall notify the DOE IRCO in writing and request an adjustment to the indirect billing rates. Upon review of the revised billing rate proposal the DOE IRCO may adjust the previously approved billing rates. Such adjustments will apply retroactively to all billings containing the previously approved rates for the fiscal year in question and the Contractor shall make all appropriate adjustments on its next voucher.

(d) Requirements when DOE is not the CFA

(1) When another Federal Agency or a different DOE Office has the CFA responsibility for the establishment of indirect rates with the Contractor, the Contractor shall provide a copy of the rate proposals, including all supporting documentation, submitted to the CFA. These submittals to DOE shall be within the time periods established within paragraphs (c)(2) and (c)(5) of this clause unless a written request for an extension is submitted by the Contractor and granted by DOE. Failure to provide the required rate proposals in a timely manner may impact payment of vouchers and could ultimately result in suspension of payments for the indirect expense portion of vouchers.

(2) The Contractor shall provide copies of all rates established by that CFA and any correspondence related to indirect rates to the DOE IRCO. It is imperative that the DOE IRCO be provided signed copies of all rate agreements established by the CFA since these agreements must be in the possession of, reviewed, and acknowledged by the DOE IRCO before any rates contained therein can be used by the Contractor for cost reimbursement.

(3) The Contractor shall identify, if known, the Cognizant Federal Agency (CFA) responsible for the establishment of indirect rates, factors, and Facilities Capital Cost of Money Rates.

**SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT**

**C.1 STATEMENT OF WORK (NOV 1997)**

The Statement of Work is located in Part III -- Section J, Attachment A to this contract.

**C.2 REPORTS (MAY 1998)**

Reports shall be prepared and submitted in accordance with the reporting requirements described in Part III -- Section J, Attachment B and as required by Task Orders issued against this contract. The Task Orders issued will include instructions on submitting deliverables required under that Task Order.

**SECTION D - PACKAGING AND MARKING****D.1 PACKAGING (FEB 1999)**

Preservation, packaging, and packing for shipment or mailing of all work delivered hereunder shall be in accordance with good commercial practice and adequate to insure acceptance by common carrier and safe transportation at the most economical rate(s).

Except for those reports required by the Reporting Requirements Checklist of the contract, which are coded by A (As required) where the urgency of receipt of the report by the Government necessitates the use of the most expeditious method of delivery, reports deliverable under this contract shall be mailed by other than first-class mail, unless the urgency of the deliverable sufficiently justifies the use of first-class mail. The Contractor shall not utilize certified or registered mail or private parcel delivery service for the distribution of reports under this contract without the advance approval of the Contracting Officer except for those reports coded A.

**D.2 MARKING (JAN 1999)**

Each package, report or other deliverable shall be accompanied by a letter or other document which:

- (1) Identifies the contract by number under which the item is being delivered.
- (2) Identifies the deliverable Item Number or Report Requirement which requires the delivered item(s).
- (3) Indicates whether the Contractor considers the delivered item to be a partial or full satisfaction of the requirement.

For any package, report, or other deliverable being delivered to a party other than the Contracting Officer, a copy of the document shall be simultaneously provided to the office administering the contract, as identified in Section G of the contract, or if none, to the Contracting Officer.

**SECTION E - INSPECTION AND ACCEPTANCE****E.1 INSPECTION (NOV 1997)**

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

**E.2 ACCEPTANCE (MAR 1999)**

Final acceptance of all work and effort under this contract (including "Reporting Requirements," if any) shall be accomplished by the Contracting Officer.

**THE FOLLOWING CLAUSE PERTAINS ONLY TO COST-REIMBURSABLE TASK ORDERS ISSUED AGAINST THIS CONTRACT.****E.3 52.246-5 INSPECTION OF SERVICES - COST-REIMBURSEMENT. (APR 1984)**

(a) *Definition.* "Services," as used in this clause, includes services performed, workmanship, and material furnished or used in performing services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all places and times during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If any of the services performed do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, for no additional fee. When the defects in services cannot be corrected by reperformance, the Government may -

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce any fee payable under the contract to reflect the reduced value of the services performed.

(e) If the Contractor fails to promptly perform the services again or take the action necessary to ensure future performance in conformity with contract requirements, the Government may -

(1) By contract or otherwise, perform the services and reduce any fee payable by an amount that is equitable under the circumstances; or

(2) Terminate the contract for default.

**THE FOLLOWING CLAUSE PERTAINS ONLY TO FIXED-PRICED TASK ORDERS ISSUED AGAINST THIS CONTRACT.**

**E.4 52.246-4 INSPECTION OF SERVICES - FIXED-PRICE. (AUG 1996)**

(a) *Definition:* "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may -

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may -

(1) By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service; or

(2) Terminate the contract for default.

**SECTION F - DELIVERIES OR PERFORMANCE****F.1 PERIOD OF PERFORMANCE (BASE CONTRACT WITH OPTION(S)) (JUNE 2003)****BASE CONTRACT**

The work to be performed under the Base Contract (Reference Part I, Section, B) shall commence on the effective date of the contract and shall continue for 36 months.

NOTE: The Government may elect not to exercise either of the options, to exercise either option, or to exercise both options.

**OPTION I**

If Option I is exercised, the work to be performed under the Contract option (Reference Part I, Section B) shall be for a period of 12 months from the effective date of the exercised option. This includes time for submission of all reports and review of those reports by DOE.

**OPTION II**

If Option II is exercised, the work to be performed under the Contract option (Reference Part I, Section B) shall be for a period of 12 months from the effective date of the exercised option. This includes time for submission of all reports and review of those reports by DOE.

**F.2 EXERCISE OF OPTION(S) (NOV 1997)**

The Department of Energy has included an option to purchase additional quantities of supplies or services and to extend the term of this contract. In order to demonstrate the value it places on quality performance, the Department has provided a mechanism for continuing a contractual relationship with a successful Contractor that performs at a level which meets or exceeds quality performance expectations as communicated to the Contractor, in writing by the Contracting Officer or designated representative. When deciding whether to exercise the option, the Contracting Officer will consider the quality of the Contractor's performance under this contract.

**F.3 PRINCIPAL PLACE OF PERFORMANCE - NETL (JULY 2003)**

The principal place of performance under this contract shall be at the National Energy Technology Laboratory located in Morgantown, WV and Pittsburgh, PA. NETL is a geographically dispersed organization, therefore the Contractor may be required to travel between, and provide services to various other NETL or DOE locations in the United States.

**F.4 52.242-15 STOP-WORK ORDER. (AUG 1989)**

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

(1) Cancel the stop-work order; or

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

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if -

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

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

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

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



**SECTION G - CONTRACT ADMINISTRATION DATA****G.1 CORRESPONDENCE PROCEDURES (FEB 2000)**

To promote timely and effective administration, correspondence (except for invoices and reports) submitted under this contract shall be subject to the following procedures:

(a) Technical Correspondence

Technical correspondence (as used herein, this term excludes technical correspondence where patent or technical data issues are involved and correspondence which proposes or otherwise involves waivers, deviations, or modifications to the requirements, terms, or conditions, of this contract) shall be addressed to the DOE Contracting Officer's Representative, with an information copy of the correspondence to the DOE Contract Specialist.

(b) Property Correspondence

Property correspondence (as used herein, this term includes correspondence which addresses matters which relate to property issues which come under the contract's Government property provisions) shall be addressed to the DOE Property Administrator, with information copies of the correspondence to the DOE Contracting Officer's Representative and the DOE Contract Specialist.

(c) Indirect Rate Correspondence

All correspondence relating to the establishment, revision, and negotiation of billing and final indirect cost rates shall be addressed to the Contracting Officer for Indirect Cost Rate Management, with information copies of the correspondence to the DOE Contract Specialist.

(d) Other Correspondence

All other correspondence shall be addressed to the DOE Contract Specialist with information copies of the correspondence to the DOE Contracting Officer's Representative.

(e) Subject Line(s)

All correspondence shall contain a subject line commencing with the contract number, i.e., DE-AC26-04NT41820, and identifying the specific contract action requested.

**G.2 SUBMISSION OF VOUCHERS/INVOICES (APR 2001)**

(a) Voucher Form (SF 1034)

In requesting reimbursement, Contractors shall use Standard Form 1034 (Public Voucher for Purchases and Services Other Than Personal), and the Invoice Detail Report. Electronic versions of the SF1034 can be found on the NETL website at <http://www.netl.doe.gov/business/forms/forms.html>. Acceptable substitutes for the 1034 form (which provide the same necessary information) may be used.

In accordance with FAR 52.232-25, "Prompt Payment," all invoices shall include the following information:

- (1) Name and address of Contractor/vendor
- (2) Invoice date
- (3) Contract number or other authorization for delivery of property or service
- (4) Description, price and quantity of property and services actually delivered or rendered
- (5) Shipping and payment terms
- (6) Name (where practicable), title, phone number and complete mailing address of responsible

official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment)

- (7) Name (where practicable), title, phone number and complete mailing address of the person to be notified in the event of a defective invoice.
- (8) Other substantiating documentation or information as required by the contract.

(b) Supporting Documentation

The Invoice Detail Report referenced in Section J, Attachment B, must be provided as support documentation with each invoice. This is in addition to the frequency of report submission indicated in the Reporting Requirements Checklist, Section J, Attachment B. This report is required to be submitted as an attachment to the invoice and also submitted in accordance with the reporting requirements to the individuals indicated on the distribution list provided during the post award debriefing.

Direct costs (e.g., labor, equipment, travel, supplies, etc.) claimed for reimbursement must be adequately supported. The level of detail provided must clearly indicate where the funds were expended. For example, support for labor costs must include the labor category (e.g., program manager, senior engineer, technician, etc.) the hourly rate, and the labor cost per category; equipment costs must be supported by a list of the equipment purchased, along with the item's cost; supporting data for travel must include the destination of the trip, number and labor category of travelers, transportation costs, per diem costs, and purpose of the trip; and supplies should be categorized by the nature of the items (e.g., office, lab, computer, etc.) and the dollar amount per category.

Indirect rates used for billings must be clearly indicated, as well as their basis of application. When the cognizant Administrative Contracting Officer (ACO) or auditor approves a change in the billing rates, include a copy of the approval.

(c) Submission of Voucher

Submit one copy of the original voucher including the Supporting Documentation to the following payment office:

U. S. Department of Energy  
Oak Ridge Financial Services Center  
P. O. Box 4787  
200 Administration Road  
Oak Ridge, TN 37831

In addition, submit two copies of the voucher including the Supporting Documentation to the following address:

U. S. Department of Energy  
National Energy Technology Laboratory  
ATTN: Accounts Payable  
3610 Collins Ferry Road, P.O. Box 880  
Morgantown, WV 26507-0880

(d) Billing Period

Vouchers shall be submitted no more frequently than monthly (unless prior written consent of the Contracting Officer for more frequent billing is obtained). The period of performance covered by vouchers should be the same as covered by any required monthly technical progress reports and/or monthly cost reports.

(e) Payment Method

In accordance with Mandatory Information for Electronic Funds Transfer Payment, payment under this contract will be made utilizing the Automated Clearing House (ACH) network. The payment system is specifically referred to as "Vendor Express."

(f) Defective Invoices

Invoices that are determined to be defective, and therefore not suitable for payment, shall be returned to the Contractor as soon as practicable, specifying the reason(s) why the invoice is not proper.

(g) Status of Payments

The Oak Ridge Financial Service Center (ORFSC) has a system via Internet, in which Contractors can request information about payments by invoice, by contract number, and/or by paid date. The system is called Vendor Inquiry Payment Electronic Reporting System (VIPERS) and is available to Contractors at the following website: <http://finweb.oro.doe.gov/vipers.htm>. Contractors must have a federal tax identification number (TIN) and then obtain a personal identification number (PIN) to access the system.

**G.3 NOTICE OF INVOICE PROCESSING BY SUPPORT CONTRACTOR (DEC 1999)**

A support service Contractor performs the function of processing of all invoices submitted to the National Energy Technology Laboratory, against its awards. Therefore, this Contractor has access to your business confidential cost/rate information. A special provision in this Contractor's award requires the confidential treatment by all Contractor employees of any and all business confidential information of other Contractors and financial assistance recipients to which they have access.

**G.4 ACCOUNTABILITY OF COSTS/SEGREGATION OF TASK ORDERS (JUNE 2003)**

All costs incurred by the Contractor under this contract shall be segregated by each Task Order. The Contractor shall, therefore, establish separate "Job Order Accounts and Numbers" for each task order issued and shall record all incurred costs in the appropriate job order account assigned each Task Order.

There shall be no co-mingling of costs between Task Orders.

**G.5 PAYMENT OF PERFORMANCE AWARD FEE (JUNE 2003)**

The Government will promptly make payment of any award fee earned upon submission by the Contractor to the Contracting Officer, of a public voucher or invoice in the amount of the total fee earned for the period evaluated. Payment shall be made based upon an authorization letter from the Fee Determination Official (FDO) and without the need for a contract modification.

**THE FOLLOWING CLAUSE PERTAINS ONLY TO COST PLUS FIXED FEE TASK ORDERS ISSUED AGAINST THIS CONTRACT.**

**G.6 PAYMENT OF FIXED FEE (LEVEL-OF-EFFORT TASK ORDERS)**

The fixed fee specified in the Task Order clause entitled, "Estimated Cost and Fixed Fee" shall be paid to the Contractor on the basis of the number of Direct Productive Labor Hours (DPLH) delivered relative to the number of DPLH set forth in the clause entitled, "Estimated Level of Effort", Section B, clause B.4.

The amount of fixed fee earned and payable under the contract, prior to final payment, shall be the amount derived by dividing the total number of DPLH delivered to date under the contract by the total number of DPLH to be delivered under the contract, and multiplying the result by the total fixed fee set forth in the clause; provided, however, that this amount does not exceed 85% of the fixed fee specified in the Task Order clause entitled "Estimated Cost and Fixed Fee" (See FAR 52.216-8 Fixed Fee).

The total amount of fixed fee earned under this contract upon its expiration shall be 100% of the fixed fee set forth in the Task Order clause entitled "Estimated Cost and Fixed Fee"; provided, however, that the number of DPLH delivered under the contract equals or exceeds 90% of the total DPLH to be delivered under the contract (See the clause entitled "Estimated Level of Effort").

## **SECTION H - SPECIAL CONTRACT REQUIREMENTS**

### **H.1 CONSECUTIVE NUMBERING (JAN 1999)**

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

### **H.2 TECHNICAL DIRECTION (JUNE 1998)**

- (a) Performance of the work under this contract shall be subject to the technical direction of the Contracting Officer's Representative (COR). The term "technical direction" is defined to include, without limitation:
  - (1) Directions to the Contractor which redirect the contract effort, shift work emphasis between work areas or tasks, required pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the contractual Statement of Work.
  - (2) Provision of written information to the Contractor which assists in the interpretation of drawings, specifications or technical portions of the work description.
  - (3) Review and, where required by the contract, approval of technical reports, drawings, specifications and technical information to be delivered by the Contractor to the Government under the contract.
- (b) Technical direction must be within the scope of work stated in the contract. The COR does not have the authority to, and may not, issue any technical direction which:
  - (1) Constitutes an assignment of additional work outside the Statement of Work;
  - (2) Constitutes a change as defined in the contract clause entitled "Changes";
  - (3) In any manner causes an increase or decrease in the total estimated contract cost, the fixed fee (if any), or the time required for contract performance;
  - (4) Changes any of the expressed terms, conditions or specifications of the contract; or
  - (5) Interferes with the Contractor's right to perform the terms and conditions of the contract.
- (c) All technical directions shall be issued in writing by the COR.
- (d) The Contractor shall proceed promptly with the performance of technical directions duly issued by the COR in the manner prescribed by this clause and within the authority under the provisions of this clause. If, in the opinion of the Contractor, any instruction or direction by the COR falls within one of the categories defined in (b)(1) through (5) above, the Contractor shall not proceed but shall notify the Contracting Officer in writing within five (5) working days after receipt of any such instruction or direction and shall request the Contracting Officer to modify the contract accordingly. Upon receiving the notification from the Contractor, the Contracting Officer shall:
  - (1) Advise the Contractor in writing within thirty (30) days after receipt of the Contractor's letter that the technical direction is within the scope of the contract effort and does not constitute a change under the "Changes" clause of the contract; or
  - (2) Advise the Contractor within a reasonable time that the Government will issue a written change order.

- (e) A failure of the Contractor and Contracting Officer to agree that the technical direction is within the scope of the contract, or a failure to agree upon the contract action to be taken with respect thereto shall be subject to the provisions of the clause entitled "Disputes - Alternate I".

### **H.3 MODIFICATION AUTHORITY (NOV 1997)**

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

- (a) accept nonconforming work,
- (b) waive any requirement of this contract, or
- (c) modify any term or condition of this contract.

### **H.4 GOVERNMENT PROPERTY AND DATA**

- (a) Except as otherwise authorized by the Contracting Officer in writing, the Contractor is not authorized to acquire as a direct charge item under this contract any equipment (including office equipment), furniture, fixtures or other personal property items.
- (b) Acquisition Authorization Requirements
  - (1) In the course of performance of this contract, the Contractor may only acquire and direct charge to this contract such items on the "Government-Furnished Property List" and only as directed by the CO or their designee.
  - (2) In the event the Contractor acquires and direct charges property to this contract, the Contractor shall be required to ensure the property is entered into the Property Administration Management System (PAMS) and indicates the Purchase Order number utilized to acquire the property.
  - (2) The Contractor may request authorization for acquisition of additional items from the Contracting Officer. Any such request shall include an analysis of the most economical method of acquisition (e.g., lease versus purchase) and shall describe the material equity arising from any proposed lease arrangement, such as option credits.
  - (3) Any changes in the acquisition authorization shall be reflected in a revision of the "Government-Furnished Property List".
  - (4) Authorization to acquire does not constitute consent to the placement of a subcontract.
- (c) Government-Furnished Property and Data
  - (1) Except as otherwise authorized by the Contracting Officer in writing, only that property and data specifically included in the "Government-Furnished Property List" shall be furnished.
  - (2) The current "Government-Furnished Property List" is located on the Internet at <http://www.netl.doe.gov/business/solicit/ssc2003/index.html> and will be available for Contractor access at this site during the solicitation phase of this contract.
  - (3) The "Government-Furnished Property List" is considered a living document and is maintained through the Property Administration Management System (PAMS). The Contractor will designate an authorized representative who will have limited access to the PAMS for the purpose of updating the property list and acquiring property reports. The most current "Government-Furnished Property List" can be obtained through the report capability in the PAMS as property assigned to this contract.

- (4) No less frequently than annually, the Contractor will complete a physical inventory of property furnished. The inventory will be reconciled with the Government and adjustments, if necessary, will be made to the PAMS.
  - (5) The "Government-Furnished Property List" as maintained in the PAMS is incorporated into this contract by reference in its entirety. No hard copy of the Government-Furnished Property List will be attached to this contract.
  - (6) Administration of the Government-Furnished Property and the PAMS will be the responsibility of the Organizational Property Management Officer and/or the Government Property Administrator.
- (d) Reporting Requirements
- The reports required shall be submitted in accordance with 48 CFR 945 and the reporting requirements set forth in Part III, Section J, Attachment B.

The reports are to include all capital equipment and sensitive items acquired or furnished under this contract, whether or not listed on the attachments referenced above.

#### **H.5 MOVEMENT OF GOVERNMENT PROPERTY OFF-SITE -- NETL**

No Government-owned property, equipment, or materials will be removed from the National Energy Technology Laboratory without prior written permission from the CO, COR, or their designee. The Contractor will establish a tracking system for property regularly moved off-site (e.g. laptops, pagers, cellular phones, PDAs, etc.) and have that tracking system approved by the CO, COR, or their designee prior to implementation.

#### **H.6 GOVERNMENT PROVIDED SERVICES (JUNE 2003)**

The Government shall provide the following on-site services. The Contractor shall use these services for official use only, in performance of the required services specified in this SOW.

- (a) Utilities: The Government shall provide electricity, water, lights, sewage, and heating or cooling.
- (b) Mail Distribution: The Government shall provide mail pick-up and delivery of official mail.
- (c) Postage: Government-provided postage is restricted to official correspondence.
- (d) Telephone: Telephones shall be provided for Contractor-personnel to make official local and long distance calls. The Contractor shall be responsible for reimbursing the Government for telephone service calls to repair, modify, replace, etc. due to Contractor employee negligence, misuse, or damage.
- (e) Custodial Service: The Government shall provide custodial services to include emptying of trash cans, vacuuming and shampooing of carpeted areas in Government-furnished facilities.
- (f) Refuse Collection: The Government shall provide refuse collection at Government-furnished facilities.
- (g) Insect and Rodent Control: The Government shall provide insect and rodent control in Government-furnished facilities. The Contractor shall notify the COR if the facilities appear to be infested.
- (h) Printing and Reproduction: Office copiers shall be provided according to Government policies for their use. The Contractor shall use NETL's Graphics and Printing facilities for the productions of documentation required in support of this SOW.
- (i) Equipment Maintenance: The Government shall maintain equipment whose maintenance is not obtained through this contract.

(j) Security Police and Fire Protection: In case of emergency, the Contractor shall notify the Security Office immediately. The Contractor shall obtain these phone numbers from the COR and keep them posted and up to date at all times.

(k) Transportation: NETL has a pool of GSA vehicles, to which the Contractor will have reasonable access for Official Government business in performance of services required in this SOW (e.g. travel and training).

#### **H.7 USE OF GOVERNMENT-OWNED EQUIPMENT/FACILITIES (JAN 2000)**

The Contractor is authorized to use on a no-charge, non-interference, basis in the performance of this contract, the Government-owned equipment/facilities indicated below. Such use is authorized on the basis that it will not interfere with the performance of the Government contract(s) for which such property was provided, and, unless otherwise stipulated, shall be in accordance with the terms and conditions thereof.

A list of Government-Furnished Property that the Contractor is authorized to use is provided in the electronic reading room located at <http://www.netl.doe.gov/business/solicit/ssc2003/index.html>. This reading room will only be available during the solicitation phase of this contract. After contract award the Government-Furnished Property List will be maintained in accordance with Clause H.4, Government Property and Data.

Other associated Government furnished items for the on-site personnel include: office space, office furniture, local area network services, parking facilities, and other services as described in the clause entitled "Government Provided Services".

#### **H.8 LIMITATION ON SOFTWARE (JUNE 2003)**

The Contractor shall not knowingly violate license agreements (expressed or implied), copy, change (with the exception of vendor-supplied updates or maintenance requirements), or release to a third party, Government-furnished software, including other vendors' proprietary software, for any purpose other than that for which it was provided to the Contractor under the terms of this contract.

Unless provided as Government-furnished software, the Contractor shall not use software in which the Contractor holds proprietary rights, or rights as a licensee, without the prior written authorization of the Contracting Officer.

The Contractor agrees not to restrict the design and development of software in such a fashion that it shall unreasonably favor specific vendor hardware and software.

#### **H.9 SECURITY AND PERSONNEL REQUIREMENTS (JUNE 2003)**

##### **(a) GENERAL RESPONSIBILITIES**

The Contractor shall be responsible for complying with the provisions of NETL's unclassified security program. The Contractor shall cooperate with the Computer Security Program Manager (CSPM) and the Contracting Officer's Representative (COR) in all information security matters.

##### **(b) CLASSIFIED MATERIAL**

NETL normally does not handle classified material so the Contractor shall abide by all provisions of the Department of Energy (DOE) Order 205.1 "Unclassified Computer Security Program". However, "on request" services provided by the Contractor off-site for other Government agencies may require access to classified materials and appropriate security clearances for Contractor personnel performing the services.

##### **(c) ACCESS TO FACILITIES**

The Contractor shall prohibit access to Government-furnished facilities of any persons other than authorized Government and Contractor employees, unless prior approval is obtained from the Contracting Officer (CO) or



appropriate COR.

The Contractor shall maintain the security within the facility. Anyone entering the facility who does not have a valid NETL identity badge must be processed through the NETL Visitor Registration process at the NETL Security Office or main lobby and must obtain a visitor identification badge and be escorted by a NETL representative. All personnel who have not been issued a NETL identity badge shall be escorted.

(d) PHYSICAL SECURITY

The Contractor shall be responsible for safeguarding and securing all Government property provided for use under this contract. The Contractor shall notify the COR within 24 hours after discovery of any missing Government property.

(e) KEY CONTROL

The Contractor shall ensure there is adequate control of keys and access cards to preclude the loss, misplacement or unauthorized use and access to Government equipment and facilities. The Contractor shall not duplicate keys issued by the Government.

In the event the Contractor loses Government keys, the Government shall replace, or re-key, all keys or locks, as the Government deems necessary. The Government shall deduct the total cost for replacing locks and keys from the monthly payment due the Contractor. In the event a master key is lost or duplicated, the Government shall replace all locks and keys for that system and deduct the total cost for replacement from the monthly payment due to Contractor; or at the Government's discretion, the Government shall require the Contractor to replace locks and keys to the COR's satisfaction.

The Contractor shall report any occurrence of a lost or misplaced key to the COR within 4 hours of discovering that a key has been lost or misplaced. The Contractor shall provide a follow-up report, in writing, to the COR within 24 hours.

The Contractor shall prohibit the use of Government-issued keys by any persons other than the Contractor's authorized employees.

(e) COMBINATION CONTROL

The Contractor shall ensure there is control of combinations for combination and cipher locks. The Contractor shall notify the COR within one workday after termination of employment of all Contractor employees who have access to the combination. The Contractor shall establish and implement methods to ensure that no lock combinations are revealed to unauthorized persons. The procedures shall be included in the Contractors Quality Control Program.

(f) PERSONNEL AND SECURITY

- (1) Building Access: The Contractor shall require all contract employees' to complete the appropriate forms for computer and Building access security. The Contractor shall require all departing contract employees' to complete the appropriate forms for computer, property, and Building access security.
- (2) Identification Badge: The Contractor shall obtain an identification badge for each Contractor employee from NETL Security prior to entry on duty. Contractor employees shall display this identification badge at all times within NETL facilities. Contractor shall be responsible for returning badge of departing employee to Security.

(g) DATA SECURITY

All information, whether stored in the computer, in hard copy form, or on magnetic media, shall be protected from disclosure, and unauthorized modification or destruction at all times. Contractor personnel shall take all precautions to protect the information and programs and shall report all suspected violations to the COR or CSPM.

Information processed and stored by these Information Resource systems shall include some information that must be safeguarded from disclosure and alteration. That information is subject to protection by the Privacy Act of 1974 or The Freedom of Information Act (5 USC, Section 552). The Contractor agrees, in the performance of this contract, to keep sensitive information in the strictest of confidence and to take reasonable measures to protect it from unauthorized modification or destruction, said information being the sole property of the Government. The Contractor also agrees not to publish, reproduce, or otherwise divulge such information in whole or in part, in any manner or form, and not to authorize or permit others to do so. The Contractor shall take such reasonable measures as are necessary to restrict access to this information, while in his possession, to those employees needing such information to perform the work provided herein, e.g. on a "need to know" basis. The Contractor shall immediately verbally notify, and notify in writing before the close of business of the next day, the Government COR or the CO or his authorized representative, in the event that the Contractor has or has reason to suspect a breach of data security occurred.

**H.10 KEY PERSONNEL/PROGRAM MANAGER (MAR 1998)**

The key personnel, which includes the Program Manager, specified below, are considered to be essential to the work being performed under this award; moreover, any changes to these personnel require prior DOE Contracting Officer's written approval.

The Program Manager shall serve as the Contractor's authorized supervisor for technical and administrative performance of all work hereunder. The Program Manager shall receive and execute, on behalf of the Contractor, such technical directions as the DOE Contracting Officer's Representative may issue within the terms and conditions of the contract.

The following is a list of key personnel that have been approved for this contract:

<u>Name</u>	<u>Title</u>
	<b>Program Manager Chief Technologist</b>

Prior to diverting any of the specified individuals, the Contractor shall notify the Contracting Officer not less than thirty (30) calendar days prior to the diversion or substitution of key personnel and shall submit a written justification (including qualifications of proposed substitutions) to permit evaluation. The proposed changes will be approved in writing at the sole discretion of the Contracting Officer, with concurrence of the Contracting Officer's Representative.

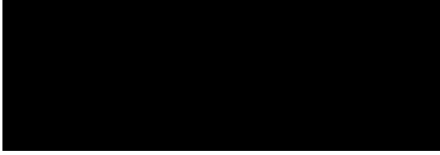
**H.11 PRIOR APPROVAL REQUIREMENTS FOR PLACEMENT OF SUBCONTRACTS AND/OR CONSULTANTS (OCT 1998)**

The Contractor shall obtain the Contracting Officer's written consent before placing any subcontract, including consultants, for which advance notification is required under FAR 52.244-2, "Subcontracts".

Any request for subcontract/consultant approval shall include the elements prescribed by FAR 52.244-2, including subcontractor/consultant Representations and Certifications. For consultants the Contractor will obtain and furnish information supporting the need for and selection of such consultant services and the reasonableness of the fees to be paid, including, but not limited to, whether fees to be paid to any consultant exceed the lowest fee charged by such consultants to others for performing consulting services of a similar nature.

Except as may be expressly set forth therein, any consent by the Contracting Officer to the placement of subcontracts and/or consultants shall not be construed to constitute approval of the subcontractor or any subcontract terms or conditions, determination of the allowability of any cost, revision of this contract or any of the respective obligations of the parties thereunder, or creation of any subcontractor privity of contract with the Government.

The Contractor is hereby given consent to the placement of the following subcontractors, which were evaluated during negotiations:



Notwithstanding this consent, the Contractor shall ensure compliance with FAR 52.244-2. Also, since these subcontracts and/or consultants have as a purpose the conduct of research, development and demonstration work, they must additionally contain all applicable flow-down clauses contained in Part II, Section I.

#### **H.12 ORDERING PROCEDURE (DEC 2000)**

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

The Contractor shall incur costs under this contract only in the performance of Task Orders and revisions to Task Orders issued in accordance with this ordering procedure. No other costs are authorized without the express written consent of the Contracting Officer (CO).

From time to time during the period of performance of this contract, Task Orders will be issued in writing by the Contracting Officer designating (1) the task to be performed; (2) the schedule of performance; (3) authorized travel; (4) any Government-furnished property; and (5) any special instructions. Such Task Orders will specify deliverables and required delivery dates. Deliverables may consist of statements, charts, reports, briefing notes, tabulations, view graphs, and other forms of presentation as appropriate. If appropriate, based on 48 CFR 945, property which is Government-furnished or Contractor-acquired will also be listed in the Government-Furnished Property List of this contract as well as in the individual Task Orders.

Task Orders will be issued on forms specified and provided by the Government. Task Orders will be numbered. A modification to the Task Orders will be identified by an alpha designation following the existing Task Order number indicating the revision sequence.

The Contractor shall submit within ten (10) calendar days, after receipt of each Task Order issued by the Contracting Officer, a one-time Contractor Task Management Plan. The Task Management Plan is the Contractor's overall estimate for the completion of the Task Order and shall include the following:

- (1) Date of commencement of work, and any necessary revision to the schedule of performance.
- (2) Direct Productive Labor Hours (DPLH), both straight and overtime, (if authorized), on a monthly basis by applicable labor category, and the total DPLH, including those in (4) below, estimated to complete the task.
- (3) The travel and material estimate.
- (4) An estimate for subcontractors and consultants; including the DPLH, if applicable.
- (5) Estimated computer use time required, if applicable.
- (6) Other pertinent information, indirect costs, consultants, inter-divisional transfers, etc.
- (7) The total estimated cost and the proposed maximum award fee or fixed fee for completion of the Task Order. For Fixed Price Task Orders the Contractor will provide a total firm fixed price.

The Contractor's Task Management Plan is subject to the review of the Contracting Officer or designee. After a Task Order is issued, if the Contractor becomes aware that the estimated cost or DPLH differs from the Contractor's Task Management Plan by more than 10% (more than + or - 10% variance) then the Contractor shall promptly

submit to the Contracting Officer or designee a revised Task Management Plan with explanatory notes.

This ordering procedure is of a lesser order of precedence than the "Limitation of Cost," "Limitation of Funds," "Completion Dates," "Term of Contract," or "Estimated Level of Effort" clauses of the contract. The Contractor is not authorized to incur costs on Task Orders which are not in compliance with any of those clauses of the contract.

#### **H.13 REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF THE OFFEROR (JUNE 1998)**

The Representations, Certifications and Other Statements of the Offeror for this contract are hereby incorporated by reference.

#### **H.14 MINIMUM WAGE DETERMINATION AND FRINGE BENEFITS (NOV 1997)**

In the performance of this contract the Contractor shall comply with the requirements of U.S. Department of Labor Wage Determination Numbers 1994-2574 R14, dated 2/25/2002 and 1994-2452 R15, dated 6/2/2003. A copy of the Wage Determinations are attached to this contract (see Part III, Section J, Attachment D).

#### **H.15 DISPLACED EMPLOYEE HIRING PREFERENCE (MAY 2003)**

- (a) Definition: Eligible employee means a current or former employee of the Government, a Contractor or Subcontractor employed at a Department of Energy Facility (1) whose position of employment has been, or will be, involuntarily terminated (except if terminated for cause); (2) who has also met the eligibility criteria contained in the Department of Energy guidance for Contractor work force restructuring, as may be amended or supplemented from time to time, and (3) who is qualified for a particular job vacancy with the Department or one of its Contractors with respect to work under its contract with the Department at the time the particular position is available.
- (b) Consistent with the Department of Energy guidance for Contractor work force restructuring, as may be amended or supplemented from time to time, the Contractor agrees that it will provide a preference in hiring to an eligible employee to the extent practicable to work performed under this contract.
- (c) The requirements of this clause shall be included in subcontracts at any tier (except for subcontracts for commercial items pursuant 41 U.S.C. 403) expected to exceed \$500,000.

#### **H.16 CONTRACTOR INTERFACE WITH OTHER CONTRACTORS AND/OR GOVERNMENT EMPLOYEES (MAY 2001)**

The Contractor shall cooperate fully with all other on-site DOE Contractors (including, but not limited to, support service, architect and engineering, janitorial, computer operation Contractors, or consultants) and Government employees, and carefully fit its own work to such other work as may be directed by the Contracting Officer or the Principal Contracting Officers Representative. The Contractor shall not commit, or permit, any act which will interfere with the performance of work by any other Contractor or by Government employees.

#### **H.17 INSURANCE -- MINIMUM REQUIREMENTS (JULY 2000)**

The Contractor shall provide all insurance necessary to fully protect the Government from all claims arising out of the performance of this contract and/or arising from the acts of their employees, business invitees or licensees, and will be required to furnish evidence of such insurance before commencing operations hereunder. The limits of the insurer's liability listed below are minimum requirements of insurance to be carried by the Contractor; however, such limits will not be deemed to limit the Contractor's liability to the Government.

The required amount of insurance to be carried by the Contractor under this section may be changed upon the Government's written notice to the Contractor.

(a) Worker's Compensation and Employer's Liability.

Contractors are required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least \$100,000 shall be required.

(b) General Liability.

The Contractor shall obtain Bodily injury liability insurance coverage written on the comprehensive form of policy of at least \$500,000 per occurrence.

(c) Automobile Liability.

The Contractor shall obtain Automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles (including Government-Furnished vehicles operated by the Contractor's personnel) used in connection with performing the contract. At a minimum, coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage shall be required.

**H.18 COMMUNITY COMMITMENT (JUNE 2003)**

It is the policy of the National Energy Technology Laboratory (NETL) to be a constructive partner in the geographic region in which NETL conducts its business. The basic elements of this policy include: (1) recognizing the diverse interests of the region and its stakeholders; (2) engaging regional stakeholders in issues and concerns of mutual interest; and (3) recognizing that giving back to the community is a worthwhile business practice. Accordingly, the Contractor agrees that its business operations and performance under the contract will be consistent with the intent of the policy and elements set forth above.

**H.19 PERFORMANCE BASED AWARD FEE**

## (a) AWARD FEE DETERMINATION

- (i) The Government shall, at the conclusion of each evaluation period, evaluate the Contractor's performance for a determination of performance based award fee earned. The Government will validate, by appropriate means, the information in the Contractor's self evaluation.
- (ii) The Contractor agrees that the determination of performance based award fee earned will be made solely by the Government FDO and such determination is binding on both parties.
- (iii) The evaluation of the Contractor's performance shall be in accordance with the Government's Performance Evaluation Plan (PEP) as indicated in Section H, clause H.20 entitled "Performance Evaluation Plan (JUNE 2003)". The Contractor shall be promptly advised in writing of the FDO's determination and the reasons why the performance fee was or was not earned. While it is recognized that the basis for determination of the fee shall be the evaluation by the Government in accordance with the PEP, the FDO may also consider any information available to him or her which relates to the Contractor's performance of contract and order requirements, regardless of whether or not those requirements are specifically identified in the PEP. To the extent the Contractor does not perform those requirements, the FDO may reduce the fee determination. In the event that the Contractor's performance is considered unacceptable in any area of performance which is specified in the Performance Evaluation Plan, even if no weight or fee is specifically assigned to the particular performance area, the FDO may at his/her sole

discretion determine the Contractor's overall performance to be unacceptable, and accordingly may withhold the entire performance fee for the evaluation period.

- (iv) Any unearned award fee from each evaluation period shall not be eligible to be earned in any future period(s).

(b) **CALCULATION OF AVAILABLE AWARD FEE**

The available fee pool will be established on each cost plus award fee task order issued under this contract prior to the beginning of the evaluation period based on the Contractor's proposed task management plan(s). The pool will be expressed as a discreet dollar amount, not as a percentage of plan and will be based on the amount negotiated and agreed upon. Upon completion of the review and adjustment process identified in paragraph (c) below, the plan, as adjusted, will be used as the basis for establishing the available fee pool for the next evaluation period.

(c) **REVIEW AND ADJUSTMENT OF AVAILABLE AWARD FEE**

A meeting with the COR, CO, and Contractor will be held immediately following release of the Cost Management Report (CMR) for the fourth month of the evaluation period to review, on a task order by task order basis, any significant variances between planned costs and actual costs incurred. The COR and the Contractor will provide the CO with information concerning the variance(s) such that a determination may be made as to whether an adjustment in the fee pool for a particular task order is appropriate. Variances between planned and actual costs in task order performance are assumed to fall into one of the following three categories:

- (i) Actuals are less than planned due Contractor management practices and cost saving efforts. No adjustment to the fee pool would be justifiable in this case. Overruns attributable to the Contractor will not increase the available fee pool.
- (ii) The work schedule, for whatever reason, has slipped, causing the work and its associated costs to move to a future performance period. In this case, the fee dollars should migrate with the work and a straight-line adjustment to the available fee would be appropriate.
- (iii) Actuals may underrun plan due to imprecise or changing scope. Some adjustment to the pool should be made, but a straight line adjustment may not be appropriate. Overruns that can be attributed to scope issues may result in an increase to the available fee pool.

Any adjustments to the available fee pool will be incorporated into a modification prior to the closing of the evaluation period.

**H.20 PERFORMANCE EVALUATION PLAN (JUNE 2003)**

The Contractor's performance will be evaluated in accordance with Section J, Attachment C, Performance Evaluation Plan. The Plan has been unilaterally established by the Government. The Plan includes the criteria to be considered under each area evaluated and the percentage of award fee available for each area. The Plan may be revised unilaterally by the Government with notification of the change(s) provided to the Contractor at least fifteen (15) calendar days prior to the start of the evaluation period to which the change will apply. The Plan may be revised bilaterally anytime throughout performance of the contract. The Government may seek Contractor input in the development of changes to the Plan.

**H.21 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) -- PRIOR APPROVALS (JUNE 2001)**

The National Environmental Policy Act of 1969 (NEPA) requires that all Federal agencies consider the impacts of their projects on the human environment. As part of the DOE's NEPA requirements, the Contractor shall be required to supply to the DOE certain environmental information. DOE funds may only be expended by the

Contractor on environmental information/data gathering and analysis activities in support of the NEPA process and/or the development of preliminary designs or drawings, or in a manner consistent with 40 CFR 1506.1, until DOE notifies the Contractor that all NEPA requirements have been satisfied. In the event that the Contractor expends its own or third party funds on activities not authorized by this provision, such expenditures are entirely at the Contractor's risk that DOE's NEPA analysis will support such activities.

#### **H.22 CONTRACTOR PRESS RELEASES (APR 1998)**

The DOE policy and procedure on news releases requires that all Contractor press releases be reviewed and approved by DOE prior to issuance. Therefore, the Contractor shall, at least ten (10) days prior to the planned issue date, submit a draft copy to the Contracting Officer of any planned press releases related to work performed under this contract. The Contracting Officer will then obtain necessary reviews and clearances and provide the Contractor with the results of such reviews prior to the planned issue date.

#### **H.23 PERMITS AND LICENSES (AUG 1999)**

Within sixty (60) days of award, the Contractor shall submit to the DOE Contracting Officer Representative (COR) a list of ES&H approvals (e.g. permits and licenses) that, in the Contractor's opinion, shall be required to complete the work under this award. This list shall include the topic of the approval being sought, the approving authority, and the expected submit/approval schedule. The COR shall be notified as specific items are added or removed from the list and processed through their approval cycles.

The Contractor agrees to include this clause in their first-tier subcontracts and agrees to enforce the terms of this clause.

#### **H.24 ENVIRONMENTAL MANAGEMENT SYSTEM POLICY AND ENVIRONMENTAL ASPECT CONSIDERATIONS (ISO 14001) IN NETL CONSTRUCTION AND ON-SITE CONTRACTS (MAR 2003)**

The Contractor must be knowledgeable of NETL Environmental Management System (EMS) policy and Environmental Aspect considerations as these relate to the work to be performed. The Contractor must be aware of NETL's Environmental Aspects and how their work could adversely affect or create additional aspects. Specific information on NETL's system and policy can be accessed through NETL's internet address (<http://www.netl.doe.gov>).

Specifically, NETL Procedure 450.4-9 (Management of Environment, Safety and Health Aspects of Contracts and Financial Assistance Awards) and NETL Procedure 440.4-12 (ES&H Requirements for Off-Site Contractors Working at NETL) must be followed, as applicable. In addition, the following DOE/NETL form must be completed for on-site activities: Significant Environmental Impact Scoring Matrix (NETL Form 450.1-2) and ISO-14001 Screening Analysis Questionnaire (NETL Form 450.1-4).

#### **H.25 ENVIRONMENT, SAFETY, AND HEALTH -- ON-SITE SERVICE CONTRACTS (MAR 2003)**

- (a) The Contractor shall take all reasonable precautions in the performance of the work under this contract to protect the safety and health of his/her employees, DOE/NETL employees, and the public, and to prevent damage to the environment and DOE/NETL-owned materials, supplies, equipment, facilities, and any other DOE/NETL-owned property.
- (b) The Contractor shall comply, as a minimum, with the requirements of DOE/NETL's environment, safety, and health (ES&H) programs as implemented through DOE and its support Contractor staff. These programs are based on implementing DOE/NETL's Focused-Standards List, which is compendium of applicable Federal, state, and local regulations; consensus standards; and DOE directives. In particular, the Contractor shall, as a minimum, comply with the procedural, record-keeping, and reporting requirements of these DOE/NETL's ES&H programs and their supporting DOE/NETL's directives. The major reporting requirements are outlined in DOE Order 231.1, Environment, Safety, and Health Reporting, current version. Where conflict exists among the standards' requirements, the most protective shall be adopted, unless relief is provided by the CO. In order to provide consistent application of ES&H requirements across

the DOE/NETL sites, the Contractor shall, to the maximum extent possible, utilize existing DOE/NETL directives.

- (c) The Contractor shall generate and implement an integrated safety management (ISM) plan describing how the Contractor will implement ISM philosophy, as outlined in DOE P 450.4, Safety Management Policy (current version) and Integrated Safety Management System Guide, DOE G 450.4-1, Volumes 1 and 2 (current version) into the planning, budgeting, execution, and assessment of work activities. The plan shall provide (1) a process approach to the integration of ISM's five functions (i.e. defining the scope of work, analyzing the hazards, developing and implementing controls, performing work safely, and ensuring performance) into its everyday work activities, and (2) a specific management approach to demonstrate ISM's seven guiding principles (i.e. workforce responsibility and accountability; clear roles, responsibilities and authorities; competence commensurate with responsibilities, balanced priorities, identification of ES&H standards and requirements; hazard controls tailored to work being performed; and work authorization). The Contractor shall discuss in this plan how the execution of the plan will successfully and cost-effectively integrate with NETL's own ISM, ES&H, and EMS/ISO programs. The Contractor shall submit the plan to the Contracting Officer for review and approval within 30 days after the date of contract award. Performance metrics shall be included in the Plan. This plan shall be updated on an annual basis.
- (d) The Contractor shall adhere to applicable sections of DOE Order 450.1, Environmental Protection Program, current version (see <http://www.directives.doe.gov/serieslist.html> to access DOE Orders). The Contractor shall be knowledgeable of the specific NETL Environmental Management System (EMS) as outlined in NETL Order 450.1 - Environmental Management System, current version, and its requirements, including NETL's EMS policy, environmental aspects, environmental objectives, and environmental targets. In particular, the Contractor shall relate this information to their work to be performed in order to proactively implement NETL's environmental policy (i.e., prevent pollution, comply with ES&H regulations, improve continually, conduct safety analysis and reviews, and minimize wastes) and to manage the environmental aspects that are applicable to the planning and execution of their work. In addition, the following DOE/NETL forms must be completed for general and unique onsite activities: Significant Environmental Impact Scoring Matrix (NETL Form 450.1-2) and ISO 14001 Screening Analysis Questionnaire (NETL Form 450.1-4). Specific information on NETL's EMS and policy can be accessed through NETL's Internet address (<http://www.netl.doe.gov>).
- (e) The Contractor shall follow the applicable NETL directive(s) on conducting safety analysis and reviews (e.g., NETL Procedure 421.1-1, R&D Safety Analysis and Review System; NETL Procedure 421.1-2, Support Operations Safety Analysis and Review System, and/or NETL Procedure 421.1-3, Facility Safety Analysis and Review System, current version), and shall implement the requirements resulting from such analysis and review.
- (f) Contractor personnel shall take NETL ES&H mandatory training (e.g., mandatory due to the nature of job being performed or due to site-wide requirements). The Contractor shall give safety briefings to personnel and maintain records of attendance for periodic safety briefings conducted by supervisors.
- (g) The CO shall notify the Contractor, in writing, of any non-compliance with the provisions of this clause. After receipt of such notice, the Contractor shall immediately begin to take corrective action. In the event that the Contractor fails to comply with DOE/NETL's environment, safety, and health requirements, the CO may, without prejudice to any other legal or contractual rights of DOE, issue an order stopping all or any part of the work; thereafter, a start order for work resumption may be issued by the CO. The Contractor shall make no claim for an extension of time, or for compensation or damages by reason of, or in conjunction with, such work stoppage.
- (h) The Contractor shall include this environment, safety and health clause in all subcontracts requiring work at the DOE/NETL sites. However, such flow down of responsibility shall not relieve the Contractor of its obligation to assure compliance with the provisions of this clause.
- (i) The DOE or its authorized representative shall have the right to inspect any areas or facilities occupied by the Contractor.



- (j) The Contractor shall provide record keeping information, such as raw data, interpreted results, reports, correspondence, and other materials proving regulatory and standard compliance, according to DOE records management schedules.
- (k) Accidents or incidents resulting in human injury and/or property damage are to be reported immediately to the CO or his/her representative. Notification, recording, and reporting requirements for accidents and/or incidents shall be conducted in accordance with 29 CFR 1904 and 1910. The CO or his/her representative shall be provided with copies of all OSHA-required documentation within 10 days of the accident and/or incident.
- (l) The Contractor shall maintain an accurate record of on-site hours worked and shall provide this information to the CO or his/her representative upon request.
- (m) The Contractor shall collect metrics on environment, safety, and health performance as determined by NETL in addition to those contained in their ISM Plan [NOTE: indicators will change with time. The following indicators are examples of those recently incorporated in site-support contracts]: Recordable Injury/Illness Rate (total number of OSHA-defined recordable injuries and illnesses/total hours worked); Lost Work Day Case Rate (total number of OSHA-defined lost work day cases/total hours worked); Occupational safety and health cost index (approximate amount of dollars lost [indirect and direct] per 100 hours worked for all injuries/illnesses), and Hazardous Waste Generated (total cubic feet of hazardous waste shipped).
- (n) The Contractor shall abide by the requirements of NETL Procedure 541.2-1A, Affirmative Procurement Program (current version) that establishes "Green Procurement".
- (o) NETL depends on volunteers to staff its emergency response organization (ERO), including the hazmat/rescue team. The Contractor shall allow participation of employees in NETL's site-wide emergency response program. The degree and quality of participation may be used as a performance metric. Participants shall be allowed the time necessary to fulfill ERO training obligations. The Contractor whose employees participate in emergency response functions shall be responsible for providing any additional liability insurance or supplemental insurance deemed appropriate by the Contractor for the ERO positions that their employees occupy.

#### **H.26 COMPLIANCE WITH APPLICABLE FEDERAL, STATE AND LOCAL REQUIREMENTS INCLUDING SAFETY & HEALTH AND ENVIRONMENTAL PROTECTION (SEP 2003)**

In performing work under this contract, the Contractor shall comply with all relevant federal, state, and local statutes, ordinances, laws, and regulations, including those covering safety, health and environmental protection.

The Contractor agrees to include this clause in all subcontracts and agrees to enforce the terms of this clause.

#### **H.27 INDEMNITY -- ENVIRONMENTAL, HEALTH AND SAFETY VIOLATIONS (MAR 2003)**

Should the Contractor, in the performance of work under this contract, fail to comply with the requirements of environmental permits, local laws or regulations, state laws or regulations, Federal laws or regulations, the Statement of Work and its Attachments, or a Task Order and cause any environmental, health, or safety liability to be assessed against the Government, the Contractor agrees to indemnify the Government for this liability. This requirement shall be placed in all subcontracts awarded by the Contractor under this contract. The provisions of this clause are limited to liabilities not otherwise addressed by other provisions of this contract.

**H.28 HAZARDOUS WASTES MANIFESTS AND LABELS (MAR 2003)**

The Contractor shall not identify, on wastes manifests or container labels or otherwise, the DOE or the NETL as the owner or generator of hazardous wastes without written permission, signed by either the NETL Director or both the NETL Contracting Officer and the NETL ES&H Division Director, unless expressly and specifically permitted by the contract.

**H.29 LOBBYING RESTRICTION (ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2003) (JULY 2003)**

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

A copy of the DOE "Lobbying Brochure" which provides a summary of the statutory and regulatory restrictions regarding lobbying activities for Federal Contractors can be found at

<http://professionals.pr.doe.gov/ma5/MA-5Web.nsf/Procurement/Lobbying+Brochure?OpenDocument>

**H.30 CONSERVATION OF UTILITIES (JUNE 2003)**

The Contractor shall instruct Contractor employees in utilities conservation practices. The Contractor shall operate under conditions that preclude the waste of utilities.

The Contractor shall use lights only in areas where and at the time when work is actually being performed except in those areas essential for purpose of safety and security.

**H.31 CONFIDENTIALITY OF INFORMATION (MAY 1998)**

To the extent that the work under this contract requires that the Contractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Contractor shall, after receipt thereof, treat such information as confidential and agree not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by the Contracting Officer in writing. The foregoing obligations, however, shall not apply to:

- (a) Information which, at the time of receipt by the Contractor, is in the public domain;
- (b) Information which is published after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;
- (c) Information which the Contractor can demonstrate was in his possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies;
- (d) Information which the Contractor can demonstrate was received by it from a third party who did not require the Contractor to hold it in confidence.

The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, of each employee permitted access, whereby the employee agrees that he will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the contract.

The Contractor agrees, if requested by the Government, to sign an agreement identical, in all material respects, to the provisions of this clause, with each company supplying information to the Contractor under this contract, and to

supply a copy of such agreement to the Contracting Officer. From time to time upon request of the Contracting Officer, the Contractor shall supply the Government with reports itemizing information received as confidential or proprietary and setting forth the company or companies from which the Contractor received such information.

The Contractor agrees that upon request by DOE it will execute a DOE-approved agreement with any party whose facilities or proprietary data it is given access to or is furnished, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by DOE, such an agreement shall also be signed by Contractor personnel.

This clause shall flow down to all subcontracts.

### **H.32 TRAVEL AND PER DIEM COSTS (FEB 1998)**

Costs incurred by Contractor personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered to be reasonable and allowable only to the extent that they do not exceed the rates and amounts set by Subchapter I of Chapter 57 of Title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any revision of such subchapter; and are allowable pursuant to the "Allowable Cost and Payment" clause, FAR 52.216-7.

Foreign travel shall be subject to DEAR 952.247-70.

### **H.33 WORK HOURS**

#### **A. WEEKENDS AND RECOGNIZED HOLIDAYS**

The Contractor may be required to work from time to time on federally observed holidays and weekends to meet specific work requirements. The Contractor shall be provided advance notice of at least twenty four (24) hours by the COR for planned work scheduled for federally observed holidays and weekends.

#### **B. WORK AT HOME**

It is expected that the performance of tasks and activities identified in this SOW will be accomplished primarily on-site. However, the Government may authorize the Contractor to perform work off-site including from the employees home for specific occasions with identified deliverables and with prior approval from the COR. The Contractor must request approval one week in advance. The Contractor shall identify in writing the deliverables the Contractor personnel will be providing.

The Contractor will report to the COR on a monthly basis the following: (1) who worked at home, (2) what work was performed, and (3) total hours worked at home.

#### **C. ON-CALL SUPPORT**

The Contractor shall provide on-call support on a 24-hour a day, 7 days a week basis for resolving hardware and software problems or providing other emergency support. The Government shall provide the Contractor with the necessary pagers (or other communications equipment) as deemed appropriate by the COR. The Contractor shall respond to any off-hour inquiry/problem from the COR (or their designee) via telephone within sixty (60) minutes of call and have staff on-site within three hours of initial contact, if deemed necessary. NETL operates automated alert systems that may contact the Contractor directly to respond to an off-hour inquiry/problem. The Contractor shall respond to off-hour requirements as necessary to maintain operations and quality services, meet deadlines, and handle emergencies. The Contractor shall notify the COR or designated representative of after hours work.

D. HOURS OF OPERATION - WEEKDAYS

SERVICE - GOVERNMENT WORK SCHEDULE 0800-1630 EXCEPT AS NOTED BELOW

Computer Facility Operations	0700-1830 (unattended with personnel available on-site)
LAN/WAN Operations	0700-1830
Info Desk	0700-1830

**H.34 G&A RATE FOR OTHER DIRECT COST AND SUBCONTRACT LABOR**

A fixed G&A of 3% shall apply to all other direct cost (ODC) and subcontract labor. FAR 31 cost principles and Federal Travel Regulations apply to ODCs and travel.

## **SECTION I - CONTRACT CLAUSES**

**THE FOLLOWING CLAUSES APPLY TO ALL TYPES OF TASK ORDERS ISSUED AGAINST THIS CONTRACT.**

### **I.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE. (FEB 1998)**

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

Federal Acquisition Regulations (Clauses starting with 52): <http://www.arnet.gov/far/index.html>  
 Department of Energy Regulations (Clauses starting with 952): <http://www.netl.doe.gov/business/index.html> or  
<http://professionals.pr.doe.gov> or <http://farsite.hill.af.mil/VFDOEa.HTM>

### **I.2 52.202-1 DEFINITIONS. (DEC 2001)**

As prescribed in section 2.201, insert the following clause:

#### **DEFINITIONS (DEC 2001)**

-

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

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

(c) "Commercial item" means -

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

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

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

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

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

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

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

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

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

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

(ii) The source of such services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government;

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

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

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

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

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

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

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

(f) "Nondevelopmental item" means -

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

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

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

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

**I.3 952.202-1 DEFINITIONS.**

(a) As prescribed in 902.200, insert the clause at FAR 52.202-1 in all contracts. The contracting officer shall substitute the following for paragraph (a) of the clause.

(a) Head of Agency means: (i) The Secretary; (ii) Deputy Secretary; (iii) Under Secretaries of the Department of Energy and (iiii) the Chairman, Federal Energy Regulatory Commission.

(b) The following shall be added as paragraphs (h) and (i) except that they will be designated paragraphs (g) and (h) if Alternate I of the FAR clause is used.

(h) The term DOE means the Department of Energy, FERC means the Federal Energy Regulatory Commission, and NNSA means the National Nuclear Security Administration.

(i) The term Senior Procurement Executive means, for DOE:

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

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

Federal Energy Regulatory Commission--Chairman, FERC.

**I.4 52.203-3 GRATUITIES. (APR 1984)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation.

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed \$100,000.

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

(a) *Definitions.*

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

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

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

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



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

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

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

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

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

- (1) Providing or attempting to provide or offering to provide any kickback;
- (2) Soliciting, accepting, or attempting to accept any kickback; or
- (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c)

- (1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.
- (2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.
- (3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.
- (4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.
- (5) The Contractor agrees to incorporate the substance of this clause, including subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$100,000.

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

- (a) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of section 27 of the Office of Federal Procurement

Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may -

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

(2) Rescind the contract with respect to which -

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

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsection 27(e)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

**I.9 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY. (JAN 1997)**

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

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

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

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

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

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

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

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

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

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

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

(c) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.

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

**I.10 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS. (JUN 2003)**

(a) *Definitions.*

“Agency,” as used in this clause, means executive agency as defined in 2.101.

“Covered Federal action,” as used in this clause, means any of the following Federal actions:

- (1) The awarding of any Federal contract.
- (2) The making of any Federal grant.
- (3) The making of any Federal loan.
- (4) The entering into of any cooperative agreement.
- (5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

“Indian tribe” and “tribal organization,” as used in this clause, have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) and include Alaskan Natives.

“Influencing or attempting to influence,” as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

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

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

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

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

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

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

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

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

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

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

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

“State,” as used in this clause, means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

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

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

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

(i) *Agency and legislative liaison by own employees.*

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

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

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

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

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

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

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

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

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

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

(ii) *Professional and technical services.*

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

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

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

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

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

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

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

(c) *Disclosure.*

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

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

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

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

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

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

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

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

(e) *Penalties.*

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

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

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

**I.11 952.203-70 WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES. (DEC 2000)**

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

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

**I.12 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER. (AUG 2000)**

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

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

- (1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or
- (2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not
- (3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

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

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

- (1) Postconsumer fiber; and
- (2) Manufacturing wastes such as -
  - (i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and
  - (ii) Repulped finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others.

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

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

**I.13 52.208-9 CONTRACTOR USE OF MANDATORY SOURCES OF SUPPLY OR SERVICES. (FEB 2002)**

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



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

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

(1) National Industries for the Blind (NIB)  
1901 North Beauregard Street, Suite 200  
Alexandria, VA 22311-1705  
(703) 998-0770

(2) NISH  
2235 Cedar Lane  
Vienna, VA 22182-5200  
(703) 560-6800

#### **I.14 952.208-70 PRINTING. (APR 1984)**

The contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the U.S. Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 copies of a single unit, or no more than 25,000 units in the aggregate of multiple units, will not be deemed to be printing. A unit is defined as one sheet, size 8 1/2 by 11 inches one side only, one color. A requirement is defined as a single publication document.

(1) The term "printing" includes the following processes: composition, plate making, presswork, binding, microform publishing, or the end items produced by such processes.

(2) If fulfillment of the contract will necessitate reproduction in excess of the limits set forth above, the contractor shall notify the contracting officer in writing and obtain the contracting officer's approval prior to acquiring on DOE's behalf production, acquisition, and dissemination of printed matter. Such printing must be obtained from the Government Printing Office (GPO), a contract source designated by GPO or a Joint Committee on Printing authorized federal printing plant.

(3) Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

(4) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (4).

#### **I.15 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT. (JUL 1995)**

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

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the

subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs). The notice must include the following:

- (1) The name of the subcontractor.
- (2) The Contractor's knowledge of the reasons for the subcontractor being on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
- (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded From Federal Procurement and Nonprocurement Programs.
- (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

**I.16 52.215-2 AUDIT AND RECORDS - NEGOTIATION. (JUN 1999)**

(a) As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) *Examination of costs.* If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract.

(c) *Cost or pricing data.* If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to -

- (1) The proposal for the contract, subcontract, or modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the contract, subcontract, or modification; or
- (4) Performance of the contract, subcontract or modification.

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

- (2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) *Reports.* If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating -

(1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and

(2) The data reported.

(f) *Availability.* The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition -

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and -

(1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;

(2) For which cost or pricing data are required; or

(3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

**I.17 52.215-8 ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT. (OCT 1997)**

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

(a) The Schedule (excluding the specifications).

(b) Representations and other instructions.

(c) Contract clauses.

(d) Other documents, exhibits, and attachments.

(e) The specifications.

**I.18 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA. (OCT 1997)**

(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because -

(1) The Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;

(2) A subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(3) Any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which -

(1) The actual subcontract; or

(2) The actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(c)(1) If the Contracting Officer determines under paragraph (a) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)(i) Except as prohibited by subdivision (c)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if -

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

(ii) An offset shall not be allowed if -

(A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data

had been submitted before the “as of” date specified on its Certificate of Current Cost or Pricing Data.

(d) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid -

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

(2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data that were incomplete, inaccurate, or noncurrent.

**I.19 52.215-12 SUBCONTRACTOR COST OR PRICING DATA. (OCT 1997)**

(a) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.

(b) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(c) In each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4, when entered into, the Contractor shall insert either -

(1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of cost or pricing data for the subcontract; or

(2) The substance of the clause at FAR 52.215-13, Subcontractor Cost or Pricing Data - Modifications.

**I.20 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS. (JAN 2004)**

(a) The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate a defined-benefit pension plan or otherwise recapture such pension fund assets.

(b) For segment closings, pension plan terminations, or curtailment of benefits, the amount of the adjustment shall be--

(1) For contracts and subcontracts that are subject to full coverage under the Cost Accounting Standards (CAS) Board rules and regulations (48 CFR Chapter 99), the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12); and

(2) For contracts and subcontracts that are not subject to full coverage under the CAS, the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12), except the numerator of the fraction at 48 CFR 9904.413-50(c)(12)(vi) shall be the sum of the pension plan costs allocated to all non-CAS covered contracts and subcontracts that are subject to Federal Acquisition Regulation (FAR) Subpart 31.2 or for which cost or pricing data were submitted.

(c) For all other situations where assets revert to the Contractor, or such assets are constructively received by it for any reason, the Contractor shall, at the Government's option, make a refund or give a credit to the Government for its equitable share of the gross amount withdrawn. The Government's equitable share shall reflect the Government's participation in pension costs through those contracts for which cost or pricing data were submitted or that are subject to FAR Subpart 31.2.

(d) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(g).

**I.21 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS. (OCT 1997)**

The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate or reduce a PRB plan. If PRB fund assets revert, or inure, to the Contractor or are constructively received by it under a plan termination or otherwise, the Contractor shall make a refund or give a credit to the Government for its equitable share as required by FAR 31.205-6(o)(6). The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirements of FAR 15.408(j).

**I.22 52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS. (OCT 1997)**

(a) *Exceptions from cost or pricing data.*

(1) In lieu of submitting cost or pricing data for modifications under this contract, for price adjustments expected to exceed the threshold set forth at FAR 15.403-4 on the date of the agreement on price or the date of the award, whichever is later, the Contractor may submit a written request for exception by submitting the information described in the following subparagraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable -

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

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

(A) If -

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

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

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

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

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

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

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

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

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

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

### **I.23 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS. (MAY 2004)**

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

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

(c) *Definitions.* As used in this contract -

“HUBZone small business concern” means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

“Service-disabled veteran-owned small business concern” -

(1) Means a small business concern -

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

“Small business concern” means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

“Small disadvantaged business concern” means a small business concern that represents, as part of its offer that -

(1) It has received certification as a small disadvantaged business concern consistent with 13 CFR part 124, Subpart B;

(2) No material change in disadvantaged ownership and control has occurred since its certification;

(3) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(4) It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

“Veteran-owned small business concern” means a small business concern -

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.



“Women-owned small business concern” means a small business concern -

- (1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a HUBZone small business concern, a small disadvantaged business concern, or a women-owned small business concern.

**I.24 52.219-14 LIMITATIONS ON SUBCONTRACTING. (DEC 1996)**

(a) This clause does not apply to the unrestricted portion of a partial set-aside.

(b) By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract in the case of a contract for -

- (1) *Services (except construction)*. At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern.
- (2) *Supplies (other than procurement from a nonmanufacturer of such supplies)*. The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.
- (3) *General construction*. The concern will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.
- (4) *Construction by special trade contractors*. The concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

**I.25 52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES. (FEB 1997)**

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

**I.26 52.222-3 CONVICT LABOR. (JUN 2003)**

(a) Except as provided in paragraph (b) of this clause, the Contractor shall not employ in the performance of this contract any person undergoing a sentence of imprisonment imposed by any court of a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.

(b) The Contractor is not prohibited from employing persons--

- (1) On parole or probation to work at paid employment during the term of their sentence;
- (2) Who have been pardoned or who have served their terms; or
- (3) Confined for violation of the laws of any of the States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if--

(i) The worker is paid or is in an approved work training program on a voluntary basis;

(ii) Representatives of local union central bodies or similar labor union organizations have been consulted;

(iii) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services;

(iv) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

**I.27 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION. (SEP 2000)**

(a) *Overtime requirements.* No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) *Violation; liability for unpaid wages; liquidated damages.* The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards Act.

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act.

(d) *Payrolls and basic records.* (1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

(e) *Subcontracts.* The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts exceeding \$100,000 and require subcontractors to include these provisions in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

**I.28 52.222-21 PROHIBITION OF SEGREGATED FACILITIES. (FEB 1999)**

(a) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

**I.29 52.222-26 EQUAL OPPORTUNITY. (APR 2002)**

(a) Definition. United States, as used in this clause, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with paragraphs (b)(1) through (b)(11) of this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to -

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion;
- (iv) Transfer;
- (v) Recruitment or recruitment advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation; and
- (viii) Selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

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

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of subparagraphs (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the Contracting Officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

**I.30 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS. (DEC 2001)**

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

All employment openings means all positions except executive and top management, those positions that will be filled from within the Contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days duration, and part-time employment.

Executive and top management means any employee--

- (1) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;
- (2) Who customarily and regularly directs the work of two or more other employees;
- (3) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight;
- (4) Who customarily and regularly exercises discretionary powers; and
- (5) Who does not devote more than 20 percent or, in the case of an employee of a retail or service establishment, who does not devote more than 40 percent of total hours of work in the work week to activities that are not directly and closely related to the performance of the work described in paragraphs (1) through (4) of this definition. This paragraph (5) does not apply in the case of an employee who is in sole charge of an establishment or a physically separated branch establishment, or who owns at least a 20 percent interest in the enterprise in which the individual is employed.

Other eligible veteran means any other veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

Positions that will be filled from within the Contractor's organization means employment openings for which the Contractor will give no consideration to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings the Contractor proposes to fill from regularly established ``recall'' lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

Qualified special disabled veteran means a special disabled veteran who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such veteran holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Special disabled veteran means--

- (1) A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability--
  - (i) Rated at 30 percent or more; or
  - (ii) Rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C. 3106 to have a serious employment handicap (i.e., a significant impairment of the veteran's ability to prepare for, obtain, or retain employment consistent with the veteran's abilities, aptitudes, and interests); or

(2) A person who was discharged or released from active duty because of a service-connected disability.

Veteran of the Vietnam era means a person who--

(1) Served on active duty for a period of more than 180 days and was discharged or released from active duty with other than a dishonorable discharge, if any part of such active duty occurred--

(i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(ii) Between August 5, 1964, and May 7, 1975, in all other cases; or

(2) Was discharged or released from active duty for a service-connected disability if any part of the active duty was performed--

(i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(ii) Between August 5, 1964, and May 7, 1975, in all other cases.

(b) General. (1) The Contractor shall not discriminate against the individual because the individual is a special disabled veteran, a veteran of the Vietnam era, or other eligible veteran, regarding any position for which the employee or applicant for employment is qualified. The Contractor shall take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans without discrimination based upon their disability or veterans' status in all employment practices such as--

(i) Recruitment, advertising, and job application procedures;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

(iii) Rate of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(v) Leaves of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;

(vii) Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(viii) Activities sponsored by the Contractor including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(2) The Contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended (38 U.S.C. 4211 and 4212).

(c) Listing openings. (1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract,

including those not generated by this contract, and including those occurring at an establishment of the Contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local public employment service office of the State wherein the opening occurs. Listing employment openings with the U.S. Department of Labor's America's Job Bank shall satisfy the requirement to list jobs with the local employment service office.

(2) The Contractor shall make the listing of employment openings with the local employment service office at least concurrently with using any other recruitment source or effort and shall involve the normal obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing of employment openings does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(3) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State public employment agency in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State agency, it need not advise the State agency of subsequent contracts. The Contractor may advise the State agency when it is no longer bound by this contract clause.

(d) Applicability. This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands of the United States, and Wake Island.

(e) Postings. (1) The Contractor shall post employment notices in conspicuous places that are available to employees and applicants for employment.

(2) The employment notices shall--

(i) State the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are special disabled veterans, veterans of the Vietnam era, and other eligible veterans; and

(ii) Be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary of Labor), and provided by or through the Contracting Officer.

(3) The Contractor shall ensure that applicants or employees who are special disabled veterans are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled veteran, or may lower the posted notice so that it can be read by a person in a wheelchair).

(4) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement, or other contract understanding, that the Contractor is bound by the terms of the Act and is committed to take affirmative action to employ, and advance in employment, qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans.

(f) Noncompliance. If the Contractor does not comply with the requirements of this clause, the Government may take appropriate actions under the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(g) Subcontracts. The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of \$25,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Deputy Assistant Secretary of Labor to enforce the terms, including action for noncompliance.

**I.31 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES. (JUN 1998)**

(a) *General.* (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as -

- (i) Recruitment, advertising, and job application procedures;
- (ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
- (iii) Rates of pay or any other form of compensation and changes in compensation;
- (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- (v) Leaves of absence, sick leave, or any other leave;
- (vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
- (vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- (viii) Activities sponsored by the Contractor, including social or recreational programs; and
- (ix) Any other term, condition, or privilege of employment.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) *Postings.* (1) The Contractor agrees to post employment notices stating -

- (i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and
- (ii) The rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (*e.g.*, the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.



(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.

(c) *Noncompliance.* If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) *Subcontracts.* The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$10,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

**I.32 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS. (DEC 2001)**

(a) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on-

(1) The number of special disabled veterans, the number of veterans of the Vietnam era, and other eligible veterans in the workforce of the Contractor by job category and hiring location; and

(2) The total number of new employees hired during the period covered by the report, and of the total, the number of special disabled veterans, the number of veterans of the Vietnam era, and the number of other eligible veterans; and

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

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

(c) The Contractor shall submit VETS100 Reports no later than September 30 of each year beginning September 30, 1988.

(d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date-

(1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The Contractor shall base the count of veterans reported according to paragraph (a) of this clause on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all special disabled veterans, veterans of the Vietnam era, and other eligible veterans who wish to benefit under the affirmative action program at 38 U.S.C. 4212 to identify themselves to the Contractor. The invitation shall state that-

(1) The information is voluntarily provided;

(2) The information will be kept confidential;

(3) Disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and

(4) The information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.

(f) The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of \$25,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

**I.33 52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED. (MAY 1989)**

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

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

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

(b) *Applicability.* This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR part 4.

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

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

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

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

determination.

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

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

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

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

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

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

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

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

(f) *Successor contracts.* If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

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

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

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

(i) For each employee subject to the Act -

(A) Name and address and social security number;

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

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

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

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

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

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

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

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

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

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

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

(m) *Collective bargaining agreements applicable to service employees.* If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees

engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

**I.34 52.222-43 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS). (MAY 1989)**

- (a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to collective bargaining agreements.
- (b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.
- (c) The wage determination, issued under the Service Contract Act of 1965, as amended, (41 U.S.C. 351, *et seq.*), by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract. If no such determination has been made applicable to this contract, then the Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. 206) current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract.

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

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

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

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

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

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

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

**I.35 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA. (JAN 1997)**

(a) "Hazardous material," as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

**MATERIAL**

(If none, insert "None")	Identification No.
_____	_____
_____	_____
_____	_____

(c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.



(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to -

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

**I.36 52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION. (AUG 2003)**

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

Priority chemical means a chemical identified by the Interagency Environmental Leadership Workgroup or, alternatively, by an agency pursuant to section 503 of Executive Order 13148 of April 21, 2000, Greening the Government through Leadership in Environmental Management.

Toxic chemical means a chemical or chemical category listed in 40 CFR 372.65.

(b) Executive Order 13148 requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109).

(c) The Contractor shall provide all information needed by the Federal facility to comply with the following:

- (1) The emergency planning reporting requirements of section 302 of EPCRA.
- (2) The emergency notice requirements of section 304 of EPCRA.
- (3) The list of Material Safety Data Sheets, required by section 311 of EPCRA.
- (4) The emergency and hazardous chemical inventory forms of section 312 of EPCRA.
- (5) The toxic chemical release inventory of section 313 of EPCRA, which includes the reduction and recycling information required by section 6607 of PPA.
- (6) The toxic chemical, priority chemical, and hazardous substance release and use reduction goals of sections 502 and 503 of Executive Order 13148.

**I.37 52.223-6 DRUG-FREE WORKPLACE. (MAY 2001)**

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

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

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

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

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

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

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

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

- (1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- (2) Establish an ongoing drug-free awareness program to inform such employees about -
  - (i) The dangers of drug abuse in the workplace;
  - (ii) The Contractor's policy of maintaining a drug-free workplace;

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

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

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

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

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

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

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

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

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

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

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

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

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

**I.38 52.223-10 WASTE REDUCTION PROGRAM. (AUG 2000)**

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

“Recycling” means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of products other than fuel for producing heat or power by combustion.

“Waste prevention” means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

“Waste reduction” means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) Consistent with the requirements of Section 701 of Executive Order 13101, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, *et seq.*) and implementing regulations (40 CFR part 247).

**I.39 52.223-14 TOXIC CHEMICAL RELEASE REPORTING. (AUG 2003)**

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

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

(1) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;

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

(3) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(4) The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:

(i) Major group code 10 (except 1011, 1081, and 1094.

(ii) Major group code 12 (except 1241).

(iii) Major group codes 20 through 39.

(iv) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).

(v) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, *et seq.*)), 5169, 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

(5) The facility is not located in the United States or its outlying areas.

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

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

(2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall -

(i) Submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible; and

(ii) Continue to file the annual Form R for the life of the contract for such facility.

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

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

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

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

**I.40 52.224-1 PRIVACY ACT NOTIFICATION. (APR 1984)**

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

**I.41 52.224-2 PRIVACY ACT. (APR 1984)**

(a) The Contractor agrees to -

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

(i) The systems of records; and

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

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

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

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

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

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

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

**I.42 952.224-70 PAPERWORK REDUCTION ACT. (APR 1984)**

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

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

**I.43 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES. (JAN 2004)**

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, Libya, and Sudan are prohibited, as are most imports from North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at <http://www.epls.gov/TerList1.html>. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR chapter V and/or on OFAC's Web site at <http://www.treas.gov/ofac>.

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

**I.44 52.227-1 AUTHORIZATION AND CONSENT. (JUL 1995)**

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent (1) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or (2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The

entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed the simplified acquisition threshold); however, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

**I.45 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT. (AUG 1996)**

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

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

(c) The Contractor agrees to include, and require inclusion of, this clause in all subcontracts at any tier for supplies or services (including construction and architect-engineer subcontracts and those for material, supplies, models, samples, or design or testing services) expected to exceed the simplified acquisition threshold at FAR 2.101.

**I.46 52.227-6 ROYALTY INFORMATION. (APR 1984)**

(a) *Cost or charges for royalties.* When the response to this solicitation contains costs or charges for royalties totaling more than \$250, the following information shall be included in the response relating to each separate item of royalty or license fee:

- (1) Name and address of licensor.
- (2) Date of license agreement.
- (3) Patent numbers, patent application serial numbers, or other basis on which the royalty is payable.
- (4) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable.
- (5) Percentage or dollar rate of royalty per unit.
- (6) Unit price of contract item.
- (7) Number of units.
- (8) Total dollar amount of royalties.

(b) *Copies of current licenses.* In addition, if specifically requested by the Contracting Officer before execution of the contract, the offeror shall furnish a copy of the current license agreement and an identification of applicable claims of specific patents.

**I.47 952.227-13 PATENT RIGHTS-ACQUISITION BY THE GOVERNMENT. (SEP 1997)**

(a) Definitions.

"Invention", as used in this clause, means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, et seq.).

"Practical application", as used in this clause, means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

"Subject invention", as used in this clause, means any invention of the Contractor conceived or first actually reduced to practice in the course of or under this contract.

"Patent Counsel", as used in this clause, means the Department of Energy Patent Counsel assisting the procuring activity.

"DOE patent waiver regulations", as used in this clause, means the Department of Energy patent waiver regulations at 41 CFR 9-9.109- 6 or successor regulations. See 10 CFR part 784.

"Agency licensing regulations" and "applicable agency licensing regulations", as used in this clause, mean the Department of Energy patent licensing regulations at 10 CFR Part 781.

(b) Allocations of principal rights.

(1) Assignment to the Government. The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each subject invention, except to the extent that rights are retained by the Contractor under subparagraph (b)(2) and paragraph (d) of this clause.

(2) Greater rights determinations.

(i) The contractor, or an employee-inventor after consultation with the Contractor, may request greater rights than the nonexclusive license and the foreign patent rights provided in paragraph (d) of this clause on identified inventions in accordance with the DOE patent waiver regulations. A request for a determination of whether the Contractor or the employee-inventor is entitled to acquire such greater rights must be submitted to the Patent Counsel with a copy to the Contracting Officer at the time of the first disclosure of the invention pursuant to subparagraph (e)(2) of this clause, or not later than 8 months thereafter, unless a longer period is authorized in writing by the Contracting Officer for good cause shown in writing by the Contractor. Each determination of greater rights under this contract shall be subject to paragraph (c) of this clause, unless otherwise provided in the greater rights determination, and to the reservations and conditions deemed to be appropriate by the Secretary of Energy or designee.

(ii) Within two (2) months after the filing of a patent application, the Contractor shall provide the filing date, serial number and title, a copy of the patent application (including an English-language version if filed in a language other than English), and, promptly upon issuance of a patent, provide the patent number and issue date for any subject invention in any country for which the Contractor has been granted title or the right to file



and prosecute on behalf of the United States by the Department of Energy.

(iii) Not less than thirty (30) days before the expiration of the response period for any action required by the Patent and Trademark Office, notify the Patent Counsel of any decision not to continue prosecution of the application.

(iv) Upon request, the Contractor shall furnish the Government an irrevocable power to inspect and make copies of the patent application file.

(c) Minimum rights acquired by the Government. (1) With respect to each subject invention to which the Department of Energy grants the Contractor principal or exclusive rights, the Contractor agrees as follows:

(i) The Contractor hereby grants to the Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced each subject invention throughout the world by or on behalf of the Government of the United States (including any Government agency).

(ii) The Contractor agrees that with respect to any subject invention in which DOE has granted it title, DOE has the right in accordance with the procedures in the DOE patent waiver regulations (10 CFR part 784) to require the Contractor, an assignee, or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, DOE has the right to grant such a license itself if it determines that - (A) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use; (B) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees; (C) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or (D) Such action is necessary because the agreement required by paragraph (i) of this clause has neither been obtained nor waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(iii) The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as DOE may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by DOE in connection with any march-in proceedings undertaken by that agency in accordance with subparagraph (c)(1)(ii) of this clause. To the extent data or information supplied under this section is considered by the Contractor, its licensee, or assignee to be privileged and confidential and is so marked, the Department of Energy agrees that, to the extent permitted by law, it will not disclose such information to persons outside the Government.

(iv) The Contractor agrees, when licensing a subject invention, to arrange to avoid royalty charges on acquisitions involving Government funds, including funds derived through a Military Assistance Program of the Government or otherwise derived through the Government, to refund any amounts received as royalty charges on a subject invention in acquisitions for, or on behalf of, the Government, and to provide for such refund in any instrument transferring rights in the invention to any party.

(v) The Contractor agrees to provide for the Government's paid-up license pursuant to subparagraph (c)(1)(i) of this clause in any instrument transferring rights in a subject invention and to provide for the granting of licenses as required by subparagraph (c)(1)(ii) of this clause, and for the reporting of utilization information as required by subparagraph (c)(1)(iii) of this clause, whenever the instrument transfers principal or exclusive rights in a subject invention.

(2) Nothing contained in this paragraph (c) shall be deemed to grant to the Government any rights with respect to any invention other than a subject invention.

(d) Minimum rights to the Contractor.

(1) The Contractor is hereby granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government obtains title, unless the Contractor fails to disclose the subject invention within the times specified in subparagraph (e)(2) of this clause. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of DOE except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by DOE to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in 37 CFR Part 404 and agency licensing regulations. This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical applications and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of DOE to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, DOE will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed 30 days (or such other time as may be authorized by DOE for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable agency licensing regulations and 37 CFR Part 404 concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

(4) The Contractor may request the right to acquire patent rights to a subject invention in any foreign country where the Government has elected not to secure such rights, subject to the conditions in subparagraphs (d)(4)(i) through (d)(4)(vii) of this clause. Such request must be made in writing to the Patent Counsel as part of the disclosure required by subparagraph (e)(2) of this clause, with a copy to the DOE Contracting Officer. DOE approval, if given, will be based on a determination that this would best serve the national interest.

(i) The recipient of such rights, when specifically requested by DOE, and three years after issuance of a foreign patent disclosing the subject invention, shall furnish DOE a report stating:

(A) The commercial use that is being made, or is intended to be made, of said invention, and

(B) The steps taken to bring the invention to the point of practical application or to make the invention available for licensing.

(ii) The Government shall retain at least an irrevocable, nonexclusive, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the Government (including any Government agency) and States and domestic municipal governments, unless the Secretary of Energy or designee determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments.

(iii) If noted elsewhere in this contract as a condition of the grant of an advance waiver of the Government's title to inventions under this contract, or, if no advance waiver was granted but a waiver of the Government's title to an identified invention is granted pursuant to subparagraph (b)(2) of this clause upon a determination by the Secretary of Energy that it is in the Government's best interest, this license shall include the right of the Government to sublicense foreign governments pursuant to any existing or future treaty or agreement with such foreign governments.

(iv) Subject to the rights granted in subparagraphs (d)(1), (2), and (3) of this clause, the Secretary of Energy or designee shall have the right to terminate the foreign patent rights granted in this subparagraph (d)(4) in whole or in part unless the recipient of such rights demonstrates to the satisfaction of the Secretary of Energy or designee that effective steps necessary to accomplish substantial utilization of the invention have been taken or within a reasonable time will be taken.

(v) Subject to the rights granted in subparagraphs (d)(1), (2), and (3) of this clause, the Secretary of Energy or designee shall have the right, commencing four years after foreign patent rights are accorded under this subparagraph (d)(4), to require the granting of a nonexclusive or partially exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances, and in appropriate circumstances to terminate said foreign patent rights in whole or in part, following a hearing upon notice thereof to the public, upon a petition by an interested person justifying such hearing:

(A) If the Secretary of Energy or designee determines, upon review of such material as he deems relevant, and after the recipient of such rights or other interested person has had the opportunity to provide such relevant and material information as the Secretary or designee may require, that such foreign patent rights have tended substantially to lessen competition or to result in undue market concentration in any section of the United States in any line of commerce to which the technology relates; or

(B) Unless the recipient of such rights demonstrates to the satisfaction of the Secretary of Energy or designee at such hearing that the recipient has taken effective steps, or within a reasonable time thereafter is expected to take such steps, necessary to accomplish substantial utilization of the invention.

(vi) If the contractor is to file a foreign patent application on a subject invention, the Government agrees, upon written request, to use its best efforts to withhold publication of such invention disclosures for such period of time as specified by Patent Counsel, but in no event shall the Government or its employees be liable for any publication thereof.

(vii) Subject to the license specified in subparagraphs (d)(1), (2), and (3) of this clause, the contractor or inventor agrees to convey to the Government, upon request, the entire right, title, and interest in any foreign country in which the contractor or inventor fails to have a patent application filed in a timely manner or decides not to continue prosecution or to pay any maintenance fees covering the invention. To avoid forfeiture of the patent application or patent, the contractor or inventor shall, not less than 60 days before the expiration period for any action required by any patent office, notify the Patent Counsel of such failure or decision, and deliver to the Patent Counsel, the executed instruments

necessary for the conveyance specified in this paragraph.

(e) Invention identification, disclosures, and reports.

(1) The Contractor shall establish and maintain active and effective procedures to assure that subject inventions are promptly identified and disclosed to Contractor personnel responsible for patent matters within 6 months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this contract. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of subject inventions, and records that show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(2) The Contractor shall disclose each subject invention to the DOE Patent Counsel with a copy to the Contracting Officer within 2 months after the inventor discloses it in writing to Contractor personnel responsible for patent matters or, if earlier, within 6 months after the Contractor becomes aware that a subject invention has been made, but in any event before any on sale, public use, or publication of such invention known to the Contractor. The disclosure to DOE shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale, or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to DOE, the Contractor shall promptly notify Patent Counsel of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor. The report should also include any request for a greater rights determination in accordance with subparagraph (b)(2) of this clause. When an invention is disclosed to DOE under this paragraph, it shall be deemed to have been made in the manner specified in Sections (a)(1) and (a)(2) of 42 U.S.C. 5908, unless the Contractor contends in writing at the time the invention is disclosed that it was not so made.

(3) The Contractor shall furnish the Contracting Officer the following:

(i) Interim reports every 12 months (or such longer period as may be specified by the Contracting Officer) from the date of the contract, listing all subject inventions during that period, and including a statement that all subject inventions have been disclosed (or that there are not such inventions), and that such disclosure has been made in accordance with the procedures required by paragraph (e)(1) of this clause.

(ii) A final report, within 3 months after completion of the contracted work listing all subject inventions or containing a statement that there were no such inventions, and listing all subcontracts at any tier containing a patent rights clause or containing a statement that there were no such subcontracts.

(4) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) of this clause, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by subparagraph (e)(2) of this clause. (5) The Contractor agrees, subject to FAR 27.302(j), that the Government may duplicate and disclose subject invention disclosures and all other reports and

papers furnished or required to be furnished pursuant to this clause.

(f) Examination of records relating to inventions.

(1) The Contracting Officer or any authorized representative shall, until 3 years after final payment under this contract, have the right to examine any books (including laboratory notebooks), records, and documents of the Contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether -

- (i) Any such inventions are subject inventions;
- (ii) The Contractor has established and maintains the procedures required by subparagraphs (e)(1) and (4) of this clause;
- (iii) The Contractor and its inventors have complied with the procedures.

(2) If the Contracting Officer learns of an unreported Contractor invention which the Contracting Officer believes may be a subject invention, the Contractor may be required to disclose the invention to DOE for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate conditions to protect the confidentiality of the information involved.

(g) Withholding of payment (NOTE: This paragraph does not apply to subcontracts).

(1) Any time before final payment under this contract, the Contracting Officer may, in the Government's interest, withhold payment until a reserve not exceeding \$50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if, in the Contracting Officer's opinion, the Contractor fails to -

- (i) Convey to the Government, using a DOE-approved form, the title and/or rights of the Government in each subject invention as required by this clause.
- (ii) Establish, maintain, and follow effective procedures for identifying and disclosing subject inventions pursuant to subparagraph (e)(1) of this clause;
- (iii) Disclose any subject invention pursuant to subparagraph (e)(2) of this clause;
- (iv) Deliver acceptable interim reports pursuant to subparagraph (e)(3)(i) of this clause;  
or
- (v) Provide the information regarding subcontracts pursuant to subparagraph (h)(4) of this clause.

(2) Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(3) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of subject inventions required by subparagraph (e)(2) of this clause, and acceptable final report pursuant to subparagraph (e)(3)(ii) of this clause, and the Patent Counsel has issued a patent clearance certification to the Contracting Officer.

(4) The Contracting Officer may decrease or increase the sums withheld up to the maximum authorized above. No amount shall be withheld under this paragraph while the amount specified

by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government rights.

(h) Subcontracts.

(1) The contractor shall include the clause at 48 CFR 952.227-11 (suitably modified to identify the parties) in all subcontracts, regardless of tier, for experimental, developmental, demonstration, or research work to be performed by a small business firm or domestic nonprofit organization, except where the work of the subcontract is subject to an Exceptional Circumstances Determination by DOE. In all other subcontracts, regardless of tier, for experimental, developmental, demonstration, or research work, the contractor shall include this clause (suitably modified to identify the parties). The contractor shall not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Contractor -

(i) Shall promptly submit a written notice to the Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Contracting Officer.

(3) In the case of subcontracts at any tier, DOE, the subcontractor, and Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and DOE with respect to those matters covered by this clause.

(4) The Contractor shall promptly notify the Contracting Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(5) The contractor shall identify all subject inventions of the subcontractor of which it acquires knowledge in the performance of this contract and shall notify the Patent Counsel, with a copy to the contracting officer, promptly upon identification of the inventions.

(i) Preference United States industry. Unless provided otherwise, no Contractor that receives title to any subject invention and no assignee of any such Contractor shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement may be waived by the Government upon a showing by the Contractor or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) Atomic energy.

(1) No claim for pecuniary award of compensation under the provisions of the Atomic Energy Act of 1954, as amended, shall be asserted with respect to any invention or discovery made or conceived in the course of or under this contract.

(2) Except as otherwise authorized in writing by the Contracting Officer, the Contractor will obtain patent agreements to effectuate the provisions of subparagraph (e)(1) of this clause from all persons who perform any part of the work under this contract, except nontechnical personnel, such as clerical employees and manual laborers.

(k) Background Patents.

(1) Background Patent means a domestic patent covering an invention or discovery which is not a subject invention and which is owned or controlled by the Contractor at any time through the completion of this contract:

(i) Which the contractor, but not the Government, has the right to license to others without obligation to pay royalties thereon, and

(ii) Infringement of which cannot reasonably be avoided upon the practice of any specific process, method, machine, manufacture, or composition of matter (including relatively minor modifications thereof) which is a subject of the research, development, or demonstration work performed under this contract.

(2) The Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive license under any background patent for purposes of practicing a subject of this contract by or for the Government in research, development, and demonstration work only.

(3) The Contractor also agrees that upon written application by DOE, it will grant to responsible parties, for purposes of practicing a subject of this contract, nonexclusive licenses under any background patent on terms that are reasonable under the circumstances. If, however, the Contractor believes that exclusive rights are necessary to achieve expeditious commercial development or utilization, then a request may be made to DOE for DOE approval of such licensing by the Contractor.

(4) Notwithstanding subparagraph (k)(3) of this clause, the contractor shall not be obligated to license any background patent if the Contractor demonstrates to the satisfaction of the Secretary of Energy or designee that:

(i) a competitive alternative to the subject matter covered by said background patent is commercially available or readily introducible from one or more other sources; or

(ii) the Contractor or its licensees are supplying the subject matter covered by said background patent in sufficient quantity and at reasonable prices to satisfy market needs, or have taken effective steps or within a reasonable time are expected to take effective steps to so supply the subject matter. 1) Publication. It is recognized that during the course of the work under this contract, the Contractor or its employees may from time to time desire to release or publish information regarding scientific or technical developments conceived or first actually reduced to practice in the course of or under this contract. In order that public disclosure of such information will not adversely affect the patent interests of DOE or the Contractor, patent approval for release of publication shall be secured from Patent Counsel prior to any such release or publication.

(m) Forfeiture of rights in unreported subject inventions.

(1) The Contractor shall forfeit and assign to the Government, at the request of the Secretary of Energy or designee, all rights in any subject invention which the Contractor fails to report to Patent Counsel within six months after the time the Contractor:

(i) Files or causes to be filed a United States or foreign patent application thereon; or

(ii) Submits the final report required by subparagraph (e)(2)(ii) of this clause, whichever is later.

(2) However, the Contractor shall not forfeit rights in a subject invention if, within the time specified in subparagraph (m)(1) of this clause, the Contractor:

(i) Prepares a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the course of or under the contract and delivers the decision to Patent Counsel, with a copy to the Contracting Officer; or

(ii) Contending that the invention is not a subject invention, the Contractor nevertheless discloses the invention and all facts pertinent to this contention to the Patent Counsel, with a copy to the Contracting Officer; or

(iii) Establishes that the failure to disclose did not result from the Contractor's fault or negligence.

(3) Pending written assignment of the patent application and patents on a subject invention determined by the Secretary of Energy or designee to be forfeited (such determination to be a final decision under the Disputes clause of this contract), the Contractor shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph (m) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to subject inventions.

**I.48 52.227-16 ADDITIONAL DATA REQUIREMENTS. (JUN 1987)**

(a) In addition to the data (as defined in the clause at 52.227-14, Rights in Data - General clause or other equivalent included in this contract) specified elsewhere in this contract to be delivered, the Contracting Officer may, at any time during contract performance or within a period of 3 years after acceptance of all items to be delivered under this contract, order any data first produced or specifically used in the performance of this contract.

(b) The Rights in Data - General clause or other equivalent included in this contract is applicable to all data ordered under this Additional Data Requirements clause. Nothing contained in this clause shall require the Contractor to deliver any data the withholding of which is authorized by the Rights in Data - General or other equivalent clause of this contract, or data which are specifically identified in this contract as not subject to this clause.

(c) When data are to be delivered under this clause, the Contractor will be compensated for converting the data into the prescribed form, for reproduction, and for delivery.

(d) The Contracting Officer may release the Contractor from the requirements of this clause for specifically identified data items at any time during the 3-year period set forth in paragraph (a) of this clause.

**I.49 52.227-17 RIGHTS IN DATA - SPECIAL WORKS. (JUN 1987)**

(a) *Definitions.*

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

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



(b) *Allocation of Rights.* (1) The Government shall have -

(i) Unlimited rights in all data delivered under this contract, and in all data first produced in the performance of this contract, except as provided in paragraph (c) of this clause for copyright.

(ii) The right to limit exercise of claim to copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in such data, in accordance with subparagraph (c)(1) of this clause.

(iii) The right to limit the release and use of certain data in accordance with paragraph (d) of this clause.

(2) The Contractor shall have, to the extent permission is granted in accordance with subparagraph (c)(1) of this clause, the right to establish claim to copyright subsisting in data first produced in the performance of this contract.

(c) *Copyright - (1) Data first produced in the performance of this contract.* (i) The Contractor agrees not to assert, establish, or authorize others to assert or establish, any claim to copyright subsisting in any data first produced in the performance of this contract without prior written permission of the Contracting Officer. When claim to copyright is made, the Contractor shall affix the appropriate copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) to such data when delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. The Contractor grants to the Government, and others acting on its behalf, a paid-up nonexclusive, irrevocable, worldwide license for all such data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government.

(ii) If the Government desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in subdivision (c)(1)(i) of this clause, the Contracting Officer may direct the Contractor to establish, or authorize the establishment of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contain the copyright notice of 17 U.S.C. 401 or 402, unless the Contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (c)(1) of this clause.

(d) *Release and use restrictions.* Except as otherwise specifically provided for in this contract, the Contractor shall not use for purposes other than the performance of this contract, nor shall the Contractor release, reproduce, distribute, or publish any data first produced in the performance of this contract, nor authorize others to do so, without written permission of the Contracting Officer.

(e) *Indemnity.* The Contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication, or use of any data furnished under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the Contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; nor do these provisions apply to material furnished to the Contractor by the

Government and incorporated in data to which this clause applies.

**I.50 52.228-5 INSURANCE - WORK ON A GOVERNMENT INSTALLATION. (JAN 1997)**

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective -

(1) For such period as the laws of the State in which this contract is to be performed prescribe; or

(2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

**I.51 52.228-7 INSURANCE - LIABILITY TO THIRD PERSONS. (MAR 1996)**

(a)(1) Except as provided in subparagraph (a)(2) of this clause, the Contractor shall provide and maintain workers' compensation, employer's liability, comprehensive general liability (bodily injury), comprehensive automobile liability (bodily injury and property damage) insurance, and such other insurance as the Contracting Officer may require under this contract.

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

(3) All insurance required by this paragraph shall be in a form and amount and for those periods as the Contracting Officer may require or approve and with insurers approved by the Contracting Officer.

(b) The Contractor agrees to submit for the Contracting Officer's approval, to the extent and in the manner required by the Contracting Officer, any other insurance that is maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement.

(c) The Contractor shall be reimbursed -

(1) For that portion -

(i) Of the reasonable cost of insurance allocable to this contract; and

(ii) Required or approved under this clause; and

(2) For certain liabilities (and expenses incidental to such liabilities) to third persons not compensated by insurance or otherwise without regard to and as an exception to the limitation of cost or the limitation of funds clause of this contract. These liabilities must arise out of the performance of this contract, whether or not caused by the negligence of the Contractor or of the Contractor's agents, servants, or employees, and must be represented by final judgments or

settlements approved in writing by the Government. These liabilities are for -

(i) Loss of or damage to property (other than property owned, occupied, or used by the Contractor, rented to the Contractor, or in the care, custody, or control of the Contractor);  
or

(ii) Death or bodily injury.

(d) The Government's liability under paragraph (c) of this clause is subject to the availability of appropriated funds at the time a contingency occurs. Nothing in this contract shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

(e) The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities) -

(1) For which the Contractor is otherwise responsible under the express terms of any clause specified in the Schedule or elsewhere in the contract;

(2) For which the Contractor has failed to insure or to maintain insurance as required by the Contracting Officer; or

(3) That result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of -

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

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

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(f) The provisions of paragraph (e) of this clause shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of this contract, other than insurance required in accordance with this clause; *provided*, that such cost is allowable under the Allowable Cost and Payment clause of this contract.

(g) If any suit or action is filed or any claim is made against the Contractor, the cost and expense of which may be reimbursable to the Contractor under this contract, and the risk of which is then uninsured or is insured for less than the amount claimed, the Contractor shall -

(1) Immediately notify the Contracting Officer and promptly furnish copies of all pertinent papers received;

(2) Authorize Government representatives to collaborate with counsel for the insurance carrier in settling or defending the claim when the amount of the liability claimed exceeds the amount of coverage; and

(3) Authorize Government representatives to settle or defend the claim and to represent the Contractor in or to take charge of any litigation, if required by the Government, when the liability is not insured or covered by bond. The Contractor may, at its own expense, be associated with the Government representatives in any such claim or litigation.

**I.52 52.229-3 FEDERAL, STATE, AND LOCAL TAXES. (APR 2003)**

(a) As used in this clause--

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

“After-imposed Federal tax,” means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

“After-relieved Federal tax,” means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

“Contract date,” means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

“Local taxes” includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

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

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

**I.53 52.232-9 LIMITATION ON WITHHOLDING OF PAYMENTS. (APR 1984)**

If more than one clause or Schedule term of this contract authorizes the temporary withholding of amounts otherwise payable to the Contractor for supplies delivered or services performed, the total of the amounts withheld at any one time shall not exceed the greatest amount that may be withheld under any one clause or Schedule term at that time; *provided*, that this limitation shall not apply to -

(a) Withholdings pursuant to any clause relating to wages or hours of employees;

- (b) Withholdings not specifically provided for by this contract;
- (c) The recovery of overpayments; and
- (d) Any other withholding for which the Contracting Officer determines that this limitation is inappropriate.

**I.54 52.232-17 INTEREST. (JUN 1996)**

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

(b) Amounts shall be due at the earliest of the following dates:

- (1) The date fixed under this contract.
- (2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.
- (3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.
- (4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

**I.55 52.232-18 AVAILABILITY OF FUNDS. (APR 1984)**

Funds are not presently available for this contract. The Government's obligation under this contract is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are made available to the Contracting Officer for this contract and until the Contractor receives notice of such availability, to be confirmed in writing by the Contracting Officer.

**I.56 52.232-23 ASSIGNMENT OF CLAIMS. (JAN 1986)**

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

**I.57 52.232-25 PROMPT PAYMENT. (OCT 2003)**

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

(a) Invoice payments—

(1) Due date.

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

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

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

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

(2) Certain food products and other payments.

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

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

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

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

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

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

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

(i) Name and address of the Contractor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Computing penalty amount. The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR part 1315.

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

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

(6) Discounts for prompt payment. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt



payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR part 1315.

(7) Additional interest penalty.

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

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

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

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

(ii)

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

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

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

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

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

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

(2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.

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

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

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

(d) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor

shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

**I.58 52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION. (OCT 2003)**

(a) *Method of payment.* (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either -

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) *Contractor's EFT information.* The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) *Mechanisms for EFT payment.* The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) *Suspension of payment.* If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) *Liability for uncompleted or erroneous transfers.*

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for -

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and -

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(f) *EFT and prompt payment.* A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) *EFT and assignment of claims.* If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register separately in the CCR database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) *Liability for change of EFT information by financial agent.* The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.<P>

(i) *Payment information.* The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

**I.59 52.233-1 DISPUTES. (JUL 2002)**

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) Claim, as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d)(1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

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

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

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

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

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

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

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

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

(1) the date that the Contracting Officer receives the claim (certified, if required); or

(2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

**I.60 952.235-70 KEY PERSONNEL. (APR 1994)**

The personnel specified in an attachment to this contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other programs, the Contractor shall notify the contracting officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the contractor without the written consent of the contracting officer: Provided, that the contracting officer may ratify in writing such diversion and such ratification shall constitute the consent of the contracting officer required by this clause. The attachment to this contract may be amended from time to time during the course of the contract to either add or delete personnel, as appropriate.

**I.61 52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION. (APR 1984)**

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

may be deducted from the contract price.

**I.62 52.237-3 CONTINUITY OF SERVICES. (JAN 1991)**

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

(1) Furnish phase-in training; and

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

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

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

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

**I.63 52.242-1 NOTICE OF INTENT TO DISALLOW COSTS. (APR 1984)**

(a) Notwithstanding any other clause of this contract -

(1) The Contracting Officer may at any time issue to the Contractor a written notice of intent to disallow specified costs incurred or planned for incurrence under this contract that have been determined not to be allowable under the contract terms; and

(2) The Contractor may, after receiving a notice under subparagraph (1) above, submit a written response to the Contracting Officer, with justification for allowance of the costs. If the Contractor does respond within 60 days, the Contracting Officer shall, within 60 days of receiving the response, either make a written withdrawal of the notice or issue a written decision.

(b) Failure to issue a notice under this Notice of Intent to Disallow Costs clause shall not affect the Government's rights to take exception to incurred costs.

**I.64 52.242-3 PENALTIES FOR UNALLOWABLE COSTS. (MAY 2001)**

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

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

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

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

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

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

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

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

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

(2) Simple interest, to be computed -

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

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

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

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

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

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

**I.65 52.242-13 BANKRUPTCY. (JUL 1995)**

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

**I.66 52.244-5 COMPETITION IN SUBCONTRACTING. (DEC 1996)**

(a) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

(b) If the Contractor is an approved mentor under the Department of Defense Pilot Mentor-Protégé Program (Pub. L. 101-510, section 831 as amended), the Contractor may award subcontracts under this contract on a noncompetitive basis to its protégés.

**I.67 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS. (MAY 2004)**

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

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

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

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

(c)(1) The following clauses shall be flowed down to subcontracts for commercial items:

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

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

(iii) 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (APR 1998) (38 U.S.C. 4212(a)).

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

(v) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631) (flow down required in accordance with paragraph (d) of FAR clause 52.247-64).

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

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

**I.68 52.245-1 PROPERTY RECORDS. (APR 1984)**

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

**I.69 52.246-25 LIMITATION OF LIABILITY - SERVICES. (FEB 1997)**

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

- (1) Occurs after Government acceptance of services performed under this contract; and
- (2) Results from any defects or deficiencies in the services performed or materials furnished.

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

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

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

**I.70 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS. (JUN 2003)**

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

"International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

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

"U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

(b) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

(c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

(d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers



International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see section 47.403 of the Federal Acquisition Regulation): [*State reasons*]:

(End of statement)

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

**I.71 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS.**  
**(APR 2003)**

(a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 (46 U.S.C. Appx 1241(b)) requires that Federal departments and agencies shall transport in privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of equipment, materials, or commodities that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo liners, and tankers). Such transportation shall be accomplished when any equipment, materials, or commodities, located within or outside the United States, that may be transported by ocean vessel are -

- (1) Acquired for a U.S. Government agency account;
- (2) Furnished to, or for the account of, any foreign nation without provision for reimbursement;
- (3) Furnished for the account of a foreign nation in connection with which the United States advances funds or credits, or guarantees the convertibility of foreign currencies; or
- (4) Acquired with advance of funds, loans, or guaranties made by or on behalf of the United States.

(b) The Contractor shall use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage involved under this contract (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or commodities under the conditions set forth in paragraph (a) of this clause, to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.

(c)(1) The Contractor shall submit one legible copy of a rated on-board ocean bill of lading for each shipment to both -

- (i) The Contracting Officer, and
- (ii) The:

Office of Cargo Preference  
Maritime Administration (MAR-590)  
400 Seventh Street, SW  
Washington DC 20590.

Subcontractor bills of lading shall be submitted through the Prime Contractor.

- (2) The Contractor shall furnish these bill of lading copies
  - (i) within 20 working days of the date of loading for shipments originating in the United States, or
  - (ii) within 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:

- (A) Sponsoring U.S. Government agency.
- (B) Name of vessel.
- (C) Vessel flag of registry.
- (D) Date of loading.
- (E) Port of loading.
- (F) Port of final discharge.
- (G) Description of commodity.
- (H) Gross weight in pounds and cubic feet if available.
- (I) Total ocean freight revenue in U.S. dollars.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts or purchase orders under this contract, except those described in paragraph (e)(4).

(e) The requirement in paragraph (a) does not apply to -

- (1) Cargoes carried in vessels of the Panama Canal Commission or as required or authorized by law or treaty;
- (2) Ocean transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2353);
- (3) Shipments of classified supplies when the classification prohibits the use of non-Government vessels; and
- (4) Subcontracts or purchase orders for the acquisition of commercial items unless--
  - (i) This contract is--
    - (A) A contract or agreement for ocean transportation services; or
    - (B) A construction contract; or
  - (ii) The supplies being transported are--
    - (A) Items the Contractor is reselling or distributing to the Government without adding value. (Generally, the Contractor does not add value to the items when it subcontracts items for f.o.b. destination shipment); or
    - (B) Shipped in direct support of U.S. military--
      - (1) Contingency operations;
      - (2) Exercises; or
      - (3) Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.

(f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from the:

Office of Costs and Rates  
Maritime Administration  
400 Seventh Street, SW  
Washington DC 20590

Phone: (202) 366-4610.

**I.72 952.247-70 FOREIGN TRAVEL. (DEC 2000)**

Contractor foreign travel shall be conducted pursuant to the requirements contained in DOE Order 551.1, Official Foreign Travel, or any subsequent version of the order in effect at the time of award.

**I.73 52.249-14 EXCUSABLE DELAYS. (APR 1984)**

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

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

- (1) The subcontracted supplies or services were obtainable from other sources;
- (2) The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and
- (3) The Contractor failed to comply reasonably with this order.

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

**I.74 52.251-1 GOVERNMENT SUPPLY SOURCES. (APR 1984)**

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

**I.75 952.251-70 CONTRACTOR EMPLOYEE TRAVEL DISCOUNTS. (DEC 2000)**

(a) The contractor shall take advantage of travel discounts offered to Federal contractor employee travelers by AMTRAK, hotels, motels, or car rental companies, when use of such discounts would result in lower

overall trip costs and the discounted services are reasonably available. Vendors providing these services may require the contractor employee to furnish them a letter of identification signed by the authorized contracting officer.

(b) Contracted airlines. Contractors are not eligible for GSA contract city pair fares.

(c) Discount rail service. AMTRAK voluntarily offers discounts to Federal travelers on official business and sometimes extends those discounts to Federal contractor employees.

(d) Hotels/motels. Many lodging providers extend their discount rates for Federal employees to Federal contractor employees.

(e) Car rentals. The Military Traffic Management Command (MTMC) of the Department of Defense negotiates rate agreements with car rental companies that are available to Federal travelers on official business. Some car rental companies extend those discounts to Federal contractor employees.

(f) Obtaining travel discounts.

(1) To determine which vendors offer discounts to Government contractors, the contractor may review commercial publications such as the Official Airline guides Official Traveler, Innovata, or National Telecommunications. The contractor may also obtain this information from GSA contract Travel Management Centers or the Department of Defense's Commercial Travel Offices.

(2) The vendor providing the service may require the Government contractor to furnish a letter signed by the contracting officer. The following illustrates a standard letter of identification.

#### OFFICIAL AGENCY LETTERHEAD

TO: Participating Vendor

SUBJECT: OFFICIAL TRAVEL OF GOVERNMENT CONTRACTOR

(FULL NAME OF TRAVELER), the bearer of this letter is an employee of (COMPANY NAME) which has a contract with this agency under Government contract (CONTRACT NUMBER). During the period of the contract (GIVE DATES), AND WITH THE APPROVAL OF THE CONTRACT VENDOR, the employee is eligible and authorized to use available travel discount rates in accordance with Government contracts and/or agreements. Government Contract City Pair fares are not available to Contractors.

SIGNATURE, Title and telephone number of Contracting Officer

#### **I.76 52.253-1 COMPUTER GENERATED FORMS. (JAN 1991)**

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

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

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

**I.77 52.204-7 CENTRAL CONTRACTOR REGISTRATION. (OCT 2003)**

(a) Definitions. As used in this clause-

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

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

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

"Registered in the CCR database" means that-

- (1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and
- (2) The Government has validated all mandatory data fields and has marked the record "Active".

(b)

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

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

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

(1) An offeror may obtain a DUNS number-

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

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

- (i) Company legal business.
- (ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.
- (iii) Company Physical Street Address, City, State, and Zip Code.
- (iv) Company Mailing Address, City, State and Zip Code (if separate from physical).
- (v) Company Telephone Number.
- (vi) Date the company was started.
- (vii) Number of employees at your location.
- (viii) Chief executive officer/key manager.
- (ix) Line of business (industry).
- (x) Company Headquarters name and address (reporting relationship within your entity).

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

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

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

(g)

(1)

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

(A) change the name in the CCR database;

(B) comply with the requirements of Subpart 42.12 of the FAR; and

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

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

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

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

**I.78 952.209-72 ORGANIZATIONAL CONFLICTS OF INTEREST. (JUN 1997)**

(a) Purpose. The purpose of this clause is to ensure that the Contractor

(1) is not biased because of its financial, contractual, organizational, or other interests which relate to the work under this contract, and

(2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.

(b) Scope. The restrictions described herein shall apply to performance or participation by the Contractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as "contractor") in the activities covered by this clause as a prime Contractor, subcontractor, cosponsor, joint venturer, consultant, or in any similar capacity. For the purpose of this clause, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.

(1) Use of Contractor's Work Product.

(i) The Contractor shall be ineligible to participate in any capacity in Department contracts, subcontracts, or proposals therefore (solicited and unsolicited) which stem directly from the Contractor's performance of work under this contract for a period of two (2) years after the completion of this contract. Furthermore, unless so directed in writing by the Contracting Officer, the Contractor shall not perform any advisory and assistance services work under this contract on any of its products or services or the products or services of another firm if the Contractor is or has been substantially involved in their development or marketing. Nothing in this subparagraph shall preclude the Contractor from competing for follow-on contracts for advisory and assistance services.

(ii) If, under this contract, the Contractor prepares a complete or essentially complete statement of work or specifications to be used in competitive acquisitions, the Contractor shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such statement of work or specifications. The Contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the Contracting Officer, in which case the restriction in this subparagraph shall not apply.

(iii) Nothing in this paragraph shall preclude the Contractor from offering or selling its standard and commercial items to the Government.

(2) Access to and use of information.

(i) If the Contractor, in the performance of this contract, obtains access to information, such as Department plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or data which has not been released or otherwise made available to the public, the Contractor agrees that without prior written approval of the Contracting Officer it shall not:

(A) use such information for any private purpose unless the information has been released or otherwise made available to the public;

(B) compete for work for the Department based on such information for a period of six (6) months after either the completion of this contract or until such information is released or otherwise made available to the public, whichever is first;

(C) submit an unsolicited proposal to the Government which is based on such information until one year after such information is released or otherwise made available to the public; and

(D) release such information unless such information has previously been released or otherwise made available to the public by the Department.

(ii) In addition, the Contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or other confidential or privileged technical, business, or financial information under this contract, it shall treat such information in accordance with any restrictions imposed on such information.

(iii) The Contractor may use technical data it first produces under this contract for its private purposes consistent with paragraphs (b)(2)(i) (A) and (D) of this clause and the patent, rights in data, and security provisions of this contract.

(c) Disclosure after award.

(1) The Contractor agrees that, if changes, including additions, to the facts disclosed by it prior to award of this contract, occur during the performance of this contract, it shall make an immediate and full disclosure of such changes in writing to the Contracting Officer. Such disclosure may include a description of any action which the Contractor has taken or proposes to take to avoid, neutralize, or mitigate any resulting conflict of interest. The Department may, however, terminate the contract for convenience if it deems such termination to be in the best interest of the Government.

(2) In the event that the Contractor was aware of facts required to be disclosed or the existence of an actual or potential organizational conflict of interest and did not disclose such facts or such conflict of interest to the Contracting Officer, DOE may terminate this contract for default.

(d) Remedies. For breach of any of the above restrictions or for nondisclosure or misrepresentation of any facts required to be disclosed concerning this contract, including the existence of an actual or potential organizational conflict of interest at the time of or after award, the Government may terminate the contract for default, disqualify the Contractor from subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this contract.

(e) Waiver. Requests for waiver under this clause shall be directed in writing to the Contracting Officer and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of the Government, the Contracting Officer may grant such a waiver in writing.

**I.79 52.216-19 ORDER LIMITATIONS. (OCT 1995)**

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than \$5,000, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

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

(1) Any order for a single item in excess of \$50,000,000.00;

(2) Any order for a combination of items in excess of \$75,000,000.00; or

(3) A series of orders from the same ordering office within 10 days that together call for quantities exceeding the limitation in subparagraph (b)(1) or (2) of this section.

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

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 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.80 52.216-22 INDEFINITE QUANTITY. (OCT 1995)**

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



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

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

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; *provided*, that the Contractor shall not be required to make any deliveries under this contract after more than six (6) months after contract completion date.

**I.81 52.219-70XX SECTION 8(A) DIRECT AWARDS (JUNE 1998)**

This contract is issued as a direct award between the contracting activity and the 8(a) Contractor pursuant to a Memorandum of Understanding between the Small Business Administration (SBA) and the Department of Energy (DOE). SBA retains responsibility for 8(a) certification, 8(a) eligibility determinations and related issues, and providing counseling and assistance to the 8(a) Contractor under the 8(a) program. The cognizant SBA district office is:

**U.S. Small Business Administration, 320 W. Pike Street, Third Floor, Suite 330, Clarksburg WV 26301.** The SBA District office and address can be found at this Internet address: <http://www.sba.gov/regions/states.html>

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

The Contractor agrees:

1. to notify the Contracting Officer, simultaneously with its notification to SBA (as required by SBA's 8(a) regulations), when the owner or owners upon whom 8(a) eligibility is based plan to relinquish ownership or control of the concern. Consistent with 15 U.S.C. 637(a)(21), transfer of ownership or control shall result in termination of the contract for convenience, unless SBA waives the requirement for termination prior to the actual relinquishing of ownership or control.
2. to adhere to the requirements of 52.219-14, Limitations on Subcontracting.

**I.82 52.219-18 NOTIFICATION OF COMPETITION LIMITED TO ELIGIBLE 8(A) CONCERNS. (JUN 2003)(DEVIATION)**

This clause is modified in paragraph (c) as a result of a Memorandum of Understanding between DOE and the SBA.

(a) Offers are solicited only from small business concerns expressly certified by the Small Business Administration (SBA) for participation in the SBA's 8(a) Program and which meet the following criteria at the time of submission of offer -

- (1) The Offeror is in conformance with the 8(a) support limitation set forth in its approved business plan; and

- (2) The Offeror is in conformance with the Business Activity Targets set forth in its approved business plan or any remedial action directed by the SBA.
- (b) By submission of its offer, the Offeror represents that it meets all of the criteria set forth in paragraph (a) of this clause.
- (c) Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.
- (d)
  - (1) "Agreement." A small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply to construction or service contracts.
  - (2) **Prologic Inc.** will notify the **Department of Energy, National Energy Technology Laboratory** Contracting Officer in writing immediately upon entering an agreement (either oral or written) to transfer all or part of its stock or other ownership interest to any other party.

**I.83 52.222-2 PAYMENT FOR OVERTIME PREMIUMS. (JUL 1990)**

- (a) The use of overtime is authorized under this contract if the overtime premium does not exceed **zero** or the overtime premium is paid for work -
  - (1) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;
  - (2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;
  - (3) To perform tests, industrial processes, laboratory procedures, loading or unloading of transportation conveyances, and operations in flight or afloat that are continuous in nature and cannot reasonably be interrupted or completed otherwise; or
  - (4) That will result in lower overall costs to the Government.
- (b) Any request for estimated overtime premiums that exceeds the amount specified above shall include all estimated overtime for contract completion and shall -
  - (1) Identify the work unit; *e.g.*, department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime;
  - (2) Demonstrate the effect that denial of the request will have on the contract delivery or performance schedule;
  - (3) Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and
  - (4) Provide reasons why the required work cannot be performed by using multishift operations or by employing additional personnel.

**I.84 52.227-23 RIGHTS TO PROPOSAL DATA (TECHNICAL). (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 – Special Works" clause contained in this contract) in and to the technical data contained in the proposal dated **January 27, 2004**, upon which this contract is based.

**I.85 52.232-19 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR. (APR 1984)**

Funds are not presently available for performance under this contract beyond the end of the current fiscal year. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond the end of the current fiscal year, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.

**I.86 52.244-2 SUBCONTRACTS. (AUG 1998)**

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

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

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

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

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

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

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

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

(2) Is fixed-price and exceeds -

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

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

(e) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts: All subcontracts in excess of \$10,000.00

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

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

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

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

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

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

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

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

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

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

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



**I.87 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES. (APR 1984)**

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any Department of Energy Acquisition Regulation (48 CFR Chapter 9) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

**THE FOLLOWING CLAUSES PERTAIN ONLY TO COST-REIMBURSABLE TASK ORDERS ISSUED AGAINST THIS CONTRACT. THESE ARE IN ADDITION TO ALL CLAUSES LISTED ABOVE IDENTIFIED TO PERTAIN TO ALL TYPES OF TASK ORDERS.**

**I.88 52.216-7 ALLOWABLE COST AND PAYMENT. (DEC 2002)**

(a) *Invoicing.* (1) The Government will make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with Federal Acquisition Regulation (FAR) subpart 31.2 in effect on the date of this contract and the terms of this contract. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

(2) Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act. Interim payments made prior to the final payment under the contract are contract financing payments, except interim payments if this contract contains Alternate I to the clause at 52.232-25.

(3) The designated payment office will make interim payments for contract financing on the [Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "30<sup>th</sup>"] day after the designated billing office receives a proper payment request.

In the event that the Government requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

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

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

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

(A) Supplies and services purchased directly for the contract and associated financing payments to subcontractors, provided payments determined due will be made -

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

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

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

(C) Direct labor;

(D) Direct travel;

(E) Other direct in-house costs; and

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

(iii) The amount of financing payments that have been paid by cash, check, or other forms of payment to subcontractors.

(2) Accrued costs of Contractor contributions under employee pension plans shall be excluded until actually paid unless -

(i) The Contractor's practice is to make contributions to the retirement fund quarterly or more frequently; and

(ii) The contribution does not remain unpaid 30 days after the end of the applicable quarter or shorter payment period (any contribution remaining unpaid shall be excluded from the Contractor's indirect costs for payment purposes).

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

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

(c) *Small business concerns.* A small business concern may receive more frequent payments than every 2 weeks.

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

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

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

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

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

(5) Within 120 days (or longer period if approved in writing by the Contracting Officer) after settlement of the final annual indirect cost rates for all years of a physically complete contract, the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates.

(6)(i) If the Contractor fails to submit a completion invoice or voucher within the time specified in paragraph (d)(5) of this clause, the Contracting Officer may--

(A) Determine the amounts due to the Contractor under the contract; and

(B) Record this determination in a unilateral modification to the contract.

(ii) This determination constitutes the final decision of the Contracting Officer in accordance with the Disputes clause.

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

(1) Shall be the anticipated final rates; and

(2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.

(f) *Quick-closeout procedures.* Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

(g) *Audit.* At any time or times before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be -

(1) Reduced by amounts found by the Contracting Officer not to constitute allowable costs; or

(2) Adjusted for prior overpayments or underpayments.

(h) *Final payment.* (1) Upon approval of a completion invoice or voucher submitted by the Contractor in accordance with paragraph (d)(5) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.

(2) The Contractor shall pay to the Government any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Contractor or any assignee under this contract, to the extent that those amounts are properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses incurred by the Contractor for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Contracting Officer. Before final payment under this contract, the Contractor and each assignee whose assignment is in effect at the time of final payment shall execute and deliver -

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, except -



(A) Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;

(B) Claims (including reasonable incidental expenses) based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided, that the claims are not known to the Contractor on the date of the execution of the release, and that the Contractor gives notice of the claims in writing to the Contracting Officer within 6 years following the release date or notice of final payment date, whichever is earlier; and

(C) Claims for reimbursement of costs, including reasonable incidental expenses, incurred by the Contractor under the patent clauses of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

**I.89 52.216-8 FIXED FEE (MAR 1997)**

- (a) The Government shall pay the Contractor for performing this contract the fixed fee specified in the Schedule.
- (b) Payment of the fixed fee shall be made as specified in the Schedule; provided that after payment of 85 percent of the fixed fee, the Contracting Officer may withhold further payment of fee until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed 15 percent of the total fixed fee or \$100,000, whichever is less. The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withholds under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.

**I.90 52.232-20 LIMITATION OF COST. (APR 1984)**

- (a) The parties estimate that performance of this contract, exclusive of any fee, will not cost the Government more than (1) the estimated cost specified in the Schedule or, (2) if this is a cost-sharing contract, the Government's share of the estimated cost specified in the Schedule. The Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the Government's and the Contractor's share of the cost.
- (b) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that -
- (1) The costs the Contractor expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost specified in the Schedule; or
- (2) The total cost for the performance of this contract, exclusive of any fee, will be either greater or substantially less than had been previously estimated.
- (c) As part of the notification, the Contractor shall provide the Contracting Officer a revised estimate of the total cost of performing this contract.
- (d) Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause -

(1) The Government is not obligated to reimburse the Contractor for costs incurred in excess of (i) the estimated cost specified in the Schedule or, (ii) if this is a cost-sharing contract, the estimated cost to the Government specified in the Schedule; and

(2) The Contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of the estimated cost specified in the Schedule, until the Contracting Officer (i) notifies the Contractor in writing that the estimated cost has been increased and (ii) provides a revised estimated total cost of performing this contract. If this is a cost-sharing contract, the increase shall be allocated in accordance with the formula specified in the Schedule.

(e) No notice, communication, or representation in any form other than that specified in subparagraph (d)(2) above, or from any person other than the Contracting Officer, shall affect this contract's estimated cost to the Government. In the absence of the specified notice, the Government is not obligated to reimburse the Contractor for any costs in excess of the estimated cost or, if this is a cost-sharing contract, for any costs in excess of the estimated cost to the Government specified in the Schedule, whether those excess costs were incurred during the course of the contract or as a result of termination.

(f) If the estimated cost specified in the Schedule is increased, any costs the Contractor incurs before the increase that are in excess of the previously estimated cost shall be allowable to the same extent as if incurred afterward, unless the Contracting Officer issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.

(g) Change orders shall not be considered an authorization to exceed the estimated cost to the Government specified in the Schedule, unless they contain a statement increasing the estimated cost.

(h) If this contract is terminated or the estimated cost is not increased, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract, based upon the share of costs incurred by each.

**I.91 52.232-22 LIMITATION OF FUNDS. (APR 1984)**

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

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

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

(d) Sixty days before the end of the period specified in the Schedule, the Contractor shall notify the Contracting Officer in writing of the estimated amount of additional funds, if any, required to continue

timely performance under the contract or for any further period specified in the Schedule or otherwise agreed upon, and when the funds will be required.

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) If the Government does not allot sufficient funds to allow completion of the work, the Contractor is entitled to a percentage of the fee specified in the Schedule equaling the percentage of completion of the work contemplated by this contract.

**I.92 52.233-3 PROTEST AFTER AWARD. (AUG 1996) - ALTERNATE I (JUN 1985)**

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

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Termination clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected and the contract shall be modified, in writing, accordingly, if -

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

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

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

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

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

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

**I.93 52.242-4 CERTIFICATION OF FINAL INDIRECT COSTS. (JAN 1997)**

(a) The Contractor shall -

(1) Certify any proposal to establish or modify final indirect cost rates;

(2) Use the format in paragraph (c) of this clause to certify; and

(3) Have the certificate signed by an individual of the Contractor's organization at a level no lower than a vice president or chief financial officer of the business segment of the Contractor that submits the proposal.

(b) Failure by the Contractor to submit a signed certificate, as described in this clause, may result in final indirect costs at rates unilaterally established by the Contracting Officer.

(c) The certificate of final indirect costs shall read as follows:

Certificate of Final Indirect Costs

This is to certify that I have reviewed this proposal to establish final indirect cost rates and to the best of my knowledge and belief:

- 1. All costs included in this proposal (identify proposal and date) to establish final indirect cost rates for (identify period covered by rate) are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) and its supplements applicable to the contracts to which the final indirect cost rates will apply; and
- 2. This proposal does not include any costs which are expressly unallowable under applicable cost principles of the FAR or its supplements.

Firm: \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Certifying Official: \_\_\_\_\_

Title: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

**I.94 52.243-2 CHANGES - COST-REIMBURSEMENT. (AUG 1987) - ALTERNATE I (APR 1984)**

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

- (1) Description of services to be performed.
- (2) Time of performance (*i.e.*, hours of the day, days of the week, etc.).
- (3) Place of performance of the services.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the Contracting Officer shall make an equitable adjustment in the -

- (1) Estimated cost, delivery or completion schedule, or both;
- (2) Amount of any fixed fee; and
- (3) Other affected terms and shall modify the contract accordingly.

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

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

(e) Notwithstanding the terms and conditions of paragraphs (a) and (b) above, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance of this contract, shall not be increased or considered to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. Until this modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point established in the Limitation of Cost or Limitation of Funds clause of this contract.

**I.95 52.245-5 GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS). (JUN 2003)**

(a) *Government-furnished property.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound business practice and the applicable provisions of FAR Subpart 45.5.

(3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot effect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph

(h) of this clause.

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

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

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

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

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

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

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

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

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

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

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

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

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



requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for its use in accordance with the provisions of the prime contract.

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

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

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

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

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

(6) The Contractor shall repair, renovate, and take such other action with respect to damaged Government property as the Contracting Officer directs. If the Government property is destroyed or damaged beyond practical repair, or is damaged and so commingled or combined with property of others (including the Contractor's) that separation is impractical, the Contractor may, with the approval of and subject to any conditions imposed by the Contracting Officer, sell such property for the account of the Government. Such sales may be made in order to minimize the loss to the Government, to permit the resumption of business, or to accomplish a similar purpose. The Contractor shall be entitled to an equitable adjustment in the contract price for the expenditures made in performing the obligations under this subparagraph (g)(6) in accordance with paragraph (h) of this clause. However, the Government may directly reimburse the loss and salvage organization for any of their charges. The Contracting Officer shall give due regard to the Contractor's liability under this paragraph (g) when making any such equitable adjustment.

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

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

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

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

for breach of contract for -

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

(i) *Final accounting and disposition of Government property.* Upon completing this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government property not consumed in performing this contract or delivered to the Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the cost of the work covered by this contract or paid to the Government as directed by the Contracting Officer. The foregoing provisions shall apply to scrap from Government property; provided, however, that the Contracting Officer may authorize or direct the Contractor to omit from such inventory schedules any scrap consisting of faulty castings or forgings or of cutting and processing waste, such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings, and remnants, and to dispose of such scrap in accordance with the Contractor's normal practice and account for it as a part of general overhead or other reimbursable costs in accordance with the Contractor's established accounting procedures.

(j) *Abandonment and restoration of Contractor premises.* Unless otherwise provided herein, the Government -

- (1) May abandon any Government property in place, at which time all obligations of the Government regarding such abandoned property shall cease; and
- (2) Has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (*e.g.*, abandonment, disposition upon completion of need, or contract completion). However, if the Government-furnished property (listed in the Schedule or specifications) is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.

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

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

**I.96 952.245-5 GOVERNMENT PROPERTY (COST REIMBURSEMENT, TIME-AND-MATERIALS, OR LABOR-HOUR CONTRACTS.)**

Modify FAR 52.245-5 by adding "and DOE Acquisition Regulation Subpart 945.5" after the reference to FAR Subpart 45.5 in paragraphs (e)(1) and (e)(2) of the clause.

**I.97 52.249-6 TERMINATION (COST-REIMBURSEMENT). (SEP 1996) - ALTERNATE II (SEP 1996)**

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

- (1) The Contracting Officer determines that a termination is in the Government's interest; or
- (2) The Contractor defaults in performing this contract and fails to cure the default within 10 days (unless extended by the Contracting Officer) after receiving a notice specifying the default. "Default" includes failure to make progress in the work so as to endanger performance.

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

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

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

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

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

(e) After expiration of the plant clearance period as defined in Subpart 45.6 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept the items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

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

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

(h) If the Contractor and the Contracting Officer fail to agree in whole or in part on the amount of costs and/or fee to be paid because of the termination of work, the Contracting Officer shall determine, on the basis of information available, the amount, if any, due the Contractor, and shall pay that amount, which shall include the following:

(1) All costs reimbursable under this contract, not previously paid, for the performance of this contract before the effective date of the termination, and those costs that may continue for a reasonable time with the approval of or as directed by the Contracting Officer; however, the Contractor shall discontinue those costs as rapidly as practicable.

(2) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (h)(1) of this clause.

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

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

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

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory. If the termination is for default, no amounts for the preparation of the Contractor's termination settlement proposal may be included.

(4) A portion of the fee payable under the contract, determined as follows:

(i) If the contract is terminated for the convenience of the Government, the settlement shall include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination proposals, less previous payments for fee.

(ii) If the contract is terminated for default, the total fee payable shall be such proportionate part of the fee as the total number of articles (or amount of services) delivered to and accepted by the Government is to the total number of articles (or amount of services) of a like kind required by the contract.

(5) If the settlement includes only fee, it will be determined under subparagraph (h)(4) of this clause.

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

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

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

(2) The amount finally determined on an appeal.

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

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

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

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

(l) The Contractor and Contracting Officer must agree to any equitable adjustment in fee for the continued portion of the contract when there is a partial termination. The Contracting Officer shall amend the contract to reflect the agreement.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(n) The provisions of this clause relating to fee are inapplicable if this contract does not include a fee.

**THE FOLLOWING CLAUSES PERTAIN ONLY TO FIXED-PRICED TASK ORDERS ISSUED AGAINST THIS CONTRACT. THESE ARE IN ADDITION TO ALL CLAUSES LISTED ABOVE IDENTIFIED TO PERTAIN TO ALL TYPES OF TASK ORDERS.**

**I.98 52.232-1 PAYMENTS. (APR 1984)**

The Government shall pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payment shall be made on partial deliveries accepted by the Government if -

- (a) The amount due on the deliveries warrants it; or
- (b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

**I.99 52.232-8 DISCOUNTS FOR PROMPT PAYMENT. (FEB 2002)**

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

**I.100 52.232-11 EXTRAS. (APR 1984)**

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefore have been authorized in writing by the Contracting Officer.

**I.101 52.233-3 PROTEST AFTER AWARD. (AUG 1996)**

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

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

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in

the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if -

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

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

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

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

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

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

**I.102 52.243-1 CHANGES - FIXED-PRICE. (AUG 1987) - ALTERNATE I (APR 1984)**

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

(1) Description of services to be performed.

(2) Time of performance (*i.e.*, hours of the day, days of the week, etc.).

(3) Place of performance of the services.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

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

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

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

**I.103 52.245-2 GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS). (JUN 2003)**

(a) *Government-furnished property.* (1) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the Government-furnished property described in the Schedule or specifications together with any related data and information that the Contractor may request and is reasonably required for the intended use of the property (hereinafter referred to as "Government-furnished property").

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

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

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

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

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

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

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

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

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

(3) Title to each item of facilities and special test equipment acquired by the Contractor for the Government under this contract shall pass to and vest in the Government when its use in



performing this contract commences or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.

(4) If this contract contains a provision directing the Contractor to purchase material for which the Government will reimburse the Contractor as a direct item of cost under this contract -

(i) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and

(ii) Title to all other material shall pass to and vest in the Government upon -

(A) Issuance of the material for use in contract performance;

(B) Commencement of processing of the material or its use in contract performance; or

(C) Reimbursement of the cost of the material by the Government, whichever occurs first.

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

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

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound industrial practice and the applicable provisions of Subpart 45.5 of the FAR.

(3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot effect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(4) The Contractor represents that the contract price does not include any amount for repairs or replacement for which the Government is responsible. Repair or replacement of property for which the Contractor is responsible shall be accomplished by the Contractor at its own expense.

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

(g) *Risk of loss.* Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or destruction of, or damage to, Government property upon its delivery to the Contractor or upon passage of title to the Government under paragraph (c) of this clause. However, the Contractor is not responsible for reasonable wear and tear to Government property or for Government property properly consumed in performing this contract.

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

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

(i) Final accounting and disposition of Government property. Upon completing this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government property (including any resulting scrap) not consumed in performing this contract or delivered to the Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to the Government as the Contracting Officer directs.

(j) *Abandonment and restoration of Contractor's premises.* Unless otherwise provided herein, the Government -

- (1) May abandon any Government property in place, at which time all obligations of the Government regarding such abandoned property shall cease; and
- (2) Has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (*e.g.*, abandonment, disposition upon completion of need, or upon contract completion). However, if the Government-furnished property (listed in the Schedule or specifications) is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.

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

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

#### **I.104 952.245-2 GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS)**

Modify FAR 52.245-2 by adding "and the DOE Acquisition Regulation Subpart 945.5," after the reference to FAR Subpart 45.5 in the first sentence of paragraphs (e)(1) and (e)(2) of the clause.

#### **I.105 52.249-1 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SHORT FORM). (APR 1984)**

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the rights, duties, and obligations of the parties, including compensation to the Contractor, shall be in accordance with Part 49 of the Federal Acquisition Regulation in effect on the date of this contract.

#### **I.106 52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE). (APR 1984)**

(a)(1) The Government may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to -

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see subparagraph (a)(2) of this clause); or

(iii) Perform any of the other provisions of this contract (but see subparagraph (a)(2) of this clause).

(2) The Government's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Government for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

**SECTION J - LIST OF ATTACHMENTS****J.1 LIST OF ATTACHMENTS (MAR 1999)**

ATTACHMENT	DESCRIPTION	PAGES
A	Statement of Work	141 - 161
B	Reporting Requirements	162 - 173
C	Performance Evaluation Plan	174 - 197
D	Department of Labor Wage Determination	198 - Separate file
E	Cost Management Report / Staffing Summary Report Invoice Detail Report	199 - Separate file
F	Position Descriptions	200 - Separate file
G	Contract Organization Chart	201 - Separate file

## **J.2 ATTACHMENT A - STATEMENT OF WORK (MAR 1999)**

### **STATEMENT OF WORK/PERFORMANCE WORK STATEMENT**

#### **INFORMATION TECHNOLOGY AND ENGINEERING SUPPORT (ITES) SERVICES FOR THE NATIONAL ENERGY TECHNOLOGY LABORATORY (NETL)**

The following format has been used for this statement of work:

- 1.0 Introduction
- 2.0 Scope
- 3.0 Applicable Documents
- 4.0 Service Areas/Performance Requirements/Necessary Conditions
- 5.0 Notes/Guidance
- 6.0 Glossary

### **1.0 Introduction**

#### **1.1 NETL Background**

The National Energy Technology Laboratory (NETL) is a multi-purpose national laboratory, owned and operated by the U.S. Department of Energy (DOE). The NETL implements research and development (R&D) programs to advance energy and energy-related environmental technology. The DOE Assistant Secretary for Fossil Energy is the NETL's Lead Program Secretarial Officer. The greatest portion of funding to NETL comes from DOE's Office of Fossil Energy; the remainder, about 10%, comes from other DOE programs, e.g., the Office of Energy Efficiency and Renewable Energy, as well as other federal agencies.

NETL is the only national laboratory within the DOE complex that is Government-owned and operated (GOGO). NETL employees conduct various functions, including performing in-house research and development activities, implementing contracted R&D efforts, performing analysis to support policy development, and establishing partnerships through licensing and CRADA activities. NETL has the authorities of a DOE operations office integrated with the implementing functions typically conducted by DOE Management and Operating (M&O) Contractors. Approximately 590 federal employees work on-site at NETL. The staff also includes approximately 550 Contractor employees which support NETL's activities.

#### **1.2 NETL Mission**

The primary mission of NETL is to conduct and implement science and technology programs to resolve the environmental, supply, and reliability constraints of producing and using fossil resources. This work is segmented according to coal, oil, and gas programs. Additional information on NETL's R&D programs can be found at [www.netl.doe.gov](http://www.netl.doe.gov).

The NETL vision is to be the preferred provider of energy technology and policy options that benefit the public. To do this the laboratory will strive to:

- Become a world-class institution noted for the advancement of energy science and technology by attracting leading researchers and establishing state-of-the-art facilities.
- Create a research environment that fosters multi-disciplinary collaboration and the generation of innovations with the potential for major improvements in the cost, environmental performance, and reliability of energy services.
- Be recognized for addressing energy and environmental issues through partnerships with research institutions, the private sector, and Government agencies.
- Promote economic development through supporting the commercialization of technology, building an educated workforce, and establishing strong collaborations with academic institutions and businesses.

#### **1.3 Goals of This Contract**

### 1.3.1 Background

The cornerstone of the current Information Technology (IT) support services contract provides support for the day-to-day operation of NETL computer facilities and other computing resources, including servers, networks, telephone, video teleconferencing, desktop computers, peripherals, technical support for the end users, and software engineering. Since the inception of the existing contract, NETL has experienced a dramatic expansion of requirements and services that are classified as IT engineering. Activities within this arena require a strategic and systematic approach to solution development, require knowledge of Enterprise Architecture methodologies, and often have a focus on analyzing evolving technologies, system design, and infusion of new technologies into the NETL IT infrastructure.

Factors driving these requirements include:

- The President's Management Agenda which includes expanded electronic Government initiatives with emphasis on citizen-centered electronic Government.
- In the aftermath of 9/11 terrorist attacks, all federal installations have had to comply with an increasing number of directives related to cyber security.
- The Clinger-Cohen Act requires that federal organizations have robust processes in place that provide a framework for selection, management and control of IT investments. NETL has established an Enterprise Architecture (EA) Team and developed an EA Investment Management Process, to govern its IT investment.
- NETL has adopted a 3-year planning cycle designed to identify and implement IT strategic initiatives that support the labs' requirements with a major focus on enabling technologies that facilitate deployment of DOE-wide E-Government initiatives.

### 1.3.2 Goals

A goal of this contract is to acquire the ability to be responsive to these new requirements and to quickly respond to the ever-changing requirements of the complex IT environment. The expectation is that this contract will facilitate access to a cadre of requisite experience, skills, and personnel to plan and implement a new requirement over a limited time span and augment the core contract personnel with specialized skills necessary to design and deploy new technologies and solutions. With this goal achieved, activities such as the following will be easily accommodated: Technology focused feasibility studies, process re-engineering, business analysis, systems analysis, system design, enterprise architecture, software development at increasingly higher levels of the Software Engineering Institute/Capability Maturity Model, preparation of technical specifications related to acquisition of hardware and software, deployment of complex rapidly developing new technologies into the existing IT environment, risk assessments, electronic data interchange, electronic commerce and E-Government, knowledge management, and infusion of new cyber security technologies.

Another goal of this contract is to move to an overarching project management approach to ensure that:

- Requirements are satisfied
- Costs are controlled
- Schedules are met
- Return on Investment (ROI) is maximized
- Business objectives are attained

An additional goal of the contract is to continue to support the day-to-day operation of NETL computer facilities and other computing resources.

## 2.0 Scope

### 2.1 Types of Services

Services shall cover the full breadth of information technology support essential for a multi-location, multi-function, United States national laboratory. The types of services include, but are not limited to, the following:

- Maintenance and Operations
  - Cyber Security
  - Computer Facility Operations (Client Server) Support
  - Desk Top (End User) Support
  - Telecommunications Services
  - Networks (Data Services)
  - Client Systems Engineering
- Enterprise Engineering
  - Enterprise Architecture Support
  - Enterprise Systems Development and Maintenance
    - Enterprise Systems - ESD
    - Enterprise Systems – CHRIS
    - Enterprise Systems – CBT
- Information Technology Variable Engineering Task
- Management and Oversight

## **2.2 Resources**

### **2.2.1 Contractor-Furnished Resources**

The Contractor shall furnish all personnel, facilities, equipment, materials and supplies necessary to perform the work under this contract, except for that specifically identified as being provided by the Government in Section 2.2.2.

### **2.2.2 Government-Furnished Resources**

The resources to be furnished by the Government for use in accomplishing the work under this contract can be viewed during the solicitation phase of this acquisition in the electronic reading room located at <http://www.netl.doe.gov/business/solicit/ssc2003/> and are governed by Clause H.4 “Government Property and Data” in Section H of this contract.

## **2.3 Core Work and Variable Work**

IT tasks will consist of either core work or variable work. These types of work will differ by their required duration, their resource commitment/location, or their frequency.

### **2.3.1 Core Work**

Core work consists of tasks that are ongoing or frequently conducted. Core work will be conducted using personnel located on-site at an NETL location. Core work may be conducted using personnel located off-site subject to Contracting Officer Representative’s (COR) approval.

### **2.3.2 Variable Work**

Variable work will be defined and funded as required and supplements core work on an as needed basis. Variable work may require specialized skills or additional resources.

## **3.0 Applicable Documents**

The following documents are referenced in this statement of work. This list is not intended to be an exhaustive list.

Clinger-Cohen Act  
 The President’s Management Agenda  
 EA Investment Management Process  
 National Institute of Standards and Technology (NIST) Standards

#### **4.0 Necessary Conditions/Service Areas/Performance Requirements**

The work to be accomplished under this statement of work is identified under individual service areas or as necessary conditions. The work is described through the use of performance requirements.

#### **4.1 General Necessary Conditions**

Some requirements are supplemental to or supportive of the accomplishment of the performance requirements. These requirements are identified as Necessary Conditions. These conditions, while they may not be accompanied by measures and expectations, must be satisfied for the Contractor to attain maximum eligible fee. The following necessary conditions apply to all of the work identified under this statement of work.

##### **NECESSARY CONDITION No. 4.1.1 – Access Security**

The Contractor shall ensure access security (administrative and configuration) to NETL IT systems. Ensure that only authorized individuals have knowledge of such passwords and accounts.

##### **NECESSARY CONDITION No. 4.1.2 – Billing Disputes**

The Contractor shall review 3<sup>rd</sup> party IT vendor invoices and resolve billing disputes for the Government and ITES related purchases.

##### **NECESSARY CONDITION No. 4.1.3 – Certification and Accreditation**

The Contractor shall conduct scheduled and as-needed risk assessments, vulnerability assessments, certifications, and accreditations of NETL's systems and applications in accordance with DOE regulations.

##### **NECESSARY CONDITION No. 4.1.4 – Contingency Plans**

The Contractor shall develop and maintain contingency plans for all IT services, systems and major applications supported through this contract unless specifically excluded by the COR.

##### **NECESSARY CONDITION No. 4.1.5 – Drawings and Documentation**

The Contractor shall prepare and maintain any operational drawings, technical architecture as-built drawings, and diagrams that facilitate the documentation and understanding of NETL processes and/or systems.

##### **NECESSARY CONDITION No. 4.1.6 – Information Technology Change Process**

The Contractor shall actively participate in the Information Technology Change Control process. This includes, but is not limited to, consulting with others to determine the impact on NETL's environment, preparing and submitting change requests, implementing approved change requests in accordance with the guidance provided by the Configuration Control Board, developing and maintaining supporting documentation, adhering to the change control processes in effect, reviewing the processes in effect and recommending improvements, and participating in Configuration Control Board meetings as needed.

##### **NECESSARY CONDITION No. 4.1.7 – Information Technology Solutions**

The Contractor shall inform users accurately and expediently regarding the application of IT to solve their information needs.

##### **NECESSARY CONDITION No. 4.1.8 – IT Procurement Support**

The Contractor shall provide IT procurement support to include, but not be limited to, development of specifications to meet defined requirements, preparing IT procurement requests, performing advance IT market surveys to determine cost estimates for various initiatives and identify most favorable pricing sources.

##### **NECESSARY CONDITION No. 4.1.9 – IT Systems Changes/Enhancements**

The Contractor shall proactively recommend changes and/or enhancements to IT systems to provide better efficiency, productivity, stability, and/or cost savings.

##### **NECESSARY CONDITION No. 4.1.10 – Maintenance Agreement Support**

The Contractor shall provide IT resource (hardware, software, copiers, and FAX equipment) maintenance agreement support to include, but not be limited to, notifying the associated ITD Functional Lead of any maintenance



agreements or software licenses that will expire within 60 days prior to the expiration date and submit the purchase requisition to the Government procurement system for renewal at least 45 days prior to the expiration date; coordination of review of maintenance agreements (to ensure requirements of coverage are met); coordination of site visits to perform maintenance by external providers; coordination of return to vendor for repair, items that are not covered by onsite maintenance agreements; and coordination of repair of items not covered by maintenance agreement as required.

**NECESSARY CONDITION No. 4.1.11 – Measure Performance and Results**

The Contractor shall recommend and implement methods to measure performance and results, including customer satisfaction.

**NECESSARY CONDITION No. 4.1.12 – Meeting Participation**

The Contractor shall actively and fully participate in meetings associated with the effort defined in this performance work statement. Active and full participation includes meeting preparation, meeting attendance, verbal participation, and completion of resulting action items within the assigned due date.

**NECESSARY CONDITION No. 4.1.13 – Policy and Procedure Support**

The Contractor shall provide support in the design, development, implementation, and maintenance of information technology policies and procedures commensurate with federal regulations and available technology.

**NECESSARY CONDITION No. 4.1.14 – Project Management**

The Contractor shall provide a consolidated and overarching project management function that is responsible for: ensuring project plans, including resource requirements and projected costs, are developed for each project; managing the interaction and coordination of resources; meeting all project schedules; maintaining and communicating comprehensive project plans and schedules; ensuring cost and resource projections are not exceeded; and ensuring effective communication of efforts and activities.

**NECESSARY CONDITION No. 4.1.15 – Qualified Personnel**

All work performed through this contract shall be carried out by personnel who are fully qualified to perform the effort described herein.

**NECESSARY CONDITION No. 4.1.16 – Software License Management**

The Contractor shall provide software license management support to include, but not be limited to, tracking license distribution, ensuring adequate license coverage by informing the appropriate ITD Functional Lead when available licenses are nearly exhausted, interpreting license agreements, seeking alternative licensing vehicles/pricing, performing research for licensing initiatives, collection of information necessary to respond to internal and external licensing audits, verifying license upgrade conditions are met, tagging software media using Government issued labels, tracking software licenses using the Government property management system, and retiring and disposing of excess license materials (in conjunction with the Government property management function).

**NECESSARY CONDITION No. 4.1.17 – Standard Operating Procedures**

The Contractor shall perform all assigned functions/activities using standard operating procedures (SOPs) that combine the contractor's corporate experience and standards with NETL's existing processes. The operating procedures shall be documented, configuration controlled, and all staff shall be trained to adhere to them.

**NECESSARY CONDITION No. 4.1.18 – State of the Art Technologies**

The Contractor shall research, review, evaluate, issue white papers, and provide recommendations regarding new and emerging state-of-the art IT technologies for their potential impact to the operating environment of NETL. If approved for implementation, recommend a plan for the appropriate integration into the NETL infrastructure.

**NECESSARY CONDITION No. 4.1.19 – Strategic/Operational Plans**

The Contractor shall participate in the development of strategic and operational plans for the future direction of IT activities.

**NECESSARY CONDITION No. 4.1.20 – Submission of Reports**

The Contractor shall ensure that all required reports and invoices are submitted on time, are error free, and of high quality.

**NECESSARY CONDITION No. 4.1.21 – System Auditing**

The Contractor shall periodically audit all systems and applications for compliance with policies, standards and baselines.

**NECESSARY CONDITION No. 4.1.22 – Uniform Delivery of Services**

NETL, although dispersed geographically, functions as a single organization from both a managerial and technical infrastructure perspective. All IT services provided on-site at any NETL office shall be delivered in a uniform and consistent manner.

**NECESSARY CONDITION No. 4.1.23 – Focused Standards List**

The Contractor shall adhere to all pertinent NETL Focused Standards as indicated in the Focused Standards List. The Focused Standards List can be viewed on the Internet in the established electronic reading room, during the solicitation phase, at <http://www.netl.doe.gov/business/solicit/ssc2003/index.html> , and on the Intranet, after contract award, at <http://intranet/project/ESHINFO/standard/focused.pdf> . This Focused Standards List has been primarily derived from selected Standard References contained in NETL issued directives. This list is the totality of ES&H standards and requirements that (through analysis of specific operations) apply to NETL's operations. It should not be construed that all of the standards on the list would be applicable to operations required under this solicitation.

**4.2 Service Area - OVERSIGHT AND LOGISTICS**

The Contractor shall provide an overarching management function that will ensure effectiveness, efficiency, and synergy of the effort performed under this contract. The Contractor shall do the following, but not be limited to:

- A. Provide logistics support for, but not limited to, Enterprise Architecture (EA) Team, Configuration Control Board (CCB), Architecture Control and Implementation Board (ACIB), and planning activities. Logistics support includes ,but is not limited to, meeting coordination; action item tracking; meeting content documentation; change control administration; and the creation, collection, and distribution of meeting support materials.
- B. Provide user communication support to include, but not be limited to, maintaining the ITD Intranet Tips and Tricks information, developing user help aids, coordinating the development and subsequent publishing of Intranet postings, and maintaining ITD Intranet web pages (content and appearance).
- C. Provide organizational reporting support to include, but not be limited to, the gathering and compilation of information for Office of Management and Budget submissions and other Departmental or Government-wide calls for information, gathering and assembling information for NETL weekly report submission, and gathering and assembling information to support the publishing and maintenance of high level metrics.
- D. Provide Information Technology Division (ITD) property tracking support to include, but not be limited to, tagging of IT hardware (when required), generation of ad hoc reports from the Government property management system to support reporting requirements and analyses, documenting IT property moves, and reconciliation of IT property inventories.

**REPORTS:**

- 1) ITD Weekly Report
- 2) High Level Metrics Monthly Report
- 3) CCB Meeting Minutes Report (to be completed within 5 business days of event)
- 4) CCB Request Status Report (to be completed in advance of a scheduled meeting)
- 5) ACIB Meeting Minutes Report (to be completed within 3 business days of event)
- 6) EA Team Meeting Minutes Report (to be completed within 3 business days of event)

- 7) Ad hoc Property Reports (to be completed within 5 business days of request)
- 8) Maintenance Coverage Status Monthly Report
- 9) Technology Forecast Quarterly Report
- 10) IT Procedure Status Quarterly Report
- 11) Master Project Schedule Bi-Weekly Report
- 12) Annual Travel and Training Plan

#### **Performance Standards**

The Performance Measures will be defined in the Performance Evaluation Plan (PEP). The measures will be established to cover Quality, Timeliness, and/or Cost.

#### **Performance Measures/Expectations**

The Performance Measures/Expectations for this service area are identified in the Performance Evaluation Plan (PEP). Measures are rated on a scale from Excellent to Poor. Expectations are for all standards to be performed satisfactorily.

### **4.3 Service Area - MAINTENANCE AND OPERATIONS**

#### **4.3.1 Sub-Service Area - CYBER SECURITY**

Cyber security provides support for NETL's unclassified network infrastructure to ensure a safe and secure environment for the network and all of its components. The Contractor shall, in the event of a change in the security of all or part of NETL's network, expand the support to provide staff capable of operating in a classified environment. Specific objectives of cyber security will include, but not be limited to:

- A. Provide engineering support to address cyber threats and the increasing number of regulations related to cyber security. This involves: investigating biometric identification for stronger authentication, new methods of network intrusion detection, virus shields, digital signatures, and public key technologies for infusion into the NETL IT environment in support of the President's E-Government initiatives and lab requirements.
- B. Work closely with all internal and external entities to ensure compliance with cyber security "best practices" for the: identification of critical information, analysis of threats, analysis of vulnerabilities, assessment of risks, and application of countermeasures.
- C. Operate and administer NETL's key cyber-security infrastructure including: firewalls, intrusion detection systems, content filtering/monitoring, vulnerability assessment tools, file integrity monitoring, centralized log store, and other network/system monitoring tools.
- D. Maintain a 24/7/365 cyber incident monitoring and response capability. To include: 24/7/365 monitoring of firewall and intrusion detection systems and formal documentation and escalation of incidents.
- E. Maintain a cyber security incident response team composed of members capable of quickly responding to an escalated incident.
- F. Coordinate incident responses with proper internal, external, law enforcement, and contract authorities.
- G. Produce and maintain standard baselines and procedures for secure configuration of NETL standardized operating systems.
- H. Administer and maintain and/or produce and/or acquire cyber security related training materials. Conduct cyber security training utilizing training materials acquired or developed.
- I. As part of routine or special request operations investigate, document, and report incidents of waste, fraud, and abuse of information technology resources.
- J. Conduct special projects involving evaluation, development, and application of information security technology, plans, policies, and procedures.

**REPORTS:**

## CYBER incident report (CIAC)

## Firewall usage and demographic reports (monthly)

- What services are being used
- Type of traffic
- Quality of service

## Intrusion detection system reports (monthly)

- Events that are detected
- Type of events detected
- Trend analysis

## Anti virus reports (monthly)

- What viruses are detected
- Actions taken
- Quantity and summary reports

## Border scanning reports (monthly)

- What is detected, when detected, and volume
- Blocking analysis and details
- Activity and usage reports by user(s) and category
- Activity reports by category (type of site) and time of access
- Browse time reports by user(s) and category
- Connection and bandwidth reports by user(s) and category

## Audit reports (monthly)

- Progress on all projects
- Log auditing activities
- CIAC notices and actions taken/completed
- Vulnerability scans and analysis

## Policy and procedure reporting

- Quarterly report of all remote access accounts
- Monthly report of all accounts terminated for lack of use, termination of employee, abuse of accounts, etc.
- Quarterly report of all employees that have administrative level access and a copy of all system level privileges forms signed during this period.
- Report on any major modification or additions of general support systems or major applications.
- Quarterly report of reviews of system logs.
- Monthly report of all irregularities found during the review of system logs.
- Quarterly report on employees with computer facility access.

## Investigations or security reports

- Ad-hoc on investigations or security concerns

**Performance Standards**

The Performance Measures will be defined in the Performance Evaluation Plan (PEP). The measures will be established to cover Quality, Timeliness, and/or Cost.

**Performance Measures/Expectations**

The Performance Measures/Expectations for this service area are identified in the Performance Evaluation Plan (PEP). Measures are rated on a scale from Excellent to Poor. Expectations are for all standards to be performed satisfactorily.

#### **4.3.2 Sub-Service Area - COMPUTER FACILITY OPERATIONS (CLIENT SERVER) SUPPORT**

The Contractor shall provide the necessary supervision and labor to support the operation of the NETL computer facilities and other computing resources; and provide analytical, technical, administrative, and engineering support for the connection of desktop computers, mini-computers, servers (file, data base, and application), peripherals, workstations, and other devices into the NETL local, metropolitan, and wide area network(s) within and outside of NETL. The Contractor shall rigorously attempt to achieve 100% availability for all of NETL's IT services and computing resources and do the following, but not limited to:

- A. Monitor all computer facility computer systems to ensure maximum availability of the IT services they provide. Upon detection of computer system problems or failures, perform remedial actions to restore the associated IT services.
- B. Run and technically support production jobs in accordance with defined schedules and in compliance with current policies and procedures. This support includes, but is not limited to, hardware maintenance, software maintenance, and performing data base maintenance procedures including data base backups and restores.
- C. Operate and maintain the hardware and operating system software for all WEB, database, file, print, and application servers, as well as, firewalls, network monitoring systems, and email systems.
- D. Perform NetWare, Windows, and UNIX server backups to provide for system restoration, file and database recovery, and disaster recovery.
- E. Recover, reload, and restore files, server volumes, and databases as required to provide timely user access to required data.
- F. Develop, maintain, and test each calendar year a Disaster Recovery Plan for the NETL computer facilities and the networks. The Contractor will certify to, and receive documented approval from, the designated ITD representative that the test was satisfactorily completed.
- G. Conduct a comprehensive preventive maintenance (PM) program for NETL's hardware and software. These PM activities shall be developed and implemented in a manner consistent with industry standards and guidelines, and manufacturer-recommended maintenance schedules. It will be necessary that the method utilized in performing PM activities ensures the impact upon the NETL staff is kept at a minimum level. A yearly PM schedule is to be published to all NETL employees allowing adequate mission planning during planned service outages.
- H. Provide technical support for operation and maintenance of NETL's collaborative messaging system (mailbox, calendar, scheduling, and integrated document managing). Operate and maintain both inbound and outbound Internet e-mail services for all NETL desktop computers and workstations connecting to the NETL Network. Operate and maintain web-based e-mail services.
- I. The Contractor shall provide resource utilization and capacity planning support. This should include but not be limited to baselining utilization of server resources (CPU, memory, storage space, backup capacity), monitoring of the server resources to identify utilization/consumption trends, and projecting when resource utilization/consumption will be such that delivery of services by the servers falls below acceptable performance levels. The Contractor shall provide recommendations for server and server component (hardware and software) replacement, upgrade, enhancement to prevent allowing the delivery of services provided by the servers to fall below acceptable levels.

#### **REPORTS:**

- 1) Server Virus Signature Level Weekly Report
- 2) Tape Backup Daily (business) Report
- 3) Server Uptime Monthly Report

- 4) Disk Space Utilization Daily (business) Report
- 5) Data Restore Summary Weekly Report
- 6) Service Interruption Reports (to be completed within 1 business days of event)
- 7) Preventive Maintenance Summary Report
- 8) Completed Tape Restore Checklists (to be provided within 1 business days of event)
- 9) Annual Disaster Recovery Plan, test results, and corrective action

#### **Performance Standards**

The Performance Measures will be defined in the Performance Evaluation Plan (PEP). The measures will be established to cover Quality, Timeliness, and/or Cost.

#### **Performance Measures/Expectations**

The Performance Measures/Expectations for this service area are identified in the Performance Evaluation Plan (PEP). Measures are rated on a scale from Excellent to Poor. Expectations are for all standards to be performed satisfactorily.

### **4.3.3 Sub-Service Area - DESKTOP (END USER) SUPPORT**

The Contractor shall provide technical and administrative support for the operation, installation and maintenance of existing, new, and upgraded software and hardware for NETL's client (end user) community. The hardware and software can include, but are not limited to, desktop and laptop computers, scientific workstations, terminals (connected to a host), PDAs, handheld computers, printers, modems, network interface cards, disk drives, memory, COTS, custom software, operating systems, etc.

The Contractor shall operate an on-site helpdesk, during standard hours of operation, with a technical knowledgeable, courteous, and responsive staff. The role of the Helpdesk will be to resolve questions concerning the application software, hardware, and network access used at NETL; log and track requests for resolution of hardware, software, and network access problems; and handle installation, maintenance, and repair/replacement of hardware and software applicable to end users. The Contractor's responsibilities shall include, but are not limited to, providing the following support for desktop and general computing services:

- A. Record and assign all support calls to the NETL Helpdesk. Track all client, network, application, and information technology system problems and/or repairs.
- B. Quickly respond and resolve client hardware and software problems by phone to the maximum extent possible and at the client station when required. Users and Functional Leads shall be kept informed on the progress of the action.
- C. Provide on-site repairs for desktop computers, printers, monitors, and other peripherals. Repairs will consist primarily of component replacement. Complex repairs will be accomplished off-site by a Government-designated vendor. The Contractor will track equipment repaired off-site to ensure that work is done in a timely manner.
- D. Manage a spare-parts inventory for computers, communications equipment, and peripheral components to minimize equipment repair time. Parts, supplies, and equipment required for on-site repairs will be purchased by the Government as requested by the Contractor.
- E. Coordinate and support the installation, service, technical consulting, and repair of desktop computers, printers, terminals, workstations, and other computing resources.
- F. Maintain and operate a central repository for providing, maintaining, and managing a "loaner pool" of laptop computers, replacement desktop computers, cell phones, and pagers.
- G. Develop and maintain user help guides, as required. Develop and conduct user training of supported hardware and software based on guidance from the IT Division.
- H. Notify users and key NETL personnel of planned and unplanned outages of systems, networks, and other major components.

- I. Maintain a detailed inventory of user assigned, and ITD issued, desktop equipment, e.g., workstations, printers, scanners, external CD-RW, external DVD, PDAs, etc.
- J. The Contractor shall prepare project plans, including resource requirements and projected cost. Maintain project plans and report on assigned initiatives and scheduled milestones to ensure that cost and resource projections are not exceeded.

#### **REPORTS:**

- 1) Weekly report of all overdue HEAT tickets.
- 2) Monthly voice mail report for the Helpdesk.
- 3) Monthly HEAT call volume report.

#### **Performance Standards**

The Performance Measures will be defined in the Performance Evaluation Plan (PEP). The measures will be established to cover Quality, Timeliness, and/or Cost.

#### **Performance Measures/Expectations**

The Performance Measures/Expectations for this service area are identified in the Performance Evaluation Plan (PEP). Measures are rated on a scale from Excellent to Poor. Expectations are for all standards to be performed satisfactorily.

#### **4.3.4 Sub-Service Area - TELECOMMUNICATIONS SERVICES**

The Contractor shall provide management and technical support for NETL's telecommunications systems including teleconferencing, voice, voice mail, cellular, paging, radio frequency services, video telecommunications conferencing, satellite television, cable television, and conference room audio/visual systems. The Contractor shall:

- A. Provide management of NETL's telecommunications services during standard hours of operation to ensure requests for services, service changes, maintenance, and service disconnects are addressed within established NETL guidelines.
- B. Provide Moves, Adds, and Changes of phone service at the PBX, communication closet, internal circuit and handset levels.
- C. Provide problem resolution, including, but not limited to, identify problems, troubleshoot and repair voice and data telecommunications circuits, coordination of repair of telecommunications equipment, site visits to perform maintenance by external providers, the return of equipment to vendor for repair and tracking of equipment being repaired.
- D. Perform remedial maintenance, as required, and periodic preventive maintenance on NETL's voice communications cable plant.
- E. Work with commercial vendors or other service providers (e.g., NIOSH), to resolve installation, performance and service disconnect issues in a timely manner.
- F. Manage and maintain NETL's voice messaging systems, including, but not limited to, system configuration, mailbox configuration, add/delete/change voice mailbox configurations, and maintain documentation of system/mailbox configurations. Regularly audit voice mail accounts to ensure voice mail assignments are current, accurate and comply with federal regulations.
- G. Design, maintain, upgrade, test, and perform system integration for NETL non-secure video teleconferencing systems (e.g. room, desktop, etc), facilities, and networks.

- H. Maintain NETL's conference facility audio/visual systems, satellite and cable television systems. Test, diagnose and repair performance problems.
- I. Coordinate the disconnection of services when needed. This will include, but not be limited to, cellular services, paging services, dialup and broadband internet services, and local phone services.
- J. Coordinate the assignment of telecommunications equipment to NETL staff, maintain electronic records of equipment using the NETL property system. Maintain records of equipment repairs, failures, status, history, and other information.
- K. Coordinate the procurement of new approved services through Government agencies (e.g. GSA), prepare and submit service requests, develop implementation schedules, track schedules, and update telecommunications system documentation.
- L. Review invoices from commercial and Government agencies for telecommunications services, review usage, and verify charges. Notify DOE staff when usage or charges exceed established criteria.
- M. Plan, submit for approval, and implement changes to NETL's voice network architecture and infrastructure.
- N. Coordinate the use of assigned radio frequencies. Maintain documentation of assigned radio frequencies, system users and equipment.
- O. Coordinate the renewal of assigned radio frequency authorizations and the submission of applications for new radio frequency authorizations.
- P. Provide second level support to answer end user questions on the operation of telecommunications systems.
- Q. Coordinate the assignment of DOE provided calling cards. Maintain electronic records of call card assignments. Submit requests for new calling cards, calling card service changes and calling card cancellations to the designated DOE staff.
- R. Manage a spare-parts inventory for telecommunications equipment, and peripheral components to minimize equipment repair time. Parts, supplies, and equipment required for on-site repairs will be purchased by the Government as requested by the Contractor.
- S. Provide resource utilization and capacity planning support. This should include but not be limited to baselining utilization of telecommunications services (e.g. PBX trunk utilization), shared hardware usage (e.g. voicemail port usage), and hardware availability (e.g. PBX analog and digital port availability,); identify utilization trends; and project when resource utilization/assignment will cause the availability of services to fall below acceptable performance levels. The Contractor shall provide recommendations for equipment and service replacement, upgrade, enhancement to prevent allowing the delivery of services to fall below acceptable levels.

**REPORTS:**

- 1) Monthly:
  - a) Telecommunications expenses – for each month of the current FY, listed by location showing service provider and service type. Expenses to be shown by month with year-to-date cumulative totals.
  - b) Video Conferencing Usage – For each month of the current FY, showing, showing each systems usage, total calls and total number of hours.
- 2) For each month of the current FY, with cumulative yearly totals:
  - a) Status and count of new repair calls.
  - b) Status and count of new service requests.
  - c) Status and count of new MAC requests.
  - d) Status and count of all open overdue repair, MAC and new service requests.
- 3) For each month of the current FY:
  - a) Status, count, system down time and resolution of all incidents affecting voice mail services.



- b) Status, count, system down time and resolution of all incidents affecting voice services to 16 stations or more.
- c) Status, count, system down time and resolution of all incidents affecting video conferencing services.
- 4) Monthly status of telecommunications projects. Report should describe current status, show planned versus actual schedule, show planned versus actual cost and identify potential cost and schedule issues.
- 5) Weekly status reports.
- 6) Monthly cell phone usage reports.

#### **Performance Standards**

The Performance Measures will be defined in the Performance Evaluation Plan (PEP). The measures will be established to cover Quality, Timeliness, and/or Cost.

#### **Performance Measures/Expectations**

The Performance Measures/Expectations for this service area are identified in the Performance Evaluation Plan (PEP). Measures are rated on a scale from Excellent to Poor. Expectations are for all standards to be performed satisfactorily.

### **4.3.5 Sub-Service Area - NETWORKS (DATA SERVICES)**

The Contractor shall provide technical support in the design, operation, upgrading, re-configuration, and selection of NETL network components, automated switched voice/data (Information Exchange) systems, and cable facilities. The Contractor shall:

- A. Provide engineering and technical support in the design, development, implementation, and maintenance of facilities, services, topologies, network protocols, network architecture, and equipment such as, but not limited to, fiber optic cable, Ethernet, FDDI (Fiber Distribution Data Interface), SONET (Synchronous Optical Network), ISDN (Integrated Services Digital Network), Asynchronous Transfer Mode (ATM), Frame Relay, packet switching networks, and connectivity elements of the networks (such as bridges, routers, hubs, and switches).
- B. Perform remedial maintenance, as required, and periodic preventive maintenance on NETL's data communications cable plant.
- C. Install, move, configure, maintain, monitor performance, test, diagnose, and resolve problems for all network hardware and software components.
- D. Install, maintain, update and operate software for network and/or network security.
- E. Coordinate circuit implementation and performance of communication networks with commercial vendors or other providers (e.g., NIOSH), resolve substandard communications performance in a timely manner, analyze hardware and software, and develop conceptual designs.
- F. Develop and implement network engineering contingency and evaluation plans.
- G. Update and maintain network engineering and operation documentation.
- H. Plan, implement and maintain a Network Management Control Center (NMCC). Determine requirements for, and implement, Network Management tools, and monitor all Admin LAN communication devices using these tools.
- I. Design, develop, document, implement, and maintain NETL's future and existing network infrastructure. Including: internet protocol coordination, domain name services (DNS), dynamic host configuration protocol (DHCP), and Public Key infrastructure (PKI).
- J. The Contractor shall provide resource utilization and capacity planning support. This will include, but not be limited to, baselining utilization of network resources, monitoring of network resources to identify utilization/consumption trends, and projecting when resource utilization/consumption will be such that delivery

of network services falls below acceptable performance levels. The Contractor shall provide recommendations for network component (hardware, software, service) replacement, upgrade, and enhancement to prevent allowing the network service performance to fall below the acceptable levels.

#### **REPORTS:**

- 1) Monthly:
  - a) Outage data for Network services – date/time outage reported, date/time service restored, corrective actions, and number of users affected.
- 2) For each month of the current FY, with cumulative yearly totals:
  - a) Count of new maintenance requests.
  - b) Count of new service change requests.
  - c) Status and count of all requests not completed with established time frame.
- 3) Monthly status of Network projects. Report should describe current status, show planned versus actual schedule, show planned versus actual cost and identify potential cost and schedule issues.
- 4) Weekly status reports.

#### **Performance Standards**

The Performance Measures will be defined in the Performance Evaluation Plan (PEP). The measures will be established to cover Quality, Timeliness, and/or Cost.

#### **Performance Measures/Expectations**

The Performance Measures/Expectations for this service area are identified in the Performance Evaluation Plan (PEP). Measures are rated on a scale from Excellent to Poor. Expectations are for all standards to be performed satisfactorily.

#### **4.3.6 Sub-Service Area - CLIENT SYSTEMS ENGINEERING**

The Contractor shall provide the necessary supervision and labor to support the operation of NETL client systems; provide analytical, technical, administrative, and engineering support for the connection of desktop computers, mini-computers, workstations, PDAs, handheld computers and other devices into the NETL local, metropolitan, and wide area network(s) within and outside of NETL. The Contractor shall provide necessary supervision and labor to support the design, deployment, configuration, integration, and maintenance of NETL client systems. This includes configuration and deployment of administrative computing software/applications to individual desktops.

- A. Develop complete, reliable, networked client systems through the integration of computing hardware, client operating systems, network operating systems, and application software.
- B. Design, develop, and maintain configurations for a variety of client computing systems, such as workstations, laptops, and handheld computers. This includes the configuration, integration, and support for a variety of peripheral devices such as printers, scanners, external storage devices, audio/video devices, and other accessories.
- C. Design, develop, and maintain installations of a variety of client operating systems. Included, but not limited to, activities associated with the investigation of new operating systems, installation techniques and options, the maintenance and update options for new and existing operating systems, and the configuration of the many different components of the workstation operating system to provide for reliable and stable integration of such in the NETL environment.
- D. Design, develop, and maintain installations for a variety of application software. This includes both COTS applications and internally developed applications.
- E. Design, create, and maintain standardized client images for deployment purposes. Included, but not limited to, activities associated with the creation and maintenance of preconfigured workstation “images” to facilitate the rapid deployment of new equipment and the rapid restoration of existing equipment.
- F. Utilize effective, efficient, and automated centralized management techniques for software deployment, maintenance, and configuration.

- G. Utilize centralized network tools for the management of client computing hardware and software.
- H. Troubleshoot and resolve "desktop system" errors, utilizing advanced analytical skills and troubleshooting techniques.
- I. Design, develop, and maintain client systems for remote access/mobile computing activities. This includes host and client components.

#### **REPORTS:**

- 1) Not Applicable.

#### **Performance Standards**

The Performance Measures will be defined in the Performance Evaluation Plan (PEP). The measures will be established to cover Quality, Timeliness, and/or Cost.

#### **Performance Measures/Expectations**

The Performance Measures/Expectations for this service area are identified in the Performance Evaluation Plan (PEP). Measures are rated on a scale from Excellent to Poor. Expectations are for all standards to be performed satisfactorily.

### **4.4 Service Area - ENTERPRISE ENGINEERING**

#### **4.4.1 Sub-Service Area - ENTERPRISE ARCHITECTURE SUPPORT**

Enterprise Architecture (EA) is the process which provides the facilitation and governance to manage the IT/business alignment. The objective is to make effective business investment decisions. The EA process is driven by the strategic intent of the enterprise. EA serves as a bridge between strategy and implementation and develops an environment which provides flexibility and adaptability for changing business, information and application needs. Enterprise architecture provides a blueprint of where the organization is and where it would like to be. Through the use of explicit models and artifacts, the EA develops a roadmap to get there.

The Contractor shall provide the professional expertise and support in the planning, development and execution of NETL's Enterprise Architecture (EA). EA support shall cover the full breadth of EA, including Business Architecture, Information Architecture, Applications Architecture and Technology Architecture. The Contractor shall provide the following services:

- A. Work closely with NETL business representatives, often in workgroups or teams, to capture business goals and processes and the information needed to perform those processes. The captured data is used to develop architectural models that depict multiple views of the enterprise. The models are used to develop applications, identify potential process improvements, and communicate organizational functions.
- B. Using the information captured through performance of item A, create project work packages for use in defining and managing the application development effort. The package shall be of sufficient clarity and detail to allow development by a third party software application developer.
- C. Make the enterprise explicit through architectural modeling, which include current and future state models for four key components, Enterprise Business Architecture, Enterprise Information Architecture, Enterprise Technical Architecture, and Enterprise Solutions (or applications) Architecture.
- D. Produce models that effectively communicate to multiple target audiences.
- E. Bridge the gap between business and software engineering by serving as the business representative's liaison throughout the application development and deployment process.
- F. Add detail and clarity to NETL's high-level EA diagrams. At the highest levels NETL uses two diagrams to connect our architectural elements. Those diagrams are the Zachman Framework and the NETL Strategic Structural Model. The Strategic Structural Model is a matrix of organizational functions versus information

categories. The information necessary to add this detail is attained through the performance of item A. above as well as through the analysis and explicit modeling of organizational functions.

- G. Perform analysis on NETL EA and recommend initiatives which would best meet the business strategy. The analysis should include interrelationships & interdependencies which will aid in NETL decision making.
- H. Facilitation of IT portfolio management.
- I. Participate and provide technical expertise to NETL's EA Team. Support the EA Team in the performance of NETL's EA Investment Management Process.
- J. Measure NETL's EA utilizing industry standard measurement tools such as SEI CMM and other similar assessment tools.
- K. Capture and assess performance measures such as; number of projects completed, customer satisfaction, adherence to project schedules, number and impact of EA process improvements.
- L. Perform internal reviews at critical milestones throughout the EA process.
- M. Monitoring industry best practices, technical advances, and architectural standards.
- N. Communicate the value of EA within the NETL, promoting an understanding of the role EA plays in accomplishing NETL's mission. Communication should be tailored based upon the target audience.

#### **REPORTS:**

The Contractor shall submit a Monthly EA Progress Report which documents all relevant effort performed under the EA task, including but not limited to:

1. Workgroup and Project Related Meetings attendance.
2. Completion of assigned action items.
3. Lessons learned and associated opportunities for process improvement
4. Project status, including comparison to planned schedules and issues / roadblocks

#### **Performance Standards**

The Performance Measures will be defined in the Performance Evaluation Plan (PEP). The measures will be established to cover Quality, Timeliness, and/or Cost.

#### **Performance Measures/Expectations**

The Performance Measures/Expectations for this service area are identified in the Performance Evaluation Plan (PEP). Measures are rated on a scale from Excellent to Poor. Expectations are for all standards to be performed satisfactorily.

### **4.4.2 Sub-Service Area - ENTERPRISE SYSTEMS DEVELOPMENT AND MAINTENANCE**

#### **4.4.2.1 Task Area - ENTERPRISE SYSTEMS --- ESD**

The Contractor shall develop new application systems, and maintain and/or enhance existing NETL applications in accordance with NETL's Enterprise System Development Methodology. The methodology shall be applied in its entirety, or in part, commensurate with the complexity, size, and scope of each application. The application development and engineering activities performed in this evolutionary methodology shall provide a consistent, repeatable and secure environment to include: architecture, requirements capture, analysis and design, implementation, quality control and testing, deployment, environment management, configuration management and related project management, provide consultation and training. The Contractor shall do the following, but not be limited to:

As required, use NETL's standard development tools for new application systems or enhancements to existing application systems.

- A. Perform maintenance of application systems to include: changing and modifying systems through a change request procedure; system and program documentation updates; periodic reviews of system operations to ensure maximum effectiveness; and problem resolution of system failures and programming errors.
- B. Provide application management support to ensure appropriate change control and custom-application library management.
- C. Provide a Quality Control environment to test all new and changed application systems thoroughly to preclude failures in a production environment. Processes to eliminate Single Points of Failure shall be incorporated into Contractor work activities and Contractor shall inform ITD staff of all Single Points of Failures.
- D. Aggressively search for Commercial-off-the-Shelf (COTS), Government-off-the-Shelf (GOTS) or external sources to satisfy NETL's requirements for new or replacement application systems. Additionally, the Contractor shall leverage outsourcing services when beneficial to the Government.
- E. Architect, design and code application systems to ensure optimal performance and resiliency such that data can easily be recovered and restored from operating system crashes, program aborts and media failures.
- F. Develop APIs (application program interfaces), install and maintain COTS/GOTS and application software as required for various operating systems, databases, and programming language environments.
- G. Provide technical assistance for system integration functions utilizing available hardware and software interfaces, investigating potential integration functions and services, and installing and testing connections, interactions and operations between different operating, application, network, email, and database systems.
- H. Code, test, install, and monitor queries to generate reports and retrieve data from external systems, such as, DISCAS and other HQ databases and computer systems. Tools and languages used include, but are not limited to, Powerhouse, COBOL, Focus, and Lotus Notes.
- I. Where possible, utilize standards-based methodologies such as modeling and markup languages that describe software elements in pictorial form and allow data to be modeled and transmitted in platform and programming language independent format. Utilization of J2EE, CORBA, UML, PKI and Class Diagram technologies are required.
- J. Provide database administration for NETL database repositories to include, but are not limited to Oracle, Microsoft SQL Server, Lotus Notes and MS-Access.
- K. Provide documentation consistent with identified artifacts within the NETL Enterprise System Development Methodology and other documentation as required for software quality management.
- L. Apply project management principals to include but not limited to: Project scope, cost control, schedule, resource leveling, project phase management, risk, milestone tracking, deliverables, Return on Investment (ROI), Total Cost of Ownership (TCO).
- M. Within the Enterprise Systems environment, be responsible for the look and layout of product Web based applications. This includes but is not limited to image area, visual appeal, and navigability of the product site or set of pages. Technical capability shall be required to be aware of the production process followed to create the product artwork.

#### **4.4.2.2 Task Area - ENTERPRISE SYSTEMS --- CHRIS**

The Contractor shall provide support for the DOE Corporate Human Resources Information System (CHRIS). The CHRIS system is physically located at the NETL Morgantown facility. The Contractor shall maintain and/or enhance the CHRIS system consistent with the principles outlined in the Enterprise Systems –ESD section above. The Contractor shall provide the following services:

- A. Provide the support required performing the CHRIS UNIX systems administration support. This includes administration and implementation of UNIX systems at NETL and providing (as needed) remote support for the equipment located at HQ.
- B. Provide the necessary network and security architecture and infrastructure to support the CHRIS system consistent with related elements defined and outlined within this Statement of Work.
- C. Provide support for workstation configuration and backup. This includes supporting field sites encountering technical problems, providing additional backup support for PeopleSoft Configuration Management (upgrades and moving modifications), and preparing installation/documentation materials. Additionally, support is required to address the CHRIS system backup configuration at the DOE Headquarters location.

#### **4.4.2.3 Task Area - ENTERPRISE SYSTEMS --- CBT**

The Contractor shall support NETL computer-based training (CBT) efforts and provide the following:

- A. Provide support to aid in the development of CBT modules.
- B. Prepare text and/or graphics for training modules.
- C. Edit and/or test developed training modules (as required).
- D. Provide support to an ES&H training tracking system and an assessment tracking system and its related processes. Support HTML-format pages associated with relevant ES&H directives.

##### **Performance Standards**

The Performance Measures will be defined in the Performance Evaluation Plan (PEP). The measures will be established to cover Quality, Timeliness, and/or Cost.

##### **Performance Measures/Expectations**

The Performance Measures/Expectations for this service area are identified in the Performance Evaluation Plan (PEP). Measures are rated on a scale from Excellent to Poor. Expectations are for all standards to be performed satisfactorily.

#### **4.5 Service Area - INFORMATION TECHNOLOGY VARIABLE ENGINEERING TASK**

The Contractor shall provide support for variable tasks that will be defined and funded on an as needed basis. These tasks may require specialized expertise. The work may include tasks such as the following:

1. Implementation of COTS/GOTS solution to satisfy requirements.
2. Implementation/development of new systems that require a faster implementation than available resources allow.
3. Evaluation of multiple market offerings to determine best fit for satisfying requirements.
4. Execution of pilot projects employing new technologies not in production at NETL.
5. ROI studies on EA initiatives/proposals.
6. Costing studies to assess economic/budget impact of strategic directions.
7. Provide support for the rapid design and implementation of new information technology architecture and infrastructure to support emerging business requirements (e.g. J2EE, Metadata, Data Warehousing, and Portal Technology).
8. Third-party analysis of current state-of-the-art business, information, applications and/or technology architectures.
9. N-tiered JAVA based application development.
10. Technology market study to include assessment of current environment, competing technology solutions, technology trends, and market trends.
11. Workforce analysis study / human capital management.
12. Transition road-map (migration planning) which provides various scenarios to move from current state (as-is) to future state (to-be), e.g., NETL's possible movement toward handling classified information.
13. Solutions (applications) portfolio analysis, to include cost, value, risk, timing of benefits, and ROI.

14. Technology portfolio analysis consisting of a third-party professional analysis of a portion of or NETL's entire current state infrastructure to include recommendations for high ROI (return on investment) initiatives.
15. Major departmental or multi-agency system implementation plan, impact, gap analysis, and integration.
16. Application of industry measurement tools such as Software Engineering Institutes Capability Maturity Model (CMM).
17. External expert voice to present / converse with organizational executives on information technology subject(s) of strategic importance (could be subjects ranging from homeland security to the value of EDMS or portal technology.)
18. Research and preparation of Cyber Security documents, e.g., Cyber Security Program Plan, etc.
19. Augmenting staff to complete short-term projects requiring significant staff or expertise that is not needed to support normal daily activities.
20. Real-time web presentation (web portal) of on-going experiments for the Research and Development Organization.
21. Evaluate, recommend, test, and implement Electronic Laboratory Notebooks into the NETL environment for Research and Development.
22. General support for NETL's high speed Scientific LAN.
23. Support to NETL's scientific, research computing environment, including support for, but not limited to, NetWare and Windows 2000 servers, desktop and laptop computers, PDAs, handheld computers, printers, modems, network interface cards, disk drives, memory, COTS, custom software, operating systems, etc. Engineering software that may need installed and or maintained may include, but not be limited, to Bentley's AutoPlant plant design series including their instrumentation design suit, AutoCAD 2000i that works in relation to Bentley software and AutoCAD Mechanical Desktop and Inventor series, Flowsoft orifice run sizing software, MathCAD, ChemCAD, PVElite ASME section VII design software, Caesar II ASME B31.3 and B31.1 design software, and Algor finite element analysis software.

#### **Performance Standards**

The Performance Measures will be defined in the Performance Evaluation Plan (PEP). The measures will be established to cover Quality, Timeliness, and/or Cost.

#### **Performance Measures/Expectations**

The Performance Measures/Expectations for this service area are identified in the Performance Evaluation Plan (PEP). Measures are rated on a scale from Excellent to Poor. Expectations are for all standards to be performed satisfactorily.

### **4.6 Service Area – CONTRACT MANAGEMENT and ES&H**

The Contractor shall develop and implement innovative approaches and adopt practices that foster continual improvement in accomplishing the mission of NETL and in providing quality support services to NETL.

Furthermore, the Contractor shall use effective and efficient management structures, systems, and operations that are cost-effective while achieving and maintaining (1) high levels of quality and (2) a proactive environment, safety, and health (ES&H) culture in accomplishing NETL's mission. This proactive ES&H culture includes (1) the ability to apply DOE's Integrated Safety Management's (ISM) seven principles and five functions in the planning, budgeting, executing, and improving its management and work activities, (2) the successful execution of requirements in the Contractor's ISM plan, and (3) the continual improvement of NETL's environmental posture by using an environmental management system (EMS) to manage environmental risk.

The Contractor shall plan and execute work in such a manner that will foster the objective demonstration of competence in management areas such as (1) problem resolution, (2) coordination, (3) innovation, and (4) manpower management. In addition, the Contractor shall conduct all work in a manner that continually improves productivity, minimizes waste, and complies with all applicable laws, regulations, and terms and conditions of the contract, including attaining the contract's socioeconomic goals.

#### **Performance Standards**

The Performance Measures will be defined in the Performance Evaluation Plan (PEP). The measures will be established to cover Quality,

#### **Performance Measures/Expectations**

The Performance Measures/Expectations for this service area are identified in the Performance Evaluation Plan (PEP). Measures are rated on a scale

Timeliness, and/or Cost.

from Excellent to Poor. Expectations are for all standards to be performed satisfactorily.

## 5.0 Notes/Guidance

Reference 4.4.2.3 – NETL’s computer-based training (CBT) environment currently utilizes the Oracle RDBMS, Centura software toolkit and Macromedia’s Authorware.

Reference 4.3.2 D. - In prior contracts, the minimum schedule for backups was full NetWare and Windows server backups, Monday through Friday, during non prime time hours. In prior contracts, the minimum schedule for UNIX server backups was full server backups during each Preventive Maintenance event. In prior contracts, the minimum schedule for CHRIS database files was a full backup of all essential database files, Monday through Friday during non prime time hours.

Reference 4.3.2 G. - In prior contracts, this work has been accomplished during off-hours to minimize the impact upon the majority of staff performing work at NETL.

Reference 4.3.3 - The Helpdesk currently accommodates an average of 2,000 calls per month.

Reference 4.4.2.1 – NETL current standard development tools include Centura SQL Windows, Delphi, Oracle Developer 2000, C++, Visual Basic, SQL, Microsoft Access, Lotus Notes, Microsoft SQL Server, WEBLogic and JAVA

Reference 4.4.2.1 F – Current applicable operating systems, databases and programming language environments include Novell NetWare, Windows 2000 Server, Windows 9x, Windows 2000 Professional, UNIX/LINUX, Centura SQL Windows, Delphi, Oracle Developer 2000, C++, JAVA, Visual Basic, SQL, Microsoft Access, Oracle RDBMS, Lotus Notes, and Microsoft SQL Server.

## 5.1 Minimum Qualifications

The Contractor will be required to identify the appropriate level of staffing for each labor category provided. The following are minimum qualifications for each level of staffing for this contract:

**Senior Staff** – Bachelor’s Degree and eight years related work experience or fourteen years of related work experience. With a Master’s Degree, six years of related work experience is acceptable.

**Intermediate 1 Staff** – Bachelor’s Degree and four years related work experience or ten years of related work experience. With a Master’s Degree, two years of related work experience is acceptable.

**Intermediate 2 Staff** – Bachelor’s Degree or six years of related work experience.

**Junior Staff** – High School Diploma or GED and two years of related work experience. An Associate Degree or Technical Certification in a related field is acceptable.

## 6.0 Glossary

### 6.1 Acronyms

<u>Acronyms</u>	<u>Definition</u>
ACIB	Architecture Control and Implementation Board
ATM	Asynchronous Transfer Mode
CBT	Computer Based Training
CCB	Configuration Control Board
CHRIS	Corporate Human Resources Information System
CIAC	Cyber Incident Report
CO	Contracting Officer



COR	Contracting Officer's Representative
COTS	Commercial off the Shelf
CMM	Capability Maturity Model
DHCP	Dynamic Host Configuration Protocol
DISCAS	Departmental Integrated Standard Accounting System
DNS	Domain Name Services
DOE	Department of Energy
EA	Enterprise Architecture
EDMS	Electronic Document Management System
ESD	Enterprise System Development
ES&H	Environmental Safety and Health
FDDI	Fiber Distribution Data Interface
GOGO	Government Owned – Government Operated
GOTS	Government off the Shelf
ISDN	Integrated Services Digital Network
ISM	Integrated Safety Management
ITD	Information Technology Division
LAN	Local Area Network
M&O	Management and Operating
MAC	Moves, Adds and Changes
NETL	National Energy Technology Laboratory
NIOSH	National Institute for Occupational Safety and Health
NMCC	Network Management Control Center
PBX	Private Branch Exchange
PEP	Performance Evaluation Plan
PKI	Public Key Infrastructure
PM	Preventive Maintenance
ROI	Return on Investment
SONET	Synchronous Optical Network
SOP	Standard Operating Procedures
TBD	To Be Determined
TCO	Total Cost of Ownership

## 6.2 Words/Phrases

### Performance Requirements

Performance requirements of this contract are expressed in the following manner:

**Performance Objective** - Objectives are identified in the basic contract, in narrative, for each service area. Performance objectives may also be found in the Task Orders issued under this statement of work.

**Performance Standards** - The characteristics or aspects of achieving an objective that will be monitored by the Government. The Government will review information that has been gathered for these critical aspects. Each objective may have one or more standard. The performance standards are listed in the Performance Evaluation Plan.

**Performance Expectations** - The targeted level of performance for each performance standard. Performance expectations are identified as the satisfactorily rating level for each standard.

**Performance Measures** – The range of levels of performance for each performance standard. Performance measures are rated on a scale of Excellent to Poor.

**Electronic Reading Room** – All references in the Statement of Work and the solicitation that refer to the “Electronic Reading Room - at <http://www.netl.doe.gov/business/solicit/ssc2003/index.html> ” indicates information that will be available only during the solicitation phase of this acquisition. This site will not be maintained after contract award.

**J.3 ATTACHMENT B REPORTING REQUIREMENTS CHECKLIST (JULY 1999)**

**1. AWARDEE: Prolog Inc.** **2. IDENTIFICATION NUMBER: DE-AC26-03NT41820**

**REPORT SUBMISSION:**

Reports shall be submitted to the electronic addresses and mailing address indicated in the NETL-identified Distribution List provided in the post award debriefing.

**4. PLANNING AND REPORTING REQUIREMENTS**

	FORM NO.	FREQ.	NO. OF COPIES		FORM NO.	FREQ.	NO. OF COPIES
<b>A. GENERAL MANAGEMENT</b>				<b>E. TECHNICAL (One paper copy and One pdf electronic file copy)</b>			
* <input type="checkbox"/> Management Plan	None			<input type="checkbox"/> Technical Progress Report	None		
<input checked="" type="checkbox"/> Status Report	None	M	**	Final Report			
<input checked="" type="checkbox"/> Summary Report	1332.2	M	**	<input type="checkbox"/> Draft for Review	None		
<input checked="" type="checkbox"/> Performance Self Assessment Report	None	E	**	<input type="checkbox"/> Final for Approval	None		
<b>B. SCHEDULE/LABOR/COST</b>				<input type="checkbox"/> Topical Report			
* <input type="checkbox"/> Milestone Schedule/Plan	1332.3			<b>F. PROPERTY</b>			
* <input type="checkbox"/> Labor Plan	1332.4			<input checked="" type="checkbox"/> Report of Contractor's Property Management System	None	P	**
* <input type="checkbox"/> Cost Plan	1332.7			<input checked="" type="checkbox"/> Annual Report of Property in The Custody of Contractor	F580.1-8	YP	**
<input type="checkbox"/> Milestone Schedule/Status Report	1332.3			<input checked="" type="checkbox"/> High Risk Property Report	F580.1-25	YP	**
<input type="checkbox"/> Labor Management Report	1332.8			<input checked="" type="checkbox"/> Report of Physical Inventory of Capital Equipment	None	I	**
<input checked="" type="checkbox"/> Cost Management Report	See Text	M	**	<input checked="" type="checkbox"/> Report of Physical Inventory of Sensitive Items	None	YP	**
<b>C. EXCEPTION</b>				<input checked="" type="checkbox"/> Report of Termination or or Completion Inventory			
<input type="checkbox"/> Conference Record	None			<b>G. OTHER</b>			
<input checked="" type="checkbox"/> Hot Line Report	None	A	**	<input type="checkbox"/> Key Personnel Staffing Report	None		
<input type="checkbox"/> Journal Articles/Conference Papers and Proceedings	None			<input type="checkbox"/> Subcontracting Report	SF-294		
<b>D. ENVIRONMENTAL ES&amp;H</b>				<input type="checkbox"/> Summary Subcontracting Report	SF-295		
<input checked="" type="checkbox"/> Hazardous Substance Plan	None	O	**	<input type="checkbox"/> Software	None		
<input checked="" type="checkbox"/> Hazardous Waste Report	None	FC	**	<input checked="" type="checkbox"/> Staffing Report Summary	See Text	M	**
<input checked="" type="checkbox"/> ES&H Hot Line Report	None	A	**	<input checked="" type="checkbox"/> Invoice Detail Report	See Text	M	**
<input checked="" type="checkbox"/> DOE NETL ES&H Reports (DOE O 231.1, M 231.1-1, O 232.1)	See Orders & Manuals	A	**	<input checked="" type="checkbox"/> Contract Organization Chart	See Text	S	**
<input checked="" type="checkbox"/> Integrated Safety Management Plan (DOE 450.4)	See DOE Order	O***	**				

**5. Frequency Codes and Due Dates:**

Definition	Calendar days due after event	Definition	Calendar days due after event
A – As Required (See attached text for applicability)	0	O – Once After Award	30
C – Contract Change	15	Q – Quarterly (End of Calendar Quarter)	30
FC – Final End of Effort	0	S – Semi-Annual (End of project year and project year half)	20
FD – Final Technical – Draft Version	-60	Y – Yearly (End of project year, see narrative for details)	30
M – Monthly	15	PY – Yearly Plan for following Federal Fiscal Year	
E – End of Evaluation Period	20		

**Property Reports**

P – Property Management System – Within 6 months of award date  
 YP – Yearly Property – due 10/15 for period ending 9/30  
 I – Physical Inventory of Capital Equipment – Biennial from award start date

**Other**

SS – Subcontracting Report – Semi-Annual due 4/30 and 10/30 for period Ending 3/31 and 9/30 respectively  
 YS – Summary Subcontracting – Annually due 10/30 for period ending 9/30

\* The yearly plans, identified as required in Sections 4A and 4B, are due by September 15 for the following Federal Fiscal Year.

\*\* Reports are to be distributed electronically, along with two (2) hard copies, to the NETL-identified distribution list. Report formats that are indicated shall not be deviated from. If the submission involves a DOE Standard Form, the Contractor may submit the requested information in a format of its own choosing, as long as the same information is provided. The reports in this checklist apply to the contract in general. The Statement of Work for Tasks and Subtasks may require other specific reports and/or deliverables.

\*\*\* Plan is to be updated annually.

**6. SPECIAL INSTRUCTIONS:**

The forms identified, with a forms number, in the checklist are available at <http://www.netl.doe.gov/business/forms/forms.html>.

**GENERAL INSTRUCTIONS FOR THE PREPARATION AND SUBMISSION OF REPORTS (MAR 1999)**

The Contractor shall prepare and submit the plans and reports indicated on the "Reporting Requirements Checklist" to the electronic addresses and mailing addresses provided in the NETL-identified Distribution List. The Distribution List will be provided at the post award debriefing with the Contractor. The level of detail the Contractor provides in the plans and reports shall be commensurate with the scope and complexity of the effort and shall be as delineated in the guidelines and instructions contained herein. The prime Contractor shall be responsible for acquiring data from any subcontractors to ensure that data submitted are compatible with the data elements which prime Contractors are required to submit to DOE.

**STATUS REPORT**

The Status Report presents the Contractor's narrative technical assessment of the work actually performed and the overall status of the various tasks and subtasks. Open items requiring action by either the Contractor or DOE are noted in this report. The report also provides a summary assessment of the current situation, including forecast for the near future and the expected impact on task and/or subtask accomplishment. The report is to include a listing of the major products for each task and subtask in bullet form and, if applicable, a list of pertinent presentations and publications.

**SUMMARY REPORT DOE F 1332.2**

The Summary Report provides a concise, top-level synopsis of schedule, labor, and cost performance. Most data are presented graphically. The format permits rapid visual comparison of schedule, labor, and cost data. Three components are presented: a cost status graph, a labor status graph, and a milestone chart. The cost and labor graphs are presented on a cumulative basis. Planned and actual numerical data are presented for the specified period. Labor and cost variances are shown on a monthly and cumulative.

**SEMI-ANNUAL PERFORMANCE SELF-ASSESSMENT REPORT**

For all contract tasks and subtasks involved in an award-fee determination, the Contractor is to provide a self-assessment of work performed during the previous quarters. This report is to include a comprehensive summary of the activities implemented and a self-assessment of performance based quality, schedule, and management performance criteria.

**COST MANAGEMENT REPORT (AUG 2003)****PURPOSE**

The Cost Management Report provides a monthly status of actual and estimated costs, funding and plan values, as well as a projection of the funds expiration, for each task within a designated contract. This report serves as an accounting and project management tool. This report will be used by Federal personnel to monitor the funding and cost status of the contract, verify the reasonableness of the Contractor's invoices, formulate budgets and calculate award fee pools.

**FORM**

An Adobe (.pdf) file has been included as Attachment E. This is the required format that must be utilized for submission of this report. An Excel version of the file has been posted to the electronic reading room for this solicitation under 2.0 Referenced Documents in SOW. This file may be downloaded from the following Internet site, during the solicitation phase of this procurement: <http://www.netl.doe.gov/business/solicit/ssc2003/index.html>.

**INSTRUCTIONS**

Item 1. Enter the official contract title.

- Item 2. Enter the inclusive start and completion dates for the reporting period.
- Item 3. Enter the official contract number and, if a modification(s) has occurred, append the latest modification number.
- Item 4. Enter the name and address of the Contractor.
- Item 5. Enter the date of the contract's current cost plan, which serves as a baseline for this report.
- Item 6. Enter the official start date of the original contract.
- Item 7. Enter the official completion date as of the latest modification to the contract.
- Item 8. Enter the task numbers, in numerical order, consistent with the contract's Work Breakdown Structure. Modifications to the task will be tracked by an alpha added to the end of the task with "A" designating the first modification.
- Item 9. Enter the budgeting and reporting (B&R) number(s) that is (are) to fund the task. If more than one B&R number is being used, place the pertinent funding information on separate lines.
- Item 10. Enter the cost code which is made up of a financial plan designation and a NETL cost center. The financial plan code is the first two alphas. The following 5 character alpha numeric is the NETL cost center. If more than one cost code is being used, place the pertinent funding information on separate lines.
- Item 11. Enter the program/order number that designates NETL customer work. If more than one number is being used, place the pertinent funding information on separate lines.
- Item 12. Enter the amount of funds that have been obligated against the task in the current fiscal year.
- Item 13. Enter the total obligations awarded to the contract as of the close of the reporting period.
- Item 14. Enter the Approved FY Cost Plans, an estimate of the cost of work planned in the current fiscal year distributed by funding source. Only plan values authorized by the CO shall be recorded in this column.
- Item 15. Enter the total authorized plan value for the entire performance period of the task, which may span multiple fiscal years.
- Item 16. Enter the total actual cost incurred for the reporting period.
- Item 17. Enter the total planned cost for the reporting period as shown in the most recent authorized task work plan.
- Item 18. Enter the total actual cost incurred as of the close of the reporting period for the current fiscal year.
- Item 19. Enter the balance remaining of the planned cost for the current fiscal year as shown in the latest "Approved FY Cost Plan" (item 14).
- Item 20. Enter total actual cost incurred for the task from the inception of the contract to the end of the reporting period.
- Item 21. Enter the total authorized planned cost for the task from the inception of the contract to the date of the report.
- Item 22. Enter the "Next Period Commitments" defined as the cost to be invoiced to NETL during the next period and amounts incurred by the end of the reporting period but not yet invoiced. This would include subcontractor costs and award fee.

Item 23. Enter the "FY Total Cost" which is defined as the costs that the Contractor expects to incur during the current fiscal year. This will equate to the, "FY To Date Actuals" plus the balance of the year. A contract project manager's estimate may be used to project the balance of the year and should include those costs which have been incurred but not invoiced to NETL.

Upon completion of the first award fee period estimates for fee shall be based on the average of historic fee earned, not 100% of available fee.

Special consideration should be made to estimate subcontract costs when the prime has not received invoices but is aware that work has occurred.

Item 24. Enter the date on which the funds available to the Contractor for a specific task or activity are expected to be fully costed.

Item 25. Enter notes that relate to tasks financial status. Modifications received after the closing date of the reporting period but before the due date of the CMR should be included.

Item 26. Enter the subtotal of all tasks identified as Fossil Energy (FE) work.

Item 27. Enter the subtotal of all tasks identified as Non FE work.

Item 28. Enter the total of all costs for each column that can be summed. If multiple pages are used, enter the total only on the final page.

Item 29. Enter the unit measure for dollar amounts shown (e.g., exact dollars). NETL cost entries are done to the penny. Carry the unit of measure out to decimals (e.g., cents) but format the cell to round so space will be saved. NETL Finance will reformat the appropriate column to two decimals for the purpose of making cost entries.

Item 30. Enter the signature of the responsible Contractor project manager and the date signed, verifying the validity of the furnished information based upon the project manager's knowledge of the contract's current progress and status.

Item 31. Enter the signature of the Contractor's financial representative and the date signed, verifying the validity of the furnished information based upon the financial representative's knowledge of the contract's current progress and status.

\* Any reference to a fiscal year refers to the Federal Government fiscal year, October 1 through September 30 of the following year.

### **HOT LINE REPORT (MAR 2002)**

The "Hot Line" Report may be used to report a major breakthrough in research, development, or design; an event causing a significant schedule slippage or cost overrun; an environmental, safety and health violation; achievement of or failure to achieve an important technical objective; or any requirement for quickly documented direction or redirection. The report shall be submitted by the most rapid means available, usually electronic, and should confirm telephone conversations with DOE representatives. Identification as a "Hot Line Report" serves notice at each link in the delivery chain that expedition in handling is required. Unless otherwise agreed by the parties involved, DOE is expected to take action and respond in a similarly timely manner. The report should include:

1. Contractor's name and address;
2. Contract title and number;
3. Date;
4. Brief statement of problem or event;
5. Anticipated impacts; and
6. Corrective action taken or recommended.

Hot line reports shall document the incidents listed below:

1. Any single fatality or injuries requiring hospitalization of five or more individuals is to be immediately reported.
2. Any significant environmental permit violation is to be reported as soon as possible, but within 24 hours of the discovery of the incident.
3. Other incidents that have the potential for high visibility in the media are to be reported as quickly as possible, but within 24 hours following discovery.
4. Any failure resulting in damage to Government-owned equipment in excess of \$50,000 is to be reported as quickly as possible, but within 24 hours of the discovery of the failure.
5. Any unplanned event which is anticipated to cause a schedule slippage or cost increase significant to the project is to be reported within 24 hours.
6. Any verbal or written Notice of Violation of any Environmental, Safety, and Health statutes arising from the performance of this contract is to be immediately reported.
7. Any accidental spill or release which is in violation of any Environmental, Safety, and Health statutes arising from the performance of this contract is to be immediately reported, but within 24 hours of the discovery of the accident.
8. Any incident which causes a significant process or hazard control system failure, or is indicative of one which may lead to any of the above defined incidents, is to be reported as soon as possible, but within 5 days of discovery.

The requirement to submit Hot Line Reports for the incidents identified in 1, 2, 3, 6, or 7 is for the sole purpose of enabling DOE officials to respond to questions relating to such events from the media and other public.

When an incident is reported in accordance with 4, 5, 6, 7, or 8, the Contractor shall conduct an investigation of its cause and make an assessment of the adequacy of resultant action. A written report is required no later than ten (10) calendar days following the incident and shall include an analysis of the pertinent facts regarding the cause, and a schedule of the remedial events and time periods necessary to correct the action.

When an event results in the need to issue a written or verbal statement to the local media, the statement is to be cleared first, if possible, and coordinated with NETL's Office of Public Affairs, the Contracting Officer Representative (COR) and the Contracting Officer.

#### **HAZARDOUS SUBSTANCE PLAN (MAY 1999)**

The Contractor shall submit a Hazardous Substance Plan not later than thirty (30) days after initial contract award. The Plan shall specifically identify each Hazardous Substance (as defined under 40 CFR 261, Subpart D, entitled "Lists of Hazardous Wastes") anticipated to be purchased, utilized or generated in the performance of this contract. For each such Hazardous Substance identified, the Plan shall specifically provide the following information:

Description of Substance/Chemical  
 EPA Hazardous Waste Number  
 EPA Hazard Code  
 Anticipated Quantity to be purchased, utilized or generated  
 Anticipated Hazardous Waste Transporter  
 Anticipated Hazardous Waste Disposal Facility Contractor and Location (City/Municipality, State)  
 Anticipated Treatment Method

**HAZARDOUS WASTE REPORT (MAY 1999)**

The Contractor shall submit a Hazardous Waste Report at the completion of contract performance. The Report shall specifically identify each Hazardous Waste (as defined under 40 CFR 261, Subpart D, entitled "Lists of Hazardous Wastes") actually utilized, or generated in the performance of this contract. For each such Hazardous Waste identified, the Report shall specifically provide the following information:

Description of Substance/Chemical  
EPA Hazardous Waste Number  
EPA Hazard Code  
Actual Quantity Disposed  
Actual Hazardous Waste Transporter  
Actual Hazardous Waste Disposal Facility Contractor and Location (City/Municipality, State)  
Actual Disposal Date  
Actual Treatment Method

The Hazardous Waste Report is intended as a final reconciliation of anticipated versus actual Hazardous Substances purchased, utilized, or generated in the performance of this contract.

**ES&H HOT LINE REPORT**

A. The "ES&H Hot Line Report" is to be used to report an ES&H violation. The report must be submitted by the most rapid means available, usually electronic, and is to confirm telephone conversations with the DOE Representatives. Identification as an "ES&H Hot Line Report" serves notice at each link in the delivery chain that "speed in handling" is required. The report must include:

1. Contractor's name and address
2. Contract title and number
3. Date
4. Brief statement of problem or event
5. Anticipated impacts
6. Corrective action taken or recommended

B. ES&H Hot Line Reports are to be used to document incidents such as those listed below:

1. Any non-compliance with the provisions of Clause H27 ENVIRONMENTAL, SAFETY, AND HEALTH-ON-SITE SERVICE CONTRACTS is to be reported within 3 days unless specified otherwise below.
2. Any single fatality or injuries requiring hospitalization of five or more individuals is to be immediately reported.
3. Any significant environmental permit violation is to be reported as soon as possible, but no later than 24 hours following the discovery of the incident.
4. Other ES&H incidents that have the potential for visibility in the media are to be reported as quickly as possible, but no later than 24 hours following the discovery of the incident.
5. Any failure resulting in damage to Government-owned equipment in excess of \$50,000 is to be reported as quickly as possible, but no later than 24 hours following the discovery of the failure.
6. Any verbal or written Notice of Violation of any ES&H statutes arising from the performance of this contract is to be immediately reported.
7. Any accidental spill or release that is in violation of any ES&H statutes arising from the performance

of this contract is to be immediately reported.

8. Any incident that causes a significant process- or hazard-control-system failure, or is indicative of one that may lead to any of the above-defined incidents, is to be reported as soon as possible, and must be reported within 5 days of discovery.
9. When an event results in the need to issue a written or verbal statement to the local media, the statement is to be cleared first, if possible, by NETL's Public Relations Officer and coordinated with the COR.

**DOE/NETL ES&H REPORTS (DOE O 231.1, M 231.1-1, O 232.1)**

- A. The Contractor shall provide information and reports to NETL in support of DOE's reporting requirements contained in DOE O 231.1, ENVIRONMENTAL, SAFETY, AND HEALTH REPORTING, DOE M 231.1-1, ENVIRONMENTAL, SAFETY, AND HEALTH REPORTING MANUAL, and DOE O 231.1, OCCURRENCE REPORTING AND PROCESSING OF OPERATIONS INFORMATION. Content, form, schedule, and applications are provided in the DOE Orders.
- B. Data, information, or reports include, but are not limited to, the following areas (if applicable):
  1. Work-related fatalities, injuries, and illnesses among Contractor employees arising out of work performed primarily at DOE-owned or -leased facilities
  2. Work-hours and vehicle usage
  3. Estimated property valuation
  4. Interim exposure data reporting
  5. Annual exposure data reporting
  6. Radiological exposure to individuals
  7. Annual summary of fire damage
  8. Epidemiologic analyses-excess injuries and illnesses
  9. Occupational, safety, and health information in support of epidemiological studies conducted by external organizations
  10. Quarterly DOE and NETL ES&H performance indicator data
  11. Annual site environmental reports
  12. Annual tabulation of ES&H and quality-related assessments conducted.
- C. As needed, information reports associated with the notification, recording and reporting requirements for accidents and/or incidents shall be prepared in accordance with 29 CFR 1904 and 1910. The Contracting Officer or his/her representative shall be provided with copies of all OSHA-required documentation within 10 days of the associated accident and/or incident.
- D. On a quarterly basis, the Contractor shall report on the following NETL environment, safety, and health indicators (if applicable):
  1. Recordable Injury/Illness Rate (total number of OSHA-defined recordable injuries and illnesses/total hours worked).



2. Lost Workday Case Rate (total number of OSHA-defined lost workday cases/total hours worked)
3. OSHA Cost Index (estimated cost of workplace-related injuries and illnesses)
4. Hazardous Waste Generated (total cubic feet of hazardous waste shipped)
5. Metrics and reporting information cited in the Contractor Integrated Safety Management (ISM) Plan

#### **INTEGRATED SAFETY MANAGEMENT PLAN**

An Integrated Safety Management (ISM) Implementation Plan shall be developed and submitted by the Contractor. The plan shall describe how the offeror will implement ISM philosophy, as outlined in DOE P 450.4, Safety Management Policy, and Integrated Safety Management System Guide, DOE G 450.4-1, Volumes 1 and 2, into the planning, budgeting, executive, and assessment of work activities. The plan shall provide (1) a process approach to the integration of ISM's five steps (i.e., defining the scope of work, analyzing the hazards, developing and implementing controls, performing work safely, and ensuring performance) into its everyday work activities; (2) a specific management approach to demonstrate ISM's seven guiding principles (i.e., workforce responsibility and accountability; clear roles, responsibilities and authorities; competence commensurate with responsibilities; balance priorities; identification of ES&H standards and requirements; hazard controls tailored to work being performed; and work authorization); and (3) a discussion on how the execution of the offeror's plan will successfully and cost-effectively integrate with NETL's own ISM and ES&H programs for on-site work to be conducted. An annual update is also required.

#### **PROPERTY REPORTS (JAN 2000)**

The NETL Property Handbook entitled "Management of Government Property in the Possession of Contractors," contains forms, instructions, and suggested formats for submission of property reports. This handbook can be found at <http://www.netl.doe.gov/business/index.html>.

#### **REPORT OF CONTRACTOR'S PROPERTY MANAGEMENT SYSTEM (JAN 2000)**

This report shall consist of the Contractor's comprehensive written property management system and is due within 6 months of the contract award date. It shall address the Contractor's written system for controlling, protecting, preserving and maintaining all Government property. The report format shall be consistent with Contractor's system and shall as a minimum enable comprehensive evaluation by the Government. (If not provided in your local format, see sample in the NETL Property Handbook).

#### **ANNUAL REPORT OF PROPERTY IN THE CUSTODY OF CONTRACTORS (NETL F 580.1-8) (JAN 2000)**

This report includes **ALL** Government-owned Contractor-acquired and Government-furnished property and materials for which the Contractor is accountable to the Government. This report shall also include Government Property at subcontractor's plants and alternate locations. This report is submitted on NETL F 580.1-8 for the period ending September 30 and is due by October 15.

#### **HIGH RISK PROPERTY REPORT (NETL F 580.1-25) (SEPT 2000)**

Some property, because of its peculiar nature, its potential impact on public health and safety, on the environment, on security interests, or on proliferation concerns, must be handled, controlled, cleared and disposed of in other than the standard manner. High-risk property includes property which is: 1) nuclear-related; 2) proliferation-sensitive or export controlled; 3) chemically, biologically, or radiologically contaminated; 4) national security/military interests; and 5) hazardous materials and wastes. Further definitions of high-risk property can be found at <http://www.pr.doe.gov/ppl.html>. This report is required by the DOE for the control (acquisition, management and disposal) of high risk property to ensure that such disposition does not adversely affect public safety and/or the environment, national security, or nuclear nonproliferation objectives of the United States. This report shall be

submitted for the period ending September 30 and is due by October 15 of each year.

#### **REPORT OF PHYSICAL INVENTORY OF CAPITAL EQUIPMENT (JAN 2000)**

Capital equipment is any piece of personal property, equipment, or furniture with a useful service life of 2 years or more and is acquired at a unit cost of \$25,000 or more. The suggested format for this report can be found in the NETL Property Handbook at <http://www.netl.doe.gov/business/index.html> . This report is due 2 years from award date and every 2 years thereafter.

#### **REPORT OF PHYSICAL INVENTORY OF SENSITIVE ITEMS (OCT 2002)**

Sensitive items are identified as small calculators, tape recorders, radios, photographic and projection equipment, typewriters and other office machines, firearms, survey instruments, binoculars, power tools, personal computers, printers, external modems, or other equipment, which because of its general use characteristics and ease of transport are particularly susceptible to misappropriation or theft. These items will usually have an acquisition cost of less than \$25,000. The suggested format for this report can be found in the NETL Property Handbook at <http://www.netl.doe.gov/business/index.html> . This report shall be submitted for the period ending September 30 and is due by October 15 of each year.

#### **REPORT OF TERMINATION OR COMPLETION INVENTORY (SF-1428 AND SF-120) (MAR 1999)**

This report submitted on the SF-1428 and SF-120 is due immediately upon completion or termination of the contract. The Contractor is required to perform and cause each subcontractor to perform a physical inventory, adequate for disposal purposes, of all Government property applicable to the contract.

#### **STAFFING REPORT SUMMARY INSTRUCTIONS (AUG 2003)**

##### **PURPOSE**

The Staffing Report Summary is to provide NETL management with data relative to the number of Contractor FTEs (full time equivalents) charged to each funding source within a contract.

NETL uses this information in budgeting and planning exercises. Also many information requests are received from Headquarters dealing with the location of Contractor employees. This report may be set-up so that the detail from the Invoice/Staffing Report will be automatically entered requiring little manual input.

##### **FORM**

An Adobe (.pdf) file has been included as Attachment E. This is the required format that must be utilized for submission of this report. An Excel version of the file has been posted to the electronic reading room for this solicitation under 2.0 Referenced Documents in SOW. This file may be downloaded from the following Internet site, during the solicitation phase of this procurement: <http://www.netl.doe.gov/business/solicit/ssc2003/index.html> .

##### **INSTRUCTIONS**

- Item 1. Enter participant's name and address.
- Item 2. Enter the contract number.
- Item 3. Enter the name of and address of the organization for whom the services have been provided and is responsible for the payment of the invoice, as designated section G of the subject contract.
- Item 4. Enter the inclusive start and completion dates for the reporting period.
- Item 5. Enter acronym of the contract title.

- Item 6. FTEs charged to B&Rs key to the NETL Intuitional Budget will be tracked separately. These B&R numbers will be predetermined on the format given to the Contractor. If changes occur the Contractor will be notified by E-mail with a new format. Enter the number of FTEs charged against the designated B&R.
- Item 7. Enter FTEs charged to other intuitional B&Rs which are not key to the budget. A footnote at the bottom of the form will designate the B&Rs within this category.
- Item 8. Enter the collective total of all FTEs charged to the remaining B&R s which are not reported in the Institutional Budget.
- Item 9. Enter the total number of FTEs for each row.
- Item 10. Enter the FTE labor by site. Offsite – any location not on one of the NETL sites as defined in “onsite” below.
- Onsite – Federally-owned or leased property within the defined boundaries of the sites at Pittsburgh, PA; Morgantown, WV; Tulsa, OK; and Fairbanks, AL, including, in the case of Morgantown, the Research Ridge complex immediately adjacent to the boundary.
- Item 11. Enter the total number of FTEs for each column.
- Item 12. Enter the headcount of employees working at on and offsite locations as defined in item 6 above.

### **INVOICE DETAIL REPORT INSTRUCTIONS (AUG 2003)**

#### **PURPOSE**

The Invoice Detail Report is to serve as the detail for the “Public Voucher for Purchases and Services Other Than Personal” (SF 1034) as referenced in section G of the contract. Each Task shall have a separate spreadsheet. Task managers will review the data as part of the invoice approval process. Also this invoice detail report will serve as the base for the staffing report referenced in section J attachment B “Reporting Requirements Checklist”. The detail provides a monthly status of actual and planned FTE hours worked for each task and headcount within a designated contract. This report will be used by Federal personnel as an information source and as a project management tool.

#### **FORM**

An Adobe (.pdf) file has been included as Attachment E. This is the required format that must be utilized for submission of this report. An Excel version of the file has been posted to the electronic reading room for this solicitation under 2.0 Referenced Documents in SOW. This file may be downloaded from the following Internet site, during the solicitation phase of this procurement: <http://www.netl.doe.gov/business/solicit/ssc2003/index.html> .

#### **INSTRUCTIONS**

- Item 1. Enter participant’s name and address
- Item 2. Enter the contract number
- Item 3. Enter the name of and address of the organization for which the services have been provided and is responsible for the payment of the invoice, as designated section G of the subject contract.
- Item 4. Enter a sequential invoice number as designated by the participant.
- Item 5. Enter the date the invoice was issued.
- Item 6. Enter the inclusive start and completion dates for the invoice period.

- Item 7. Enter the employee's name
- Item 8. Enter the labor category title and Exempt (E) or Nonexempt (NE)
- Item 9. Enter the employee status [full time (FT), part time (PT)]
- Item 10. Enter the employer name (prime Contractor, subcontractor)
- Item 11. Enter the employee's current labor rate.
- Item 12. Enter the actual hours worked in the reporting period by the employee. The available hours may vary by month depending on weekends, holidays, number of days in month, etc.
- Item 13. Enter the total labor per employee for the period.
- Item 14. Enter full time equivalent (FTE) actual time worked.
- Item 15. Enter the FTE labor by site. Offsite – any location not on one of the NETL sites as defined in “onsite” below.
- Onsite – Federally-owned or leased property within the defined boundaries of the sites at Pittsburgh, PA; Morgantown, WV; Tulsa, OK; and Fairbanks, AL, including, in the case of Morgantown, the Research Ridge complex immediately adjacent to the boundary.
- Item 16. Enter the cumulative hours worked to date per employee for the given task.
- Item 17. Enter the pervious months costs (can be done by copying the values from “Cumulative Current Cost, column N on the spreadsheet). This column will be used to calculate the cumulative current cost column and can be hidden in subsequent invoices.
- Item 18. The cumulative current cost is the total of cost from previous periods plus the cost for the current period.
- Item 19. Enter the task number and title.
- Item 20. Enter the total items of 12 through 18 described above.
- Item 21. Enter the planned/actual labor hours for the current period
- Item 22. Enter the planned/actual labor hours for the cumulative period
- Item 23. Other direct costs (ODCs) include those cost other than labor which are directly related and charged to the task.
- Item 24. Enter a very brief description of the other direct costs.
- Item 25. Enter material costs for the period and cumulative to date
- Item 26. Enter the travel costs for the period and cumulative to date
- Item 27. Enter the training cost for the period and cumulative to date.
- Item 28. Enter fee awarded to the task.
- Item 29. Enter total of all ODCs costs and fee.
- Item 30. Enter the total cost and fee for labor and ODCs.

Item 31. Enter the labors costs that were charged to each B&R funded to the task. Enter the total FTEs by budgeting and reporting (B&R) numbers at each site. This information is derived in combination with the Cost Management Report (CMR) by using the “total actual cost incurred for the reporting period” – Item 16 on the CMR - and prorating the costs according to the B&Rs and funding office (cost center) within each task and applying to the corresponding task, by site location, on the Staffing Report. Example: Task 60123 on the CMR is funded with AN2006000 and AW0301000 B&Rs from MD and MA (cost centers)- When prorated, the task consists of 82% AN2006000 and 18% AW0301000 costs. The percentages would then be applied to Task 60123 FTEs on the Staffing Report.

### **CONTRACT ORGANIZATION CHART**

#### **PURPOSE**

The Contract Organization Chart provides a detailed breakdown of the Contractor’s FTE’s for the NETL functional areas they are supporting. The data to be provided by the Contractor for each NETL functional area is labor category, name, location and FTE allotment. This report will be used by Federal personnel as an information source and as a project management tool.

#### **FORM**

A Microsoft Power Point (.ppt) file has been included in Section J, Attachment G. This is the required format that must be utilized for submission of this report.

**J.4 ATTACHMENT C – PERFORMANCE EVALUATION PLAN (PEP)****AWARD FEE PERFORMANCE EVALUATION PLAN (PEP)****Part I INTRODUCTION**

- A. This plan covers the administration for the award fee provisions of Contract No. DE-AM26-03NT41820 ITES for the National Energy Technology Laboratory and provides necessary standardization to ensure effective development, administration, and coordination of the evaluation process. It is intended as a means to:
1. Document how performance during a specific award fee period will be evaluated and fee determined.
  2. Assure that the Contractor's performance is objectively evaluated in a fair and consistent manner.
  3. Afford the Contractor an opportunity to earn fee commensurate with performance expended against performance expectations and standards.
- B. The following matters, among others, are covered in the contract:
1. The Contractor is required to provide services as identified in the Statement of Work located in Section J, Attachment A of the contract.
  2. Cost-Plus-Award-Fee (CPAF) task orders will be employed to provide an incentive and to encourage and reward the Contractor for increasing efficiency in the performance of the contract.
  3. The term of the contract shall not exceed 60 months from its effective date including all option years.
  4. The estimated cost of performing this contract, including all option years, is described in Section B of the contract.
  5. The award fee pool is detailed in Section B of the contract.
  6. The estimated cost and award fee pool are subject to equitable adjustments as a result of changes in the scope of the contract and in accordance with the Special Contract Requirements in Section H of the contract.
  7. The award fee earned and payable will be determined unilaterally by the Fee Determination Official (FDO) in accordance with the terms of this contract.
  8. The Government may unilaterally make changes to this plan, providing the Contractor receives notice of the change at least 15 calendar days prior to the beginning of the evaluation period to which the changes apply.
  9. Fee evaluation periods will be in accordance with contract clause, B8 entitled "Distribution of Performance Award Fee."

**Part II. ORGANIZATIONAL STRUCTURE FOR AWARD FEE ADMINISTRATION**

- A. The following organizational structure is established for administering the award fee provisions of the contract. Note that this structure is subject to change at the discretion of the Government.
1. Fee Determination Official (FDO)
    - a. The FDO is the Director of the National Energy Technology Laboratory (NETL) and Head of the Contracting Activity.
    - b. Primary responsibilities of the FDO include:
      - i. Determining the Contractor's evaluated award fee for each evaluation period. The FDO will determine the amount of the award fee earned during each period. The amount determined will not result solely from mathematical summing, averaging, or the application of a formula. The FDO's determination of the amount of the award fee earned and the basis for this determination will be stated in the Award Fee Determination letter to the Contracting Officer.
      - ii. Authorizing changes to this plan.

2. Performance Evaluation Board (PEB)
  - a. Chairperson and Membership
    - i. Chairperson will be the Division Director of the Information Technology Division (ITD). Membership of the PEB will consist of the Contracting Officer and the Contracting Officer's Representative. The Government may change the chairperson and membership without advance notice to the Contractor.
  - b. Performance Raters (PR)
    - i. Performance Raters will be the Task/Subtask Managers assigned to the individual task orders/subtasks issued. Performance Raters will be responsible for evaluation and assessment of the Contractor's activities during the rating period and documenting results at the end of the award period. The Performance Raters will be responsible for gathering information and objective evidence in order to evaluate the management effectiveness of the Contractor. The Performance Raters will coordinate with the necessary personnel to develop the performance score and supporting documentation. The Performance Raters will recommend a score of overall effectiveness to the PEB for approval. The Performance Rater will discuss and review progress with the Contractor throughout the evaluation period. The Government may change the performance raters without advance notice to the Contractor.

### **Part III. EVALUATION OF THE CONTRACTOR'S PERFORMANCE**

#### **A. Rating Plan**

1. The Contractor's performance shall be evaluated and rated according to this Performance Evaluation Plan (PEP). The Performance Areas, Evaluation Criteria, Scoring and Award Fee Conversion Document are attached as indicated below.
  - a. Exhibit E-1, Performance Areas
  - b. Exhibit E-2, Award Fee Conversion Document
  - c. Exhibit E-3, Performance Standards and Measures
2. Exhibit E-2 is a basis for translating performance points to an award fee for arriving at a recommendation for the FDO's consideration regarding the amount of award fee earned. In no way do they impute arithmetical precision or a requirement that the FDO accept this recommendation as a determination of the amount of award fee warranted for the Contractor's performance during a rating period.

#### **B. Award Fee Determination Process**

1. Presented below are process steps that will be followed to evaluate and determine the award fee due to the Contractor, based on performance:
  - a. Within twenty (20) calendar days after the end of each evaluation period, the Contractor shall submit a self-evaluation of performance for the period under consideration. The self-evaluation should discuss major accomplishments or progress and discuss the Contractor's assessment of their weaknesses and areas requiring improvement.
  - b. No later than thirty-five (35) days after the end of the evaluation period, the Chairperson of the PEB will present the draft Award Fee Determination Report containing evaluation findings to the Contractor.
  - c. The Contractor will be given an opportunity to submit comments on the draft Award Fee Determination Report to the PEB within (5) calendar days after receipt of the draft.
  - d. The final Award Fee Determination Report, inclusive of Contractor comments, will be provided to the FDO within ten (10) calendar days after the receipt of the Contractor's comments.
  - e. Ten (10) calendar days after receipt of the final Award Fee Determination Report, the FDO will unilaterally determine the Contractor's fee.

- f. The FDO notifies the Contractor, the PEB Chairperson, and the Contracting Officer of the fee determination in writing.
- g. The Contractor prepares a separate (i.e. apart from regular monthly invoice) voucher(s) based on the FDO's fee notice and submits this invoice to the Government for payment of its award fee.
- h. The Government processes the Contractor's invoice(s) and the fee is paid.



**EXHIBIT E-1****PERFORMANCE AREAS**

The performance areas to be evaluated are identified below. The evaluation criteria for each area are included in Exhibit E-3.

**PERFORMANCE AREA**

- 4.2 Oversight and Logistics
- 4.3.1 Cyber Security
- 4.3.2 Computer Facility Operations (Client Server) Support
- 4.3.3 Desktop (End User) Support
- 4.3.4 Telecommunications Services
- 4.3.5 Networks (Data Services)
- 4.3.6 Client Systems Engineering
- 4.4.1 Enterprise Architecture Support
- 4.4.2 Enterprise Systems Development and Maintenance
- 4.5 Information Technology Variable Engineering Task
- 4.6 Management and ES&H

Performance areas 4.2 through 4.5 are Major Functional Elements and are weighted as 90% of Maximum Available Fee for the evaluation period. Performance area 4.6, Management and ES&H is weighted as 10% of the Maximum Available Fee for the evaluation period.

The determination of the award fee for any period is contingent upon the Contractor maintaining acceptable levels of ongoing performance in all areas under the contract, whether specified as award fee areas or not. Specifically, areas identified as Necessary Conditions shall be maintained at an acceptable level of ongoing performance. Should any of these areas fall below an acceptable level of ongoing performance during any rating period, fee earned from performance areas may be reduced. This is designed to reinforce the importance of overall contract performance.

**EXHIBIT E-2****AWARD FEE CONVERSION DOCUMENT**

The Performance Evaluation Board will use the method documented below to calculate the proposed award fee. The proposed award fee, including calculations and supporting text, will be placed in an Award Fee Determination Report and forwarded to the Fee Determination Official for their consideration.

**I. Major Functional Element Rating****A. Importance of Standards**

The objective of this award fee method is to raise the importance of performance under each standard within each Performance Area. The method has been designed to enable each standard to significantly affect the award fee.

The level of expected performance for each standard is Satisfactory.  
There is a significant benefit for receiving a rating higher than Satisfactory.  
There is a significant penalty for receiving a rating less than Satisfactory.

The rating will be conducted on a five point rating scale as follows:  
Excellent = +2 points  
Very Good = +1 point  
Satisfactory = 0 points  
Marginal = -1 point  
Poor = -2 points

A positive point rating (+2 or +1) for any standard is desired and considered difficult to achieve.

A negative point rating (-2 or -1) for any standard is not desired and highlights an area where performance improvement is required.

The baseline is 60% of available award fee. The receipt of a Satisfactory (0 points) rating for all standards will result in receipt of the baseline award fee.

**B. Fee Adjustment:**

An Excellent (+2 points) rating for any standard will result in a 10% positive fee adjustment. For example, one excellent rating and satisfactory ratings for all other standards would result in receipt of 70% of the available award fee (60% baseline plus 10% positive fee adjustment).

A Very Good (+1 point) rating for any standard will result in a 5% positive fee adjustment. For example, one very good rating and satisfactory ratings for all other standards would result in receipt of 65% of the available award fee (60% baseline plus 5% positive adjustment).

A Marginal (-1 point) rating for any standard will result in a 10% negative fee adjustment. For example, one marginal rating and satisfactory ratings for all other standards would result in receipt of 50% of the available award fee (60% baseline minus 10% fee adjustment).

A Poor (-2 points) rating for any standard will result in a 20% negative fee adjustment. For example, one poor rating and satisfactory ratings for all other standards would result in receipt of 40% of the available award fee (60% baseline minus 20% fee adjustment).

Total Award Fee can not be more than 100% or less than 0% of the available award fee.

C. Unacceptable Performance Adjustment

If the Contractor receives three or more negative points during an evaluation period there will be no positive fee adjustment.

If the Contractor receives three negative points during an evaluation period the fee will be 60%.

If the Contractor receives four negative points during an evaluation period the fee will be 50%.

If the Contractor receives five negative points during an evaluation period the fee will be 30%.

If the Contractor receives six negative points during an evaluation period the fee will be 10%.

Seven or more negative points during an evaluation period will be considered a complete breakdown of performance and will result in 0% of award fee.

D. Fee Calculation Examples

1. Example 1

There are 36 standards in the PEP. The Contractor receives 2 Excellent ratings, 2 Very Good ratings, 31 Satisfactory ratings, 0 Marginal ratings, and 1 Poor rating.

The point assignments associated with the ratings above would be 2 @ +2, 2 @ +1, 15 @ 0, 0 @ -1, and 1 @ -2. The summary of points would be 6 positive points and 2 negative points.

The positive points would add 30% to the baseline award fee of 60% and the 2 negative points would subtract 20%. The end result would be an award fee (Major Functional Elements) of 70%.

<b>Rating Factor (Points)</b>	<b>No of Ratings</b>	<b>Adjustment Percentage</b>	<b>Points Total</b>	<b>Percentage Total</b>
<b>A</b>	<b>B</b>	<b>C</b>	<b>A *B</b>	<b>B * C</b>
Excellent (+2)	2	10%	+ 4	+ 20%
Very Good (+1)	2	5%	+ 2	+ 10%
Satisfactory (0)	31	N/A		
Marginal (-1)	0	-10%	0	- 0%
Poor (-2)	1	-20%	- 2	- 20%
Total Positive Points			+6	
Total Negative Points			- 2	
Fee Adjustment				+10%
Unacceptable Perf. Impact to Fee Adjustment (zeros out adjustment if three or more negative points)				- 0%
Baseline				60%
Unacceptable Perf. Impact to Baseline (graduated reduction with four or more negative points)				- 0%
Award Fee				70%

## 2. Example 2

There are 36 standards in the PEP. The Contractor receives scores of 3 Excellent ratings, 9 Good ratings, 19 Satisfactory ratings, 3 Marginal ratings, and 2 Poor ratings.

The point assignments associated with the ratings above would be 3 @ +2, 9 @ +1, 3 @ 0, 3 @ -1, and 2 @ -2. The summary of points awarded would be 15 positive points and 7 negative points.

Even though the positive points would result in a positive fee adjustment, the seven negative points would result an unacceptable performance adjustment being exercised, which would reduce the award fee (Major Functional Elements) to 0%.

<b>Rating Factor (Points)</b>	<b>No of Ratings</b>	<b>Adjustment Percentage</b>	<b>Points Total</b>	<b>Percentage Total</b>
<b>A</b>	<b>B</b>	<b>C</b>	<b>A *B</b>	<b>B * C</b>
Excellent (+2)	3	10%	+ 6	+ 30%
Very Good (+1)	9	5%	+ 9	+ 45%
Satisfactory (0)	19	N/A		
Marginal (-1)	3	-10%	- 3	- 30%
Poor (-2)	2	-20%	- 4	- 40%
Total Positive Points			+ 15	
Total Negative Points			- 7	
Fee Adjustment				+5%
Unacceptable Perf. Impact to Fee Adjustment (zeros out adjustment if three or more negative points)				- 5%
Baseline				60%
Unacceptable Perf. Impact to Baseline (graduated reduction with four or more negative points)				-60%
Award Fee				0%

## II. Performance Area 4.6 - Contract Management and ES&H

**For this factor only**, scores can be issued between performance scores (e.g., +.5 or +1.5) based on the breadth and depth of objective evidence provided. **For this factor only**, +2 equals 100% of available fee, +1 equals 80% of available fee, 0 equals 60% of available fee, -1 equals 30% of available fee and -2 equals 0% of available fee.

## III. Total Award Fee Calculations

Total Award Fee for an evaluation period is determined using the following example:

Maximum available award fee = \$200,000

Major Functional Areas available award fee (90% of Maximum) = \$180,000

Area 4.6 Contract Management and ES&H (10% of Maximum) = \$20,000

Score for Major Functional Areas results in 70% of available award fee:

\$180,000 x 70% = \$126,000 fee

Score for area 4.6 Contract Management and ES&H results in 80% of available award fee:

\$20,000 x 80% = \$16,000 fee

\$126,000 + \$16,000 = \$142,000 recommended fee earned for that evaluation period.

**EXHIBIT E-3**

**PERFORMANCE STANDARDS AND MEASURES**

NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
1A	<b>OVERSIGHT AND MANAGEMENT</b>			
1	Provide error free invoices, Budget Plans, and Cost Management Reports.	<p><b>Excellent:</b> No errors on documents submitted.  <b>Good:</b> 1 error found on documents submitted.  <b>Satisfactory:</b> 3 errors on documents submitted.  <b>Marginal:</b> 5 errors on documents submitted.  <b>Poor:</b> More than 5 errors on documents submitted OR any error found on documents submitted that impacts the DOE budgeting process.</p>	Provide Government with accurate and reliable means of managing contract costs.	
2A	<b>CYBER SECURITY</b>			
2	Operate and maintain firewall(s).	<p><b>Excellent:</b> No unscheduled service outages AND configuration management is maintained in accordance with policy.  <b>Good:</b> Not more than 1 hour in any given month of service outage during standard hours of operation AND not more than 8 hours of service outage in any given month.  <b>Satisfactory:</b> Not more than 2 hours of service outage during standard hours of operation in any month AND not more than 12 hours of service in any month. <b>Marginal:</b> More than 2 hours of service outage during standard hours of operation, OR more than 12 hours of service outage in a given month OR (firewall maintenance procedures are not followed AND no negative impact realized.)  <b>Poor:</b> More than 4 hours of service outage during standard hours of operation OR more than 24 hours of unscheduled service outage in a given month; OR a negative impact is realized.</p>	Objective is to safeguard NETL data.	

NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
3	Provide anti-virus protection by applying all updates in a timely manner.	<p><b>Excellent:</b> All updates applied (on the same day of release for automated processes and within 1 working day for manual processes) AND no virus infections on internal or external machines.</p> <p><b>Good:</b> All updates applied (within 1 day of release for automated processes and within 2 business days for manual processes) AND no virus infections spread to multiple machines (internal or external).</p> <p><b>Satisfactory:</b> All updates applied (within 2 days of release for automated processes and within 3 business days for manual processes) AND no virus infections spread to multiple machines (internal or external).</p> <p><b>Marginal:</b> All updates applied (within 3 days of release for automated processes or within 4 business days for manual processes) AND no virus infections spread to multiple machines (internal or external).</p> <p><b>Poor:</b> An update applied (in more than 3 days of release for automated processes or more than 4 business days for manual processes) OR a virus infection is spread to multiple machines (internal or external).</p>	Objective is to safeguard NETL data.	
4	Maintain cyber security policies and procedures, including maintaining security architecture and operating procedures.	<p><b>Excellent:</b> All requirements in NETL cyber security policies and procedures are followed, AND process improvements implemented.</p> <p><b>Good:</b> All requirements in NETL cyber security policies and procedures are followed.</p> <p><b>Satisfactory:</b> No deficiencies are detected that have a negative impact on the organization.</p> <p><b>Marginal:</b> More than 4 deficiencies are detected in adhering to compliance with NETL cyber security policies and procedures OR a deficiency is detected that has a negative impact on the organization.</p> <p><b>Poor:</b> More than 6 deficiencies are detected in adhering to compliance with NETL cyber security policies and procedures OR more than one deficiency is detected that has a negative impact on the organization.</p>	Objective is to safeguard NETL data and to promote computer security awareness.	

NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
5	Advisory notices, alarms, alerts, or other cyber security concerns (e.g., HQ Computer Incident Advisory Capability (CIAC), CERT, NID, CI, FBI, internal data, IG, system logs, etc.) received, evaluated and appropriate action taken.	<p><b>Excellent:</b> Appropriate action taken within 1 working day of receipt, AND high risk notices are handled on same day as receipt, AND closure with points of contact is handled within 3 days, AND performance monitors are briefed on actions taken to mitigate vulnerabilities.</p> <p><b>Good:</b> Appropriate action taken within 2 working days (1 working day if notice is a high risk) of receipt AND closure is completed within 3 days to ensure notices are addressed.</p> <p><b>Satisfactory:</b> Appropriate action taken within 5 working days (2 working days if notice is a high risk) of receipt AND closure with appropriate points of contact are completed within 5 working days of action taken to ensure notices are addressed.</p> <p><b>Marginal:</b> Appropriate action is not taken within 5 working days (2 working days if notice is a high risk) of receipt OR closure is not completed within 5 working days.</p> <p><b>Poor:</b> Appropriate action is not taken within 10 working days (4 working days if notice is a high risk) of receipt or follow-up is not completed within 10 days, OR a negative impact to the organization is realized that could have been avoided if appropriate action had been taken.</p>	Objective is to safeguard NETL data.	

NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
6	Successful and on-time completion of all security projects, and assignments by milestones/completion dates.	<p><b>Excellent:</b> Project plans are maintained, AND include resource requirements, AND not more than 2 weeks out of date, AND milestones/completion dates are met, AND sound and reasonable justification is provided for any project plan changes, AND project plans are comprehensive AND project plans are effectively used to manage and communicate work, AND no more than 1 completion date is missed, AND no critical due dates are missed.</p> <p><b>Good:</b> Project plans are maintained AND not more than 3 weeks out of date, AND milestones/completion dates are met, AND project plans are comprehensive AND project plans are effectively used to manage and communicate work, AND no more than 3 completion dates are missed, AND no critical due dates are missed.</p> <p><b>Satisfactory:</b> Project plans are maintained AND not more than 4 weeks out of date, AND milestones/completion dates are met, AND project plans are comprehensive AND project plans are effectively used to manage and communicate work, AND no more than 5 completion dates are missed, AND no critical due dates are missed.</p> <p><b>Marginal:</b> Project plans are maintained but are more than 4 weeks out of date, OR project plans are not comprehensive and only represent a portion of the workload, OR more than 3 completion dates are missed, OR a critical due date is missed.</p> <p><b>Poor:</b> Project plans are not maintained OR project plans are more than 6 weeks out of date, OR project plans are not representative of the workload and ineffective for management and communication of the work, OR more than 5 completion dates are missed, OR more than 2 critical due dates are missed.</p>	Objective is to stay ahead of delivery dates, to keep customer apprised of moving deadlines, and to meet customer expectations by providing timely delivery of products/services.	
3A	<b>COMPUTER FACILITY OPERATIONS (CLIENT SERVER) SUPPORT</b>			
7	Key production IT servers available during normal hours of operation.	<p><b>Excellent:</b> No cumulative server down time.</p> <p><b>Good:</b> Server down time is less than 2 cumulative hours.</p> <p><b>Satisfactory:</b> Server down time is less than 4 cumulative hours.</p> <p><b>Marginal:</b> Server down time is less than 8 cumulative hours.</p> <p><b>Poor:</b> Server down time exceeds 12 cumulative hours.</p>	Employees must have appropriate tools available to them during standard hours of operation.	



NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
8	Successful and on-time completion of projects.	<p><b>Excellent:</b> All requested project plans are submitted on time AND all projects are completed early.</p> <p><b>Good:</b> All requested project plans are submitted on time AND no projects are completed late.</p> <p><b>Satisfactory:</b> No more than 1 project plan is submitted late AND no more than 1 project is completed late.</p> <p><b>Marginal:</b> No more than 2 requested project plans are submitted late AND no more than 2 projects are completed late.</p> <p><b>Poor:</b> More than 2 requested project plans are submitted late OR more than 2 projects are completed late.</p>	Objective is to stay ahead of delivery dates and to meet customer expectations by providing timely delivery of products/services.	
9	Execution of preventive maintenance program.	<p><b>Excellent:</b> All preventive maintenance objectives are accomplished.</p> <p><b>Good:</b> All but 2 preventive maintenance objectives are accomplished AND no service outages occur as a result of these objectives not being met.</p> <p><b>Satisfactory:</b> All but 10 preventive maintenance objectives are accomplished AND no service outages occur as a result of these objectives not being met.</p> <p><b>Marginal:</b> More than 10 preventive maintenance objectives are not accomplished OR more than two service outages are a result of preventive maintenance objectives not being met.</p> <p><b>Poor:</b> More than two service outages are a result of a preventive maintenance objective not being met.</p>	Objective is to maintain optimum operational availability of IT services through preventive measures.	
10	Availability of CHRIS services to all locations from 7:00 a.m. to 8:00 p.m. EST.	<p><b>Excellent:</b> 100% uptime is achieved for CHRIS services.</p> <p><b>Satisfactory:</b> 99.5% uptime is achieved for CHRIS services.</p> <p><b>Marginal:</b> Less than 99.5% uptime is achieved for CHRIS services OR CHRIS services are unavailable for more than 8 contiguous hours.</p> <p><b>Poor:</b> Less than 99% uptime is achieved for CHRIS services OR CHRIS services provided by NETL are unavailable for more than 24 contiguous hours.</p>	CHRIS is a critical system that must be available to on-site and off-site DOE personnel.	

NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
11	Server data protection activities.	<p><b>Excellent:</b> All system data and user data restore requests are fulfilled AND at least 10 requests were processed.</p> <p><b>Good:</b> No more than 1 user data restore requests are unfulfilled AND at least 10 requests were processed.</p> <p><b>Satisfactory:</b> No more than 2 user data restore requests are unfulfilled.</p> <p><b>Marginal:</b> More than 2 user data restore requests are unfulfilled</p> <p><b>Poor:</b> At least one system data restore request is unfulfilled OR more than 5 user data restore requests are unfulfilled.</p>	Objective is safeguard NETL data.	
12	Disaster Recovery Planning.	<p><b>Excellent:</b> Disaster Recovery Plan is kept current (is reflective of the "in effect" IT architecture throughout the performance period) AND at least one test has been performed and was completely successful.</p> <p><b>Good:</b> Disaster Recovery Plan is kept current (is reflective of the "in effect" IT architecture throughout the performance period) AND at least one test has been performed and was completely successful.</p> <p><b>Satisfactory:</b> Disaster Recovery Plan exists AND is in compliance with the annual update and testing requirement.</p> <p><b>Marginal:</b> Annual update of the NETL Disaster Recovery Plan does not occur OR an annual (based on fiscal year) test of the Disaster Recovery Plan is not performed.</p> <p><b>Poor:</b> Annual update of the NETL Disaster Recovery Plan does not occur OR an annual (based on fiscal year) test of the Disaster Recovery Plan is not performed or the Disaster Recovery Plan fails to support an actual event.</p>	Objective is safeguard NETL data	
13	Operate and maintain all elements of a collaborative electronic messaging system including SMTP e-mail systems during standard hours of operation.	<p><b>Excellent:</b> 100% uptime is achieved per work week</p> <p><b>Good:</b> 99% average uptime or better is achieved per work week</p> <p><b>Satisfactory:</b> 98% average uptime or better is achieved per work week</p> <p><b>Marginal:</b> Less than 98% average uptime is achieved per work week</p> <p><b>Poor:</b> Less than 98% average uptime is achieved per work week AND any down for a period of more than 4 contiguous hours.</p>	The collaborative electronic messaging system and SMTP E-Mail is the primary application in use at NETL. It is important that the application remain available for use during standard hours of operation. E-Mail operations should endeavor for 24 X 7 operations except during scheduled maintenance.	

NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
4A	<b>DESKTOP</b>			
14	Quickly respond and resolve user problems on or before the due date as designated on the trouble tickets.	<p><b>Excellent:</b> 100% of all trouble tickets closed on or before due date.  <b>Good:</b> 99% of all trouble tickets closed on or before due date.  <b>Satisfactory:</b> 97% of all call trouble tickets closed on or before due date.  <b>Marginal:</b> 96% of all call trouble tickets closed on or before due date.  <b>Poor:</b> Less than 96% of all call trouble tickets closed on or before due date</p>	Goal is to ensure that timely customer service is provided.	
15	Customer problems are resolved in a timely and competent manner.	<p><b>Excellent:</b> 3 or less user complaints AND no issues identified within the call logging database, AND average of 5 points on customer survey responses.  <b>Good:</b> 4 user complaints AND no issues identified within the call logging database, AND survey average of 4 points on customer survey responses.  <b>Satisfactory:</b> 5 user complaints OR 3 issue identified within the call logging database OR survey average of 4 points on customer survey responses.  <b>Marginal:</b> 6 user complaints OR 5 issues identified within the call logging database OR survey average of less than 4 points on customer survey responses.  <b>Poor:</b> More than 6 user complaints OR more than 7 issues identified within the call login database, OR an average score of 3 points or less on the customer survey responses.</p>	Goal is to provide quality customer service.	
16	Successful and on-time completion of all projects and database updates.	<p><b>Excellent:</b> 100% of projects and database updates are completed on or before the due date.  <b>Good:</b> 99% of projects and database updates are completed on or before the due date.  <b>Satisfactory:</b> 97% of projects and database updates are completed on or before the due date.  <b>Marginal:</b> 96% are completed on or before the due date.  <b>Poor:</b> Less than 96% of projects and database updates are completed on or before the due date OR any project or database update is completed more than 10 days late.</p>	Objective is to stay ahead of delivery dates, to keep customer apprised of moving deadlines, and to meet customer expectations by providing timely delivery of products/services.	

NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
5A	<b>TELECOMMUNICATIONS SERVICES</b>			
17	Switched voice and data service availability.	<p><b>Excellent:</b> 100% availability of switched services during all weeks AND documentation of system resource assignments is accurately maintained and updated within 5-days of action (Move, Add or Change).</p> <p><b>Good:</b> 100% availability of switched services during all weeks AND documentation of system resource assignments is accurately maintained and updated within 7-days of action (Move, Add or Change).</p> <p><b>Satisfactory:</b> 100% availability of switched services during all weeks AND documentation of system resource assignments is accurately maintained and updated within 10-days of action (Move, Add or Change).</p> <p><b>Marginal:</b> Not less than 99.9% availability of switched services during any week AND no more than 15-minutes service outage during a rating period.</p> <p><b>Poor:</b> Less than 99.9% availability of switched services during any week OR more than 15-minutes of service outage during a rating period.</p>	Ensure critical telecommunications services, needed by NETL staff to conduct business, are available to NETL staff.	
18	Successful project planning and execution.	<p><b>Excellent:</b> All projects are completed before scheduled due date AND all critical milestones are completed before scheduled due date.</p> <p><b>Satisfactory:</b> All projects are completed on or before scheduled due date AND all critical milestones are completed on or before scheduled due date.</p> <p><b>Marginal:</b> No more than 3 projects or critical milestones are completed late AND all projects and critical milestones are completed within 5 days of scheduled due date.</p> <p><b>Poor:</b> 4 or more projects or critical milestones are completed late OR any project is completed more than 5 days after the scheduled due date OR any critical milestone is completed more than 5 days after the scheduled due date.</p>	Objective is to stay ahead of delivery dates, to keep customer apprised of moving deadlines, and to meet customer expectations by providing timely delivery of products/services.	

NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
19	Voice mail service availability during standard hours of operation.	<p><b>Satisfactory:</b> 100% availability of Voice Mail services during all work weeks.</p> <p><b>Marginal:</b> Not less than 97% availability of voice mail services during any work week AND not more than 25-minutes service outage during an evaluation period.</p> <p><b>Poor:</b> Less than 97% availability of voice mail services during any work week OR greater than 25-minutes total service outage during an evaluation period.</p>	Ensure voice mail services are available to NETL staff.	
20	Video conferencing service availability during standard hours of operation.	<p><b>Excellent:</b> 100% availability of all Video Conferencing services during all work weeks AND all failed systems are restored to service within 1 business day</p> <p><b>Satisfactory:</b> 100% availability of all Video Conferencing services during all work weeks AND all failed systems are restored to service within 2 business days.</p> <p><b>Marginal:</b> Not less than 95% availability of any Video Conferencing system during any work week OR 2 or more times failed systems are restored to service in more than 2 business days</p> <p><b>Poor:</b> Less than 95% availability of any Video Conferencing system OR 3 or more times failed systems are restored to service in more than 2 business days.</p>	Ensure video conferencing services are available to NETL staff.	
6A	<b>NETWORKS (DATA SERVICES)</b>			

NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
21	Network services availability Define Hours of coverage as 24 hours	<p><b>Excellent:</b> Availability of network services meets or exceeds 99.9% AND network monitoring identifies all potential service issues AND Contractor takes appropriate, timely actions to correct all service issues before they have an impact on any NETL staff.</p> <p><b>Good:</b> Availability of network services meets or exceeds 99.8% AND network monitoring identifies all potential service issues AND Contractor takes appropriate, timely actions to correct all service issues before they have a significant impact on any NETL staff.</p> <p><b>Satisfactory:</b> Availability of network services meets or exceeds 99.5% AND Contractor performs network monitoring and reporting on a regular basis AND Contractor actions have no negative impact on network services.</p> <p><b>Marginal:</b> Availability of network services is less than 99.5% OR Contractor performs network monitoring and reporting on an intermittent basis OR Contractor actions have minor negative impact on network services.</p> <p><b>Poor:</b> Availability of network services is less than 99.3% OR Contractor actions have significant negative impact on network services.</p>	Ensure availability of Network services LAN/WAN for NETL communications.	
22	Successful project planning, successful completion of critical milestones and on-time project completion.	<p><b>Excellent:</b> All projects and critical milestones are completed on or before scheduled due date AND all assigned action items are completed on-time.</p> <p><b>Good:</b> All projects and critical milestones are completed on or before scheduled date AND no more than 3 action items are completed late.</p> <p><b>Satisfactory</b> No more than 2 projects or critical milestones are completed after due date OR no more than 5 action items are completed late.</p> <p><b>Marginal:</b> No more than 3 projects or critical milestones are completed after due date OR no more than 7 action items are completed late.</p> <p><b>Poor:</b> More than 3 projects or critical milestones are completed after due date AND more than 7 action items are completed late.</p>	Network projects deliver new and improved services that meet organizational requirements in a cost effective manner.	
7A	<b>CLIENT SYSTEMS ENGINEERING</b>			

NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
23	Configuration changes delivered to managed client systems do not result in a subsequent failure of the client system.	<p><b>Excellent:</b> No errors or failures to any managed workstations occur after delivery of any applications or updates to the managed workstation.</p> <p><b>Good:</b> No more than one instance where an application or update introduces an error condition that must be fixed, but doesn't result in the managed workstation being inoperable.</p> <p><b>Satisfactory:</b> No more than two instances where an application or update introduces an error condition that must be fixed, but doesn't result in the managed workstation being inoperable.</p> <p><b>Marginal:</b> There are three or more instances where an application or update introduces an error condition that must be fixed, but doesn't result in the managed workstation being inoperable.</p> <p><b>Poor:</b> Deployment of an application or update results in a failure of the managed workstation that renders the managed workstation inoperable.</p>	The goal is deliver applications and/or updates to the managed workstation without introducing errors that prevent the managed workstation from operating correctly after the deployment. The intent of this standard is to ensure that all reasonable steps have been taken to prevent the deployment of an application or update that results in a significant loss of productivity on the part of users, or requires a significant effort to restore functionality to the managed workstation.	
24	Successful completion of scheduled projects by due date.	<p><b>Excellent:</b> All scheduled projects are successfully completed before their due date.</p> <p><b>Good:</b> All scheduled projects are successfully completed on or before their due date.</p> <p><b>Satisfactory:</b> All scheduled projects are successfully completed by their due date.</p> <p><b>Marginal:</b> No more than one project was not successfully completed by the due date.</p> <p><b>Poor:</b> Two or more projects were not completed by the due date.</p>	The goal is to stay ahead of delivery dates, to keep customer apprised of moving deadlines, and to meet customer expectations by providing timely delivery of products/services. It is understood that due dates on projects will change for various reasons, but the changes must be negotiated.	
8A	<b>ENTERPRISE ARCHITECTURE SUPPORT</b>			
25	Performs the work within the proposed and agreed upon schedule.	<p><b>Excellent:</b> The completion of one or more projects ahead of schedule has positively affective the schedule of 3 or more other projects AND all other projects are on schedule at the project milestone level.</p> <p><b>Good:</b> Each project is on or ahead of schedule at project milestone level.</p> <p><b>Satisfactory:</b> Each project is on schedule at the overall project level.</p> <p><b>Marginal:</b> A project completion date has passed and the work is not completed.</p> <p><b>Poor:</b> A missed project completion date has negatively affective the completion date of 3 or more other projects.</p>	The goal is to manage resources in a manner that results in meeting project schedules.	

NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
26	Organizational performance improvement as measured by return on investment (ROI) for each EA project.	<p><b>Excellent:</b> Anticipated ROI and realized ROI are within <math>\pm 15\%</math>.</p> <p><b>Good:</b> Anticipated ROI is calculated prior to the initiation of all EA projects AND realized ROI is calculated within 6 months of the completion of all EA projects.</p> <p><b>Satisfactory:</b> Anticipated ROI is calculated prior to the initiation of all EA projects.</p> <p><b>Marginal:</b> Anticipated ROI is not calculated prior to the initiation of all EA projects.</p> <p><b>Poor:</b> Anticipated ROI is calculated prior to the initiation of less than 50% of the newly initiated EA projects OR a methodology to capture ROI is not documented and deployed.</p>	The goal is to expend recourses in areas that provide the greatest return.	
27	Maintains positive rapport with NETL business representatives. Business representatives often serve in roles of Business Information Officers and Business Domain Experts.	<p><b>Excellent:</b> 2 or more unsolicited positive responses from business representatives AND no unsolicited negative feedback responses from business representatives AND a composite score on the customer survey of 4.85 or higher on a scale of 1 to 5.</p> <p><b>Good:</b> No unsolicited negative feedback responses from business representatives AND a composite score on the customer survey of 4.75 or higher on a scale of 1 to 5.</p> <p><b>Satisfactory:</b> 2 or fewer unsolicited negative feedback responses from business representatives AND a composite score on the customer survey of 4.5 on a scale of 1 to 5.</p> <p><b>Marginal:</b> 3 or more unsolicited negative feedback responses from business representatives OR a composite score on the customer survey of less than 4.5 on a scale of 1 to 5.</p> <p><b>Poor:</b> Negative feedback response which highlights a performance deficit which has resulted in a business representative disengaging from an EA activity OR a composite score on the customer survey of less than 3.0 on a scale of 1 to 5.</p>	The goal is to achieve positive professional rapport with NETL business representatives.	



NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
28	Performs modeling and related documentation in compliance with NETL EA procedures and practices.	<p><b>Excellent:</b> Made recommendation for improvement to modeling procedures and practices which has been accepted and which result in significant cost, schedule, or quality improvement AND no discrepancies between the procedures and practices and the models and documentation are noted on any single project during the rating period.</p> <p><b>Good:</b> No discrepancies between the procedures and practices and the models and documentation are noted on any single project during the rating period.</p> <p><b>Satisfactory:</b> Three or fewer discrepancies between the procedures and practices and the models and documentation are noted on any single project during the rating period.</p> <p><b>Marginal:</b> More than three discrepancies are noted on a single project during the rating period OR the modeling and related documents of one or more projects require rework to meet the procedures and practices.</p> <p><b>Poor:</b> The modeling and related documents of one or more projects require rework to meet the procedures and practices AND in order to perform the rework a business representative must be involved in order to capture lost or replace incorrectly modeled business information.</p>	The goal is the development of modeling and related documentation which is repeatable, defined, managed, and optimized.	
29	Improve EA procedures and practices.	<p><b>Excellent:</b> Present at least one recommendation for procedure and practices improvement each month AND (provide objective documentation illustrating that at least one implemented accepted improvement has resulted in an annual cost savings of \$25,000 OR project schedule savings of at least 25%).</p> <p><b>Good:</b> Present at least one recommendation for procedure and practices improvement each month AND (provide objective documentation illustrating that at least one implemented accepted improvement will result in an annual cost savings of \$10,000 OR project schedule savings of at least 15%.)</p> <p><b>Satisfactory:</b> Present at least one recommendation for procedure and practices improvement each month AND implement accepted improvements.</p> <p><b>Marginal:</b> Presented less than one recommendation for procedure and practices improvement each month OR did not implement accepted improvement.</p> <p><b>Poor:</b> Accepted and implemented procedures and practices improvements are not followed.</p>	The goal is the continuous improvement and maturation of EA procedures and practices.	

NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
30	Annual cost of IT application portfolio	<p><b>Excellent:</b> The annual cost to maintain the IT application portfolio is documented and the life cycle cost, life expectancy and stage of life is presented for each enterprise application AND the similar planning data generated for all enterprise applications is deemed accurate within 10% based on actual cost data.</p> <p><b>Good:</b> The annual cost to maintain the IT application portfolio is documented and the life cycle cost, life expectancy and stage of life is presented for each enterprise application AND similar data is generated for all planned enterprise applications.</p> <p><b>Satisfactory:</b> The annual cost to maintain the IT application portfolio is documented AND the life cycle cost, life expectancy and stage of life is presented for each enterprise application.</p> <p><b>Marginal:</b> The annual cost to maintain the IT application portfolio is not documented OR the life cycle cost, life expectancy and stage of life is not managed for each enterprise application.</p> <p><b>Poor:</b> The annual cost to maintain the IT application portfolio is not documented AND the life cycle cost, life expectancy and stage of life is not managed for each enterprise application AND there is no approved plan to achieve satisfactory performance.</p>	The goal is to provide the information necessary to manage the cost and succession of NETL's application portfolio.	
9A	<b>ENTERPRISE SYSTEM DEVELOPMENT AND MAINTENANCE</b>			
31	Ensure systems are designed to fulfill user requirements.	<p><b>Excellent:</b> Implement 100% of approved user requirements.</p> <p><b>Good:</b> Implement 99.5% approved user requirements.</p> <p><b>Satisfactory:</b> Implement 99% approved user requirements.</p> <p><b>Marginal:</b> Implement 98% approved user requirements.</p> <p><b>Poor:</b> Implement less than 97% approved user requirements.</p>	Objective is to deliver products that meet customer requirements.	
32	Ensure production applications are operational during standard hours of operation.	<p><b>Excellent:</b> 100% uptime is achieved per work week.</p> <p><b>Good:</b> 99.5% average uptime or better is achieved per work week.</p> <p><b>Satisfactory:</b> 99% average uptime is achieved per work week.</p> <p><b>Poor:</b> Less than average 98.5% uptime is achieved per work week.</p>	Employees must have appropriate tools available to them during standard hours of operation.	

NO.	STANDARD	PERFORMANCE MEASURE	OVERALL GOAL OR REASON FOR MEASURE	TRACKING
33	Required actions taken necessary to correct problems regarding user issues once product has been released to production.	<p><b>Excellent:</b> 0 actions required.  <b>Satisfactory:</b> 1 action required.  <b>Marginal:</b> 2 actions required.  <b>Poor:</b> More than 2 actions required.</p>	Objective is to deliver products that meet customer requirements	
34	Ensure adherence to Software Life Cycle Methodology phase elements.	<p><b>Excellent:</b> 0 phase elements in error or missed.  <b>Satisfactory:</b> 1 phase element in error or missed.  <b>Marginal:</b> 2 phase elements in error or missed.  <b>Poor:</b> More than 2 phase elements in error or missed.</p>	Objective is to minimize cost of solutions provided and provide effective and efficient operation and support.	
35	Successful and on-time completion of Enterprise System projects.	<p><b>Excellent:</b> All projects are completed on time AND all milestones are met on time.  <b>Good:</b> No more than 1 project is completed late AND no more than 5 milestones are missed.  <b>Satisfactory:</b> No more than 2 projects are completed late AND no more than 10 milestones are missed.  <b>Marginal:</b> More than 2 projects are completed late OR more than 10 milestones are missed.  <b>Poor:</b> More than 4 projects are completed late.</p>	Objective is to stay ahead of delivery dates, to keep customer apprised of moving deadlines, and to meet customer expectations by providing timely delivery of products/services.	
36	Ensure documentation and artifacts are consistent with Software Life Cycle Methodology and are completed on or before the due date.	<p><b>Excellent:</b> All required documentation and artifacts are completed on time.  <b>Good:</b> No more than 2 documents or artifacts are completed late AND no more than 1 document or artifact is missed.  <b>Satisfactory:</b> No more than 4 documents or artifacts are completed late AND no more than 2 documents or artifacts are missed.  <b>Marginal:</b> More than 5 documents or artifacts are completed late OR more than 4 documents or artifacts are missed.  <b>Poor:</b> More than 7 documents OR artifacts are completed late.</p>	Objective is to minimize cost of solutions provided and provide effective and efficient operation and support.	

**Performance Area 4.6 Contract Management and ES&H (10% of Maximum Available Award Fee)**

The quality of Contractor management shall be evaluated based on the following factors:

- a. Problem Resolution - The demonstrated ability of the Contractor to:
  - (1) identify potential problems in a timely manner; and
  - (2) promptly remedy, correct, or eliminate undesirable conditions that arise during service area performance.
- b. Coordination - The demonstrated ability of the Contractor to effectively coordinate on-site and off-site support of the Contractor, its principal subcontractors, and its vendors or lower tier subcontractors to accomplish all assigned objectives as authorized.
- c. Innovation - The Contractor's demonstrated innovation in recommending actions or plans for DOE approval which substantially increase the value of support services through cost reduction and/or improvement of results.
- d. Financial Reporting - The demonstrated ability to provide accurate and timely cost data, contractual reports, invoices, plans, and proposals per the contract's terms and conditions.
- e. Contract Notifications - The demonstrated ability of the Contractor to comply with the contract's term and conditions affecting contract cost (e.g., issuance of limitation of cost letters on a task and subtask basis, etc.).
- f. Cost Effectiveness - The demonstrated ability of the Contractor to develop and implement practices and processes resulting in cost efficiencies.
- g. Manpower Management - The demonstrated ability of the Contractor to manage direct labor and other direct cost as identified in the task's or subtask's authorized plan.
- h. Environment, Safety, and Health (ES&H) - The Contractor's demonstrated compliance to contractually identified Federal, state, and local ES&H requirements.
- i. Integrated Safety Management (ISM) - The demonstrated ability of the Contractor to:
  - (1) Apply ISM's seven principles and five functions in the planning, budgeting, execution, and improvement of its management and work activities.
  - (2) Implement the requirements in their ISM plan.
  - (3) Implement the requirements of NETL's environmental management system (EMS).
- j. Socioeconomic - The demonstrated ability to achieve or exceed socioeconomic goals identified in DOE approved Subcontracting Plan.

The Contractor shall be evaluated on the ability to provide objective evidence indicating the demonstration of the management quality factors listed above. The breadth and depth of demonstration will be primary factor evaluated. This criterion will be scored from 0 to 4 as outlined below.

<b>Factor</b>	<b>Expectations</b>	<b>Level of Performance</b>	<b>Performance Score</b>
Quality Management	100% demonstration (through objective evidence) of quality management factors	100 % demonstration of quality management factors.	+2
		Widespread demonstration (e.g., high majority of factors objectively demonstrated) of quality management factors.	+1
		Good demonstration (e.g., majority of factors objectively demonstrated) of quality management factors.	0
		Fair demonstration (e.g., some of the factors objectively demonstrated) of quality management factors.	-1
		Inconsistent and/or lacking demonstration of quality management factors.	-2

**J.5 ATTACHMENT D – DEPARTMENT OF LABOR WAGE DETERMINATION**

A copy of Department of Labor Wage Determination Numbers 1994-2574 R14, dated 2/25/2002 and 1994-2452 R15, dated 6/2/2003 are incorporated in this contract and attached as a separate .pdf file (entitled 41820 Attachment D.pdf).

**J.6 ATTACHMENT E – COST MANAGEMENT REPORT / STAFFING SUMMARY REPORT / INVOICE DETAIL REPORT**

An Adobe Acrobat (.pdf) file is incorporated in this contract as the format required for the Cost Management Report, Staffing Summary Report, and Invoice Detail Report and is attached as a separate .pdf file (entitled 41820 Attachment E.pdf).

**J.7 ATTACHMENT F – POSITION DESCRIPTIONS**

The Position Descriptions obtain from Cost Exhibit B2 are hereby incorporated as Attachment F and are attached as a separate .pdf file (entitled 41820 Attachment F.pdf)



**J.8 ATTACHMENT G – CONTRACT ORGANIZATION CHART**

An Adobe Acrobat (.pdf) file is incorporated in this contract as the format required for the Contract Organization Chart and is attached as a separate .pdf file (entitled 41820 Attachment G.pdf).

**J.5 ATTACHMENT D – DEPARTMENT OF LABOR WAGE DETERMINATION (Rev 2, 9/13/2007)**

A copy of Department of Labor Wage Determination Numbers 2005-2574 R4, dated 6/5/2007 and 2005-2452 R5, dated 8/7/2007 are incorporated in this contract and attached as a separate pdf file (entitled 41820 Attachment D Rev 2.pdf).

WD 05-2574 (Rev.-4) was first posted on www.wdol.gov on 06/05/2007

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REGISTER OF WAGE DETERMINATIONS UNDER  
THE SERVICE CONTRACT ACT  
By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
WAGE AND HOUR DIVISION  
WASHINGTON D.C. 20210

William W.Gross                      Division of  
Director                              Wage Determinations

Wage Determination No.: 2005-2574  
Revision No.: 4  
Date Of Revision: 05/29/2007

States: Kentucky, Ohio, West Virginia

Area: Kentucky Counties of Boyd, Carter, Elliott, Floyd, Greenup, Johnson, Lawrence,  
Lewis, Magoffin, Martin, Pike

Ohio Counties of Monroe, Morgan, Noble, Washington

West Virginia - All Counties except : Berkeley, Jefferson

Note: West Virginia include all counties except Berkeley and Jefferson counties.

\*\*Fringe Benefits Required Follow the Occupational Listing\*\*

OCCUPATION CODE - TITLE	MINIMUM WAGE RATE
01000 - Administrative Support And Clerical Occupations	
01011 - Accounting Clerk I	11.96
01012 - Accounting Clerk II	18.04
01013 - Accounting Clerk III	20.19
01020 - Administrative Assistant	16.51
01040 - Court Reporter	18.66
01051 - Data Entry Operator I	10.87
01052 - Data Entry Operator II	12.18
01060 - Dispatcher, Motor Vehicle	14.02
01070 - Document Preparation Clerk	11.14
01090 - Duplicating Machine Operator	11.19
01111 - General Clerk I	10.56
01112 - General Clerk II	12.02
01113 - General Clerk III	13.50
01120 - Housing Referral Assistant	14.85
01141 - Messenger Courier	9.11
01191 - Order Clerk I	9.30
01192 - Order Clerk II	11.05
01261 - Personnel Assistant (Employment) I	12.32
01262 - Personnel Assistant (Employment) II	15.43
01263 - Personnel Assistant (Employment) III	17.34
01270 - Production Control Clerk	17.37
01280 - Receptionist	9.04
01290 - Rental Clerk	11.99
01300 - Scheduler, Maintenance	11.99
01311 - Secretary I	11.99
01312 - Secretary II	13.41
01313 - Secretary III	14.63
01320 - Service Order Dispatcher	13.19
01410 - Supply Technician	16.51
01420 - Survey Worker	13.41

01531 - Travel Clerk I	11.21
01532 - Travel Clerk II	11.96
01533 - Travel Clerk III	12.75
01611 - Word Processor I	11.19
01612 - Word Processor II	12.57
01613 - Word Processor III	14.05
05000 - Automotive Service Occupations	
05005 - Automobile Body Repairer, Fiberglass	15.24
05010 - Automotive Electrician	14.52
05040 - Automotive Glass Installer	14.02
05070 - Automotive Worker	14.02
05110 - Mobile Equipment Servicer	12.99
05130 - Motor Equipment Metal Mechanic	15.03
05160 - Motor Equipment Metal Worker	14.02
05190 - Motor Vehicle Mechanic	15.03
05220 - Motor Vehicle Mechanic Helper	12.44
05250 - Motor Vehicle Upholstery Worker	13.53
05280 - Motor Vehicle Wrecker	14.02
05310 - Painter, Automotive	14.52
05340 - Radiator Repair Specialist	14.02
05370 - Tire Repairer	12.55
05400 - Transmission Repair Specialist	15.04
07000 - Food Preparation And Service Occupations	
07010 - Baker	9.39
07041 - Cook I	8.93
07042 - Cook II	9.66
07070 - Dishwasher	7.16
07130 - Food Service Worker	7.30
07210 - Meat Cutter	10.64
07260 - Waiter/Waitress	7.65
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	14.72
09040 - Furniture Handler	11.58
09080 - Furniture Refinisher	14.72
09090 - Furniture Refinisher Helper	12.62
09110 - Furniture Repairer, Minor	13.71
09130 - Upholsterer	14.72
11000 - General Services And Support Occupations	
11030 - Cleaner, Vehicles	7.89
11060 - Elevator Operator	7.99
11090 - Gardener	10.47
11122 - Housekeeping Aide	8.43
11150 - Janitor	8.82
11210 - Laborer, Grounds Maintenance	8.46
11240 - Maid or Houseman	7.36
11260 - Pruner	7.79
11270 - Tractor Operator	9.68
11330 - Trail Maintenance Worker	8.46
11360 - Window Cleaner	9.25
12000 - Health Occupations	
12010 - Ambulance Driver	10.93
12011 - Breath Alcohol Technician	13.66
12012 - Certified Occupational Therapist Assistant	16.01
12015 - Certified Physical Therapist Assistant	16.01
12020 - Dental Assistant	12.02
12025 - Dental Hygienist	18.83
12030 - EKG Technician	16.90
12035 - Electroneurodiagnostic Technologist	16.90
12040 - Emergency Medical Technician	12.02
12071 - Licensed Practical Nurse I	12.18

12072 - Licensed Practical Nurse II	13.66
12073 - Licensed Practical Nurse III	15.23
12100 - Medical Assistant	9.93
12130 - Medical Laboratory Technician	13.45
12160 - Medical Record Clerk	10.77
12190 - Medical Record Technician	13.54
12195 - Medical Transcriptionist	11.38
12210 - Nuclear Medicine Technologist	24.30
12221 - Nursing Assistant I	8.76
12222 - Nursing Assistant II	9.86
12223 - Nursing Assistant III	10.75
12224 - Nursing Assistant IV	12.07
12235 - Optical Dispenser	13.58
12236 - Optical Technician	11.02
12250 - Pharmacy Technician	13.41
12280 - Phlebotomist	12.07
12305 - Radiologic Technologist	18.27
12311 - Registered Nurse I	18.78
12312 - Registered Nurse II	22.97
12313 - Registered Nurse II, Specialist	22.97
12314 - Registered Nurse III	27.79
12315 - Registered Nurse III, Anesthetist	27.79
12316 - Registered Nurse IV	33.32
12317 - Scheduler (Drug and Alcohol Testing)	15.18
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	14.13
13012 - Exhibits Specialist II	17.51
13013 - Exhibits Specialist III	21.41
13041 - Illustrator I	14.13
13042 - Illustrator II	17.51
13043 - Illustrator III	21.41
13047 - Librarian	19.38
13050 - Library Aide/Clerk	7.98
13054 - Library Information Technology Systems Administrator	18.16
13058 - Library Technician	13.41
13061 - Media Specialist I	12.24
13062 - Media Specialist II	13.69
13063 - Media Specialist III	15.26
13071 - Photographer I	13.50
13072 - Photographer II	15.10
13073 - Photographer III	18.70
13074 - Photographer IV	22.88
13075 - Photographer V	27.68
13110 - Video Teleconference Technician	12.63
14000 - Information Technology Occupations	
14041 - Computer Operator I	11.65
14042 - Computer Operator II	13.03
14043 - Computer Operator III	14.52
14044 - Computer Operator IV	16.14
14045 - Computer Operator V	18.18
14071 - Computer Programmer I (1)	15.53
14072 - Computer Programmer II (1)	19.23
14073 - Computer Programmer III (1)	23.54
14074 - Computer Programmer IV (1)	27.62
14101 - Computer Systems Analyst I (1)	25.60
14102 - Computer Systems Analyst II (1)	27.62
14103 - Computer Systems Analyst III (1)	27.62
14150 - Peripheral Equipment Operator	11.65
14160 - Personal Computer Support Technician	16.14
15000 - Instructional Occupations	

15010 - Aircrew Training Devices Instructor (Non-Rated)	21.89
15020 - Aircrew Training Devices Instructor (Rated)	26.49
15030 - Air Crew Training Devices Instructor (Pilot)	29.14
15050 - Computer Based Training Specialist / Instructor	22.34
15060 - Educational Technologist	22.62
15070 - Flight Instructor (Pilot)	29.14
15080 - Graphic Artist	18.11
15090 - Technical Instructor	16.97
15095 - Technical Instructor/Course Developer	20.75
15110 - Test Proctor	13.69
15120 - Tutor	13.69
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations	
16010 - Assembler	8.17
16030 - Counter Attendant	8.17
16040 - Dry Cleaner	10.36
16070 - Finisher, Flatwork, Machine	8.17
16090 - Presser, Hand	8.17
16110 - Presser, Machine, Drycleaning	8.17
16130 - Presser, Machine, Shirts	8.17
16160 - Presser, Machine, Wearing Apparel, Laundry	8.17
16190 - Sewing Machine Operator	11.08
16220 - Tailor	11.77
16250 - Washer, Machine	8.85
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	14.72
19040 - Tool And Die Maker	16.80
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	13.91
21030 - Material Coordinator	17.37
21040 - Material Expediter	17.37
21050 - Material Handling Laborer	9.37
21071 - Order Filler	10.71
21080 - Production Line Worker (Food Processing)	13.91
21110 - Shipping Packer	12.16
21130 - Shipping/Receiving Clerk	12.16
21140 - Store Worker I	10.51
21150 - Stock Clerk	14.12
21210 - Tools And Parts Attendant	13.91
21410 - Warehouse Specialist	13.91
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	21.52
23021 - Aircraft Mechanic I	20.59
23022 - Aircraft Mechanic II	21.52
23023 - Aircraft Mechanic III	22.25
23040 - Aircraft Mechanic Helper	16.95
23050 - Aircraft, Painter	17.81
23060 - Aircraft Servicer	18.41
23080 - Aircraft Worker	19.09
23110 - Appliance Mechanic	16.19
23120 - Bicycle Repairer	12.72
23125 - Cable Splicer	22.37
23130 - Carpenter, Maintenance	16.42
23140 - Carpet Layer	15.63
23160 - Electrician, Maintenance	19.70
23181 - Electronics Technician Maintenance I	12.72
23182 - Electronics Technician Maintenance II	20.25
23183 - Electronics Technician Maintenance III	21.24
23260 - Fabric Worker	14.98
23290 - Fire Alarm System Mechanic	17.53
23310 - Fire Extinguisher Repairer	15.15

23311 - Fuel Distribution System Mechanic	19.94
23312 - Fuel Distribution System Operator	15.50
23370 - General Maintenance Worker	15.63
23380 - Ground Support Equipment Mechanic	20.59
23381 - Ground Support Equipment Servicer	18.41
23382 - Ground Support Equipment Worker	19.09
23391 - Gunsmith I	13.84
23392 - Gunsmith II	15.85
23393 - Gunsmith III	17.70
23410 - Heating, Ventilation And Air-Conditioning Mechanic	16.98
23411 - Heating, Ventilation And Air Contditiioning Mechanic (Research Facility)	17.75
23430 - Heavy Equipment Mechanic	17.42
23440 - Heavy Equipment Operator	17.05
23460 - Instrument Mechanic	17.86
23465 - Laboratory/Shelter Mechanic	16.87
23470 - Laborer	9.37
23510 - Locksmith	16.19
23530 - Machinery Maintenance Mechanic	19.62
23550 - Machinist, Maintenance	17.52
23580 - Maintenance Trades Helper	12.94
23591 - Metrology Technician I	17.86
23592 - Metrology Technician II	18.67
23593 - Metrology Technician III	19.30
23640 - Millwright	19.65
23710 - Office Appliance Repairer	17.02
23760 - Painter, Maintenance	16.84
23790 - Pipefitter, Maintenance	18.77
23810 - Plumber, Maintenance	18.12
23820 - Pneudraulic Systems Mechanic	17.86
23850 - Rigger	19.65
23870 - Scale Mechanic	16.34
23890 - Sheet-Metal Worker, Maintenance	18.48
23910 - Small Engine Mechanic	15.62
23931 - Telecommunications Mechanic I	18.44
23932 - Telecommunications Mechanic II	19.09
23950 - Telephone Lineman	18.44
23960 - Welder, Combination, Maintenance	17.70
23965 - Well Driller	17.53
23970 - Woodcraft Worker	17.86
23980 - Woodworker	14.72
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	7.14
24580 - Child Care Center Clerk	8.91
24610 - Chore Aide	6.98
24620 - Family Readiness And Support Services Coordinator	8.74
24630 - Homemaker	9.48
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	19.69
25040 - Sewage Plant Operator	16.85
25070 - Stationary Engineer	19.69
25190 - Ventilation Equipment Tender	14.03
25210 - Water Treatment Plant Operator	16.19
27000 - Protective Service Occupations	
27004 - Alarm Monitor	9.78
27007 - Baggage Inspector	8.69
27008 - Corrections Officer	13.37
27010 - Court Security Officer	14.79
27030 - Detection Dog Handler	9.72
27040 - Detention Officer	13.37

27070 - Firefighter	16.12
27101 - Guard I	8.69
27102 - Guard II	9.72
27131 - Police Officer I	16.15
27132 - Police Officer II	17.97
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	9.41
28042 - Carnival Equipment Repairer	9.85
28043 - Carnival Equipment Worker	7.70
28210 - Gate Attendant/Gate Tender	12.14
28310 - Lifeguard	10.82
28350 - Park Attendant (Aide)	12.42
28510 - Recreation Aide/Health Facility Attendant	9.91
28515 - Recreation Specialist	11.04
28630 - Sports Official	8.60
28690 - Swimming Pool Operator	11.98
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	15.21
29020 - Hatch Tender	15.21
29030 - Line Handler	15.21
29041 - Stevedore I	14.41
29042 - Stevedore II	15.56
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist, Center (HFO) (2)	32.38
30011 - Air Traffic Control Specialist, Station (HFO) (2)	22.33
30012 - Air Traffic Control Specialist, Terminal (HFO) (2)	24.59
30021 - Archeological Technician I	16.95
30022 - Archeological Technician II	18.94
30023 - Archeological Technician III	23.48
30030 - Cartographic Technician	23.90
30040 - Civil Engineering Technician	17.60
30061 - Drafter/CAD Operator I	16.78
30062 - Drafter/CAD Operator II	20.47
30063 - Drafter/CAD Operator III	21.49
30064 - Drafter/CAD Operator IV	22.56
30081 - Engineering Technician I	14.25
30082 - Engineering Technician II	15.99
30083 - Engineering Technician III	19.55
30084 - Engineering Technician IV	23.78
30085 - Engineering Technician V	29.63
30086 - Engineering Technician VI	35.53
30090 - Environmental Technician	17.30
30210 - Laboratory Technician	16.81
30240 - Mathematical Technician	24.49
30361 - Paralegal/Legal Assistant I	15.19
30362 - Paralegal/Legal Assistant II	17.75
30363 - Paralegal/Legal Assistant III	21.73
30364 - Paralegal/Legal Assistant IV	26.29
30390 - Photo-Optics Technician	24.54
30461 - Technical Writer I	15.07
30462 - Technical Writer II	19.26
30463 - Technical Writer III	22.30
30491 - Unexploded Ordnance (UXO) Technician I	20.58
30492 - Unexploded Ordnance (UXO) Technician II	24.90
30493 - Unexploded Ordnance (UXO) Technician III	29.85
30494 - Unexploded (UXO) Safety Escort	20.58
30495 - Unexploded (UXO) Sweep Personnel	20.58
30620 - Weather Observer, Combined Upper Air Or Surface Programs (3)	16.19
30621 - Weather Observer, Senior (3)	18.00
31000 - Transportation/Mobile Equipment Operation Occupations	



31020 - Bus Aide	8.34
31030 - Bus Driver	11.47
31043 - Driver Courier	9.68
31260 - Parking and Lot Attendant	8.02
31290 - Shuttle Bus Driver	10.51
31310 - Taxi Driver	8.48
31361 - Truckdriver, Light	10.44
31362 - Truckdriver, Medium	12.63
31363 - Truckdriver, Heavy	14.06
31364 - Truckdriver, Tractor-Trailer	14.06
99000 - Miscellaneous Occupations	
99030 - Cashier	6.80
99050 - Desk Clerk	7.38
99095 - Embalmer	20.58
99251 - Laboratory Animal Caretaker I	7.97
99252 - Laboratory Animal Caretaker II	8.60
99310 - Mortician	24.27
99410 - Pest Controller	11.57
99510 - Photofinishing Worker	9.36
99710 - Recycling Laborer	10.66
99711 - Recycling Specialist	12.24
99730 - Refuse Collector	10.15
99810 - Sales Clerk	9.41
99820 - School Crossing Guard	8.76
99830 - Survey Party Chief	14.63
99831 - Surveying Aide	9.05
99832 - Surveying Technician	12.42
99840 - Vending Machine Attendant	10.64
99841 - Vending Machine Repairer	11.98
99842 - Vending Machine Repairer Helper	10.64

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ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: Life, accident, and health insurance plans, sick leave, pension plans, civic and personal leave, severance pay, and savings and thrift plans. Minimum employer contributions costing an average of \$3.16 per hour computed on the basis of all hours worked by service employees employed on the contract.

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 8 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

- 1) Does not apply to employees employed in a bona fide executive, administrative,

or professional capacity as defined and delineated in 29 CFR 541. (See CFR 4.156)

2) APPLICABLE TO AIR TRAFFIC CONTROLLERS ONLY - NIGHT DIFFERENTIAL: An employee is entitled to pay for all work performed between the hours of 6:00 P.M. and 6:00 A.M. at the rate of basic pay plus a night pay differential amounting to 10 percent of the rate of basic pay.

3) WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

\*\* UNIFORM ALLOWANCE \*\*

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work,

there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at <http://www.dol.gov/esa/whd/> or through the Wage Determinations On-Line (WDOL) Web site at <http://wdol.gov/>.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation) and computes a proposed rate).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title), a Federal grade equivalency (FGE) for each proposed classification), job description), and rationale for proposed wage rate), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).
- 4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.
- 5) The contracting officer transmits the Wage and Hour decision to the contractor.
- 6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

WD 05-2452 (Rev.-5) was first posted on www.wdol.gov on 08/07/2007

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REGISTER OF WAGE DETERMINATIONS UNDER  
THE SERVICE CONTRACT ACT  
By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
WAGE AND HOUR DIVISION  
WASHINGTON D.C. 20210

William W.Gross                      Division of  
Director                              Wage Determinations

Wage Determination No.: 2005-2452  
Revision No.: 5  
Date Of Revision: 08/02/2007

States: Ohio, Pennsylvania

Area: Ohio Counties of Belmont, Harrison, Jefferson, Tuscarawas  
Pennsylvania Counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Butler,  
Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie,  
Fayette, Forest, Fulton, Greene, Huntingdon, Indiana, Jefferson, Lawrence, McKean,  
Mercer, Potter, Somerset, Venango, Warren, Washington, Westmoreland

\*\*Fringe Benefits Required Follow the Occupational Listing\*\*

OCCUPATION CODE - TITLE	MINIMUM WAGE RATE
01000 - Administrative Support And Clerical Occupations	
01011 - Accounting Clerk I	13.33
01012 - Accounting Clerk II	15.72
01013 - Accounting Clerk III	20.33
01020 - Administrative Assistant	21.11
01040 - Court Reporter	17.78
01051 - Data Entry Operator I	11.06
01052 - Data Entry Operator II	13.25
01060 - Dispatcher, Motor Vehicle	15.45
01070 - Document Preparation Clerk	11.66
01090 - Duplicating Machine Operator	11.56
01111 - General Clerk I	10.48
01112 - General Clerk II	13.88
01113 - General Clerk III	15.05
01120 - Housing Referral Assistant	18.30
01141 - Messenger Courier	9.78
01191 - Order Clerk I	13.17
01192 - Order Clerk II	15.74
01261 - Personnel Assistant (Employment) I	14.40
01262 - Personnel Assistant (Employment) II	15.51
01263 - Personnel Assistant (Employment) III	18.17
01270 - Production Control Clerk	18.12
01280 - Receptionist	11.56
01290 - Rental Clerk	14.59
01300 - Scheduler, Maintenance	14.20
01311 - Secretary I	14.18
01312 - Secretary II	16.96
01313 - Secretary III	18.21
01320 - Service Order Dispatcher	15.06
01410 - Supply Technician	21.11
01420 - Survey Worker	14.33
01531 - Travel Clerk I	11.44
01532 - Travel Clerk II	12.28

01533 - Travel Clerk III	13.17
01611 - Word Processor I	12.79
01612 - Word Processor II	15.43
01613 - Word Processor III	16.54
05000 - Automotive Service Occupations	
05005 - Automobile Body Repairer, Fiberglass	17.98
05010 - Automotive Electrician	17.31
05040 - Automotive Glass Installer	16.65
05070 - Automotive Worker	16.65
05110 - Mobile Equipment Servicer	15.43
05130 - Motor Equipment Metal Mechanic	17.93
05160 - Motor Equipment Metal Worker	16.65
05190 - Motor Vehicle Mechanic	18.21
05220 - Motor Vehicle Mechanic Helper	14.83
05250 - Motor Vehicle Upholstery Worker	16.04
05280 - Motor Vehicle Wrecker	16.65
05310 - Painter, Automotive	18.53
05340 - Radiator Repair Specialist	16.65
05370 - Tire Repairer	13.96
05400 - Transmission Repair Specialist	17.93
07000 - Food Preparation And Service Occupations	
07010 - Baker	10.98
07041 - Cook I	10.88
07042 - Cook II	12.08
07070 - Dishwasher	8.33
07130 - Food Service Worker	8.61
07210 - Meat Cutter	11.32
07260 - Waiter/Waitress	8.86
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	16.22
09040 - Furniture Handler	12.62
09080 - Furniture Refinisher	16.22
09090 - Furniture Refinisher Helper	13.89
09110 - Furniture Repairer, Minor	15.03
09130 - Upholsterer	16.22
11000 - General Services And Support Occupations	
11030 - Cleaner, Vehicles	9.28
11060 - Elevator Operator	11.02
11090 - Gardener	13.43
11122 - Housekeeping Aide	10.93
11150 - Janitor	12.96
11210 - Laborer, Grounds Maintenance	10.94
11240 - Maid or Houseman	10.20
11260 - Pruner	12.96
11270 - Tractor Operator	12.59
11330 - Trail Maintenance Worker	10.94
11360 - Window Cleaner	13.78
12000 - Health Occupations	
12010 - Ambulance Driver	12.64
12011 - Breath Alcohol Technician	15.88
12012 - Certified Occupational Therapist Assistant	18.84
12015 - Certified Physical Therapist Assistant	17.79
12020 - Dental Assistant	12.80
12025 - Dental Hygienist	19.02
12030 - EKG Technician	20.82
12035 - Electroneurodiagnostic Technologist	20.82
12040 - Emergency Medical Technician	12.64
12071 - Licensed Practical Nurse I	14.14
12072 - Licensed Practical Nurse II	15.88
12073 - Licensed Practical Nurse III	17.76

12100 - Medical Assistant	11.73
12130 - Medical Laboratory Technician	15.64
12160 - Medical Record Clerk	13.16
12190 - Medical Record Technician	16.42
12195 - Medical Transcriptionist	13.22
12210 - Nuclear Medicine Technologist	23.09
12221 - Nursing Assistant I	9.47
12222 - Nursing Assistant II	10.64
12223 - Nursing Assistant III	11.07
12224 - Nursing Assistant IV	12.42
12235 - Optical Dispenser	11.48
12236 - Optical Technician	11.09
12250 - Pharmacy Technician	12.19
12280 - Phlebotomist	12.93
12305 - Radiologic Technologist	19.01
12311 - Registered Nurse I	22.50
12312 - Registered Nurse II	26.10
12313 - Registered Nurse II, Specialist	26.10
12314 - Registered Nurse III	33.10
12315 - Registered Nurse III, Anesthetist	33.10
12316 - Registered Nurse IV	34.88
12317 - Scheduler (Drug and Alcohol Testing)	19.73
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	20.46
13012 - Exhibits Specialist II	26.07
13013 - Exhibits Specialist III	28.16
13041 - Illustrator I	19.11
13042 - Illustrator II	24.36
13043 - Illustrator III	26.32
13047 - Librarian	24.59
13050 - Library Aide/Clerk	10.34
13054 - Library Information Technology Systems Administrator	20.34
13058 - Library Technician	14.60
13061 - Media Specialist I	15.60
13062 - Media Specialist II	17.43
13063 - Media Specialist III	19.41
13071 - Photographer I	14.35
13072 - Photographer II	18.24
13073 - Photographer III	21.49
13074 - Photographer IV	25.11
13075 - Photographer V	30.36
13110 - Video Teleconference Technician	14.06
14000 - Information Technology Occupations	
14041 - Computer Operator I	14.44
14042 - Computer Operator II	15.86
14043 - Computer Operator III	18.84
14044 - Computer Operator IV	20.94
14045 - Computer Operator V	23.18
14071 - Computer Programmer I (1)	20.31
14072 - Computer Programmer II (1)	23.57
14073 - Computer Programmer III (1)	27.62
14074 - Computer Programmer IV (1)	27.62
14101 - Computer Systems Analyst I (1)	27.62
14102 - Computer Systems Analyst II (1)	27.62
14103 - Computer Systems Analyst III (1)	27.62
14150 - Peripheral Equipment Operator	14.44
14160 - Personal Computer Support Technician	20.94
15000 - Instructional Occupations	
15010 - Aircrew Training Devices Instructor (Non-Rated)	25.09
15020 - Aircrew Training Devices Instructor (Rated)	30.38

15030 - Air Crew Training Devices Instructor (Pilot)	34.24
15050 - Computer Based Training Specialist / Instructor	27.62
15060 - Educational Technologist	29.84
15070 - Flight Instructor (Pilot)	34.24
15080 - Graphic Artist	20.56
15090 - Technical Instructor	18.56
15095 - Technical Instructor/Course Developer	23.00
15110 - Test Proctor	16.96
15120 - Tutor	16.96
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations	
16010 - Assembler	8.54
16030 - Counter Attendant	8.54
16040 - Dry Cleaner	10.64
16070 - Finisher, Flatwork, Machine	8.54
16090 - Presser, Hand	8.54
16110 - Presser, Machine, Drycleaning	8.54
16130 - Presser, Machine, Shirts	8.54
16160 - Presser, Machine, Wearing Apparel, Laundry	8.54
16190 - Sewing Machine Operator	11.35
16220 - Tailor	12.05
16250 - Washer, Machine	9.24
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	16.21
19040 - Tool And Die Maker	22.76
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	15.61
21030 - Material Coordinator	19.20
21040 - Material Expediter	19.20
21050 - Material Handling Laborer	18.10
21071 - Order Filler	13.89
21080 - Production Line Worker (Food Processing)	15.61
21110 - Shipping Packer	13.72
21130 - Shipping/Receiving Clerk	13.72
21140 - Store Worker I	12.47
21150 - Stock Clerk	15.81
21210 - Tools And Parts Attendant	15.61
21410 - Warehouse Specialist	15.61
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	21.06
23021 - Aircraft Mechanic I	20.33
23022 - Aircraft Mechanic II	21.06
23023 - Aircraft Mechanic III	21.96
23040 - Aircraft Mechanic Helper	16.07
23050 - Aircraft, Painter	19.41
23060 - Aircraft Servicer	17.39
23080 - Aircraft Worker	18.40
23110 - Appliance Mechanic	18.69
23120 - Bicycle Repairer	13.96
23125 - Cable Splicer	24.52
23130 - Carpenter, Maintenance	20.21
23140 - Carpet Layer	17.94
23160 - Electrician, Maintenance	22.81
23181 - Electronics Technician Maintenance I	19.07
23182 - Electronics Technician Maintenance II	22.49
23183 - Electronics Technician Maintenance III	24.60
23260 - Fabric Worker	17.38
23290 - Fire Alarm System Mechanic	21.02
23310 - Fire Extinguisher Repairer	16.39
23311 - Fuel Distribution System Mechanic	21.50
23312 - Fuel Distribution System Operator	18.49



23370 - General Maintenance Worker	15.60
23380 - Ground Support Equipment Mechanic	20.33
23381 - Ground Support Equipment Servicer	17.39
23382 - Ground Support Equipment Worker	18.40
23391 - Gunsmith I	16.39
23392 - Gunsmith II	18.40
23393 - Gunsmith III	20.33
23410 - Heating, Ventilation And Air-Conditioning Mechanic	18.95
23411 - Heating, Ventilation And Air Contdditioning Mechanic (Research Facility)	
19.69	
23430 - Heavy Equipment Mechanic	18.54
23440 - Heavy Equipment Operator	20.60
23460 - Instrument Mechanic	20.56
23465 - Laboratory/Shelter Mechanic	19.42
23470 - Laborer	14.78
23510 - Locksmith	18.41
23530 - Machinery Maintenance Mechanic	21.00
23550 - Machinist, Maintenance	18.41
23580 - Maintenance Trades Helper	14.94
23591 - Metrology Technician I	20.56
23592 - Metrology Technician II	21.40
23593 - Metrology Technician III	22.35
23640 - Millwright	20.86
23710 - Office Appliance Repairer	18.41
23760 - Painter, Maintenance	19.35
23790 - Pipefitter, Maintenance	25.44
23810 - Plumber, Maintenance	20.86
23820 - Pneudraulic Systems Mechanic	20.33
23850 - Rigger	20.33
23870 - Scale Mechanic	18.40
23890 - Sheet-Metal Worker, Maintenance	22.92
23910 - Small Engine Mechanic	17.11
23931 - Telecommunications Mechanic I	23.24
23932 - Telecommunications Mechanic II	24.07
23950 - Telephone Lineman	22.87
23960 - Welder, Combination, Maintenance	17.08
23965 - Well Driller	16.85
23970 - Woodcraft Worker	20.33
23980 - Woodworker	14.45
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	10.58
24580 - Child Care Center Clerk	11.80
24610 - Chore Aide	9.23
24620 - Family Readiness And Support Services Coordinator	11.57
24630 - Homemaker	12.26
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	23.07
25040 - Sewage Plant Operator	18.58
25070 - Stationary Engineer	23.07
25190 - Ventilation Equipment Tender	16.11
25210 - Water Treatment Plant Operator	18.58
27000 - Protective Service Occupations	
27004 - Alarm Monitor	13.92
27007 - Baggage Inspector	10.08
27008 - Corrections Officer	20.06
27010 - Court Security Officer	20.55
27030 - Detection Dog Handler	14.84
27040 - Detention Officer	20.06
27070 - Firefighter	20.55
27101 - Guard I	10.08

27102 - Guard II	14.84
27131 - Police Officer I	24.82
27132 - Police Officer II	26.93
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	9.78
28042 - Carnival Equipment Repairer	10.16
28043 - Carnival Equipment Worker	8.33
28210 - Gate Attendant/Gate Tender	12.53
28310 - Lifeguard	10.94
28350 - Park Attendant (Aide)	14.02
28510 - Recreation Aide/Health Facility Attendant	10.23
28515 - Recreation Specialist	13.87
28630 - Sports Official	11.16
28690 - Swimming Pool Operator	18.27
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	18.98
29020 - Hatch Tender	18.98
29030 - Line Handler	18.98
29041 - Stevedore I	17.94
29042 - Stevedore II	19.37
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist, Center (HFO) (2)	33.41
30011 - Air Traffic Control Specialist, Station (HFO) (2)	23.04
30012 - Air Traffic Control Specialist, Terminal (HFO) (2)	25.38
30021 - Archeological Technician I	14.84
30022 - Archeological Technician II	16.62
30023 - Archeological Technician III	20.55
30030 - Cartographic Technician	24.59
30040 - Civil Engineering Technician	21.90
30061 - Drafter/CAD Operator I	16.27
30062 - Drafter/CAD Operator II	19.55
30063 - Drafter/CAD Operator III	20.55
30064 - Drafter/CAD Operator IV	25.09
30081 - Engineering Technician I	16.06
30082 - Engineering Technician II	18.06
30083 - Engineering Technician III	20.98
30084 - Engineering Technician IV	24.00
30085 - Engineering Technician V	27.48
30086 - Engineering Technician VI	33.22
30090 - Environmental Technician	21.09
30210 - Laboratory Technician	20.26
30240 - Mathematical Technician	25.09
30361 - Paralegal/Legal Assistant I	17.49
30362 - Paralegal/Legal Assistant II	22.76
30363 - Paralegal/Legal Assistant III	26.95
30364 - Paralegal/Legal Assistant IV	27.74
30390 - Photo-Optics Technician	26.70
30461 - Technical Writer II	
30462 - Technical Writer II	24.25
30463 - Technical Writer III	26.14
30491 - Unexploded Ordnance (UXO) Technician I	21.24
30492 - Unexploded Ordnance (UXO) Technician II	25.70
30493 - Unexploded Ordnance (UXO) Technician III	30.80
30494 - Unexploded (UXO) Safety Escort	21.24
30495 - Unexploded (UXO) Sweep Personnel	21.24
30620 - Weather Observer, Combined Upper Air Or Surface Programs (2)	20.55
30621 - Weather Observer, Senior (2)	22.14
31000 - Transportation/Mobile Equipment Operation Occupations	
31020 - Bus Aide	13.37
31030 - Bus Driver	18.40

31043 - Driver Courier	13.74
31260 - Parking and Lot Attendant	9.10
31290 - Shuttle Bus Driver	14.65
31310 - Taxi Driver	10.92
31361 - Truckdriver, Light	14.65
31362 - Truckdriver, Medium	17.07
31363 - Truckdriver, Heavy	18.69
31364 - Truckdriver, Tractor-Trailer	18.69
99000 - Miscellaneous Occupations	
99030 - Cashier	7.74
99050 - Desk Clerk	8.42
99095 - Embalmer	21.24
99251 - Laboratory Animal Caretaker I	10.80
99252 - Laboratory Animal Caretaker III½ i½	11.34
99310 - Mortician	23.98
99410 - Pest Controller	15.49
99510 - Photofinishing Worker	10.94
99710 - Recycling Laborer	17.23
99711 - Recycling Specialist	19.85
99730 - Refuse Collector	15.92
99810 - Sales Clerk	10.02
99820 - School Crossing Guard	9.09
99830 - Survey Party Chief	15.66
99831 - Surveying Aide	9.33
99832 - Surveying Technician	14.23
99840 - Vending Machine Attendant	13.41
99841 - Vending Machine Repairer	15.10
99842 - Vending Machine Repairer Helper	13.41

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ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

**HEALTH & WELFARE:** Life, accident, and health insurance plans, sick leave, pension plans, civic and personal leave, severance pay, and savings and thrift plans. Minimum employer contributions costing an average of \$3.16 per hour computed on the basis of all hours worked by service employees employed on the contract.

**VACATION:** 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 8 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

**HOLIDAYS:** A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

- 1) Does not apply to employees employed in a bona fide executive, administrative, or professional capacity as defined and delineated in 29 CFR 541. (See CFR 4.156)
- 2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you

work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am.

If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

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site at <http://wdol.gov/>.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed (occupation) and computes a proposed rate).
- 2) After contract award, the contractor prepares a written report listing in order (proposed classification title), a Federal grade equivalency (FGE) for each proposed classification), job description), and rationale for proposed wage rate), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).
- 4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.
- 5) The contracting officer transmits the Wage and Hour decision to the contractor.
- 6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.



NATIONAL ENERGY TECHNOLOGY LABORATORY  
COST MANAGEMENT REPORT

<sup>1</sup> Title								<sup>2</sup> Reporting Period						<sup>3</sup> Identification Number: DE-AM-23-04NT50500 Modification #:			
<sup>4</sup> Participant Name and Address								<sup>5</sup> Cost Plan Date						<sup>6</sup> Contract Start Date: 6/1/04			
														<sup>7</sup> Contract Completion Date: 5/31/09			
<sup>8</sup> Task #	*Cost Tracking			*Funding		Plan		Accrued Costs						Projections			<sup>25</sup> Notes
	<sup>9</sup> B&R Number	<sup>10</sup> Fin. Plan Cost Center	<sup>11</sup> Program/ Order #	<sup>12</sup> Current FY Obligations	<sup>13</sup> Total Obligations	<sup>14</sup> Approved FY Cost Plan	<sup>15</sup> Total Plan Value	Reporting Period		FY to Date		Cumulative to Date		<sup>22</sup> Next Period Commitments	<sup>23</sup> FY Total Cost	<sup>24</sup> Funds Expiration	
								<sup>16</sup> Actual	<sup>17</sup> Plan	<sup>18</sup> Actual	<sup>19</sup> Bal of P	<sup>20</sup> Actual	<sup>21</sup> Plan				
<b>Task Title</b>																	
60123	AN2006000	PEMD122		-	195,000	124,591	206,750	7,896	7,999	73,256	12,688	170,485	182,025	8,100	107,505	09/15/03	
60123	AW0301000	PEMA422		-	95,000	59,188	98,250	3,751	3,801	34,878	15,425	81,010	86,480	3,732	51,072	09/30/03	
60123	AN2006000	PEMA422		55,000	231,290	141,871	235,450	8,991	9,108	81,484	27,428	194,085	207,284	9,582	122,419	09/15/03	
<b>Subtotal</b>				<b>55,000</b>	<b>521,290</b>	<b>325,650</b>	<b>540,450</b>	<b>20,639</b>	<b>20,908</b>	<b>189,618</b>	<b>55,541</b>	<b>445,580</b>	<b>475,789</b>	<b>21,414</b>	<b>280,996</b>		
<sup>26</sup> Subtotal FE																	
<sup>27</sup> Subtotal NonFE																	
<sup>28</sup> Total																	
<sup>29</sup> Figures Expressed In: Whole Dollars				<sup>30</sup> Signature of Participant's Project Manager and Date`					<sup>31</sup> Signature of Participant's Authorized Financial Representative and Date								

\* Information provided by the government via contract modification

Staffing Report Summary  
Invoice/Staffing Data

<sup>1</sup> Participant Name and Address

<sup>3</sup>To: U.S. DOE - NETL  
P. O. Box 10940  
Pittsburgh PA, 15236

<sup>2</sup>Contract No.

<sup>4</sup>Reporting Period

FTE Staffing Summary											<sup>9</sup> Total FTEs
<sup>5</sup> Contract	<sup>6</sup> AN	AA/AB/AC	AW	AZ	EW	WH	E**	Reimb & WFO	<sup>7</sup> Other*** Inst	<sup>8</sup> Non Inst	
ABC	143.52	50.00	17.77	0.00	0.00	0.00	13.35	13.13	1.81	44.15	283.73
<sup>10</sup> MGN	65.00	15.00	10.00	0.00	0.00	0.00	4.20	3.73	0.07	40.00	138.00
PGH	62.00	20.00	7.77	0.00	0.00	0.00	4.13	6.82	0.00	2.41	103.13
Offsite	16.52	15.00		0.00	0.00	0.00	5.02	2.58	1.74	1.74	42.60
<sup>11</sup> TOTAL	143.52	50.00	17.77	0.00	0.00	0.00	13.35	13.13	1.81	44.15	283.73

<sup>12</sup> Headcount Staffing Summary	
MGN	152
PGH	148
Offsite	60
TOTAL	360

\*B&R designations as assigned according to FY budget requirements.

\*\* Includes EB, EC, ED, EL, ES

\*\*\* Includes AD, AE, SA



<sup>1</sup> Participant Name and Address

Invoice/Staffing Data  
<sup>3</sup>To: U.S. DOE - NETL  
 P. O. Box 10940  
 Pittsburgh PA, 15236  
<sup>4</sup> Invoice No.  
<sup>5</sup> Invoice Date:  
<sup>6</sup> Billing Period:

<sup>2</sup> Contract No.

<sup>7</sup> Name	<sup>8</sup> Labor Category (E N/E) or Description	<sup>9</sup> Status	<sup>10</sup> Employer	<sup>11</sup> Current Rate	<sup>12</sup> Hours Worked of Available 160.00	Current Period					Cumulative							
						<sup>13</sup> Total Cost Current Period	<sup>14</sup> Total FTE hours	<sup>15</sup> Labor by Site			<sup>16</sup> Hours	<sup>17</sup> Prev Costs	<sup>18</sup> Current Cost					
								Mgn	Pgh	Offsite								
<sup>1</sup> Task 60123, Administrative Support																		
<sup>30</sup> Total Cost & Fee																20,638.72	59,224.76	79,473.48

<sup>31</sup> Labor Summary by B&R

Task	B&R	FinPlan	Cost Ctr	Actual RP Cost	Mgn	Pgh	Offsite
60123	AN2006000	FT	D122	7,554	0.38	1.30	
60123	AW0301000	FT	A422	3,589	0.18	0.62	
60123	AN2006000	FT	A422	8,595	0.44	1.48	
Subtotal				19,739	1.00	3.40	

OFFEROR: ProLogic Inc.

## **POSITION DESCRIPTION OF DIRECT LABOR CATEGORIES**

### ***COMPUTER OPERATOR III:***

#### *Position Description:*

#### *General Capabilities and Duties*

Processes a range of scheduled routines. In addition to operating the system and resolving common error conditions, diagnoses and acts on machine stoppage and error conditions not fully covered by existing procedures and guidelines (e.g., resetting switches and other controls or making mechanical adjustments to maintain or restore equipment operations). In response to computer output instructions or error conditions, may deviate from standard procedures if standard procedures do not provide a solution. Refers problems which do not respond to corrective procedures.

#### *Specific Responsibilities:*

Monitor systems and perform remedial actions  
Maintain hardware, software, and databases  
Database backup and restore  
Netware, Windows, and Unix server backups  
Preventive maintenance  
Operate and maintain e-mail services  
Monitor and report resource utilization

#### *Minimum Qualifications:*

Junior - Requires a High School Diploma or GED and two years of related work experience. An Associate Degree or Technical Certification in a related field is acceptable.

### ***Computer Programmer II***

#### *Position Description:*

#### *General Capabilities and Duties:*

At this level, initial assignments are designed to develop competence in applying established programming procedures to routine problems. Performs routine programming assignments that do not require skilled background experience but do require knowledge of established programming procedures and data processing requirements. Works according to clear cut and complete specifications. The data are refined and the format of the final product is very similar to that of the input or is well defined when significantly different, i.e., there are few, if any, problems with interrelating varied records and outputs. Maintains and modifies routine programs. Makes approved changes by amending program flow charts, developing detailed processing logic, and coding changes. Tests and documents modifications and writes operator instructions. May write routine new programs using prescribed specifications; may confer with EDP personnel to clarify procedures, processing logic, etc. In addition, may evaluate simple interrelationships in the immediate programming area, e.g., whether a contemplated change in one part of a simple program would cause unwanted results in a related part; confers with user representatives to gain an understanding of the situation sufficient to formulate the needed change; and implements the change upon approval of the supervisor or higher level staff. The incumbent is provided with charts, narrative descriptions of the functions performed, an approved statement of the product desired (e.g., a change in a local establishment report), and the inputs, outputs, and record formats. Reviews objectives and assignment details with higher level staff to ensure thorough understanding; uses judgment in selecting among authorized procedures and seeks assistance when guidelines are inadequate, significant deviations are proposed, or when unanticipated problems arise. Work is usually monitored in progress; all work is reviewed upon completion for accuracy and compliance with standards.

#### *Specific Responsibilities*

Under regular supervision, applies information system software and data requirements and architectures to develop detailed designs, software code, databases, and procedures.

Operates and Maintains computing systems according to organizational and end user needs and requirements. Maintains and updates specifications, documents, and procedures for legacy system.

Maintains and updates specifications, documents, and procedures for legacy systems code, databases, and procedures.

Operates and Maintains computing systems according to organizational and end user needs and requirements. *Minimum Qualifications:*

Intermediate 2 - Requires a Bachelor's Degree or six years of related work experience.

subsequent revisions. May assist Computer Operator to resolve problems in running computer program.

Work with Systems Analyst to obtain and analyze project specifications and flow chart.

### *Computer Programmer III:*

#### *Position Description:-*

#### *General Capabilities and Duties:*

As a fully qualified computer programmer, applies standard programming procedures and detailed knowledge of pertinent subject matter (e.g., work processes, governing rules, clerical procedures, etc.) in a programming area such as: a record keeping operation (supply, personnel and payroll, inventory, purchasing, insurance payments, depositor accounts, etc.); a well-defined statistical or scientific problem; or other standardized operation or problem. Works according to approved ) statements of requirements and detailed specifications. While the data are clear cut, related, and equally available, there may be substantial interrelationships of a variety of records and several varied sequences of formats are usually produced. The programs developed or modified typically are linked to several other programs in that the output of one becomes the input for another. Recognizes probable interactions of other related programs with the assigned program(s) and is familiar with related system software and computer equipment. Solves conventional programming problems. (In small organizations, may maintain programs which concern or combine several operations, i.e., users, or develop programs where there is one primary user and the others give input. Performs such duties as: develops, modifies, and maintains assigned programs; designs and implements modifications to the interrelation of files and records within programs in consultations with higher level staff; monitors the operation of assigned programs and responds to problems by diagnosing and correcting errors in logic and coding; and implements and/or maintains assigned portions of a scientific programming project, applying established scientific programming techniques to well-defined mathematical, statistical, engineering, or other scientific problems usually requiring the translation of mathematical notation into processing logic and code. (Scientific programming includes assignments such as: using predetermined physical laws expressed in mathematical terms to relate one set of data to another; the routine storage and retrieval of field test data; and using procedures for real-time command and control, scientific data reduction, signal processing, or similar areas.) Tests and documents work and writes and maintains operator instructions for assigned programs. Confers with other EDP personnel to obtain or provide factual data. In addition, may carry out fact-finding and programming analysis of a single activity or routine problem, applying established procedures where the nature of the program, feasibility, computer equipment, and programming language have already been decided. May analyze present performance of the program and take action to correct deficiencies based on discussion with the user and consultation with and approval of the supervisor or higher level staff. May assist in the review and analysis of detailed program specifications and in program design to meet changes in work processes. Works independently under specified objectives; applies judgment in devising program logic and in selecting and adapting standard programming procedures; resolves problems and deviations according to established practices; and obtains advice where precedents are unclear or not available. Completed work is reviewed for conformance to standards, timeliness, and efficiency. May guide or instruct lower level programmers; may su

#### *Specific Responsibilities*

Under occasional supervision, analyzes and evaluates manual and automated business and administrative systems, both current and proposed, translates customer requirements for information systems into detailed application system/program requirements. Provides technical guidance to other programmers and technical staff. Provides alternatives, recommendations, and assistance to managers involved in the development, integration, and installation of business and administration information systems. Prepares programming specifications and diagrams when required. Develops or revises computer programs. Prepares detailed complex systems/program documentation and flowcharts. Develops procedures for the operation,

installation, and maintenance of software, databases, and operating systems on client and server systems. Develops procedures for the correction of problems and performance of system recovery and backup operations.

***Minimum Qualifications:-***

Intermediate 1 - Bachelor's Degree and four years related work experience or ten years of related work experience. With a Master's Degree, two years of related work experience is acceptable.

***Computer Programmer IV:-***

***Position Description:-***

***General Capabilities and Duties:***

Applies expertise in programming procedures to complex programs; recommends the redesign of programs, investigates and analyzes feasibility and program requirements, and develops programming specifications. Assigned programs typically affect a broad multi-user computer system which meets the data processing needs of a broad area (e.g., manufacturing, logistics planning, finance management, human resources, or material management) or a computer system for a project in engineering, research, accounting, statistics, etc. Plans the full range of programming actions to produce several interrelated but different products from numerous and diverse data elements which are usually from different sources; solves difficult programming problems. Uses knowledge of pertinent system software, computer equipment, work processes, regulations, and management practices. Performs such duties as: develops, modifies, and maintains complex programs; designs and implements the interrelations of files and records within programs which will effectively fit into the overall design of the project; working with problems or concepts, develops programs for the solution to major scientific computational problems requiring the analysis and development of logical or mathematical descriptions of functions to be programmed; and develops occasional special programs, e.g., a critical path analysis program to assist in managing a special project. Tests, documents, and writes operating instructions for all work. Confers with other EDP personnel to secure information, investigate and resolve problems and coordinate work efforts. In addition, performs such programming analysis as: investigating the feasibility of alternate program design approaches to determine the best balanced solution, e.g., one that will best satisfy immediate user needs, facilitate subsequent modification, and conserve resources; on typical maintenance projects and smaller scale, limited new projects, assisting user personnel in defining problems or needs and determining work organization, the necessary files and records, and their interrelation with the program; or on large or more complicated projects, participating as a team member along with other EDP personnel and users and having responsibility for a portion of the project. Works independently under overall objectives and direction, apprising the supervisor about progress and unusual complications. Modifies and adapts precedent solutions and proven approaches. Guidelines include constraints imposed by the related programs with which the incumbent's programs must be meshed. Completed work is reviewed for timeliness, compatibility with other work, and effectiveness in meeting requirements. May function as team leader or supervise a few lower level programmers or technicians on assigned work. Manages, coordinates, and supervises computer operations or development projects and tasks. May be a Service Area Lead (SSAL). Develops system level designs, specifications, code, and databases in response to complex requirements. Provides alternatives, recommendations, and advice to managers involved in the development, integration, installation, planning, and operation of business and administration information systems. Develops policies and guidelines for IT operations and IT engineering.

***Minimum Qualifications:-***

Senior - Bachelor's Degree and eight years related work experience or fourteen years of related work experience. With a Master's Degree, six years of related work experience is acceptable.

***Computer Systems Analyst I:-***

***Position Description:-***

***General Capabilities and Duties:***

At this level, initial assignments are designed to expand practical experience in applying systems analysis techniques and procedures. Provides several phases of the required systems analysis where the nature of the system is predetermined. Uses established fact finding approaches, knowledge of pertinent work processes and procedures, and familiarity with related computer programming practices, system software, and computer equipment. Carries out fact finding and analysis as assigned, usually of a single activity or a

routine problem; applies established procedures where the nature of the system, feasibility, computer equipment and programming language have already been decided; may assist a higher level systems analyst by preparing the detailed specifications required by computer programmers from information developed by the higher level analyst, may research routine user problems and solve them by modifying the existing system when the solutions follow clear precedents. When cost and deadline estimates are required, results receive closer review. The supervisor defines objectives, priorities, and deadlines. Incumbents work independently; adapt guides to specific situations; resolve problems and deviations according to established practices; and obtain advice where precedents are unclear or not available. Completed work is reviewed for conformance to requirements, timeliness, and efficiency. May supervise technicians and others who assist in specific assignments.

**Specific Responsibilities:**

Under regular supervision, performs a variety of system design, analysis, and engineering tasks which are local in nature and are concerned with design, maintenance, integration and implementation of application systems including supporting personnel, hardware, software, and support facilities and/or equipment.

Evaluates cyber security issues and

contributes to solutions. Provides helpdesk support and user problem resolution. Assists system professionals and technicians in installing and maintaining custom and commercial operating system, network, and application software. Develops solutions for telecommunications and network systems and evaluates network and telecommunication systems performance. Diagnoses telecommunications and network systems problems. Assists in the collection of business processes, goals, data, and requirements in support of enterprise architecture activities. Designs small and medium application computer systems including program flow and structure.

**Minimum Qualifications:**

Intermediate 2 - Bachelor's Degree or six years of related work experience.

**Computer Systems Analyst II:**

**Position Description:-**

**General Capabilities and Duties:**

Applies systems analysis and design skills in an area such as a record keeping or scientific operation. A system of several varied sequences or formats is usually developed, e.g., develops systems for maintaining depositor accounts in a bank, maintaining accounts receivable in a retail establishment, maintaining inventory accounts in a manufacturing or wholesale establishment, or processing a limited problem in a scientific project. Requires competence in most phases of system analysis and knowledge of pertinent system software and computer equipment and of the work processes, applicable regulations, work load, and practices of the assigned subject-matter area. Recognizes probable interactions of related computer systems and predicts impact of a change in assigned system. Reviews proposals which consist of objectives, scope, and user expectations; gathers facts, analyzes data, and prepares a project synopsis which compares alternatives in terms of cost, time, availability of equipment and personnel, and recommends a course of action; and upon approval of synopsis, prepares specifications for development of computer programs. Determines and resolves data processing problems and coordinates the work with program, users, etc.; orients user personnel on new or changed procedures. May conduct special projects such as data element and code standardization throughout a broad system, working under specific objectives and bringing to the attention of the supervisor any unusual problems or controversies. Works independently under overall project objectives and requirements; appraises supervisor about progress and unusual complications. Guidelines usually include existing systems and the constraints imposed by related systems with which the incumbent's work must be meshed. Adapts design approaches successfully used in precedent systems. Completed work is reviewed for timeliness, compatibility with other work, and effectiveness in meeting requirements. May provide functional direction to lower level assistants on assigned work.

OR

Works on a segment of a complex data processing scheme or broad system, as described for computer systems analyst, level III. Works independently on routine assignments and receives instructions and guidance on complex assignments. Work is reviewed for accuracy of judgment, compliance with instructions, and to insure proper alignment with the overall system.

**Specific Responsibilities:**

Under general supervision, performs a variety of system design, analysis, and engineering tasks which are broad in nature and are concerned with design and implementation of enterprise systems development and Integration, including supporting personnel, hardware, software, and support facilities and/or equipment. Provides helpdesk support and user problem resolution. Develops solutions for telecommunications and network systems and evaluates network and telecommunication systems performance. Diagnoses telecommunications and network systems problems. Assists in the collection of business processes, goals, data, and requirements in support of enterprise architecture activities. Designs medium to large application computer systems including program flow and structure, network and user interfaces, and data structures and access methods. Codes, tests, and documents computer software. Supports development of and performance of tests for enterprise systems and custom applications. Provides leadership for small engineering teams, reporting to Service Area Leads or the Chief Technologist.

***Minimum Qualifications:***

Intermediate 1 - Bachelor's Degree and four years related work experience or ten years of related work experience. With a Master's Degree, two years of related work experience is acceptable

***Computer Systems Analyst III:***

***Position Description:-***

***General Capabilities and Duties:***

Applies systems analysis and design techniques to complex computer systems in a broad area such as manufacturing; finance management; engineering, accounting, or statistics; logistics planning; material management, etc. Usually, there are multiple users of the system, however, there may be complex one-user systems, e.g., for engineering or research projects. Requires competence in all phases of systems analysis techniques, concepts, and methods and knowledge of available system software, computer equipment, and the regulations, structure, techniques, and management practices of one or more subject-matter areas. Since input data usually come from diverse sources is responsible for recognizing probable conflicts and integrating diverse data elements and sources. Produces innovative solutions for a variety of complex problems. Maintains and modifies complex systems or develops new subsystems such as an integrated production scheduling, inventory control, cost analysis, or sales analysis record in which every item of each type is automatically processed through the full system of records. Guides users in formulating requirements; advises on alternatives and on the implications of new or revised data processing systems; analyzes resulting user project proposals, identifies omissions and errors in requirements and conducts feasibility studies; recommends optimum approach and develops system design for approved projects. Interprets information and informally arbitrates between system users when conflicts exist. May serve as lead analyst in a design subgroup, directing and integrating the work of one or two lower level analysts, each responsible for several programs. Supervision and nature of review are similar to level II; existing systems provide precedents for the operation of new subsystems.

***Specific Responsibilities:***

Provides leadership and/or manages system design, analysis, and engineering tasks which are broad in nature and are concerned with design and implementation of enterprise systems development and Integration, including supporting personnel, hardware, software, and support facilities and/or equipment. Develops solutions for telecommunications and network systems and evaluates network and telecommunication systems performance. Leads analysis efforts in the collection of business processes, goals, data, and requirements in support of enterprise architecture activities. Designs large or complex application computer systems including program flow and structure, network and user interfaces, and data structures and access methods. Provides specialized skills for the development and test of computer software and systems. Reports directly to Program Management (as a Service Area Lead or as the Chief Technologist) or to a Service Area Lead. Leads engineering teams, reporting to Service Area Leads or the Chief Technologist.

***Minimum Qualifications:***

Senior - Bachelor's Degree and eight years related work experience or fourteen years of related work experience. With a Master's Degree, six years of related work experience is acceptable.

***Electronics Technician, Maintenance II***

***Position Description:***

***General Capabilities and Duties:***

Applies comprehensive technical knowledge to solve complex problems by interpreting manufacturers' manuals or similar documents. Work requires familiarity with the interrelationships of circuits and judgment in planning work sequence and in selecting tools and testing instruments. Receives technical guidance, as required, from supervisor or higher level technician, and work is reviewed for compliance with accepted practices. May provide technical guidance to lower level technicians.

**Specific Responsibilities:**

Under general supervision, performs a variety of sustaining engineering and maintenance tasks. Troubleshoots and resolves desktop computer, printer, network, or other hardware problems. Performs a variety of telecommunication and network engineering tasks which are broad in nature and are concerned with the operation and maintenance of integrated networks, including hardware, software and/or equipment for voice and data communications. Contributes to the design of and implementation of integrated network and telecommunication systems.

**Minimum Qualifications:**

Intermediate 2 - Requires a Bachelor's Degree or six years of related work experience.

**Electronics Technician, Maintenance III:**

**Position Description:**

**General Capabilities and Duties:**

Applies advanced technical knowledge to solve unusually complex problems that typically cannot be solved solely by referencing manufacturers' manuals or similar documents. Examples of such problems include determining the location and density of circuitry, evaluating electromagnetic radiation, isolating malfunctions, and incorporating engineering changes. Work typically requires a detailed understanding of the interrelationships of circuits. Exercises independent judgment in performing such tasks as making circuit analyses, calculating wave forms, and tracing relationships in signal flow. Uses complex test instruments such as high frequency pulse generators, frequency synthesizers, distortion analyzers, and complex computer control equipment. Work may be reviewed by supervisor for general compliance with accepted practices. May provide technical guidance to lower level technicians.

**Specific Responsibilities:**

Performs or supervises a variety of sustaining engineering and maintenance tasks. Troubleshoots and resolves desktop computer, printer, network, or other hardware problems. Performs a variety of telecommunication and network engineering tasks which are broad in nature and are concerned with the operation and maintenance of integrated networks, including hardware, software and/or equipment for voice and data communications. Designs upgrades to the integrated network and telecommunication systems.

**Minimum Qualifications:**

Intermediate 1 - Bachelor's Degree and four years related work experience or ten years of related work experience. With a Master's Degree, two years of related work experience is acceptable.

**General Clerk I:**

**Position Description:**

Follows a few clearly detailed procedures in performing simple repetitive tasks in the same sequence, such as filing pre-coded documents in a chronological file or operating office equipment, e.g., mimeograph, photocopy, addressograph or mailing machine.

**Minimum Qualifications:**

Junior - Requires a High School Diploma or GED and two years of related work experience. An Associate Degree or Technical Certification in a related field is acceptable.

**Supply Technician**

**Position Description:**

Performs limited aspects of technical supply management work (e.g., inventory management, storage management, cataloging, property utilization) related to depot, local, or other supply activities. Work usually is segregated by commodity area or function, and controlled in terms of difficulty, complexity, or responsibility. Assignments usually relate to stable or standardized segments of technical supply management operations; or to functions or subjects that are narrow in scope or limited in difficulty. The work generally involves individual case problems or supply actions. This work may require consideration of program requirements, together with specific variations in or from standardized guidelines. Assignments

require (a) a good working knowledge of the governing supply systems, programs, policies, nomenclature, work methods, manuals, or other established guidelines; (b) an understanding of the needs of the organization serviced; and (c) analytical ability to define or recognize the dimension of the problems involved, to collect the necessary data, to establish the facts, and to take or recommend action based upon application or interpretation of established guidelines

#### **Illustrative Assignments:**

1. Inventory management: Responsible for inventory management of decentralized and decontrolled items, including supplies, and equipment. Items managed typically are of low unit or annual demand value, involve short procurement lead time (less than 9 months), are obtained from standard or other readily available sources of supply, and reflect relatively stable patterns of demand. Items usually are of a general, common-use type, nonreparable and seldom require intensive investigation of atypical variations in their supply and demand patterns. Positions are located in local, regional, or headquarters offices for which the supply management organization has overall inventory management responsibility. The work includes requirements determination and forecasting, distribution or redistribution of material, procurement authorization, limited funds management, or other related work.
2. Material coordination: Performs material coordination duties for special programs, maintenance, or production shops. Duties are performed on the basis of practical experience in processing and expediting supply transactions related to the particular organizations serviced.
3. Cataloging: Writes item descriptions for a range of new items entering the supply channels of a particular agency or field establishment. Applies requirements selecting the appropriate description pattern and answering the requirements contained in the pattern. Reviews existing stock catalogs, manufacturers' catalogs, drawings, or other resource materials, for the purpose of matching characteristics or part numbers to identify duplicate items already catalogued or otherwise recorded in the supply system.

#### **Level of Responsibility:**

Works within a framework of established supply regulations, policies, and procedures, or other governing supply management guidelines. Deals with a variety of operating officials regarding limited aspects of program needs of the organization serviced. Contacts may relate to inventory requirements in a stable or standardized organization and to the adequate description or identification of less complex items which are new to the system. May contact representatives of commercial firms to obtain information regarding new items of supply, item characteristics, or procurement lead time; or representatives of government agencies (Federal, State or local) regarding the utilization of property.

#### **Minimum Qualifications:**

Intermediate 2 - Requires a Bachelor's Degree or six years of related work experience.

### **Manager**

#### **Position Description:**

The Manager directs the work of the contractor team and assumes overall responsibility for meeting customer requirements for products and services within cost and schedule constraints. The Manager is responsible for all staffing decisions, the organizational structure, and the allocation of work within the organization. The Manager interfaces directly with the customer for the purposes of proposing and accepting contracted work. The Manager provides management reports and briefings to the customer. The Manager is responsive to problems and issues and takes appropriate actions to mitigate risks. The Manager ensures that the tools and resources needed to perform work are in place before work is authorized. The Manager interfaces directly with corporate finance and administrative functions to accurately report costs and facilitate the performance of work.

#### **Minimum Qualifications:**

Manager - Requires a Bachelor's Degree, five years of management experience and ten years of related work experience.

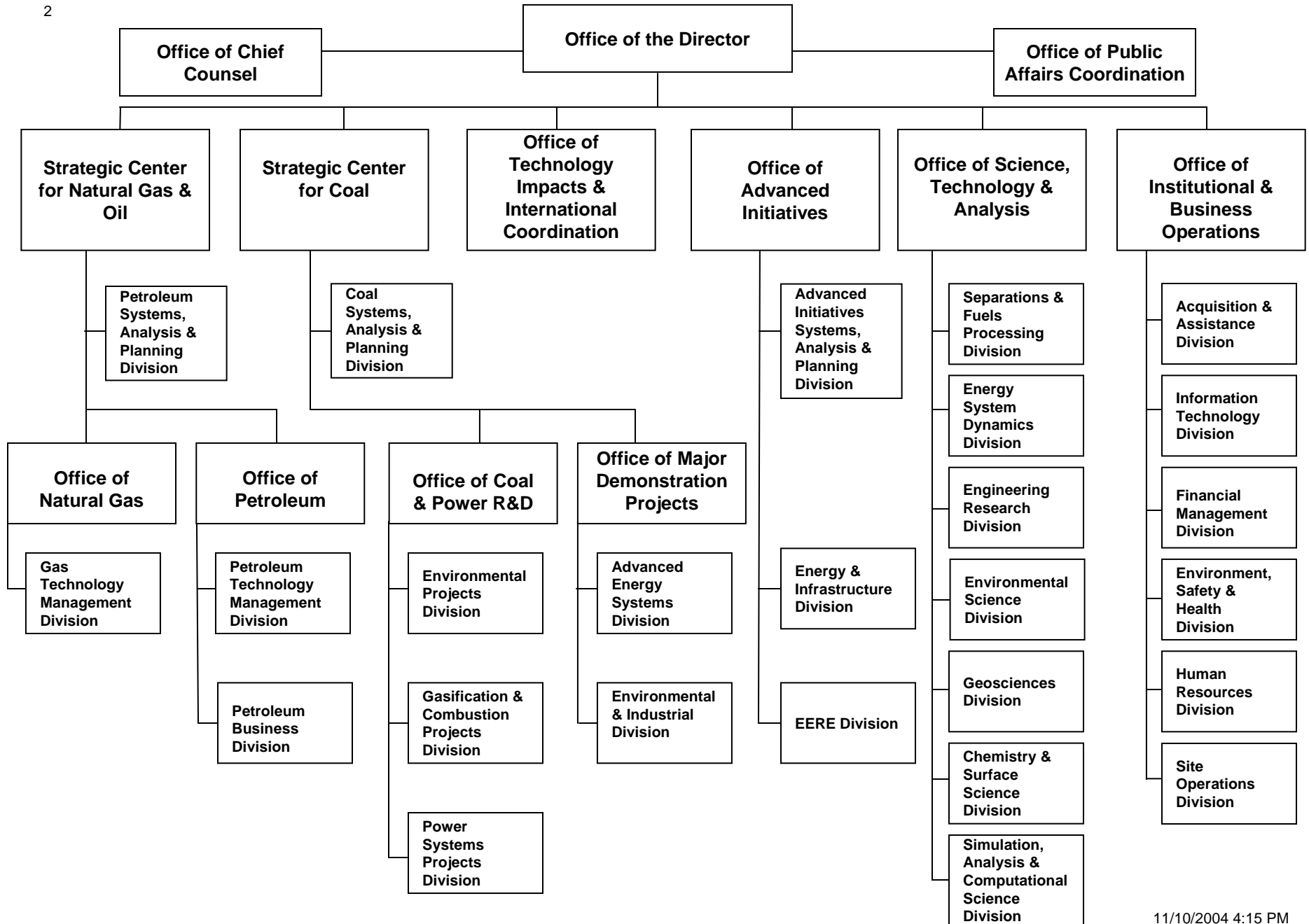


# Proposed Organization Chart National Energy Technology Laboratory

**FTEs by Contract – Color Code**

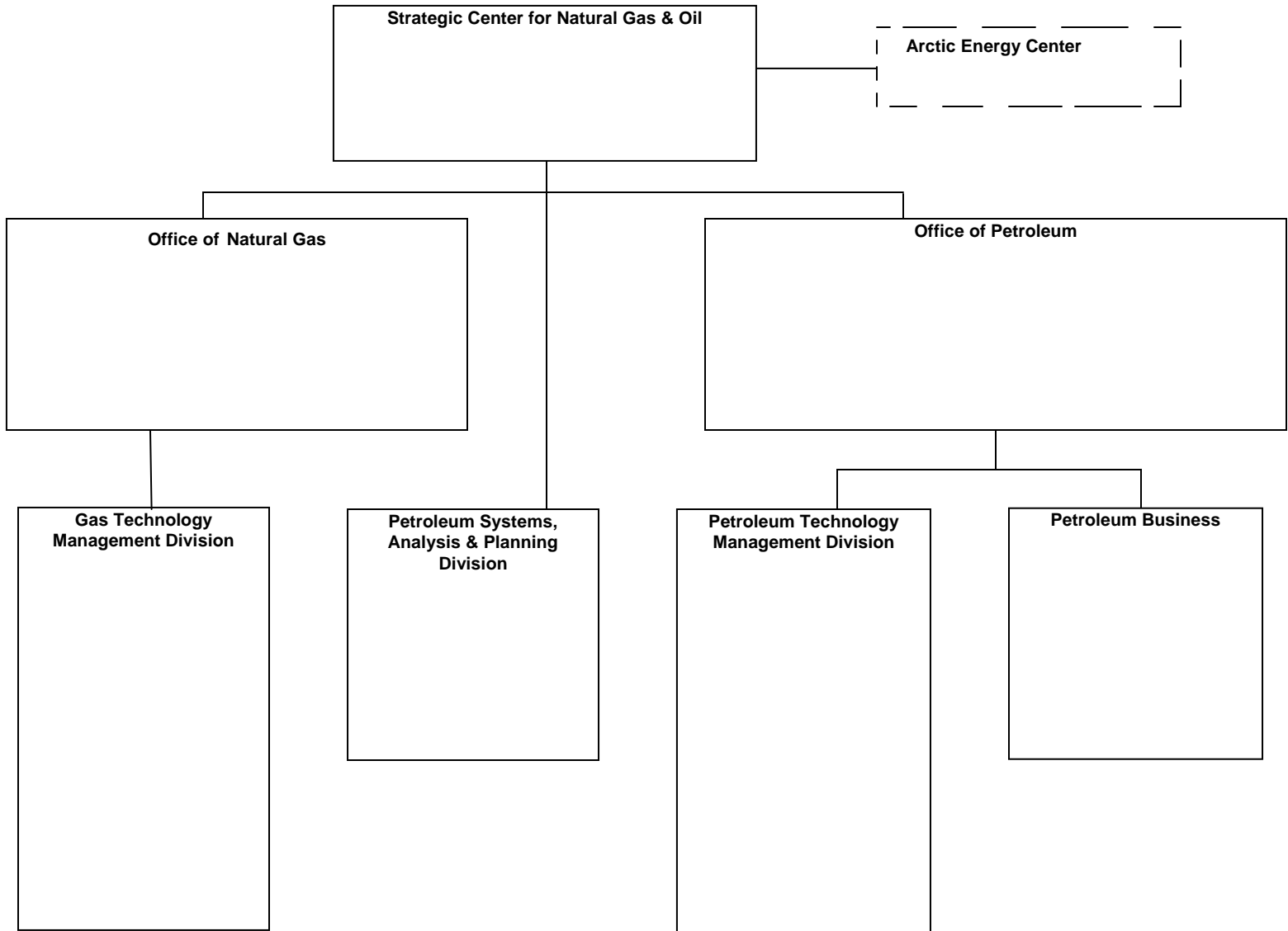
*Contract Title – Color – Total FTEs (Total FTE by location  
example 29.24 M / 44 P)*

P = Pittsburgh  
M = Morgantown  
RR= Research Ridge  
T = Tulsa  
O = Offsite  
TOTAL =

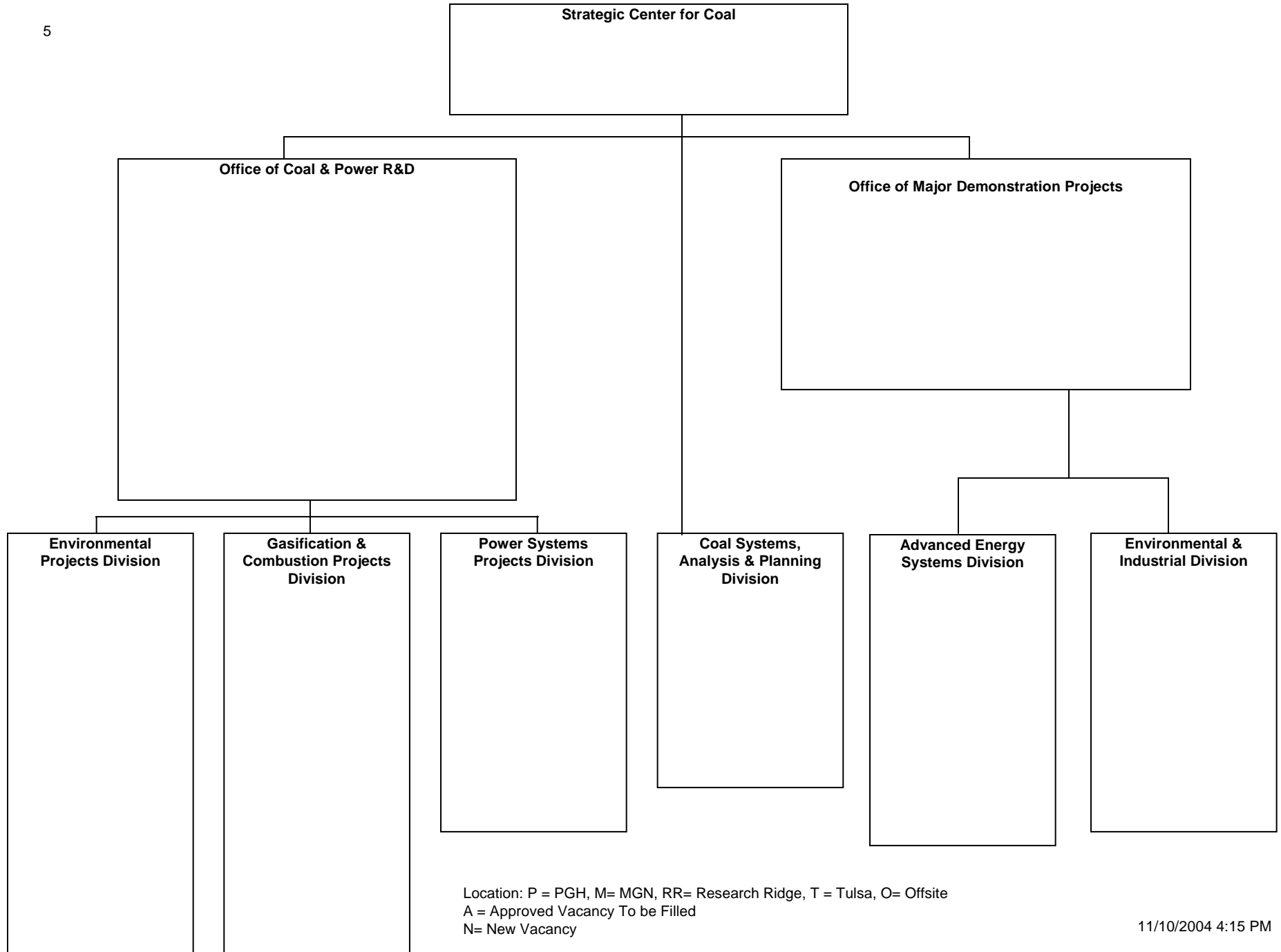




Location: P = PGH, M= MGN, RR= Research Ridge, T = Tulsa, O= Offsite  
A = Approved Vacancy To be Filled  
N= New Vacancy

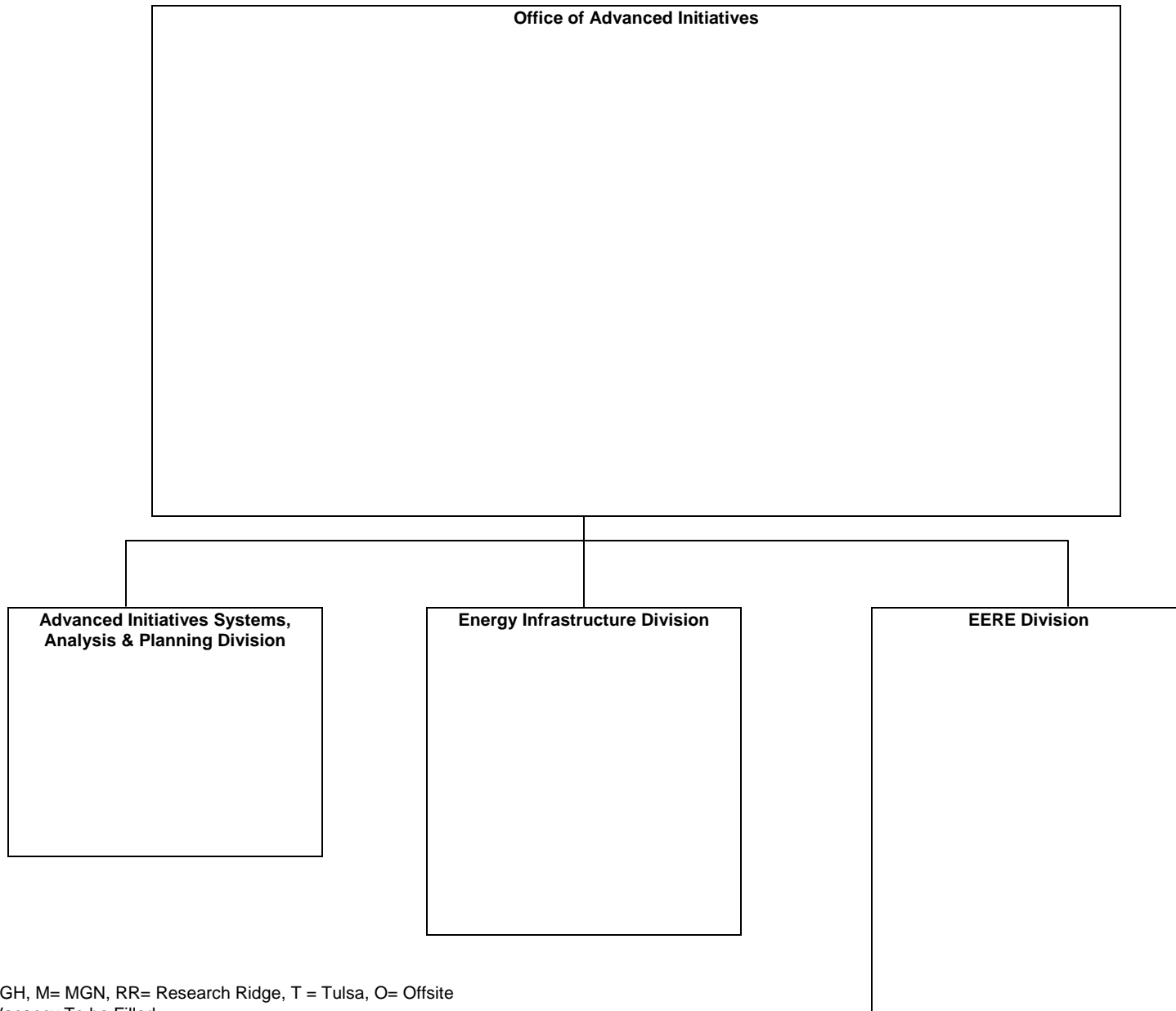


Location: P = PGH, M= MGN, RR= Research Ridge, T = Tulsa, O= Offsite  
A = Approved Vacancy To be Filled  
N= New Vacancy



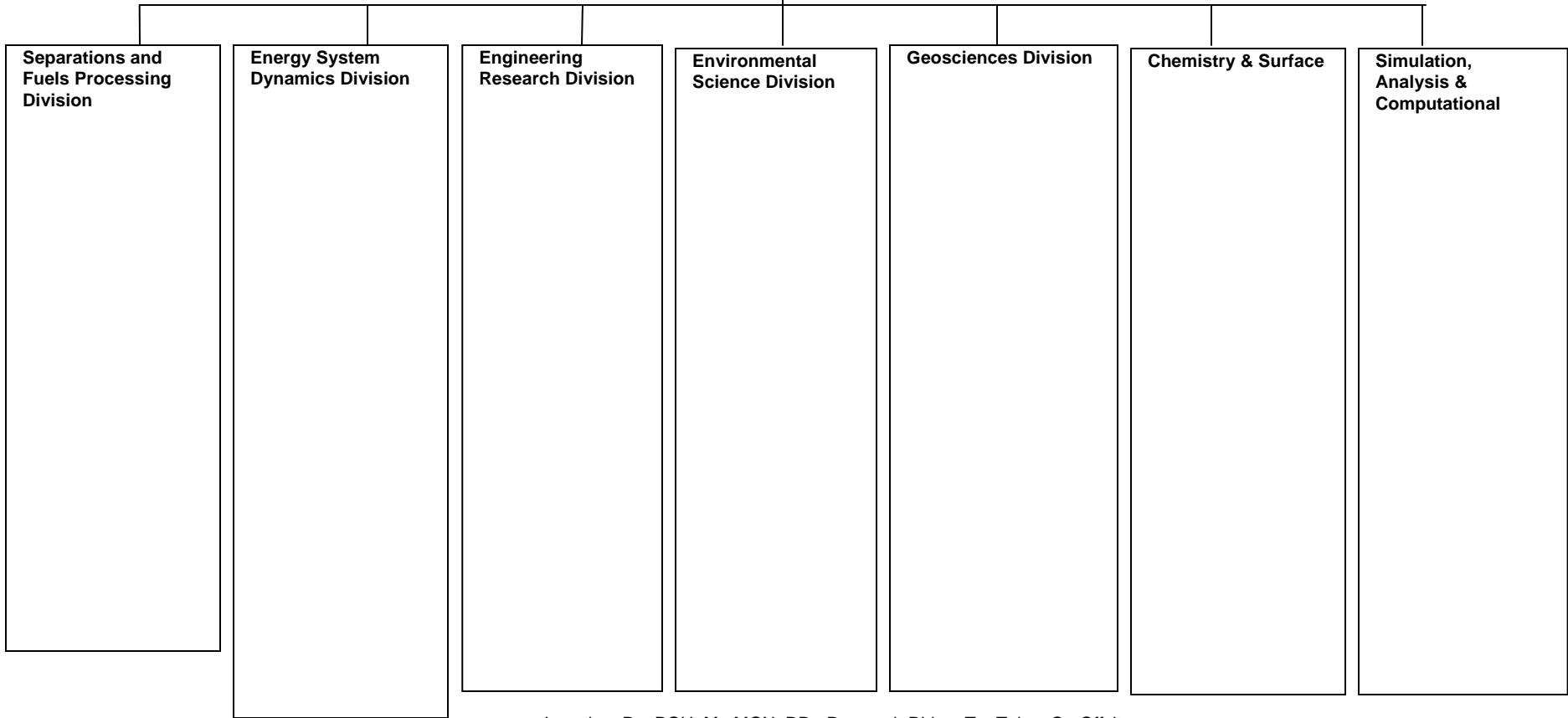
Office of Technology Impacts & International Coordination	
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Location: P = PGH, M= MGN, RR= Research Ridge, T = Tulsa, O= Offsite  
A = Approved Vacancy To be Filled  
N= New Vacancy



Location: P = PGH, M= MGN, RR= Research Ridge, T = Tulsa, O= Offsite  
A = Approved Vacancy To be Filled  
N= New Vacancy

**Office of Science, Technology and Analysis**



Location: P = PGH, M= MGN, RR= Research Ridge, T = Tulsa, O= Offsite  
A = Approved Vacancy To be Filled  
N= New Vacancy



Office of Institutional & Business Operations

