

Company Name:
Gonzales Consulting Services

Contract Number:
GS-03P-01-CDC-0061 (GS03P01CDC0061)

Solicitation Number:
GS-03P-00-CDC-0061 (GS03P00CDC0061)

Requisition/Reference Number:
XXXX03-DES-00-0075 (XXXX03DES000075)

Period of Performance:
From 1/1/2001

Services Provided:
Providing all supervision and labor necessary for Central Alarm Monitoring and Radio Dispatching at the MegaCenter in Philadelphia, Pennsylvania.

CONTRACT NO. **GS-03P-01-CDC-0061** 3. SOLICITATION NO. **GS-03P-00-CDC-0061** 4. TYPE OF SOLICITATION
 SEALED BID (IFB)
 NEGOTIATED (RFP) 5. DATE ISSUED **10/17/00** 6. REQUISITION/PURCHASE NO. **XXXX03-DES-00-0075**

ISSUED BY CODE
3A, ALLEGHENY RSD (3PK)
1E WANAMAKER BUILDING, ROOM 725
10 PENN SQUARE EAST
PHILADELPHIA, PA 19107-3396

8. ADDRESS OFFER TO (If other than Item 7)

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

SOLICITATION

Sealed offers in original and 3 copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in **GSA, ALLEGHENY RSD (3PK), RM 725, Phila., PA** until **3:00 P.M.** local time **NOV. 17, 2000**
 (Hour) (Date)

AUTION - LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-10. All offers are subject to all terms and conditions contained in this solicitation.

0. FOR INFORMATION CALL: A. NAME **KIMBERLY DE SANT** B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS) **(215) 656-6115**

11. TABLE OF CONTENTS

| (✓) SEC. | DESCRIPTION | PAGE(S) | (✓) SEC. | DESCRIPTION | PAGE(S) |
|-----------------------|---------------------------------------|---------|--|--|---------|
| PART I - THE SCHEDULE | | | PART II - CONTRACT CLAUSES | | |
| X A | SOLICITATION/CONTRACT FORM | | X I | CONTRACT CLAUSES | |
| X B | SUPPLIES OR SERVICES AND PRICES/COSTS | | PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH. | | |
| X C | DESCRIPTION/SPECS./WORK STATEMENT | | X J | LIST OF ATTACHMENTS | |
| X D | PACKAGING AND MARKING | | PART IV - REPRESENTATIONS AND INSTRUCTIONS | | |
| X E | INSPECTION AND ACCEPTANCE | | X K | REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS | |
| X F | DELIVERIES OR PERFORMANCE | | X L | INSTRS., CONDS., AND NOTICES TO OFFERORS | |
| X G | CONTRACT ADMINISTRATION DATA | | X M | EVALUATION FACTORS FOR AWARD | |
| X H | SPECIAL CONTRACT REQUIREMENTS | | | | |

OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

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

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52-232-8) 10 CALENDAR DAYS % 20 CALENDAR DAYS % 30 CALENDAR DAYS % CALENDAR DAYS %

14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated:

| AMENDMENT NO. | DATE | AMENDMENT NO. | DATE |
|---------------|---------|---------------|----------|
| 1 | 11/2/00 | 3 | 11/13/00 |
| 2 | 11/9/00 | 4 | 11/20/00 |

15A. NAME AND ADDRESS OF OFFEROR CODE FACILITY
Gonzales Consulting Services, Inc.
633 17th St., Suite 1600
Denver, CO 80202
DUNS: 11-784-9356

16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)
Albert C. Gonzales
President

15B. TELEPHONE NO. (Include area code) **303-383-5500** 15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE. 17. SIGNATURE *Albert C. Gonzales* 18. OFFER DATE **11/29/00**

AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED **11, including all amendments.** 20. AMOUNT **\$1,217,251.12** 21. ACCOUNTING AND APPROPRIATION **P04219363 192X.P033X101.61.25.K41.516.03030020**

22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: 10 U.S.C. 2304(c)) 41 U.S.C. 253(c))

23. SUBMIT INVOICES TO ADDRESS SHOWN IN ITEM **25** (4 copies unless otherwise specified)

24. ADMINISTERED BY (If other than Item 7) CODE 25. PAYMENT WILL BE MADE BY CODE
GSA, Finance Division
Accounts Payable Branch (7BCPC)
P.O. Box 17181
Fort Worth, TX 76102

26. NAME OF CONTRACTING OFFICER (Type or print) **Kimberly A. De Sant** 27. SIGNATURE OF CONTRACTING OFFICER *Kimberly A. De Sant* 28. AWARD DATE **4/17/01**

| | | | | | |
|---|---------------------|---|----------------|----------------------------|---------|
| SOLICITATION, OFFER AND AWARD | | 1. THIS CONTRACT IS A RATED ORDER - UNDER DPAS (15 CFR 350) | | RATING | PAGE OF |
| 2. CONTRACT NO | 3. SOLICITATION NO. | 4. TYPE OF SOLICITATION | 5. DATE ISSUED | 6. REQUISITION/PURCHASE NO | |
| | GS-03P-00-CDC-0061 | <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP) | 10/17/00 | XXXX03-DES-00-0075 | |
| 7. ISSUED BY GSA, ALLEGHENY RSD (3PK) THE WANAMAKER BUILDING, ROOM 725 100 PENN SQUARE EAST PHILADELPHIA, PA 19107-3396 | | 8. ADDRESS OFFER TO (If other than Item 7) | | | |

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

SOLICITATION

9. Sealed offers in original and 3 copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in GSA, ALLEGHENY RSD (3PK), RM 725, Phila., PA until 3:00 P.M. local time NOV. 17, 2000
(Hour) (Date)

CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-10. All offers are subject to all terms and conditions contained in this solicitation.

| | | |
|---------------------------|------------------------------------|--|
| 10. FOR INFORMATION CALL: | A. NAME KIMBERLY DE SANT | B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS) (215) 656-6115 |
|---------------------------|------------------------------------|--|

11. TABLE OF CONTENTS

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| <input checked="" type="checkbox"/> | B | SUPPLIES OR SERVICES AND PRICES/COSTS | PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH. | | |
| <input checked="" type="checkbox"/> | C | DESCRIPTION/SPECS./WORK STATEMENT | <input checked="" type="checkbox"/> | J | LIST OF ATTACHMENTS |
| <input checked="" type="checkbox"/> | D | PACKAGING AND MARKING | PART IV - REPRESENTATIONS AND INSTRUCTIONS | | |
| <input checked="" type="checkbox"/> | E | INSPECTION AND ACCEPTANCE | <input checked="" type="checkbox"/> | K | REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS |
| <input checked="" type="checkbox"/> | F | DELIVERIES OR PERFORMANCE | <input checked="" type="checkbox"/> | L | INSTRS., CONDS., AND NOTICES TO OFFERORS |
| <input checked="" type="checkbox"/> | G | CONTRACT ADMINISTRATION DATA | <input checked="" type="checkbox"/> | M | EVALUATION FACTORS FOR AWARD |
| <input checked="" type="checkbox"/> | H | SPECIAL CONTRACT REQUIREMENTS | | | |

OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

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

| | | | | |
|---|--------------------|--------------------|--------------------|-----------------|
| 13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52-232-8) | 10 CALENDAR DAYS % | 20 CALENDAR DAYS % | 30 CALENDAR DAYS % | CALENDAR DAYS % |
| 14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated: | AMENDMENT NO. | DATE | AMENDMENT NO. | DATE |
| | 1 | 11/2/00 | 3 | 11/13/00 |
| | 2 | 11/9/00 | 4 | 11/20/00 |

| | | | |
|---|------|----------|---|
| 15A. NAME AND ADDRESS OF OFFEROR | CODE | FACILITY | 16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print) |
| Gonzales Consulting Services, Inc. 633 17th St., Suite 1600 Denver, CO 80202 DUNS: 11-784-9356 | | | Albert C. Gonzales President |

| | | | |
|--|--|---------------------------|----------------|
| 15B. TELEPHONE NO. (Include area code) | 15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE. | 17. SIGNATURE | 18. OFFER DATE |
| 303-383-5500 | <input type="checkbox"/> | <i>Albert C. Gonzales</i> | 11/29/00 |

AWARD (To be completed by Government)

| | | |
|---|------------|--|
| 19. ACCEPTED AS TO ITEMS NUMBERED | 20. AMOUNT | 21. ACCOUNTING AND APPROPRIATION |
| 22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c) () <input type="checkbox"/> 41 U.S.C. 253(c) () | | 23. SUBMIT INVOICES TO ADDRESS SHOWN IN ITEM (4 copies unless otherwise specified) |

| | | | |
|--|------|-----------------------------|------|
| 24. ADMINISTERED BY (If other than Item 7) | CODE | 25. PAYMENT WILL BE MADE BY | CODE |
|--|------|-----------------------------|------|

| | | |
|---|---|----------------|
| NAME OF CONTRACTING OFFICER (Type or print) | 27. UNITED STATES OF AMERICA | 28. AWARD DATE |
| | <i>(Signature of Contracting Officer)</i> | |

AWARD - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice.



**2.0 STANDARD FORM 33 CONTINUATION SHEET
ATTACHMENT ONE**

2.1 BASE YEAR PROPOSED BILL RATE

| GONZALES CONSULTING SERVICES, INC. Philadelphia, PA, MegaCenter RFP No. GS-03P-00-CDC-0061 | | | |
|--|-----------------|-----------------------|---------------------|
| BASE YEAR | | | |
| Position | Estimated Hours | Proposed Billing Rate | Subtotal |
| Project Manager | 2,112 | \$ | \$ |
| Alarm Monitor/Dispatcher | 17,408 | \$ | \$ |
| Alarm Monitor/Dispatcher Trainee | 8,704 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher | 2,208 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher Trainee | 2,208 | \$ | \$ |
| Sr. Remote Alarm Panel Programmer | 2,208 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer | 2,208 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer Trainee | 1,880 | \$ | \$ |
| Remote Alarm Panel Programmer | 328 | \$ | \$ |
| Remote Alarm Panel Programmer Trainee | 2,112 | \$ | \$ |
| Computer Assistant (Full Time) | 1,800 | \$ | \$ |
| Computer Assistant (Part Time) ¹ | 1,800 | \$ | \$ |
| Clerical (Part Time) ¹ | 47,184 | \$ | \$ |
| TOTAL COST | | | 1,217,251.12 |
| Additional Position(s) PROPOSED RATE | | | |





2.2 BASE YEAR OVERTIME PROPOSED BILL RATE

| GONZALES CONSULTING SERVICES, INC. Philadelphia, PA, MegaCenter RFP No. GS-03P-00-CDC-0061 | | | |
|--|-----------------|---------------------------|---------------------|
| BASE YEAR - Overtime/Emergency Hours | | | |
| Position | Estimated Hours | Proposed O/T Billing Rate | Subtotal |
| Project Manager | 106 | \$ | \$ |
| Alarm Monitor/Dispatcher | 864 | \$ | \$ |
| Alarm Monitor/Dispatcher Trainee | 0 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher | 442 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher Trainee | 0 | \$ | \$ |
| Sr. Remote Alarm Panel Programmer | 110 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer | 0 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer Trainee | 0 | \$ | \$ |
| Remote Alarm Panel Programmer | 111 | \$ | \$ |
| Remote Alarm Panel Programmer Trainee | 0 | \$ | \$ |
| Computer Assistant (Full Time) | 106 | \$ | \$ |
| Computer Assistant (Part Time) ² | 90 | \$ | \$ |
| Clerical (Part Time) ¹ | 90 | \$ | \$ |
| TOTAL COST | 1,919 | | \$ 69,554.17 |

(b)(4)





2.3 OPTION Year 1 Proposed Bill Rate

| GONZALES CONSULTING SERVICES, INC. Philadelphia, PA, MegaCenter RFP No. GS-03P-00-CDC-0061 | | | |
|--|-----------------|-----------------------|------------------------|
| OPTION YEAR 1 | | | |
| Position | Estimated Hours | Proposed Billing Rate | Subtotal |
| Project Manager | 2,112 | \$ [REDACTED] | \$ [REDACTED] |
| Alarm Monitor/Dispatcher | 17,408 | \$ [REDACTED] | \$ [REDACTED] |
| Alarm Monitor/Dispatcher Trainee | 8,704 | \$ [REDACTED] | \$ [REDACTED] |
| Lead Alarm Monitor/Dispatcher | 2,208 | \$ [REDACTED] | \$ [REDACTED] |
| Lead Alarm Monitor/Dispatcher Trainee | 2,944 | \$ [REDACTED] | \$ [REDACTED] |
| Sr. Remote Alarm Panel Programmer | 2,208 | \$ [REDACTED] | \$ [REDACTED] |
| Lead Alarm Monitor/Remote Programmer | 2,208 | \$ [REDACTED] | \$ [REDACTED] |
| Lead Alarm Monitor/Remote Programmer Trainee | 2,208 | \$ [REDACTED] | \$ [REDACTED] |
| Remote Alarm Panel Programmer | 1,880 | \$ [REDACTED] | \$ [REDACTED] |
| Remote Alarm Panel Programmer Trainee | 1,064 | \$ [REDACTED] | \$ [REDACTED] |
| Computer Assistant (Full Time) | 2,112 | \$ [REDACTED] | \$ [REDACTED] |
| Computer Assistant (Part Time) ³ | 1,800 | \$ [REDACTED] | \$ [REDACTED] |
| Clerical (Part Time) ¹ | 1,800 | \$ [REDACTED] | \$ [REDACTED] |
| TOTAL COST | 48,656 | | \$ 1,326,686.60 |
| Additional Position(s) PROPOSED RATE | | [REDACTED] | |





2.4 OPTION YEAR 1 OVERTIME PROPOSED BILL RATE

| GONZALES CONSULTING SERVICES, INC. Philadelphia, PA, MegaCenter RFP No. GS-03P-00-CDC-0061 | | | |
|--|-----------------|---------------------------|------------------|
| OPTION YEAR 1 - Overtime/Emergency Hours | | | |
| Position | Estimated Hours | Proposed O/T Billing Rate | Subtotal |
| Project Manager | 106 | \$ | \$ |
| Alarm Monitor/Dispatcher | 1,064 | \$ | \$ |
| Alarm Monitor/Dispatcher Trainee | 0 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher | 442 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher Trainee | 0 | \$ | \$ |
| Sr. Remote Alarm Panel Programmer | 110 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer | 0 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer Trainee | 111 | \$ | \$ |
| Remote Alarm Panel Programmer | 0 | \$ | \$ |
| Remote Alarm Panel Programmer Trainee | 106 | \$ | \$ |
| Computer Assistant (Full Time) | 90 | \$ | \$ |
| Computer Assistant (Part Time) ⁴ | 90 | \$ | \$ |
| Clerical (Part Time) ¹ | 90 | \$ | \$ |
| TOTAL O/T COST | 2,119 | \$ | 87,253.31 |
| | | | |
| | | | |
| | | | |





7000
10/2/2011
2011

2.5 OPTION YEAR 2 PROPOSED BILL RATE

| GONZALES CONSULTING SERVICES, INC. | | | |
|---|------------------------|----------------------------------|---------------------|
| Philadelphia, PA, MegaCenter | | | |
| RFP No. GS-03P-00-CDC-0061 | | | |
| OPTION YEAR 2 | | | |
| Position | Estimated Hours | Proposed O/T Billing Rate | Subtotal |
| Project Manager | 2,112 | \$ | \$ |
| Alarm Monitor/Dispatcher | 18,816 | \$ | \$ |
| Alarm Monitor/Dispatcher Trainee | 9,408 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher | 2,208 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher Trainee | 2,208 | \$ | \$ |
| Sr. Remote Alarm Panel Programmer | 2,944 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer | 2,208 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer Trainee | 1,880 | \$ | \$ |
| Remote Alarm Panel Programmer | 1,064 | \$ | \$ |
| Remote Alarm Panel Programmer Trainee | 2,112 | \$ | \$ |
| Computer Assistant (Full Time) | 1,800 | \$ | \$ |
| Computer Assistant (Part Time)⁵ | 2,112 | \$ | \$ |
| Clerical (Part Time)¹ | 51,080 | \$ | \$ |
| TOTAL COST | | | 1,326,686.60 |
| Additional Position(s) PROPOSED RATE | | | |

2.6 OPTION YEAR 2 OVERTIME PROPOSED BILL RATE





| GONZALES CONSULTING SERVICES, INC. Philadelphia, PA, MegaCenter RFP No. GS-03P-00-CDC-0061 | | | |
|--|-----------------|---------------------------|---------------------|
| OPTION YEAR 2 - Overtime/Emergency Hours | | | |
| Position | Estimated Hours | Proposed O/T Billing Rate | Subtotal |
| Project Manager | 106 | \$ | \$ |
| Alarm Monitor/Dispatcher | 1,370 | \$ | \$ |
| Alarm Monitor/Dispatcher Trainee | 0 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher | 442 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher Trainee | 0 | \$ | \$ |
| Sr. Remote Alarm Panel Programmer | 110 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer | 0 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer Trainee | 0 | \$ | \$ |
| Remote Alarm Panel Programmer | 111 | \$ | \$ |
| Remote Alarm Panel Programmer Trainee | 0 | \$ | \$ |
| Computer Assistant (Full Time) | 106 | \$ | \$ |
| Computer Assistant (Part Time) ⁶ | 90 | \$ | \$ |
| Clerical (Part Time) ¹ | 106 | \$ | \$ |
| TOTAL O/T COST | 2,441 | | \$ 87,253.31 |

(b)(4)





2.7 OPTION YEAR 3 PROPOSED BILL RATE

| GONZALES CONSULTING SERVICES, INC. | | | |
|--|------------------------|----------------------------------|---------------------|
| Philadelphia, PA, MegaCenter | | | |
| RFP No. GS-03P-00-CDC-0061 | | | |
| OPTION YEAR 3 | | | |
| Position | Estimated Hours | Proposed O/T Billing Rate | Subtotal |
| Project Manager | 2,112 | \$ [REDACTED] | \$ [REDACTED] |
| Alarm Monitor/Dispatcher | 18,816 | \$ [REDACTED] | \$ [REDACTED] |
| Alarm Monitor/Dispatcher Trainee | 9,408 | \$ [REDACTED] | \$ [REDACTED] |
| Lead Alarm Monitor/Dispatcher | 2,208 | \$ [REDACTED] | \$ [REDACTED] |
| Lead Alarm Monitor/Dispatcher Trainee | 2,208 | \$ [REDACTED] | \$ [REDACTED] |
| Sr. Remote Alarm Panel Programmer | 2,944 | \$ [REDACTED] | \$ [REDACTED] |
| Lead Alarm Monitor/Remote Programmer | 2,208 | \$ [REDACTED] | \$ [REDACTED] |
| Lead Alarm Monitor/Remote Programmer Trainee | 1,880 | \$ [REDACTED] | \$ [REDACTED] |
| Remote Alarm Panel Programmer | 1,064 | \$ [REDACTED] | \$ [REDACTED] |
| Remote Alarm Panel Programmer Trainee | 2,112 | \$ [REDACTED] | \$ [REDACTED] |
| Computer Assistant (Full Time) | 3,000 | \$ [REDACTED] | \$ [REDACTED] |
| Computer Assistant (Part Time) ⁷ | 2,112 | \$ [REDACTED] | \$ [REDACTED] |
| Clerical (Part Time) ¹ | 52,280 | \$ [REDACTED] | \$ [REDACTED] |
| TOTAL COST | | | 1,326,686.60 |
| Additional Position(s) PROPOSED RATE | | [REDACTED] | |





2.8 OPTION Year 3 OVERTIME Proposed Bill Rate

| GONZALES CONSULTING SERVICES, INC. Philadelphia, PA, MegaCenter RFP No. GS-03P-00-CDC-0061 | | | |
|--|-----------------|---------------------------|---------------------|
| OPTION YEAR 3 - Overtime/Emergency Hours | | | |
| Position | Estimated Hours | Proposed O/T Billing Rate | Subtotal |
| Project Manager | 106 | \$ | \$ |
| Alarm Monitor/Dispatcher | 1,370 | \$ | \$ |
| Alarm Monitor/Dispatcher Trainee | 0 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher | 442 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher Trainee | 0 | \$ | \$ |
| Sr. Remote Alarm Panel Programmer | 110 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer | 0 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer Trainee | 0 | \$ | \$ |
| Remote Alarm Panel Programmer | 111 | \$ | \$ |
| Remote Alarm Panel Programmer Trainee | 0 | \$ | \$ |
| Computer Assistant (Full Time) | 106 | \$ | \$ |
| Computer Assistant (Part Time) ⁸ | 150 | \$ | \$ |
| Clerical (Part Time) ¹ | 106 | \$ | \$ |
| TOTAL O/T COST | 2,501 | | \$ 87,253.31 |
| | | | |
| | | | |
| | | | |





2.9 OPTION YEAR 4 PROPOSED BILL RATE

| GONZALES CONSULTING SERVICES, INC. Philadelphia, PA, MegaCenter RFP No. GS-03P-00-CDC-0061 | | | |
|--|-----------------|---------------------------|------------------------|
| OPTION YEAR 4 | | | |
| Position | Estimated Hours | Proposed O/T Billing Rate | Subtotal |
| Project Manager | 2,112 | \$ | \$ |
| Alarm Monitor/Dispatcher | 18,816 | \$ | \$ |
| Alarm Monitor/Dispatcher Trainee | 9,408 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher | 2,208 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher Trainee | 2,208 | \$ | \$ |
| Sr. Remote Alarm Panel Programmer | 2,944 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer | 2,208 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer Trainee | 2,208 | \$ | \$ |
| Remote Alarm Panel Programmer | 1,880 | \$ | \$ |
| Remote Alarm Panel Programmer Trainee | 1,064 | \$ | \$ |
| Computer Assistant (Full Time) | 2,112 | \$ | \$ |
| Computer Assistant (Part Time) ⁹ | 1,800 | \$ | \$ |
| Clerical (Part Time) ¹ | 2,112 | \$ | \$ |
| TOTAL COST | 51,080 | | \$ 1,326,686.60 |
| Additional Position(s) PROPOSED RATE | | | |





2.10 OPTION YEAR 4 OVERTIME PROPOSED BILL RATE

| GONZALES CONSULTING SERVICES, INC. Philadelphia, PA, MegaCenter RFP No. GS-03P-00-CDC-0061 | | | |
|--|-----------------|---------------------------|---------------------|
| OPTION YEAR 4 - Overtime/Emergency Hours | | | |
| Position | Estimated Hours | Proposed O/T Billing Rate | Subtotal |
| Project Manager | 106 | \$ | \$ |
| Alarm Monitor/Dispatcher | 1,370 | \$ | \$ |
| Alarm Monitor/Dispatcher Trainee | 0 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher | 442 | \$ | \$ |
| Lead Alarm Monitor/Dispatcher Trainee | 0 | \$ | \$ |
| Sr. Remote Alarm Panel Programmer | 110 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer | 0 | \$ | \$ |
| Lead Alarm Monitor/Remote Programmer Trainee | 0 | \$ | \$ |
| Remote Alarm Panel Programmer | 111 | \$ | \$ |
| Remote Alarm Panel Programmer Trainee | 0 | \$ | \$ |
| Computer Assistant (Full Time) | 106 | \$ | \$ |
| Computer Assistant (Part Time) ¹⁰ | 90 | \$ | \$ |
| Clerical (Part Time) ¹ | 106 | \$ | \$ |
| TOTAL O/T COST | 2,441 | | \$ 87,253.31 |

No separate price necessary, per instructions in the clarifications/BAFO request.

(b)(4)



| | position | rate | hours | days | |
|--------------------------|-------------------------------------|------|-------|------|-------------|
| Base Year - April | | | | | |
| 30 days | telecommunicator | | 64 | 21 | |
| 5 Sun. / 4 Sat. / 0 Hol. | telecommunicator | | 48 | 9 | |
| | lead telecommunicator | | 16 | 21 | |
| | lead telecommunicator | | 24 | 9 | |
| | lead telecommunicator / remote | | 8 | 21 | |
| | remote programmer | | | 21 | |
| | senior remote programmer / designer | | 8 | 21 | |
| | project manager | | 8 | 21 | |
| | clerical | | 8 | 21 | |
| | computer operator | | | 21 | |
| | computer operator - part time | | 2 | 21 | |
| | | | | | \$81,119.23 |
| Base Year - May | | | | | |
| 31 days | telecommunicator | | 64 | 22 | |
| 4 Sun. / 4 Sat. / 1 Hol. | telecommunicator | | 48 | 9 | |
| | lead telecommunicator | | 16 | 22 | |
| | lead telecommunicator | | 24 | 9 | |
| | lead telecommunicator / remote | | 8 | 22 | |
| | remote programmer | | | 22 | |
| | senior remote programmer / designer | | 8 | 22 | |
| | project manager | | 8 | 22 | |
| | clerical | | | 22 | |
| | computer operator | | 8 | 22 | |
| | computer operator - part time | | 2 | 22 | |
| | | | | | \$84,368.30 |
| Base Year - June | | | | | |
| 30 days | telecommunicator | | 80 | 21 | |
| 4 Sun. / 5 Sat. / 0 Hol. | telecommunicator | | 48 | 9 | |
| | lead telecommunicator | | 16 | 21 | |
| | lead telecommunicator | | 24 | 9 | |
| | lead telecommunicator / remote | | 8 | 21 | |
| | remote programmer | | | 21 | |
| | senior remote programmer / designer | | 8 | 21 | |
| | project manager | | 8 | 21 | |

| | hours |
|-------------------------------------|-------|
| M-F 3 day, 3 swing & 2 night | 1344 |
| weekends and holidays 2 per shift | 432 |
| M-F, night shift only | 336 |
| weekends and holidays 1 per shift | 216 |
| M-F 1 on day and evening shifts | 168 |
| M-F 1 day and evening shifts | 0 |
| | 168 |
| supervisory | 168 |
| 1 per day shift, Monday thru Friday | 168 |
| | 0 |
| | 42 |
| | |
| 3 day, 3 swing & 2 night | 1408 |
| weekends and holidays 2 per shift | 432 |
| M-F, night shift only | 352 |
| weekends and holidays 1 per shift | 216 |
| M-F, 1 per day and evening shift | 176 |
| M-F, 1 day and evening shifts | 0 |
| | 176 |
| supervisory | 176 |
| 1 per day shift, Monday thru Friday | 0 |
| | 176 |
| | 44 |
| | |
| 4 day, 3 swing & 3 night | 1680 |
| weekends and holidays 2 per shift | 432 |
| M-F, night shift only | 336 |
| weekends and holidays 1 per shift | 216 |
| M-F, 1 per day and evening shift | 168 |
| M-F 1 day and evening shifts | 0 |
| | 168 |
| supervisory | 168 |

| | | | | |
|------------------------------|-------------------------------------|-----|----|--------------|
| | clerical | | 21 | |
| | computer operator | 8 | 21 | |
| | computer operator - part time | 8 | 21 | |
| | | | | \$92,262.67 |
| Base Year - July | | | | |
| 31 days | telecommunicator | 96 | 21 | |
| 5 Sun. / 4 Sat. / 1 Hol. | telecommunicator | 56 | 10 | |
| | lead telecommunicator | 16 | 21 | |
| | lead telecommunicator | 24 | 10 | |
| | lead telecommunicator / remote | 8 | 21 | |
| | remote programmer | | 21 | |
| | senior remote programmer / designer | 8 | 21 | |
| | project manager | 8 | 21 | |
| | clerical | | 21 | |
| | computer operator | 8 | 21 | |
| | computer operator - part time | 8 | 21 | |
| | | | | \$103,724.35 |
| Base Year - August | | | | |
| 31 days | telecommunicator | 104 | 23 | |
| 4 Sun. / 4 Sat. / 0 Hol. | telecommunicator | 72 | 8 | |
| | lead telecommunicator | 8 | 23 | |
| | lead telecommunicator | 24 | 8 | |
| | lead telecommunicator / remote | 16 | 23 | |
| | remote programmer | | 23 | |
| | senior remote programmer / designer | 8 | 23 | |
| | project manager | 8 | 23 | |
| | clerical | 8 | 23 | |
| | computer operator | 8 | 23 | |
| | computer operator - part time | 8 | 23 | |
| | | | | \$119,288.02 |
| Base Year - September | | | | |
| 30 days | telecommunicator | 104 | 21 | |
| 5 Sun. / 4 Sat. / 1 Hol. | telecommunicator | 72 | 10 | |
| | lead telecommunicator | 8 | 21 | |
| | lead telecommunicator | 24 | 10 | |

| | |
|--|------|
| 1 per day shift, Monday thru Friday | 0 |
| | 168 |
| | 168 |
| 5 day, 4 swing & 3 night | 2016 |
| weekends & holidays 3 on days, 2 otherwise | 560 |
| M-F, night shift only | 336 |
| weekends and holidays 1 per shift | 240 |
| M-F, 1 per day and evening shift | 168 |
| M-F 1 day and evening shifts | 0 |
| | 168 |
| supervisory | 168 |
| 1 per day shift, Monday thru Friday | 0 |
| | 168 |
| | 168 |
| 6 day, 4 swing & 3 night | 2392 |
| weekends and holidays 3 per shift | 576 |
| M-F, night shift only | 184 |
| weekends and holidays 1 per shift | 192 |
| M-F, 1 per day and evening shift | 368 |
| M-F 1 day and evening shifts | 0 |
| | 184 |
| supervisory | 184 |
| 1 per day shift, Monday thru Friday | 184 |
| | 184 |
| | 184 |
| 6 day, 4 swing & 3 night | 2184 |
| weekends and holidays 3 per shift | 720 |
| M-F, night shift only | 168 |
| weekends and holidays 1 per shift | 240 |

| | | | | | |
|-----------------------------|-------------------------------------|--|-----|----|--------------|
| | lead telecommunicator / remote | | 16 | 21 | |
| | remote programmer | | | 21 | |
| | senior remote programmer / designer | | 8 | 21 | |
| | project manager | | 8 | 21 | |
| | clerical | | 8 | 21 | |
| | computer operator | | 8 | 21 | |
| | computer operator - part time | | 4 | 21 | |
| | | | | | \$113,063.47 |
| Base Year - October | | | | | |
| 31 days | telecommunicator | | 104 | 22 | |
| 4 Sun. / 4 Sat. / 1 Hol. | telecommunicator | | 72 | 9 | |
| | lead telecommunicator | | 8 | 22 | |
| | lead telecommunicator | | 24 | 9 | |
| | lead telecommunicator / remote | | 16 | 22 | |
| | remote programmer | | | 22 | |
| | senior remote programmer / designer | | 8 | 22 | |
| | project manager | | 8 | 22 | |
| | clerical | | 8 | 22 | |
| | computer operator | | 8 | 22 | |
| | computer operator - part time | | 3 | 22 | |
| | | | | | \$114,462.14 |
| Base Year - November | | | | | |
| 30 days | telecommunicator | | 104 | 20 | |
| 4 Sun. / 4 Sat. / 2 Hol. | telecommunicator | | 72 | 10 | |
| | lead telecommunicator | | 8 | 20 | |
| | lead telecommunicator | | 24 | 10 | |
| | lead telecommunicator / remote | | 16 | 20 | |
| | remote programmer | | | 20 | |
| | senior remote programmer / designer | | 8 | 20 | |
| | project manager | | 8 | 20 | |
| | clerical | | 8 | 20 | |
| | computer operator | | 8 | 20 | |
| | computer operator - part time | | 3 | 20 | |
| | | | | | \$108,282.24 |

Base Year - December

(b)(4)

| | |
|-------------------------------------|------|
| M-F, 1 per day and evening shift | 336 |
| M-F 1 day and evening shifts | 0 |
| | 168 |
| supervisory | 168 |
| 1 per day shift, Monday thru Friday | 168 |
| | 168 |
| | 84 |
| | |
| 6 day, 4 swing & 3 night | 2288 |
| weekends and holidays 3 per shift | 648 |
| M-F, night shift only | 176 |
| weekends and holidays 1 per shift | 216 |
| M-F, 1 per day and evening shift | 352 |
| M-F 1 day and evening shifts | 0 |
| | 176 |
| supervisory | 176 |
| 1 per day shift, Monday thru Friday | 176 |
| | 176 |
| | 66 |
| | |
| 6 day, 4 swing & 3 night | 2080 |
| weekends and holidays 3 per shift | 720 |
| M-F, night shift only | 160 |
| weekends and holidays 1 per shift | 240 |
| M-F, 1 per day and evening shift | 320 |
| M-F 1 day and evening shifts | 0 |
| | 160 |
| supervisory | 160 |
| 1 per day shift, Monday thru Friday | 160 |
| | 160 |
| | 60 |

| | | | | | |
|--------------------------|-------------------------------------|--|-----|----|--------------|
| 31 days | telecommunicator | | 104 | 20 | |
| 5 Sun. / 5 Sat. / 1 Hol. | telecommunicator | | 72 | 11 | |
| | lead telecommunicator | | 8 | 20 | |
| | lead telecommunicator | | 24 | 11 | |
| | lead telecommunicator / remote | | 16 | 20 | |
| | remote programmer | | | 20 | |
| | senior remote programmer / designer | | 8 | 20 | |
| | project manager | | 8 | 20 | |
| | clerical | | 8 | 20 | |
| | computer operator | | 8 | 20 | |
| | computer operator - part time | | 4 | 20 | |
| | | | | | \$111,110.40 |
| Base Year - January | | | | | |
| 31 days | telecommunicator | | 104 | 21 | |
| 4 Sun. / 4 Sat. / 2 Hol. | telecommunicator | | 72 | 11 | |
| | lead telecommunicator | | 8 | 21 | |
| | lead telecommunicator | | 16 | 11 | |
| | lead telecommunicator / remote | | 16 | 21 | |
| | remote programmer | | | 21 | |
| | senior remote programmer / designer | | 8 | 21 | |
| | project manager | | 8 | 21 | |
| | clerical | | | 21 | |
| | computer operator | | 8 | 21 | |
| | computer operator - part time | | 3 | 21 | |
| | | | | | \$109,602.43 |
| Base Year - February | | | | | |
| 28 days | telecommunicator | | 104 | 19 | |
| 4 Sun. / 4 Sat. / 1 Hol. | telecommunicator | | 72 | 9 | |
| | lead telecommunicator | | 8 | 19 | |
| | lead telecommunicator | | 24 | 9 | |
| | lead telecommunicator / remote | | 16 | 19 | |
| | remote programmer | | | 19 | |
| | senior remote programmer / designer | | 8 | 19 | |
| | project manager | | 8 | 19 | |
| | clerical | | 8 | 19 | |
| | computer operator | | 8 | 19 | |

| | |
|-------------------------------------|------|
| 6 day, 4 swing & 3 night | 2080 |
| weekends and holidays 3 per shift | 792 |
| M-F, night shift only | 160 |
| weekends and holidays 1 per shift | 264 |
| M-F, 1 per day and evening shift | 320 |
| M-F 1 day and evening shifts | 0 |
| | 160 |
| supervisory | 160 |
| 1 per day shift, Monday thru Friday | 160 |
| | 160 |
| | 80 |
| | |
| 6 day, 4 swing & 3 night | 2184 |
| weekends and holidays 3 per shift | 792 |
| M-F, night shift only | 168 |
| weekends and holidays 1 per shift | 176 |
| M-F, 1 per day and evening shift | 336 |
| M-F 1 day and evening shifts | 0 |
| | 168 |
| supervisory | 168 |
| 1 per day shift, Monday thru Friday | 0 |
| | 168 |
| | 63 |
| | |
| 6 day, 4 swing & 3 night | 1976 |
| weekends and holidays 3 per shift | 648 |
| M-F, night shift only | 152 |
| weekends and holidays 1 per shift | 216 |
| M-F, 1 per day and evening shift | 304 |
| M-F 1 day and evening shifts | 0 |
| | 152 |
| supervisory | 152 |
| 1 per day shift, Monday thru Friday | 152 |
| | 152 |

| | | | | | |
|--------------------------|-------------------------------------|--|-----|----|----------------|
| | computer operator - part time | | 2 | 19 | |
| | | | | | \$101,227.25 |
| Base Year - March | | | | | |
| 31 days | telecommunicator | | 104 | 22 | |
| 4 Sun. / 5 Sat. / 0 Hol. | telecommunicator | | 72 | 9 | |
| | lead telecommunicator | | 8 | 22 | |
| | lead telecommunicator | | 24 | 9 | |
| | lead telecommunicator / remote | | 16 | 22 | |
| | remote programmer | | | 22 | |
| | senior remote programmer / designer | | 8 | 22 | |
| | project manager | | 8 | 22 | |
| | clerical | | 8 | 22 | |
| | computer operator | | 8 | 22 | |
| | computer operator - part time | | 3 | 22 | |
| | | | | | \$114,462.14 |
| | Subtotal | | | | \$1,252,972.66 |
| | Incentive Awards | | | | |
| | Premium Pay | | | | |
| | Travel Allotment | | | | |
| | | | | | \$1,298,061.84 |

| | |
|--|-------|
| 6 day, 4 swing & 3 night | 2288 |
| weekends and holidays 3 per shift | 648 |
| M-F, night shift only | 176 |
| weekends and holidays 1 per shift | 216 |
| M-F, 1 per day and evening shift | 352 |
| M-F 1 day and evening shifts | 0 |
| | 176 |
| supervisory | 176 |
| 1 per day shift, Monday thru Friday | 176 |
| | 176 |
| | 66 |
| telecommunicator total hours | 31320 |
| lead telecommunicator total hours | 5352 |
| lead telecommunicator/remote programmer to | 3368 |
| remote programmer | 680 |
| senior remote programmer | 2024 |
| project manager total hours | 2024 |
| clerical | 1344 |
| computer operator | 1856 |
| computer operator - part time | 1063 |
| total hours | 46112 |

11/20/00

| | Salary | Seniority Pay | Training | Overtime Time | Awards |
|------------------------------|--------|---------------|----------|---------------|--------|
| Base Year First Quarter | | | | | |
| Base Year Second Quarter | | | | | |
| Base Year Third Quarter | | | | | |
| Base Year Fourth Quarter | | | | | |
| Base Year | | | | | |
| Option Year 1 First Quarter | | | | | |
| Option Year 1 Second Quarter | | | | | |
| Option Year 1 Third Quarter | | | | | |
| Option Year 1 Fourth Quarter | | | | | |
| Year 1 | | | | | |
| Option Year 2 First Quarter | | | | | |
| Option Year 2 Second Quarter | | | | | |
| Option Year 2 Third Quarter | | | | | |
| Option Year 2 Fourth Quarter | | | | | |
| Year 2 | | | | | |
| Option Year 3 First Quarter | | | | | |
| Option Year 3 Second Quarter | | | | | |
| Option Year 3 Third Quarter | | | | | |
| Option Year 3 Fourth Quarter | | | | | |
| Option Year 3 | | | | | |
| Option Year 4 First Quarter | | | | | |
| Option Year 4 Second Quarter | | | | | |
| Option Year 4 Third Quarter | | | | | |
| Option Year 4 Fourth Quarter | | | | | |
| Option Year 4 | | | | | |
| Base Year | | | | | |
| Option Year 1 | | | | | |
| Option Year 2 | | | | | |
| Option Year 3 | | | | | |

| | |
|---------------|--|
| Option Year 4 | |
| | |

(b)(4)

| | position | rate | hours | days | | hours |
|--------------------------|-----------------------|------|-------|------|-------------------------------------|-------|
| Base Year First Quarter | | | | | | |
| | operator / dispatcher | | 80 | 66 | 5 day, 3 swing & 2 night | 5280 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 8 | 92 | 1 per shift, Monday thru Friday | 736 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| Base Year Second Quarter | | | | | | |
| | operator / dispatcher | | 80 | 66 | 5 day, 3 swing & 2 night | 5280 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 8 | 92 | 1 per shift, Monday thru Friday | 736 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| Base Year Third Quarter | | | | | | |
| | operator / dispatcher | | 80 | 66 | 5 day, 3 swing & 2 night | 5280 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 16 | 92 | 1 day, 1 swing, Monday thru Friday | 1472 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| Base Year Fourth Quarter | | | | | | |
| | operator / dispatcher | | 80 | 66 | 5 day, 3 swing & 2 night | 5280 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 16 | 92 | 1 day, 1 swing, Monday thru Friday | 1472 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| | seniority pay | | | | | |
| | training | | | | | |
| | overtime time | | | | | |
| | awards | | | | | |
| | | | | | | |
| | | | | | operator / dispatcher total hours | 26112 |
| | | | | | lead total hours | 8832 |
| | | | | | remote programmer total hours | 4416 |
| | | | | | project manager total hours | 2112 |
| | | | | | clerical | 2112 |
| | | | | | total hours | 43584 |

| | position | rate | hours | days | | hours |
|------------------------------|-----------------------|------|-------|------|-------------------------------------|-------|
| Option Year 1 First Quarter | | | | | | |
| | operator / dispatcher | | 80 | 66 | 5 day, 3 swing & 2 night | 5280 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 16 | 92 | 1 day, 1 swing, Monday thru Friday | 1472 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| Option Year 1 Second Quarter | | | | | | |
| | operator / dispatcher | | 80 | 66 | 5 day, 3 swing & 2 night | 5280 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 16 | 92 | 1 day, 1 swing | 1472 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| Option Year 1 Third Quarter | | | | | | |
| | operator / dispatcher | | 80 | 66 | 5 day, 3 evening & 2 night | 5280 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 16 | 92 | 1 day, 1 swing, Monday thru Friday | 1472 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| Option Year 1 Fourth Quarter | | | | | | |
| | operator / dispatcher | | 80 | 66 | 5 day shift, 3 evening and 2 night | 5280 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 16 | 92 | 1 day, 1 swing, Monday thru Friday | 1472 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| | seniority pay | | | | | |
| | training | | | | | |
| | overtime | | | | | |
| | awards | | | | | |
| | | | | | | |
| | | | | | operator / dispatcher total hours | 26112 |
| | | | | | lead total hours | 8832 |
| | | | | | remote programmer total hours | 5888 |
| | | | | | project manager total hours | 2112 |
| | | | | | clerical | 2112 |
| | | | | | total hours | 45056 |

| | position | rate | hours | days | | hours |
|------------------------------|-----------------------|------|-------|------|-------------------------------------|-------|
| Option Year 2 First Quarter | | | | | | |
| | operator / dispatcher | | 88 | 66 | 5 day, 4 swing and 2 night | 5808 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 16 | 92 | 1 day, 1 swing, Monday thru Friday | 1472 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| Option Year 2 Second Quarter | | | | | | |
| | operator / dispatcher | | 88 | 66 | 5 day, 4 swing and 2 night | 5808 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 16 | 92 | 1 day, 1 swing | 1472 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| Option Year 2 Third Quarter | | | | | | |
| | operator / dispatcher | | 88 | 66 | 5 day, 4 swing and 2 night | 5808 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 16 | 92 | 1 day, 1 swing, Monday thru Friday | 1472 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| Option Year 2 Fourth Quarter | | | | | | |
| | operator / dispatcher | | 88 | 66 | 5 day, 4 swing and 2 night | 5808 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 16 | 92 | 1 day, 1 swing, Monday thru Friday | 1472 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| | seniority pay | | | | | |
| | training | | | | | |
| | overtime | | | | | |
| | awards | | | | | |
| | | | | | operator / dispatcher total hours | 28224 |
| | | | | | lead total hours | 8832 |
| | | | | | remote programmer total hours | 5888 |
| | | | | | project manager total hours | 2112 |
| | | | | | clerical | 2112 |
| | | | | | total hours | 47168 |

| | position | rate | hours | days | | hours |
|------------------------------|-----------------------|------|-------|------|-------------------------------------|-------|
| Option Year 3 First Quarter | | | | | | |
| | operator / dispatcher | | 88 | 66 | 5 day, 4 swing and 2 night | 5808 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 16 | 92 | 1 day, 1 swing, Monday thru Friday | 1472 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| Option Year 3 Second Quarter | | | | | | |
| | operator / dispatcher | | 88 | 66 | 5 day, 4 swing and 2 night | 5808 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 16 | 92 | 1 day, 1 swing | 1472 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| Option Year 3 Third Quarter | | | | | | |
| | operator / dispatcher | | 88 | 66 | 5 day, 4 swing and 2 night | 5808 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 16 | 92 | 1 day, 1 swing, Monday thru Friday | 1472 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| Option Year 3 Fourth Quarter | | | | | | |
| | operator / dispatcher | | 88 | 66 | 5 day, 4 swing and 2 night | 5808 |
| | | | 48 | 26 | weekends and holidays 2 per shift | 1248 |
| | lead operator | | 24 | 92 | 1 each shift | 2208 |
| | remote programmer | | 16 | 92 | 1 day, 1 swing, Monday thru Friday | 1472 |
| | project manager | | 8 | 66 | supervisory | 528 |
| | clerical | | 8 | 66 | 1 per day shift, Monday thru Friday | 528 |
| | seniority pay | | | | | |
| | training | | | | | |
| | overtime | | | | | |
| | awards | | | | | |
| | | | | | | |
| | | | | | operator / dispatcher total hours | 28224 |
| | | | | | lead total hours | 8832 |
| | | | | | remote programmer total hours | 5888 |
| | | | | | project manager total hours | 2112 |
| | | | | | clerical | 2112 |
| | | | | | total hours | 47168 |

INTRODUCTION

SCOPE OF WORK

Provide all supervision and labor necessary for Central Alarm Monitoring and Radio Dispatching at the MegaCenter in Philadelphia, PA.

OFFERORS - EXTREMELY IMPORTANT

ACKNOWLEDGMENT OF AMENDMENTS

IF YOU HAVE SUBMITTED, OR INTEND TO SUBMIT A PROPOSAL FOR THIS PROJECT, CALL THIS OFFICE (215) 656-6115 IN SUFFICIENT TIME BEFORE THE PROPOSAL CLOSING DATE TO MAKE CERTAIN YOU HAVE RECEIVED ALL AMENDMENTS ISSUED, IF ANY.

YOU MUST ACKNOWLEDGE RECEIPT OF ALL AMENDMENTS ON THE PROPOSAL FORM (STANDARD FORM 33), BLOCK 14.

- * SEE SECTION "L" FOR ADDITIONAL PROPOSAL INSTRUCTIONS.
- * FACSIMILE PROPOSALS AND AMENDMENTS, MODIFICATIONS, AND WITHDRAWALS ARE NOT AUTHORIZED FOR THIS SOLICITATION.
- * NOTICE: THE INFORMATION COLLECTION REQUIREMENTS CONTAINED IN THIS SOLICITATION/CONTRACT, THAT ARE NOT REQUIRED BY REGULATION, HAVE BEEN APPROVED BY THE OFFICE OF MANAGEMENT AND BUDGET PURSUANT TO THE PAPERWORK REDUCTION ACT AND OMB NUMBER 3090-0163.
- * THE OFFEROR IS REMINDED THAT BLOCK 13 OF STANDARD FORM 33 (SOLICITATION, OFFER, AND AWARD) IS TO BE USED TO OFFER A PROMPT PAYMENT DISCOUNT.
- * PAYMENT TERMS ARE SET FORTH IN THE PAYMENT DUE DATE CLAUSE OF THIS SOLICITATION. THE OFFEROR IS CAUTIONED AGAINST INSERTING ANY STATEMENT IN BLOCK 13 THAT INDICATES PAYMENT IS DUE SOONER THAN THE TIME STIPULATED IN THE PAYMENT DUE DATE CLAUSE. EXAMPLE: WHEN PAYMENT IS DUE IN 30 DAYS AND THE OFFEROR INSERTS "NET 20".

LATE OFFERS

IN ORDER TO BE CONSIDERED, LATE OFFERS MUST BE POSTMARKED AT LEAST FIVE (5) CALENDAR DAYS PRIOR TO CLOSING DATE IF SENT CERTIFIED OR REGISTERED MAIL, OR POSTMARKED AT LEAST TWO (2) WORKING DAYS PRIOR TO THE CLOSING DATE IF SENT BY U.S. POSTAL SERVICE EXPRESS MAIL NEXT DAY SERVICE.

PREVIOUS ACQUISITION HISTORY

Project Title: Central Alarm Monitoring and Radio Dispatching
MegaCenter
Philadelphia, PA

Contract Number: GS-03P-95-AZC-0028

Contractor: Scotlandyard Security Services
16 South Bank Street
Philadelphia, PA 19106

Current Price: \$49,348.48 per month, \$592,181.76 per year.

Term of Contract: One (1) Year with Four (4) One Year Options

| | |
|--------------------------|-------------------------------|
| SF 33 | Solicitation, Offer and Award |
| SF 33 Continuation Sheet | Attachment One (1) |
| SF 33 Continuation Sheet | Attachment Two (2) |
| SF 33 Continuation Sheet | Attachment Three (3) |
| SF 33 Continuation Sheet | Attachment Four (4) |
| SF 33 Continuation Sheet | Attachment Five (5) |

Section A will be mailed out to prospective offerors. Please FAX your request for Section A to Kimberly De Sant at (215) 656-5955. Be sure to include your company name, address, telephone number, and contact person in your FAX.

** Reference Section L for required content.

SECTION B SUPPLIES OR SERVICES AND PRICES/COSTS

SEE ATTACHMENTS TO STANDARD FORM 33 IN SECTION A

| <u>SECTION C</u> | <u>DESCRIPTION/SPECS/WORK STATEMENT</u> |
|------------------|---|
| Part 1. | General Information |
| Part 2. | Scope of Work |
| Part 3. | Technical Specifications (General) |
| Part 4. | Contractor Personnel |
| Part 5. | Contractor Responsibilities (Effort Required) |
| Part 6. | Limitation on Labor Hours |
| Part 7. | Typical Duties |
| Part 8. | Hours of Operation |
| Part 9. | Work Scheduling Procedures |
| Part 10. | Hours Billed |
| Part 11. | Premium Pay |
| Part 12. | Ordering Procedures |
| Part 13. | Applicable Directives |
| Part 14. | Government Furnished Property |
| Part 15. | Physical Security |
| Part 16. | Contractor Furnished Property |
| Part 17. | Key Control |
| Part 18. | Contract Start-up/Implementation Review |
| Part 19. | Contractor Business Licenses and Permits |
| Part 20. | Travel |
| Part 21. | Inspection of Facility |

| | | | |
|---|---|--|---|
| REGION 1 North England | REGION 2 Northwest & Caribbean | REGION 3 Mid-Atlantic | REGION 4 Southeastern Sunbelt |
| Maine Vermont New Hampshire Massachusetts Connecticut Rhode Island | New York Northern New Jersey Puerto Rico US Virgin Islands | Delaware Maryland Southern New Jersey Pennsylvania Virginia West Virginia | Alabama Florida Georgia Kentucky Mississippi North Carolina South Carolina Tennessee |
| REGION 5 Great Lakes | REGION 6 Heartland | REGION 7 Greater Southwest | REGION 8 Rocky Mountain |
| Illinois Indiana Michigan Minnesota Ohio Wisconsin | Iowa Kansas Missouri Nebraska | Arkansas Louisiana New Mexico Oklahoma Texas | Colorado Montana North Dakota South Dakota Utah Wyoming |
| REGION 9 Pacific Rim | REGION 10 Northwest & Arctic | REGION 11 National Capital | |
| Arizona California Nevada Hawaii Guam US Trust Territory of the Pacific | Alaska Idaho Oregon Washington | Washington, DC Metropolitan Area | |

Part 2. Scope of Work

The Contractor shall provide non-supervisory and supervisory staff to successfully perform Contract-required services, as described here and elsewhere in the Contract:

- a) Monitoring electronic fire and security alarm systems; this includes observing video and audio monitors/alarm indicators, and coordinating the appropriate response to such alarms.
- b) Radio and telephone dispatching (sending and receiving audible and easily distinguishable and understandable English language voice communications via radio and telephone systems; answering verbal inquiries; coordinating the activities of law enforcement and other Public Safety personnel; obtaining and relaying Public Safety information).

c) Operating (recording, playing, logging, storing tapes, and changing tapes) multichannel radio and telephone dispatch audio logging/recording equipment.

d) Remotely operating and monitoring audio and video electronic surveillance systems; inputting access control data into personnel and vehicle entry access control systems.

e) Coordinating Public Safety services with Federal, state and local Government entities (coordinating responses to complex local and remote alarms, and other reportable incidents)

f) Reporting and logging of events, in accordance with written Government instructions (this includes reporting on incidents, status and availability of law enforcement operatives, etc.).

g) Operator-level usage, maintenance and testing of MegaCenter alarm and communication systems, in accordance with the Contract and Standing Operating Procedures (SOP).

h) Operating IBM-compatible, Microsoft Windows-based desktop computers and software, while reading and entering MegaCenter incident logging and reporting data.

The Contractor shall provide required staffing and services during Government-specified duty hours, according to the work schedules (which may be changed by the Government). Total estimated labor hours are identified in Section A (Attachment One).

NOTE: A Public Safety Communication Center is a facility that provides radio and telephone communications and coordination/support of law enforcement, fire and/or emergency medical service activities and are usually operated by and/or for local, state and Federal Government agencies.

The Contractor's staff shall operate the MegaCenter as specified in the Contract. Contract-required staff and services shall be provided by the Contractor to the Government seven days a week, twenty-four hours a day (using three (3) overlapping shifts, herein referred to as Day, Evening, and Night), each and every day of the year (including Saturdays, Sundays and holidays), throughout the duration of the Contract, in accordance with the terms of the Contract.

IMPORTANT NOTE:

Where the Government identifies and cross-references specific solicitation/Contract section numbers, that cross-reference refers to that section in its entirety, including each and every subordinate subsection and element having the same letter and/or letter-number prefix. For example, a reference to the requirements of "Section H" includes all of Section H.

At a minimum, the Day Shift will consist of at least one alarm monitor / dispatcher, a computer operator or remote programmer and one lead dispatcher.

At a minimum, the Swing and Night Shifts will consist of at least one alarm monitor / dispatcher and a lead dispatcher.

For Weekends and Holidays, there will be at least one alarm monitor / dispatcher and a lead on all three shifts.

At a minimum, there will be one and only one contract employee designated to be the lead dispatcher on every shift.

In order to maintain an efficient contract work force, the person assigned to the lead dispatcher position may also serve as the remote programmer or computer operator, if qualified in those areas. The person assigned to the remote programmer or computer operator position may also serve as the lead dispatcher if qualified. It is anticipated that the remote programmer will most likely be the highest paid position. The computer operator may also be compensated at a higher rate than the lead dispatcher positions, depending on the qualifications and experience of the person in this position. Therefore, the contract employees will be compensated at the higher rate of pay for the work that they are assigned. If an employee is the lead dispatcher and also servers as the remote programmer, they will be paid at the higher of the two positions. There will only be one lead dispatcher, one computer operator and one remote programmer assigned to any shift, unless specifically authorized in writing by the MegaCenter Manager.

The number and types of each contracted position will be determined quarterly with the staffing plan. The Project Manager will meet with the MegaCenter Manager or his designee concerning the details on the number and types of positions needed for the next quarter.

The Contractor must maintain an employee reserve of fully qualified and trained personnel equal to 20% of the number of personnel needed to operationally staff the MegaCenter to cover emergency situations, employee illness and employee turnover. The operational staffing level (100% staffing needs) and reserve employee list (20% of the operational staffing level) will be submitted in writing by the contractor to the Contracting Officer ten (10) days after the start of the contract and thirty (30) days before the end of each quarter thereafter. Included in this Contractor documentation shall be specific details for two or more planned real-time methods of notification the Contractor will use for each reserve person, to expeditiously summon that specific (named) reserve. A real-world telephone, radio, pager, messenger, etc. notification plan and contact list is required from the Contractor prior to commencement of work under this Contract.

The Contractor must provide the amount of on-site management necessary to assure effective performance of all services required and described in this contract. All support to the Philadelphia MegaCenter must be provided within the MegaCenter suite located in Philadelphia, Pennsylvania to direct the work to be accomplished each day.

The Contractor must submit to the Contracting Officer's Representative (COR) or designated ALTERNATE for review, the names and all necessary documentation of fully qualified, fully trained and APCO certified management, supervisory, and non-supervisory personnel prior to commencement of work under this contract. A list of such personnel will be submitted quarterly to the COR or designate.

Part 3. Technical Specifications (General)

Unless otherwise stated, all Government specifications and requirements are mandatory. Offerors are required to meet and comply with all mandatory Government specifications and requirements. Government specifications and requirements are minimum specifications and requirements. An Offeror may propose items that exceed (are better than) these requirements. Offeror proposal items that exceed Government requirements will be rated higher/better than Offeror proposal items that meet Government minimum requirements (see Section M).

Necessary coordination and Contract support shall be included in the price of each labor hour ordered and provided through this Contract. The Contractor shall provide the required staff in accordance with the terms of the Contract.

Part 4. Contractor Personnel

The Contractor must provide personnel to fill the mandatory positions listed below. Contractor personnel must meet the qualification standards defined in this section and possess the basic skills needed to support the PWS. The MegaCenter Manager or his designate may approve waivers to the qualification standards on a case by case basis. Additional positions may be required in order to ensure performance measures are attained and objectives of the contract are fulfilled. At the initiation of this contract, the labor categories must include:

- Program Manager (one position)
- Lead Alarm Monitor/Dispatcher (minimum five positions)
- Alarm Monitor/Dispatcher
- Remote Access Programmer (Intrusion Detection Systems)
(minimum two positions)
- Computer Operator III (Microsoft Office Products)

In order to adequately support the Philadelphia MegaCenter mission, the Contractor personnel must:

- Be honest and of good character;
- Demonstrate the willingness and the ability to work rotating shifts, including nights, holidays and weekends;
- Work on an on-call basis;
- Successfully pass a background investigation;
- Provide a high level of customer service;
- Work well under stress
- Maintain a neat and professional appearance; and
- Respond courteously to all calls.

Part 5. Contractor Responsibility (Effort Required)

The Contractor shall provide the amount of on-site supervisory staffing to assure effective performance of all services required and described in this solicitation. The Contractor's supervisory representative (Project Manager) shall be present at the MegaCenter to direct the work accomplished each day. The schedule of supervisory hours may vary in accordance with providing eight (8) hours of supervision each day and shall be furnished to the COR prior to being performed. Hours of supervision NOT provided one day may be made up on a subsequent day, if approved by the COR prior to the occurrence.

The Contractor shall also provide the non-supervisory staff (Monitors/Operators, etc.). This mandatory staffing is required to operate the MegaCenter in accordance with the terms of the Contract. The determination of the total daily staffing requirements for the performance of all services specified in the Contract is the sole responsibility of the Contractor. It is of the utmost importance that the Contractor utilize motivated, experienced and well-trained personnel who possess the knowledge, skills and abilities to perform the required level of services specified in this Contract.

At no additional cost to the Government, the Contractor's staff shall pass on all pertinent information from the off-going shift operator to the on-coming shift operator. Assumption of the on-coming shift is considered implied consent that all information has been passed on and the on-coming shift operator is fully cognizant of the actions and information processed by the previous shifts. Failure on the part of the Contractor to utilize motivated, experienced and well-trained personnel who possess the knowledge, skills and abilities required by the Contract may produce unsatisfactory results which may cause the Government to take deductions from the Contractor's monthly invoices for unsatisfactory work and/or work NOT accomplished. Period performance appraisals will be made of the contractor's performance according to the requirements of the Federal Acquisition Regulation (FAR) 42.15 (thru FAC 97-09, dated October 30, 1998).

NOTE: Operator hours NOT provided one day shall NOT be made up or charged to/charged from any preceding or subsequent day.

Part 6. Limitation on Labor Hours

No employee of the Contractor shall provide more than twelve (12) hours of service on one or more Contracts administered by the General Services Administration, in any twenty-four (24) hour period, unless the work periods are separated by an eight (8) hour non-duty period. This limitation may be temporarily adjusted verbally by the Contracting Officer's Representative to cope with emergency situations which are beyond the control of the Contractor (i.e., adverse weather conditions, civil disturbances, bombings or other catastrophic actions which prevent the next shift from getting to the MegaCenter). The Contractor shall submit a written request for confirmation of the Government's waiver of labor hour limitations for each such occurrence, not later than five business days after the occurrence.

Part 7. Typical Duties

Typical MegaCenter assignments include, but are **NOT** limited to the following:

- a. Operating voice radio communication systems and maintaining voice radio communications in the assigned network. This includes receiving and transmitting routine and emergency instructions, making and responding to requests for assistance, dispatching police and security personnel, conducting routine roll calls and on-air status checks, and other similar functions.
- b. Maintaining liaison on the assigned emergency and non-emergency telephone lines to expedite a variety of routine and emergency complaint calls for police assistance from the public and/or employees of customer Federal agencies housed in GSA-controlled and GSA-delegated buildings.
- c. Monitoring and responding to state, local and Federal law enforcement radio communications. This includes monitoring transmissions that pertain to conditions and/or activities that may relate to or affect GSA Federal Protective Service activities.
- d. Monitoring and operating MegaCenter and FPS Central Office alarm monitors. This includes regular and routine testing of Alarm Processing Systems. This also includes making all necessary log entries for alarms emanating from within the area served by the MegaCenter and/or from within the geographic area supported by the associated alarm-reporting system.
- e. Maintaining detailed logs of all calls, actions and activities engaged in by the MegaCenter. This includes issuing case control numbers to the Federal Protective Service and associated Contract guard services personnel who are involved in incidents or investigations. This also

o. Performing monthly intrusion and duress alarm testing, to ensure that all alarms are working and to ensure that alarm contact persons lists are current, accurate and complete (this information shall be documented in the MegaCenter log). This includes reviewing and updating all contact person/notification lists, thereby ensuring that these lists include only current names, and current home and office telephone numbers.

p. Backing-up computer data files and rotating (removing, storing and replacing) audio tapes used to record telephone line and radio conversations.

q. Performing data entry. This includes logging offense and incident information on an IBM-compatible desktop computer that utilizes Microsoft Windows software.

NOTE: The Contractor shall provide training to Contractor employees that is first approved by the Government, thereby ensuring that all Contractor employees can efficiently utilize the same procedures, software and equipment.

Part 8. Hours of Operation

Normal Hours of Operation: The Contractor must perform the services required under this contract during the following hours: the Philadelphia MegaCenter operates 24 hours per day, 7 days per week. This must be accomplished by three 8.5-hour shifts. Each shift must include an unpaid half-hour meal break. The Meal Break shall not exceed 30 minutes and shall not be combined with another regular or meal break. During the shift overlap between shifts, personnel working the outgoing shift must brief personnel working the incoming shift on current dispatch conditions, activities, etc.

Holidays: The contractor shall provide the number of paid holidays defined in the applicable wage determination per year: New Year's Day, Martin Luther King Jr.'s Birthday, Presidents Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's 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.)

Emergency Event: In the event of an emergency such as natural disaster or catastrophic equipment failure, the Contractor must immediately contact the COR / ALTERNATE and the Philadelphia MegaCenter Manager and take the actions necessary to provide staffing, to include additional dispatch or other support staff as may be determined necessary to meet the special circumstances.

Additional Hours: Additional hours may be necessary on occasions such as to attend training, trades shows, provide support or training for another MegaCenter as directed by the MegaCenter Manager / or his alternative.

The CO's or MEGACENTER MANAGER'S prior approval is required before working any additional hours.

Part 9. Work Scheduling Procedures

The individual console positions must be consistently manned by personnel in a manner that will provide 24 hours a day, seven days per week. Usually managed on a normal weekly basis of eight hours per day, and not to exceed a total of twelve hours per shift, Sunday through Saturday. Work schedules for personnel, including any applicable relief periods, must be prepared on a GSA Form 1874, Hours of Duty Schedule, and posted in work areas on a monthly basis. The Contractor must submit the schedules to the COR / ALTERNATE no later than five working days prior to the new schedule's implementation. The Contractor will provide a qualified replacement dispatcher during relief periods at those posts that require relief personnel (identified in the GSA Form 2580).

During the scheduling process, the ratio of journey personnel to trainees must not be less than three journey personnel to one trainee. A trainee may only work on a shift, if there are at least three journey personnel on duty, excluding the On-Site Project Manager. As an example, if there are three journeyman personnel then the fourth position on that shift may be a trainee. If there are at least six journeyman, then two trainees may work that shift.

Part 10. Hours Billed

The Government will not reimburse the Contractor for nonproductive hours billed resulting from holidays, days off, leave, etc. The Contractor shall bill only for direct productive labor hours. The Contractor shall incorporate holiday, vacation and leave rates as fringe benefits, which shall be included in the prices submitted per discipline (i. e. dispatcher, lead dispatcher).

Part 11. Premium Pay

The Contractor is authorized to request premium pay on an individual employee basis at a rate of an additional 3%, not to exceed for every 2,500 hours of actual alarm monitoring / dispatch within the MegaCenter. The 2,500 hours is based solely on a productive time, exclusive of vacation, sick, personal days,

For the lead dispatcher position, the Contractor is authorized premium pay on an individual employee basis at a rate of an . not to exceed 12% in total, for every 2,500 of lead dispatch within the MegaCenter.

The same applies to the Computer Operator and Remote Programmer positions.

The Contractor shall submit all premium pay requests at the start of the contract and at each quarterly staffing plan meeting to the MegaCenter Manager or his designee for approval. The Contractor shall provide supporting documentation that each employee has the required 2,500 hours of actual work experience within the MegaCenter, and has performed highly satisfactory. The individual shall have performed with minimum mistakes, demonstrated providing quality customer service and have a good attendance record.

The final decision to grant premium time for each contract employee shall be left solely to the prudent discretion of the MegaCenter Manager or his designee.

Part 12. Ordering Procedures/Limitations for Additional/Emergency Services

a. Contract modifications for additional or emergency services will be placed by the Contracting Officer (CO), the MegaCenter Manager or the Contracting Officer's Representative (COR) designated in writing by the CO, at least 24 hours in advance, except for emergencies. Requests for additional services may be placed orally and confirmed in writing when the order totals \$2,500 or less. Orders of \$2,500 or less may be processed using certified invoice procedures. The Contracting Officer will issue all contract modifications, which exceed \$2,500 on the SF Form 30, Modification of Contract Order. The SF Form 30 will state the estimated number of hours, the type of services requested (i. e. lead dispatcher, dispatcher), and the price for each item according to the terms of the contract.

b. The Contractor shall not be required to accept any order exceeding 1,000 productive labor hours. The total number of hours of additional service ordered during any twelve month period shall not exceed 2,500 productive hours.

c. This additional services provision is intended to be used to satisfy the Government's short-term needs for nonrecurring service.

d. Change requests will include the estimated hours for the specified period of performance.

Part 13. Applicable Directives

The GSA regulations contain the basic procedures for the operation, maintenance and protection of property. The primary regulations and related procedures to be followed by the Contractor are listed below. Supplementary regulations which are provided to the Contractor by the CO or COR / ALTERNATE must also be in effect and will be incorporated by contract modification.

includes making such reports as may be required for the Federal Protective Service reporting system.

f. Writing a variety of reports and logs in the English language that document incidents and activities associated with the MegaCenter. This includes developing and maintaining MegaCenter incident reports, logs, complaints, activity reports and complaint file systems. All operator logs shall be kept readable/legible, orderly and neat, and shall include such detail as is required by the Contracting Officer's Representative.

g. Monitoring closed circuit video monitor systems and controlling associated cameras, then coordinating single-agency and multi-agency Public Safety responses (as appropriate) to observed events.

h. Maintaining a complete emergency notification log for all key personnel and facilities within the MegaCenter. This includes contacting designated personnel, as required to respond to incidents and activities. This also includes acting as the contact in receiving and relaying emergency notification reports and calls to and from the Regional Office.

i. Operating and monitoring access control systems and programming access computer functions. This includes ensuring that the appropriate type and class of access/entry card is used for entry. It also includes saving and copying information to a computer disc, and taking required action(s) when a security system violation/alarm is occurs.

j. Maintaining and monitoring MegaCenter status boards, listing all assigned Federal Protective Service personnel (as appropriate).

k. Coordinating with the Federal Protective Service supervisor, or their designee, in the absence of a designated district official or when unable to contact designated officials, regarding necessary decisions affecting the GSA-FPS mission during emergency situations.

l. Performing operator level maintenance on all equipment to include daily alarm and communication line checks, lamp checks and bulb replacements. This also includes reporting on all system and equipment failures to the appropriate FPS District Director and the Contracting Officer's Representative.

m. Monitoring, operating and acknowledging alarms and events, and dispatching Federal Protective Officers (FPOs) and/or local police (as needed).

n. Monitoring and/or operating any and all communication and computer equipment that may currently exist in and/or may be added to the MegaCenter during the life of this Contract. GSA will provide the Contractor with appropriate training for all separate operator functions.

Rules and Regulations Governing Public Buildings and Grounds (FPMR 41 CFR-20.3). These rules and regulations are posted in all buildings under the charge and control of the GSA and are applicable to all persons entering in or on such property.

Office of Federal Protective Service Policy Handbook, (PBS P 5930.17C), dated February, 2000 or latest revision. This handbook contains the basic procedures and forms used by the contractor personnel during the course of the contract and will be supplied by the COR / ALTERNATE.

APCO training protocol, latest published revision.

Philadelphia MegaCenter Standard Operating Procedures, as amended.

Part 14. Government Furnished Property

Use, accountability and care of Government Furnished Property (GFP).

Items to be furnished by the Government. The following supplies, materials and equipment will be furnished by the Government:

1. Portable radios, electrical and mechanical equipment such as alarm and surveillance systems, communications equipment, and closed-circuit televisions where installed. Written operating instructions, procedures and training for such equipment will also be provided.
2. One copy with amendments of the Office of Federal Protective Service Policy Handbook, (PBS P 5930.17C), dated February, 2000 or latest revision.
3. All relevant Standard Operating Procedures (SOPs), including all inserted information required. The COR / ALTERNATE will provided all initial information and changes. The Contractor must be responsible for posting revisions to the SOP.
4. Telephones deemed necessary by the Government for the conduct of official Government business under this contract.
5. Office equipment, such as desks, chairs, and typewriters (as deemed necessary by the Government).
6. All administrative forms prescribed for use by the Contractor's employees while on duty may be obtained by contacting the COR / ALTERNATE.

Accountability for GFP.

The Contractor must complete an inventory of all GFP and must submit an inventory report to the COR / ALTERNATE no later than sixty (60) days after contract award. Upon termination of the contract, the Contractor

must render an accounting of all new GFP that has been added to the contract since the initial inventory was completed. All equipment issued by the Government to the Contractor will be issued on GSA Form 1025 (Receipt of Property) or other similar issued document. Repair and maintenance of equipment is the responsibility of the Government

Use of GFP.

Government property, includes but is not limited to, printers, telephones, faxes, copiers, computers and internet access services must only be used for official Government business in the performance of this contract.

Safeguarding GFP.

The Contractor must take all reasonable precautions, as directed by the Government, or in the absence of such direction, in accordance with sound business and industrial practices, to safeguard and protect all Government property.

Malfunctioning of GFP.

The Contractor must be responsible for reporting immediately to the COR / ALTERNATE, both verbally and by written report, any malfunctioning Government equipment used or operated by the Contractor or the Contractor's employees in the performance of this contract.

Part 15. Physical Security

The Contractor must be responsible for safeguarding all Government property provided for Contractor use. At the end of each work period, all Government facilities, equipment and materials must be secured. Following each shift, a shift briefing must be conducted to transition to next shift supervisor. This transition process must be documented in daily activity reports.

Part 16. Contractor Furnished Property

The contractor is to furnish any pagers and cell phones it may deem necessary.

The contractor must provide a cell phone for use by the Program Manager. The contractor must include this phone on the equipment list above, which shall include the serial number and other information that would identify the phone that has been purchased or leased.

Part 17. Key Control

The Contractor must establish and implement methods of making sure all keys, key cards and any government issued identification documents issued to the Contractor by the Government are not lost or misplaced and are not

used by unauthorized persons. The Contractor must not duplicate any keys, key cards or identification documents issued by the Government. Upon departure of employees from this contract, all keys, key cards and identification documents must be returned to GSA.

The Contractor must immediately report to the COR / ALTERNATE or CO any occurrences of lost or duplicated keys, key cards and identification documents.

The Contractor must prohibit the use of keys and key cards issued by the Government by any persons other than the Contractor's employees. Opening of locked areas by the Contractor employees to permit entrance of persons other than Contractor employees engaged in performance of contract work requirements in those areas is strictly prohibited.

Part 18. Contract Start-up/Implementation Review

Within one week after Award of Contract and prior to Contractor performance, the Contractor, Contracting Officer, Administrative Contracting Officer and the Contracting Officer's Representative shall perform on-site, in-depth reviews of the Contractor's readiness and plans to perform, with emphasis on the Contractor's meeting the Government's site-specific staffing requirements.

These reviews and discussions shall include, but **NOT** be limited to the following:

- a. The general type and purpose of work performed by Contract staff.
- b. The Standard/Standing Operating Procedures (SOP)/Operating Orders.
- c. Government pre-employment clearance requirements for the Contractor's proposed Contract operators and supervisors:

Within seven (7) days of Contract award, the Contractor shall provide the Government with legible and complete personal history statements for each and all proposed staff person(s).

Each of the Contractor's proposed staff shall successfully pass a Government review of their personal history statements prior to being considered acceptable for support of this Contract. Unacceptable staff will not be permitted to support this Contract.

- d. Government pre-employment/post-employment clearance requirements for the Contractor's proposed Communication Center operators and supervisors:

Within seven (7) days of Contract award, the Contractor shall provide the Government with clear (analyzable) fingerprint records for each and all proposed on-site staff person(s).

Performing fingerprint checks takes more time than performing personal history checks. For that reason, each of the Contractor's proposed on-site staff shall successfully pass a Government review of their fingerprint records prior to or within 30 days of successfully passing a Government review of their personal history statements. This means that fingerprint clearances may be provided after the Contractor's proposed staffers reports for duty, however, such placement shall be considered probationary, contingent upon successfully passing the required fingerprint check within the allotted time.

e. In addition to the above, each and all of the Contractor's staff proposed for employment and/or already employed at the MegaCenter are subject to periodic background investigation at any time during the life of the Contract, to determine that Contractor staffers' suitability for employment and/or continued suitability for employment.

Part 19. Contractor Business Licenses and Permits

It is the responsibility of the Contractor to comply with all Federal, state and local Government requirements for business licenses and permits on or before the implementation (start-up) date of the Contract.

The Contractor's acquisition and retention of necessary business licenses and permits is an integral and routine part of conducting business with the Government. Contractor business licenses are **NOT** chargeable or billable to the Government.

Upon Government request and at no cost to the Government, the Contractor shall provide to the Contracting Officer and/or the Contracting Officer's Representative one legible photocopy of each requested Contractor business license.

Part 20. Travel

Contractor personnel may be required to travel occasionally. Payment for authorized travel, per diem and other expenses must be paid in accordance with the effective U S Government Joint Travel Regulations as amended and supplemented by the GSA Travel Regulations, where applicable. All proposed travel costs, per diem and other expenses are to be submitted through the COR / ALTERNATE for review and concurrence, and then forwarded to the appropriate approving official for authorization. All travel requests must be evaluated from the standpoint of the policy that the exercise of economy in travel is of prime importance. The contract employees will be compensated at the same rate as federal government employees for all travel expenses.

Part 21. Inspection of Facility

(a) Access to the building/facility may be obtained for inspection purposes by contacting the Philadelphia MegaCenter Manager during the

hours of 8:00 AM and 5:00 PM, Eastern Daylight Savings Time for an appointment. A walk-through of the building, although not mandatory, is strongly encouraged.

(b) No oral statement made by any Government representative during the walk-through, nor any written record of such oral statements as may be made and subsequently furnished to a bidder, will be deemed to have the effect of adding to, modifying, or otherwise varying the written schedule, clauses and provisions, and work requirements stated in the solicitation documents.

(c) Questions raised by any offeror as a result of the building walk-through, not answered by visiting the site or within the solicitation document, should be directed in writing to the Contracting Officer (FAX 303-236-7965). If a need to modify the solicitation is indicated, an amendment will be issued in writing for the benefit of all offerors.

Section D - Packaging and Marking

Part 1. Payment of Postage and Fees

All postage and fees related to submitting information, including forms, reports, etc., to the Contracting Officer or the Contracting Officer's Representative shall be paid by the contractor.

Part 2. Marking

All information submitted to the Contracting Officer or the Contracting Officer's Representative shall clearly indicate the contract number of the contract for which the information is being submitted.

ACTION E INSPECTION AND ACCEPTANCE

Performance Evaluation

Part 1. Record Keeping

Part 2. Mock Demonstration

FAR 52.246-4 Inspection of Services--Fixed Price (Aug 1996)

Performance Evaluation:

The successful offeror on this contract will have his performance evaluated by GSA. The evaluation will be used to determine suitability for future GSA contracts. The contractor will have the opportunity to review and comment on the evaluation.

Part 1. Record Keeping

The Contractor must maintain proper and complete employment records, broken down by individual employee, the number of actual hours worked and all training. Such records must be available for review by the COR / ALTERNATE or the CO.

Part 2. Mock Demonstration

Abnormal Event. The contractor must provide a mock demonstration of an abnormal event to assess the effectiveness of the dispatch operation. This will be done at the direction of the CO / COR. The frequency of such an event will not exceed twice per year. An abnormal event is considered to be a non-routine event such as a major fire or other catastrophic event. This may require a coordinated response from other FPS elements and local law enforcement and other emergency personnel. The contractor will develop a scenario in consonance with the COR / ALTERNATE and provide evaluation reports during the performance period. This should be completed upon COR / ALTERNATE request.

Normal Event. The contractor must provide a mock demonstration of a normal event to assess the effectiveness of the dispatch operation. A normal event is considered to be a routine event such as security alarm, environmental alarm or other similar event.

FAR 52.246-4 INSPECTION OF SERVICES--FIXED PRICE (AUG 1996)

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

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

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

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

(e) If any of the services do not conform 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**

- Part 1. Place of Performance
- Part 2. Term of Contract
- Part 3. Option to Extend the Term of the Contract
- Part 4. Extension of Services
- FAR 52.242-15 Stop-Work Order (Aug 1989)

Part 1. Place of Performance. The services to be provided under this contract shall be accomplished at:

Philadelphia MegaCenter
Philadelphia, PA

Part 2. Term of Contract. After award, the successful contractor will be given a written notice to proceed and shall provide contractual services for a twelve month period, subject to the availability of appropriations (see GSAR Clause 552.232-73, "Availability of Funds," contained in Part II, Section I). Services shall commence on the date specified in the notice to proceed. Work under this contract is expected to commence on or about January 1, 2001.

Part 3. Option to Extend the Term of the Contract. The Government shall have the unilateral option of extending the term of this contract for four (4) consecutive additional periods of 12 months each (see FAR Clause 52.217-9, "Option to Extend the Term of the Contract," contained in Part II, Section I. The terms and conditions contained in the contract shall apply to each option exercised. Options shall be exercised upon notification (mailed or otherwise furnished) to the contractor at least thirty calendar days prior to the expiration of the contract. The total duration of the contract, including the exercise of any options, shall not exceed five (5) years.

The exercise of options is a Government prerogative, not a contractual right on the part of the contractor. If the Government exercises the option(s) within the prescribed time frames, the contractor shall be bound to perform the services for the option period(s) or be subject to the default provisions of the contract.

Part 4. Option to Extend Services. If it is determined by the Government that for administrative, technical, legal or other reasons, award of a successor contract cannot be made on a timely basis, the Government shall have the unilateral option of extending the services of this contract. Such notice of intent to extend service shall be given to the contractor in writing at the earliest possible time, but not less than 15 days prior to the contract expiration date (see FAR Clause 52.217-8, "Option to Extend Services," contained in Part II, Section I).

It is understood that exercise of this option will be only for sufficient time to complete award and/or give notice to proceed to the follow-on contractor, and that extension of service shall in no event exceed 6 months.

The monthly contract price to be paid during the extension period shall be established solely in accordance with FAR Clause 52.222-43, "Fair Labor Standards Act and Service Contract Act --- Price Adjustment (Multiple Year and Option Contracts)," contained in Part II, Section I.

FAR 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**

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| Part 1. | Payment and Deduction Information |
| Part 2. | Remittance Address |
| Part 3. | Deductions |
| Part 4. | Withholding Monies for Non-Submission of Work Schedules |
| GSAR 552.232-70 | INVOICE REQUIREMENTS (SEP 1999) |
| GSAR 552.232-71 | ADJUSTING PAYMENTS (SEP 1999) |
| GSAR 552.232-72 | FINAL PAYMENT (SEP 1999) |
| GSAR 552.232-78 | PAYMENT INFORMATION (JULY 2000) |

Section G - Contract Administration Data

Part 1. Payment and Deduction Information

1-1. Payment (General)

Invoices shall be submitted at the end of every month to the address listed below. It is the objective of the Government to obtain complete and satisfactory performance in accordance with the terms of the specifications and quality requirements of this contract. To this end, the Government is contracting for the satisfactory performance of each task identified in the specifications, and deductions will, therefore, be made for any service not provided. The Criteria for Deductions (where applicable) will be used by the Government in determining monetary deductions for non-performance of work and supplements the "Default" clause of the contract (FAR 52.249-8); see Section I, Service Contract Clauses. It is agreed that failure to accomplish any work required under this contract, or to satisfactorily accomplish such work, or to comply with any provisions of this contract, where due to the carelessness, neglect, or fault of the contractor, shall constitute a deficiency for which a reduction of payment will be made in accordance with the provisions of this contract.

Any inquiries regarding payment shall be directed to the following:

General Services Administration
Region 3
Allegheny RSD (3PK)
The Wanamaker Building
100 Penn Square East, Room 725
Philadelphia, PA 19107

1-2. A. Additional Services

An invoice will be required when performing additional services and shall be submitted to the local GSA Field Office identified below. Each invoice shall reference the contract number, name of building where such services were provided, the dates and the number of productive and supervisory hours worked including the hourly rates for each. Also, indicate the name of the GSA representative who authorized the additional hours of work.

General Services Administration
Federal Protective Service (3PSC)
2nd & Chestnut Sts., Room 1418
Philadelphia, PA 19106

B. Payments for Emergency Callback Services

Invoices for emergency callback services shall be submitted to the COR listing the following information:

1. Date and time of call.

2. Time dispatcher arrived on job.
3. Name of person originating call.
4. Total time spent on job.
5. Amount of billing.

Part 2. Remittance Address

When the contractor wishes payment to be mailed to an address other than that indicated on the solicitation, he shall insert the proper remittance address in the space provided below:

Part 3. Deductions

The Contract Deduction listed below will be used by the Government in determining monetary deductions for non-performance of work under this contract, or for deficiencies in the work performed, and supplements the "Default" clause of the contract (FAR 52.249-8). For the purposes of this contract, the deduction rate of \$43.31 per hour shall be used.

Part 4. Withholding Monies for Non-Submission of Work Schedules

Section H, Part 7., Contractor Deliverables, requires the contractor to furnish certain plans, schedules and reports for accomplishing and reporting work required by this contract. If the schedules and reports are not provided by the timeframe specified, including any extension granted, 20 percent of the daily amount due the contractor may be withheld for each day the proper schedules are not provided.

GSAR 552.232-70 INVOICE REQUIREMENTS (SEP 1999)

(a) Invoices shall be submitted in an original only, unless otherwise specified, to the designated billing office specified in this contract or order.

(b) Invoices must include the Accounting Control Transaction (ACT) number provided below or on the order.

ACT NUMBER (SEE BLOCK 6 OF SF 33, PAGE 1)

(c) In addition to the requirements for a proper invoice specified in the Prompt Payment clause of this contract or order, the following information or documentation must be submitted with each invoice:

- (1) Name and address of the contractor.

(2) Invoice date.

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

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

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

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

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

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

GSAR 552.232-71 ADJUSTING PAYMENTS (SEP 1999) (a) Under the Inspection of Services clause of this contract, payments may be adjusted if any services do not conform with contract requirements. The Contracting Officer or a designated representative will inform the Contractor, in writing, of the type and dollar amount of proposed deductions by the 10th workday of the month following the performance period for which the deductions are to be made.

(b) The Contractor may, within 10 working days of receipt of the notification of the proposed deductions, present to the Contracting Officer specific reasons why any or all of the proposed deductions are not justified. Reasons must be solidly based and must provide specific facts that justify reconsideration and/or adjustment of the amount to be deducted. Failure to respond within the 10-day period will be interpreted to mean that the Contractor accepts the deductions proposed.

(c) All or a portion of the final payment may be delayed or withheld until the Contracting Officer makes a final decision on the proposed deduction. If the Contracting Officer determines that any or all of the proposed deductions are warranted, the Contracting Officer shall so notify the Contractor, and adjust payments under the contract accordingly. (End of clause)

GSAR 552.232-72 FINAL PAYMENT (SEP 1999)

Before final payment is made, the Contractor shall furnish the Contracting Officer with a release of all claims against the Government relating to

this contract, other than claims in stated amounts that are specifically excepted by the Contractor from the release. If the Contractor's claim to amounts payable under the contract has been assigned under the Assignment of Claims Act of 1940, as amended (31 U.S.C. 3727, 41 U.S.C. 15), a release may also be required of the assignee.

GSAR 552.232-78 PAYMENT INFORMATION (JUL 2000)

The General Services Administration (GSA) makes information on contract payments available electronically at <http://www.finance.gsa.gov>. The Contractor may register at the site and review its record of payments. This site provides information only on payments made by GSA, not by other agencies. (End of clause)

SECTION H

SPECIAL CONTRACT REQUIREMENTS

- Part 1. Security Requirements (MegaCenter)
- Part 2. Security Requirements for Recurring Services
- Part 3. Contractor Personnel Requirements
- Part 4. Employee Training Requirements
- Part 5. Physical Health
- Part 6. Drug Testing
- Part 7. Contractor Deliverables

PLEASE NOTE: All background security checks, drug testing, and training requirements (mentioned below) must be completed for each employee prior to the start of this contract.

Part 1. Security Requirements

The Contractor must operationally staff the Console Operator's room of the MegaCenter exclusively with its own personnel and administratively manage the access control to the MegaCenter. Only AUTHORIZED personnel shall be granted access.

Part 2. Security Requirements for Recurring Services

(All Contractor employees who will be on site at a Government facility on a recurring basis, or who will be on site for a single period of thirty days or more, require Background Suitability Checks performed in accordance with this section.)

A. CLEARANCE OF PERSONNEL

(1) Submission of Forms. Unless otherwise specified, to obtain clearances for personnel, the contractor shall submit to the COR, no later than fourteen (14) days prior to the starting date of the contract, two (2) completed forms FS-258, "Fingerprinting Charts", and one (1) GSA Form 176, "Statement of Personal History", for those officers of the firm, who for any reason, may visit the work site during the period of this contract and for all employees who will require access to the building in performance of the contract work. These forms shall be submitted for replacement employees fourteen (14) days before entrance on duty. Necessary forms shall be furnished by the Government.

(2) Unsuitable Employees. If the Contracting Officer receives an unsuitable report on any employee after processing of these forms, or if the COR finds a prospective employee to be unsuitable or unfit for his assigned duties, the contractor shall be advised immediately by the Contracting Officer that such employee cannot continue to work or to be assigned to work under the contract. The contractor must then take action to remove the employee from the GSA contract.

(3) Criteria for Eligibility. The principal factors used in the adjudication process in determining whether a person's conduct would be expected to interfere with the ability of the applicant(s) to function in the position, or if the applicant's past conduct was such that the safety of Federal employees and/or visitors to delegated an/or GSA-controlled facilities would be in jeopardy, are outlined below:

(a) Any type of misconduct or negligence in prior employment which would have an effect on the quality of security and protection provided to customer agencies, or prior conduct which would interfere with and/or prevent a Federal agency from carrying out its operational responsibilities;

(b) Criminal or dishonest conduct related to the duties to be assigned to the applicant/employee and/or the performance of such duties. The following crimes are acts which could disqualify prospective or regular employees:

- Abuse or neglect of a child or other dependent person entrusted to their care
- Child molestation
- Forcible or statutory rape
- Possession and sale of narcotics and/or dangerous drugs
- Arson
- Murder
- Kidnapping
- Robbery
- Burglary
- Larceny
- Theft
- Aggravated assault
- Buying, receiving or possessing stolen property
- Embezzlement, forgery, counterfeiting
- Fraud
- Under ATF Standards, any felony (for guards only who are required to carry firearms).
- Falsifying a personal history application

(4) Prior Clearance. For employees cleared through this process while employed by a contractor who is subsequently replaced by another contractor, in the same building, the new contractor shall only be required to submit another set of these forms if the employee has not been cleared within the last five (5) years.

(5) Government Control. The Government shall have and exercise full and complete control over granting, denying, withholding or terminating clearances for employees. The Government may, as it deems appropriate, authorize and grant temporary clearance to employees of the contractor. However, the granting of a temporary clearance to any such employees shall not be considered as assurance that full clearance will follow as a result of condition thereof, and the granting of either temporary or full clearance shall in no way prevent, preclude or bar the withdrawal or termination of any such clearance by the Government.

B. IDENTIFICATION/BUILDING PASS

(1) Issuance of Passes. The contractor shall see that every new employee has a GSA/contractor identification/building pass before the employee enters on duty. GSA personnel, designated by the COR, shall

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 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 in 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 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 of determined under subparagraph (c)(2) of this clause by furnishing 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 1983. 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 5.1b(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 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

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

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 fringes 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 of firm who has a substantial interest in the Contractor's firm is a person or firm

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 rates 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 apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

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

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

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

(End of clause)

SECTION I**CONTRACT CLAUSES**

| | |
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| GSA FORM 3504 | SERVICE CONTRACT CLAUSES |
| FAR 52.222-43 | FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT--PRICE ADJUSTMENT (MAY 1989) |
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| FAR 52.217-8 | OPTION TO EXTEND SERVICES (NOV 1999) |
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| FAR 52.228-2 | ADDITIONAL BOND SECURITY (OCT 1997) |
| FAR 52.228-11 | PLEDGES OF ASSETS (FEB 1992) |
| FAR 52.228-14 | IRREVOCABLE LETTER OF CREDIT (OCT 1997) |
| FAR 52.228-16 | PERFORMANCE AND PAYMENT BONDS - OTHER THAN CONSTRUCTION (SEP 1996) (ALTERNATE I) |
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SERVICE CONTRACT CLAUSES

(FIXED PRICE)

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GENERAL

1. FAR 52.202-1 - DEFINITIONS (OCT 1995)

(a) "Head of the agency" (also called "agency head") or "Secretary" means the Secretary (or Attorney General, Administrator, Governor, Chairperson, or other chief official, as appropriate) of the agency, including any deputy or assistant chief official of the agency; and the term "authorized representative" means any person, persons, or board (other than the Contracting Officer) authorized to act for the head of the agency or Secretary.

(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 for nongovernmental 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 such services are procured for support of an item referred to in paragraphs (c)(1), (2), (3) or (4) of this clause, and if the source of such services---

(i) Offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions;

and
(ii) Offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public;

(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;

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

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

(d) "Component" means any item supplied to the Federal Government as part of an end item or of another component.

(e) "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 (e)(1) of this definition that requires only minor modifications 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 (e)(1) or (e)(2) solely because the item is not yet in use.

(f) "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.

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

2. GSAR 552.203-71 - RESTRICTION ON ADVERTISING (SEP 1999)

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

3. FAR 52.214-29 - ORDER OF PRECEDENCE - SEALED BIDDING (JAN 1986) / FAR 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; and (e) the specifications. (End of Clause)

4. FAR 52.211-1 - AVAILABILITY OF SPECIFICATIONS LISTED IN THE GSA INDEX OF FEDERAL SPECIFICATIONS, STANDARDS AND COMMERCIAL ITEM DESCRIPTIONS, FPMR PART 101-29 (AUG 1998)

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

470 East L'Enfant Plaza, SW
Washington, DC 20407

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

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

5. GSAR 552.252-6 - AUTHORIZED DEVIATIONS IN CLAUSES (DEVIATION FAR 52.252-6) (SEP 1999)

(a) *Deviations to FAR Clauses.*

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

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

(b) *Deviations to GSAR Clauses.* This solicitation indicates any authorized deviation to a General Services Administration Acquisition Regulation clause by the addition of "(DEVIATION)" after the date of the clause.

(c) *"Substantially the same as" clauses.* Changes in wording of clauses prescribed for use on a "substantially the same as" basis are not considered deviations. (End of clause)

6. FAR 52.253-1 - COMPUTER GENERATED FORMS (JAN 1991)

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

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

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

STANDARDS OF CONDUCT

7. FAR 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) above, the Government is entitled--

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

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

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

8. FAR 52.203-5 - COVENANT AGAINST CONTINGENT FEES (FEB 1990)

(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 (including licensed real estate agents or brokers), maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence. "Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence. "Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract. "Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter. (End of Clause)

9. FAR 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.

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

10. FAR 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) Regardless of the contract tier at which a kickback was provided, accepted, or charged under the contract in violation of paragraph (b) of this clause, the Contracting Officer may --

(i) Offset the amount of the kickback against any monies owed by the United States under this contract and/or

(ii) Direct that the Contractor withhold from sums owed the subcontractor, 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 the latter case, the Contractor shall notify the Contracting Officer when the monies are withheld.

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

11. FAR 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 of an offense where the conduct constitutes a violation of subsection 27 (a) or (b) of the Act for the purpose of either---

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

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

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

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

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

12. FAR 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 y 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 equal amount 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 revisions 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 definitely 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 his contract.(End of Clause)

13. FAR 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997)

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

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

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

- (1) An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment.
- (2) A member of the uniformed services, as defined in subsection 101(3), title 37, United States Code.
- (3) A special Government employee, as defined in section 202, title 18, United States Code.
- (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, United States Code, appendix 2.

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

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

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

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

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

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

(b) Prohibitions.

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

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

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

(i) Agency and legislative liaison by own employees

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

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

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

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

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

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

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

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

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

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

(ii) Professional and technical services.

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

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

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

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

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

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

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

(iii) Disclosure.

(A) 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.

(B) 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-

(1) 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

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

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

(C) 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.

(D) 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.

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

(v) Penalties.

(A) 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.

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

(vi) 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.

INSURANCE

14. FAR 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 period 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' proof of required insurance, and shall make copies available to the Contracting Officer upon request. (End of Clause)

15. GSAR 552.228-70 WORKERS' COMPENSATION LAWS (SEP 1999)

The Act of June 25, 1936, 49 Stat. 1938 (40 U.S.C. 290) authorizes the constituted authority of the several States to apply their workers' compensation laws to all lands and premises owned or held by the United States. (End of Clause)

16. FAR 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 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 materials under this contract, the Contractor shall be liable to the Government, to the extent of such insurance or reserve, for loss of or damage to property of the Government occurring after Government acceptance of, and resulting from any defects and deficiencies in, services performed or materials furnished under this contract. (End of Clause)

BUY AMERICAN

17. FAR 52.225 - 1 BUY AMERICAN ACT—BALANCE OF PAYMENTS PROGRAM—SUPPLIES (FEB 2000)

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

"Component" means any item supplied to the Government as part of an end item or of another component.

"Cost of components" means—

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

"Domestic end product" means—

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

(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

"End product" means supplies delivered under a line item of a Government contract.

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

"United States" means the 50 States and the District of Columbia, U.S. territories and possessions, Puerto Rico, the Northern Mariana Islands, and any other place subject to U.S. jurisdiction, but does not include leased bases.

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

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

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

18. FAR 52.225-3 BUY AMERICAN ACT—NORTH AMERICAN FREE TRADE AGREEMENT—ISRAELI TRADE ACT—BALANCE OF PAYMENTS PROGRAM (FEB 2000)

(This clause is not applicable to solicitations issued as a small business set asides.)

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

"Component" means any item supplied to the Government as part of an end item or of another component.

"Cost of components" means--

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

"Domestic end product" means--

(1) An unmanufactured end product mined or produced in the United States; or (2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

"End product" means supplies delivered under a line item of a Government contract.

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

"Israeli end product" means an article that--

(1) Is wholly the growth, product, or manufacture of Israel; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Israel into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

"North American Free Trade Agreement country" means Canada or Mexico.

"North American Free Trade Agreement country end product" means an article that--

(1) Is wholly the growth, product, or manufacture of a North American Free Trade Agreement (NAFTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a NAFTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

"United States" means the 50 States and the District of Columbia, U.S. territories and possessions, Puerto Rico, the Northern Mariana Islands, and any other place subject to U.S. jurisdiction, but does not include leased bases.

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

(c) *Implementation.* This clause implements the Buy American Act (41 U.S.C. 10a - 10d), the North American Free Trade Agreement Implementation Act (NAFTA) (19 U.S.C. 3301 note), the Israeli Free Trade Area Implementation Act of 1985 (Israeli Trade Act) (19 U.S.C. 2112 note), and the Balance of Payments Program by providing a preference for domestic end products, except for certain foreign end products that are NAFTA country end products or Israeli end products.

(d) *Delivery of end products.* The Contracting Officer has determined that NAFTA and the Israeli Trade Act apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only domestic end products except to the extent that, in its offer, it specified delivery of foreign end products in the provision entitled "Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program Certificate." If the Contractor specified in its offer that the Contractor would supply a NAFTA country end product or an Israeli end product, then the Contractor shall supply a NAFTA country end product, an Israeli end product or, at the Contractor's option, a domestic end product. (End of clause)

19. FAR 52.225-5 TRADE AGREEMENTS (APR 2000)

(Applicable to acquisition for supplies or services valued at \$177,000 or more.)

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

"Caribbean Basin country" means any of the following countries: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, El Salvador, Grenada, Guatemala, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago.

"Caribbean Basin country end product" means an article that--

(1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not

exceed that of the article itself. The term excludes products that are excluded from duty-free treatment for Caribbean countries under 19 U.S.C. 2703(b), which presently are--

- (i) Textiles and apparel articles that are subject to textile agreements;
- (ii) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated as eligible articles for the purpose of the Generalized System of Preferences under Title V of the Trade Act of 1974;
- (iii) Tuna, prepared or preserved in any manner in airtight containers;
- (iv) Petroleum, or any product derived from petroleum; and
- (v) Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Harmonized Tariff Schedule of the United States (HTSUS) column 2 rates of duty apply.

"Designated country" means any of the following countries:

Aruba Kiribati
Austria Korea, Republic of
Bangladesh Lesotho
Belgium Liechtenstein
Benin Luxembourg
Bhutan Malawi
Botswana Maldives
Burkina Faso Mali
Burundi Mozambique
Canada Nepal
Cape Verde Netherlands
Central African Niger
Republic
Chad Norway
Comoros Portugal
Denmark Rwanda
Djibouti Sao Tome and Principe
Equatorial Guinea Sierra Leone
Finland Singapore
France Somalia
Gambia Spain
Germany Sweden
Greece Switzerland
Guinea Tanzania U.R.
Guinea-Bissau Togo
Haiti Tuvalu
Hong Kong Uganda
Ireland United Kingdom
Israel Vanuatu
Italy Western Samoa
Japan Yemen

"Designated country end product" means an article that--

- (1) Is wholly the growth, product, or manufacture of a designated country; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

"End product" means supplies delivered under a line item of a Government contract.

"North American Free Trade Agreement country" means Canada or Mexico.

"North American Free Trade Agreement country end product" means an article that--

- (1) Is wholly the growth, product, or manufacture of a North American Free Trade Agreement (NAFTA) country; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a NAFTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

"United States" means the 50 States and the District of Columbia, U.S. territories and possessions, Puerto Rico, the Northern Mariana Islands, and any other place subject to U.S. jurisdiction, but does not include leased bases.

"U.S.-made end product" means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

(b) *Implementation.* This clause implements the Trade Agreements Act (19 U.S.C. 2501, *et seq.*) and the North American Free Trade Agreement Implementation Act of 1993 (NAFTA) (19 U.S.C. 3301 note), by restricting the acquisition of end products that are not U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products.

(c) *Delivery of end products.* The Contracting Officer has determined that the Trade Agreements Act and NAFTA apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products except to the extent that, in its offer, it specified delivery of other end products in the provision entitled "Trade Agreements Certificate."
(End of clause)

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

25. FAR 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). (End of clause)

26. FAR 52.223-11 OZONE-DEPLETING SUBSTANCES (Jun 1996)

(a) *Definition.* "Ozone-depleting substance", as used in this clause, means any substance designated as Class I by the Environmental Protection Agency (EPA) (40 CFR Part 82), including but not limited to chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or any substance designated as Class II by EPA (40 CFR Part 82), including but not limited to hydrochlorofluorocarbons.

(b) The Contractor shall label products which contain or are manufactured with ozone-depleting substances in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR Part 82, Subpart E, as follows:

Warning Contains (or manufactured with, if applicable) * _____, a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere. * The Contractor shall insert the name of the substance(s). (End of clause)

27. FAR 52.223-12 - REFRIGERATION EQUIPMENT AND AIR CONDITIONERS (MAY 1995)

The Contractor shall comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to this contract. (End of Clause)

**28. FAR 52.223-14 - TOXIC CHEMICAL RELEASE REPORTING (OCT 1996)
(APPLIES ONLY TO COMPETITIVELY AWARDED CONTRACTS EXCEEDING
\$100,000)**

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

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

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

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

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

(4) The facility does not fall within Standard Industrial Classification Code (SIC) designations 20 through 39 as set forth in section 19.102 of the Federal Acquisition Regulation; or

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

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

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

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

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

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

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

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

LABOR STANDARDS

29. FAR 52.222-1 - NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

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

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

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

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

ENVIRONMENTAL PROTECTION

21. 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)

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

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

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

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

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

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

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

(1) Postconsumer fiber; and

(2) Manufacturing wastes such as--

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

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

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

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

22. FAR 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) (ALT I) (DATED JULY 1995)

(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 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 material;

(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) Except as provided in paragraph (i)(2), the Contractor shall prepare and submit a sufficient number of Material Safety Data Sheets (MSDS's), meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous materials identified in paragraph (b) of this clause.

(1) For items shipped to consignees, the Contractor shall include a copy of the MSDS's with the packing list or other suitable shipping document which accompanies each shipment. Alternatively, the Contractor is permitted to transmit MSDS's to consignees in advance of receipt of shipments by consignees, if authorized by the Contracting Officer. (2) For items shipped to consignees identified by the mailing address as agency depots, distribution centers or customer supply centers, the Contractor shall provide one copy of the MSDS's in or on each shipping container. If affixed to the outside of each container, the MSDS's must be placed in a weather resistant envelope. (End of Clause)

23. FAR 52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (APR 1998)

(a) Executive Order 12856 of August 3, 1993, 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).

(b) The Contractor shall provide all information needed by the Federal facility to comply with the emergency planning reporting requirements of Section 302 of EPCRA; the emergency notice requirements of Section 304 of EPCRA; the list of Material Safety Data Sheets required by Section 311 of EPCRA; the emergency and hazardous chemical inventory forms of Section 312 of EPCRA; the toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA; and the toxic chemical reduction goals requirements of Section 3-302 of Executive Order 12856. (End of clause)

24. FAR 52.223-6 DRUG-FREE WORKPLACE (JAN 1997)

(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 at which 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 on-going 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 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 five (5) days after such conviction;

(5) Notify the Contracting Officer within ten (10) days after receiving notice under subdivision (a)(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 drug abuse violations 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.

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

30. FAR 52.222-3 - CONVICT LABOR (AUG 1996)

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

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

31. FAR 52.222-4--CONTRACT WORK HOURS AND SAFETY STANDARDS ACT-OVERTIME COMPENSATION (JUL 1995)

(a) Overtime Requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics (see Federal Acquisition Regulation (FAR) 22.300) shall require or permit any such laborers or mechanics in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(b) Violation; liability for unpaid wages, liquidated damages in the event of any violation of the provisions set forth in paragraph (a) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions set forth in paragraph (a) of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

(c) Withholding for unpaid wages and liquidated damages The Contracting Officer shall upon his or her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Prime Contractor, or any other Federally assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

(d) Payrolls and basic records. (1) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of contract work and shall preserve them for a period of 3 years from the completion of the contract for all laborers and mechanics working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Nothing in this paragraph shall be required to be maintained for construction work by Department of Labor regulations at 29 CFR 5.5(A)(3) implementing the Davis-Bacon Act.

(2) The records to be maintained under paragraph (d)(1) of this clause shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit such representatives to interview employees during working hours on the job.

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

32. FAR 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. (End of clause)

33. FAR 52.222-26 - EQUAL OPPORTUNITY (FEB 1999)

(a) 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 subparagraphs (b)(1) through (11) of this clause. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(b) During performance of this contract, the Contractor agrees as follows:

(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 of contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal 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. (End of Clause)

34. FAR 52.222-35 - AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (APR 1998)

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

"All employment openings" includes 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 day's duration, and part-time employment.

"Appropriate office of the State employment service system," means the local office of the Federal-State national system of public employment offices with assigned responsibility to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.

"Positions that will be filled from within the Contractor's organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings that 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.

"Veteran of the Vietnam Era" means a person who --

(1) Served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or

(2) Was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975.

(b) General.

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

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

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended.

(c) Listing openings.

(1) The Contractor agrees to list all employment openings existing at contract award or occurring during contract performance, at an appropriate office of the State employment service system in the locality where the opening occurs. These openings include those occurring at any Contractor facility, including one not connected with performing this contract. An independent corporate affiliate is exempt from this requirement.

(2) State and local government agencies holding Federal contracts of \$10,000 or more shall also list all employment openings with the appropriate office of the State employment service.

(3) The listing of employment openings with the State employment service system is required at least concurrently with using any other recruitment source or effort and involves the obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing 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.

(4) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State employment service system, 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 system, it need not advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(5) Under the most compelling circumstances, an employment opening may not be suitable for listing, including situations when (i) the Government's needs cannot reasonably be supplied, (ii) listing would be contrary to national security, or (iii) the requirement of listing would not be in the Government's interest.

(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, Guam, and the Virgin Islands.

(e) 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 disabled veterans and veterans of the Vietnam era, 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. They shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary), and 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 the Act, and is committed to take affirmative action to employ, and advance in employment, qualified disabled veterans and veterans of the Vietnam era.

(f) 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.

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

35. FAR 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. (End of Clause)

36. FAR 52.222-37 - EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1999)

(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 and the number of veterans of the Vietnam era 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 that total, the number of disabled veterans, and the number of veterans of the Vietnam era.

(b) The above items shall be reported by completing the form entitled "Federal Contractor Veteran's Employment Report VETS-100."

(c) Reports shall be submitted no later than September 30 of each year beginning September 30, 1988.

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

(1) As of the end of any pay period during the period January through March 1st of the year the report is due, or (2) as of December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The count of veterans reported according to paragraph (a) of this clause shall be based on voluntary disclosure. Each contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all disabled veterans and veterans of the Vietnam era 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 the information is voluntarily provided; that the information will be kept confidential; that disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and that the information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.

(f) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. (End of Clause)

SUBCONTRACTING

37. FAR 52.209-6 - PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (AUG 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. (End of Clause)

38. FAR 52.219-8 - UTILIZATION OF SMALL BUSINESS CONCERNS (OCTOBER 1999)

(a) It is the policy of the United States that small business concerns, HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals and small business concerns owned and controlled by women 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, HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals and small business concerns owned and controlled by women.

(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---

(1) "Small business concern" means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(2) "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.

(3) "Small business concern owned and controlled by socially and economically disadvantaged individuals" and "small disadvantaged business concern" mean a small business concern that represents, as part of its offer, that---

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

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

(iii) 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

(iv) 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).

(4) "Small business concern owned and controlled by women" means a small business concern---

(i) Which is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(ii) 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 HUBZone small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, or a small business concern owned and controlled by women. (End of Clause)

39. FAR 52.219-9 - SMALL BUSINESS SUBCONTRACTING PLAN (OCTOBER 1999)

(a) This clause does not apply to small business concerns.

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

"Commercial Item" means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

"Commercial plan" means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant or product line).

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

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

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

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate

parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of--

(i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns;

(iii) Total dollars planned to be subcontracted to HUBZone small business concerns;

(iv) Total dollars planned to be subcontracted to small disadvantaged business concerns; and

(v) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to (i) small business concerns, (ii) HUBZone small business concerns, (iii) small disadvantaged business concerns, and (iv) women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Marketing and Access Network (PRO-NET) of the Small Business Administration (SBA), the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged and women-owned small business trade associations). A firm may rely on the information contained in PRO-NET as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, HUBZone, small disadvantaged and women-owned small business source list. Use of PRO-NET as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with (i) small business concerns, (ii) HUBZone small business concerns, (iii) small disadvantaged business concerns, and (iv) women-owned small business concerns.

(7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the offeror will make to assure that small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility), to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the offeror will--

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;

(iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with the instructions on the forms or as provided in agency regulations and in paragraph (j) of this clause; and

(iv) Ensure that its subcontractors agree to submit SF 294 and SF 295.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (e.g., PRO-Net), guides, and other data that identify small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating (A) whether small business concerns were solicited and if not, why not, (B) whether HUBZone small business concerns were solicited and if not, why not (C) whether small disadvantaged business concerns were solicited and if not, why not, (D) whether women-owned small business concerns were solicited and if not, why not, and (E) if applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact (A) trade associations, (B) business development organizations, and (C) conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources.

(v) Records of internal guidance and encouragement provided to buyers through (A) workshops, seminars, training, etc., and (B) monitoring performance to evaluate compliance with the programs's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, HUBZone small, small disadvantaged or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided---

(1) the master plan has been approved;

(2) the offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval to the Contracting Officer; and

(3) goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Commercial plans are also preferred for subcontractors that provide commercial items under a prime contract, whether or not the prime contractor is supplying a commercial item

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization of Small Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

(j) The Contractor shall submit the following reports:

(1) *Standard Form 294, Subcontracting Report for Individual Contracts*. This report shall be submitted to the Contracting Officer semiannually and at contract completion. The report covers subcontract award data related to this contract. This report is not required for commercial plans.

(2) *Standard Form 295, Summary Subcontract Report*. This report encompasses all the contracts with the awarding agency. It must be submitted semi-annually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by Standard Industrial Classification (SIC) Major Group. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant SIC Major Group and report all awards to that subcontractor under its predominant SIC Major Group.

ALTERNATE I (JAN 1999):

When contracting by sealed bidding rather than negotiation, substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) The apparent low bidder, upon request by the Contracting Officer, shall submit a subcontracting plan, where applicable, that separately addresses subcontracting with small business, HUBZone small business, small disadvantaged business, and with women-owned small business concerns. If the bidder is submitting an individual contract plan, the plan must separately address subcontracting with small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be submitted within the time specified by the Contracting Officer. Failure to submit the subcontracting plan shall make the bidder ineligible for the award of a contract. (End of Clause)

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

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

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

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

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

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

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

41. FAR 52.244-6 - SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (OCT 1998)

(a) Definition. "Commercial Item" as used in this clause, has the meaning contained in the clause at 52.202-1, Definitions.

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

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

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

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

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

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

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

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

TAXES

42. FAR 52.229-3 - FEDERAL, STATE, AND LOCAL TAXES (JAN 1991)

(a) "Contract date," as used in this clause, means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

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

"After-imposed Federal tax," as used in this clause, means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

"After-relieved Federal tax," as used in this clause, means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

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

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption. (End of Clause)

43. FAR 52.229-4 FEDERAL, STATE, AND LOCAL TAXES (NONCOMPETITIVE CONTRACT)(JAN 1991)

(a) "Contract date," as used in this clause, means the effective date of this contract and, for any modification to this contract, the effective date of the modification.

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

"After-imposed tax," as used in this clause, means any new or increased Federal, State, or local tax or duty, or tax that was excluded on the contract date but whose exclusion was later revoked or amount of exemption reduced during the contract period, other than an excepted tax, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date.

"After-relieved tax," as used in this clause, means any amount of Federal, State, or local tax or duty, other than an excepted tax, that would have 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.

"Excepted tax," as used in this clause, means social security or other employment taxes, net income and franchise taxes, excess profits taxes, capital stock taxes, transportation taxes, unemployment compensation taxes, and property taxes. "Excepted tax" does not include gross income taxes levied on or measured by sales or receipts from sales, property taxes assessed on completed supplies covered by this contract, or any tax assessed on the Contractor's possession of, interest in, or use of property, title to which is in the Government.

(b) Unless otherwise provided in this contract, the contract price includes all applicable Federal, State, and local taxes and duties.

(c) The contract price shall be increased by the amount of any after-imposed tax, or of tax or duty specifically excluded from the contract price by a term or condition of this contract that the Contractor is required to pay or bear, including any interest or penalty, if the Contractor states in writing that the contract price does not include any contingency for such tax and if liability for such tax, interest or penalty was not incurred through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(d) The contract price shall be decreased by the amount of any after-relieved tax. The Government shall be entitled to interest received by the Contractor incident to a refund of taxes to the extent that such interest was earned after the Contractor was paid by the Government for such taxes. The Government shall be entitled to repayment of any penalty refunded to the Contractor to the extent that the penalty was paid by the Government.

(e) The contract price shall be decreased by the amount of any Federal, State, or local tax, other than an excepted tax, that was included in the contract price and that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to Federal, State, and local taxes and duties that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs. The contract price shall be equitably adjusted to cover the costs of action taken by the Contractor at the direction of the Contracting Officer, including any interest, penalty, and reasonable attorneys' fees.

(h) The Government shall furnish evidence appropriate to establish exemption from any Federal, State, or local tax when (1) the Contractor requests such exemption and states in writing that it applies to a tax excluded from the contract price and (2) a reasonable basis exists to sustain the exemption. (End of Clause)

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

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

PERFORMANCE

45. FAR 52.237-2 - PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)

(Applies when services are performed on Government installation.)

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.

46. GSAR 552.237-71 QUALIFICATIONS OF EMPLOYEES (MAY 1989)

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

(b) The Contractor shall fill out and cause each of its employees performing on the contract work to fill out, for submission to the Government, such forms as may be necessary for security or other reasons. Upon request of the Contracting Officer, the Contractor and its employees shall be fingerprinted.

(c) Each employee of the contractor shall be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by Alien Registration Receipt Card Form I-151, or, who presents other evidence from the Immigration and Naturalization Service that employment will not affect his immigration status.

47. FAR 52.236-13 ACCIDENT PREVENTION (NOV 1991)

(a) The Contractor shall provide and maintain work environments and procedures which will (1) safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities; (2) avoid interruptions of Government operations and delays in project completion dates; and (3) control costs in the performance of this contract.

(b) For these purposes on contracts for construction or dismantling, demolition, or removal of improvements, the Contractor shall--

- (1) Provide appropriate safety barricades, signs, and signal lights;
- (2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and
- (3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the purposes are taken.

(c) If this contract is for construction or dismantling, demolition or removal of improvements with any Department of Defense agency or component, the Contractor shall comply with all pertinent provisions of the latest version of U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, in effect on the date of the solicitation.

(d) Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Government personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this clause.

(e) The Contractor shall insert this clause, including this paragraph (e), with appropriate changes in the designation of the parties, in subcontracts.

(f) Before commencing the work, the Contractor shall--

(1) Submit a written proposed plan for implementing this clause. The plan shall include an analysis of the significant hazards to life, limb, and property inherent in contract work performance and a plan for controlling these hazards; and

(2) Meet with representatives of the Contracting Officer to discuss and develop a mutual understanding relative to administration of the overall safety program. (End of Clause)

PAYMENT

48. FAR 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 in partial deliveries accepted by the Government if

(a) The amount due on the deliveries warrants it; or

(b) The contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price. (End of clause)

**49. FAR 52.232-8 - DISCOUNTS FOR PROMPT PAYMENT
(MAY 1997)**

(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 prompt payment discount in conjunction with the offer, offerors awarded contracts may include prompt payment discounts on individual invoices

(b) In conjunction 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 which appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day. (End of Clause)

50. FAR 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 therefor have been authorized in writing by the Contracting Officer. (End of Clause)

51. FAR 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. (End of Clause)

52. FAR 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 its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing. (End of Clause)

53. FAR 52.232-25 PROMPT PAYMENT (JUN 1997)

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

(a) *Invoice Payments*

(1) *Due Date.*

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

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

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

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

(2) *Certain Food Products and Other Payments.*

(i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils, are—

(A) For meat and 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 further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

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

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

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

(ii) If the contract does not require submission of an invoice for

payment (e.g., periodic lease payments), the due date will be as specified in the contract.

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

(i) Name and address of the Contractor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) *Prompt Payment Discounts.* An interest penalty also shall be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated as described in subparagraph

(a)(5) of this clause on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(7) Additional Interest Penalty.

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

(A) Is owed an interest penalty of \$1 or more;

(B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

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

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

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

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

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

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

(1) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or

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

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

(1) The additional penalty shall not exceed \$5000;

(2) The additional penalty shall never be less than \$25; and

(3) No additional penalty is owed if the amount of the underlying interest penalty is less than \$1.

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

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

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

(b) Contract Financing Payments.

(1) *Due dates for recurring financing payments.* If this contract

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

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

(3) *Interest Penalty Not Applicable.* Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) *Fast Payment Procedure Due Dates.* If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice. (End of clause)

54. FAR 52.232-34 PAYMENT BY ELECTRONIC FUNDS TRANSFER – OTHER THAN CENTRAL CONTRACTOR REGISTRATION (MAY 1999)

(a) *Method of Payment.* (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT) except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either---

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend payment due dates until such time as the Government makes payment by EFT (but see paragraph (d) of this clause.)

(b) *Mandatory submission of Contractor's EFT information.* (1) The Contractor is required to provide the Government with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereinafter "designated office") no later than 15 days prior to submission of the first request for payment.

If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office(s).

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information supplied to a designated office shall be applicable only to contracts that identify that designated office as the office to receive EFT information for that contract.

(c) *Mechanisms for EFT Payment.* The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearinghouse Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.

(d) *Suspension of Payment.* (1) The Government is not required to make any payment under this contract until after receipt, by the designated office, of the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(2) If the EFT information changes after submission of correct EFT information, the Government shall begin using the changed EFT information no later than 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the updated EFT information is implemented by the payment office. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) *Liability for uncompleted or erroneous transfers.* (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for---

- (i) Making a correct payment;
- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and ---

- (i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or
- (ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provisions of paragraph (d) shall apply.

(f) *EFT and prompt payment.* A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) *EFT and Assignment of Claims.* If the contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) *Liability for change of EFT information by financial agent.* The Government is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.

(i) *Payment information.* The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address in the contract.

(j) *EFT information.* The Contractor shall provide the following information to the designated office. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

- (1) The contract number (or other procurement identification number).
 - (2) The contractor's name and remittance address, as stated in the contract(s).
 - (3) The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.
 - (4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.
 - (5) The Contractor's account number and the type of account (checking, saving or lockbox).
 - (6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.
 - (7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and therefore, not the receiver of the wire transfer payment.
- (End of Clause)

55. GSAR 552.232-73 AVAILABILITY OF FUNDS (SEP 1999)

The authorization of performance of work under this contract during the initial contract period and any option or extension period(s) is contingent upon the appropriation of funds to procure this service. If the contract is awarded, extended, or option(s) exercised, the Government's obligation beyond the end of the fiscal year (September 30), in which the award or extension is made or option(s) exercised, is contingent upon the availability of funds from which payment for the contract services can be made. No legal liability on the part of the Government for payment of any money beyond the end of each fiscal year (September 30) shall arise unless or until funds are made available to the Contracting Officer for this procurement and written notice of such availability is given to the contractor. (End of Clause)

AUDITS/COST & PRICING DATA

CLAUSES 56, 57 AND 58 APPLY TO CONTRACTS AWARDED VIA SEALED BIDDING.

56. FAR 52.214-26 - AUDIT AND RECORDS - SEALED BIDDING (OCT 1997)

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

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

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

(c) Comptroller General. In the case of pricing any modification, the Comptroller General of the United States, or an authorized representative, shall have the same rights as specified in paragraph (b) of this clause.

(d) Availability. The Contractor shall make available at its office at all reasonable times the materials described in paragraph (b) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract, or for any other period specified in Subpart 4.7 of the Federal Acquisition Regulation (FAR). FAR Subpart 4.7, Contractor Records Retention, in effect on the date of this contract, is incorporated by reference in its entirety and made a part of this contract.

(1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.

(2) Records pertaining to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to the performance of this contract shall be made available until disposition of such appeals, litigation, or claims.

(e) The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (e), in all subcontracts expected to exceed the threshold in FAR 15.403-4(a)(1) for submission of cost or pricing data. (End of Clause)

57. FAR 52.214-27 - PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS - SEALED BIDDING (OCT 1997)

(a) This clause shall become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for the submission of cost and pricing data at FAR 15.403-4(a)(1), except that this clause does not apply to a modification if an exception under FAR 15.403-1(b) applies.

(b) If any price, including profit, negotiated in connection with any modification under this clause, was increased by any significant amount because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data, or (3) any of these parties furnished data of any description that were not accurate, the price shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) above.

(c) Any reduction in the contract price under paragraph (b) above due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

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

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

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

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

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

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

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

(B) The Contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted before such date.

(ii) An offset shall not be allowed if --

(A) The understated data was known by the Contractor to be understated when the Certificate of Current Cost or Pricing Data was signed; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the date of agreement on price.

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

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

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

58. FAR 52.214-28 - SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS - SEALED BIDDING (OCT 1997)

(a) The requirements of paragraphs (b) and (c) of this clause shall (1) become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1), and (2) be limited to such modifications.

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

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

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that, when entered into, exceeds the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1). (End of Clause)

CLAUSES 59 THROUGH 66 APPLY TO CONTRACTS AWARDED VIA NEGOTIATION.

59. FAR 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;
- (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) and (d) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract, or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition--

- (1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and
- (2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(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 (c) of this clause.

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

60. FAR 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 Treasury under 26 U.S.C. 6621(a)(2); and

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

61. FAR 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. (End of clause)

62. FAR 52.215-15 - PENSION ADJUSTMENTS AND ASSET REVERSIONS (DEC 1998)

(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 adjustment amount shall be the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12) for contracts and subcontracts that are subject to Cost Account Standards (CAS) Board rules and regulations (48 CFR Chapter 99). For contracts and subcontracts that are not subject to CAS, the adjustment amount shall be 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 which meet the applicability requirement of FAR 15.408(g). (End of Clause)

63. FAR 52.215-16 - FACILITIES CAPITAL COST OF MONEY (OCT 1997)

(a) Facilities Capital Cost of Money will be an allowable cost under the contemplated contract, if the criteria for allowability in subparagraph 31.205-10(a)(2) of the Federal Acquisition Regulation are met. One of the allowability criteria requires the prospective contractor to propose facilities capital cost of money in its offer.

(b) If the prospective Contractor does not propose this cost, the resulting contract will include the clause Waiver of Facilities Capital Cost of Money. (End of Clause)

64. FAR 52.215-17 - WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997)

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

65. FAR 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 which meet the applicability requirements of FAR 15.408(j). (End of Clause)

66. FAR 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)

(a) The Contractor shall make the following notifications in writing:

(1) When the contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.

(2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.

(b) The Contractor shall --- (1) maintain current, accurate, and complete inventory records of assets and their costs; (2) provide the ACO or designated representative ready access to the records upon request; (3) ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership changes; and (4) retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.

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

CLAUSE 67 APPLIES TO BOTH SEALED BID AND NEGOTIATED CONTRACTS.

67. GSAR 552.215-70 - EXAMINATION OF RECORDS BY GSA (FEB 1996)

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

ADJUSTMENTS

68. FAR 52.243-1 CHANGES--FIXED-PRICE (AUG 1987) (ALT 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 prescribed the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed. (End of Clause)

69. GSAR 552.243-70 - PRICING OF ADJUSTMENTS (APR 1989)

When costs are a factor in any determination of a contract price adjustment, such costs shall be in accordance with the contract cost principles and procedures in Part 31 of the Federal Acquisition Regulation (48 CFR PART 31) in effect on the date of this contract. (End of Clause)

70. FAR 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

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

71. FAR 52.248-1 VALUE ENGINEERING (FEB 2000)

(a) *General.* The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The Contractor shall share in any net acquisition savings realized from accepted VECP's, in accordance with the incentive sharing rates in paragraph (f) below.

(b) *Definitions.*

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

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

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

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

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

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

"Contractor's development and implementation costs," as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

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

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

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

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

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

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

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

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

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

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

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

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

(1) Requires a change to this, the instant contract, to implement; and

(2) Results in reducing the overall projected cost to the agency without impairing essential functions or characteristics; *provided*, that it does not involve a change—

(i) In deliverable end item quantities only;

(ii) In research and development (R&D) end items or R&D test quantities that is due solely to results of previous testing under this contract; or

(iii) To the contract type only.

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

(1) A description of the difference between the existing contract requirement and the proposed requirement, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, the effect of the change on the end item's performance, and any pertinent objective test data.

(2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) Identification of the unit to which the VECP applies.

(4) A separate, detailed cost estimate for (i) the affected portions of the existing contract requirement and (ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under the Subcontracts paragraph of this clause, below.

(5) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(6) A prediction of any effects the proposed change would have on collateral costs to the agency.

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

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

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

(e) *Government action.* (1) The Contracting Officer will notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer will notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it will not be liable for any delay in acting upon a VECP.

(2) If the VECP is not accepted, the Contracting Officer will notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any V E C P, in whole or in part, at any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

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

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

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

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

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

| CONTRACTOR'S SHARE OF NET ACQUISITION SAVINGS (Figures in Percent) | | | | |
|---|-----------------------------|---|------------------------------------|---|
| CONTRACT TYPE | SHARING ARRANGEMENT | | | |
| | INCENTIVE (VOLUNTARY) | | PROGRAM REQUIREMENT (MANDATORY) | |
| | Instant Contract Rate | Concurrent and Future Contract Rate | Instant Contract Rate | Concurrent and Future Contract Rate |
| Fixed-price (includes fixed-price-award-fee; excludes other fixed-price incentive contracts) | *50 | *50 | *25 | 25 |
| Incentive (fixed-price or cost) (other than award fee) | (**) | *50 | (**) | 25 |
| Cost-reimbursement (includes cost-plus-award-fee; excludes other cost-type incentive contracts) | ***25 | ***25 | 15 | 15 |

* The Contracting Officer may increase the Contractor's sharing rate to as high as 75 percent for each VECP.
 ** Same sharing arrangement as the contract's profit or fee adjustment formula.
 *** The Contracting Officer may increase the Contractor's sharing rate to as high as 50 percent for each VECP.

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

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

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

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

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

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

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

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

(4) Specify the amount of any Government costs or negative instant contract savings to be offset in determining net acquisition savings realized from concurrent or future contract savings; and
(5) Provide the Contractor's share of any net acquisition savings under the instant contract in accordance with the following:

- (i) Fixed-price contracts—add to contract price.
- (ii) Cost-reimbursement contracts—add to contract fee.

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

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

- (i) Subtracting from the reduction in price negotiated on the concurrent contract any Government costs or negative instant contract savings not yet offset; and
- (ii) Multiplying the result by the Contractor's sharing rate.

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

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

- (ii) Subtracting any Government costs or negative instant contract savings not yet offset; and
- (iii) Multiplying the result by the Contractor's sharing rate.

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

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

- (i) The Contractor will keep all the savings on the instant contract and on its concurrent contracts only.
- (ii) The Government will keep all the savings resulting from concurrent contracts placed on other sources, savings from all future contracts, and all collateral savings.

(j) *Collateral savings.* If a VECP is accepted, the Contracting Officer will increase the instant contract amount, as specified in paragraph (h)(5) of this clause, by a rate from 20 to 100 percent, as determined by the Contracting Officer, of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price, target price, target cost, or estimated cost, at the time the VECP is accepted, or \$100,000, whichever is greater. The Contracting Officer will be the sole determiner of the amount of collateral savings.

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

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

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

These data, furnished under the Value Engineering clause of contract _____, shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations.

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

(End of clause)

DISPUTES

72. FAR 52.233-1 - DISPUTES (DEC 1998) ALT 1 (DEC 1991)

- (a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613)
- (b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.
- (c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. 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 as required by subparagraph (d)(2) of this clause. 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 disputes resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (certified if required), or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer. (End of Clause)

PATENTS, DATA AND COPYRIGHTS

73. FAR 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 herein above granted.

(b) The contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed the simplified acquisition threshold); however, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent. (End of Clause)

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

(c) The contractor agrees to include, and require inclusion of, this clause in all subcontracts at any tier for supplies or services (including construction and architect-engineer subcontracts and those for material, supplies, models, samples, or design or testing services) expected to exceed the simplified acquisition threshold at FAR 2.101. (End of Clause)

75. FAR 52.227-3 PATENT INDEMNITY (APR 1984)

(a) The Contractor shall indemnify the Government and its officers, agents and employees against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out the use or disposal by or for the account of the Government of such supplies or construction work.

(b) This indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to (1) an infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor, (2) an infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance, or (3) a claimed infringement that is unreasonably settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction. (End of Clause)

TERMINATION

76. FAR 52.249-4 TERMINATION FOR THE CONVENIENCE OF THE GOVERNMENT (SERVICES) (SHORT FORM) (APR 1984)

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Government shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.(End of Clause)

77. FAR 52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984)

(a)(1) The Government may, subject to paragraphs (c) and (d) below, 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) below); or
- (iii) Perform any of the other provisions of this contract (but see subparagraph (a)(2) below).

(2) The Government's right to terminate this contract under subdivisions (1)(ii) and (1)(iii) above, 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 subcontractor at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.(End of Clause)

COST ACCOUNTING STANDARDS

78. FAR 52.230-2 COST ACCOUNTING STANDARDS (APR 1998)

(a) Unless the contract is exempt under 48 CFR 9903.201-1 and 9903.201-2, the provisions of 48 CFR Part 9903 are incorporated herein by reference and the Contractor, in connection with this contract, shall--

(1) (CAS-covered Contracts Only) By submission of a Disclosure Statement, disclose in writing the Contractor's cost accounting practices as required by 48 CFR 9903.202-1 through 9903.202-5, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the contractor and which contain a Cost Accounting Standards (CAS) clause. If the contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(2) Follow consistently the Contractor's cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in cost accounting practices is made for the purpose of any contract or subcontract subject to CAS requirements, the change must be applied prospectively to this contract and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a)(4) or (a)(5) of this clause, as appropriate.

(3) Comply with all CAS, including any modifications and interpretations indicated thereto contained in 48 CFR Part 9904 in effect on the date of award of this contract or, if the Contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the Contractor's signed certificate of current cost or pricing data. The Contractor shall also comply with an CAS (or modifications to CAS) which hereafter become applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)(i) Agree to an equitable adjustment as provided in the Changes Clause of this contract if the contract cost is affected by a change which, pursuant to subparagraph (a)(3) of this clause, the Contractor is required to make to the Contractor's established cost accounting practices.

(ii) Negotiate with the Contracting Officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of subparagraph (a)(4) of this clause; provided that no agreement may be made under this provision that will increase costs paid by the United States.

(iii) When the parties agree to a change to a cost accounting practice, other than a change under subdivision (a)(4)(i) of this clause, negotiate an equitable adjustment as provided in the Changes clause of this contract

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with an applicable Cost Accounting Standard, or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States, together with interest thereon computed at the annual rate established under section 6621 of the Internal Revenue Code of 1986 (26 U.S.C. 6621) for such period, from the time the payment by the United States was made to the time the adjustment is effected. In no case shall the Government recover costs greater than the increased cost to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the Contractor made a change in its cost accounting practices of which it was aware or should have been aware at the time of price negotiations and which it failed to disclose to the Government.

(b) If the parties fail to agree whether the Contractor or a subcontractor has complied with an applicable CAS in 48 CFR, part 9904 or a CAS rule or regulation in 48 CFR, part 9903 and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the obligation to comply with all CAS in effect on the subcontractor's award date or if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed Certificate by Current Cost or Pricing Data. If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in subsection 30.201-4 of the Federal Acquisition Regulation shall be inserted. This requirement shall apply only to negotiated subcontracts in excess of \$500,000, except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1. (End of clause)

79. FAR 230-3 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (APR 1998)

(a) The Contractor, in connection with this contract, shall--

(1) Comply with the requirements of 48 CFR 9904.401, Consistency in Estimating, Accumulating, and Reporting Costs; 48 CFR 9904.402, Consistency in Allocating Costs Incurred for the Same Purpose; 48 CFR 9904.405, Accounting for Unallowable Costs; and 48 CFR 9904.406, Cost Accounting Standard - Cost Accounting Period, in effect on the date of award of the contract, as indicated in 48 CFR, Part 9904.

(2) (CAS-covered Contracts Only) If it is a business unit of a company required to submit a Disclosure Statement, disclose in writing its cost accounting practices as required by 48 CFR 9903.202-1 through 9903.202-5. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(3)(i) Follow consistently the Contractor's cost accounting practices. A change to such practices may be proposed, however, by either the Government or the Contractor, and the Contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract, and the Disclosure Statement, if affected, must be amended accordingly.

(ii) The Contractor shall, when the parties agree to a change to a cost accounting practice and the Contracting Officer has made the finding required in 48 CFR 9903.201-6(b), that the change is desirable and not detrimental to the interests of the Government, negotiate an equitable adjustment as provided in the Changes clause of this contract. In the absence of the required finding, no agreement may be made under this contract clause that will increase costs paid by the United States.

(4) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with the applicable CAS or to follow any cost accounting practice, and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the annual rate of interest established under the Internal Revenue Code of 1986 (26 U.S.C. 6621), from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the Contractor has complied with an applicable CAS, rule, or regulation as specified in 48 CFR, Parts 9903 and 9904 and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers and records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts, which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts of any tier, except that--

(1) If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in subsection 30.201-4 of the Federal Acquisition Regulation shall be inserted.

(2) This requirement shall apply only to negotiated subcontracts in excess of \$500,000.

(3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1. (End of Clause)

80. FAR 52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS (NOV 1999)

For the purpose of administering the Cost Accounting Standards (CAS) requirements under this contract, the Contractor shall take the steps outlined in paragraphs (a) through (g) of this clause:

(a) Submit to the Contracting Officer a description of any cost accounting practice change, the total potential impact of the change on contracts containing a CAS clause, and a general dollar magnitude of the change which identifies the potential shift of costs between CAS-covered contracts by contract type (i.e., firm-fixed price, incentive, cost-plus-fixed fee, etc.) and other contractor business activity. As related to CAS-covered contracts, the analysis should identify the potential impact on funds of the various Agencies/Departments (i.e., Department of Energy, National Aeronautics and Space Administration, Army, Navy, Air Force, other Department of Defense, other Government) as follows:

(1) For any change in cost accounting practices required in accordance with subparagraph (a)(3) and subdivision (a)(4)(i) of the clause at FAR 52.230-2, Cost Accounting Standards; or subparagraph (a)(3) and subdivisions (a)(4)(i) or (a)(4)(iv) of the clause at FAR 52.230-5, Cost Accounting Standards - Educational Institution; within 60 days (or such other date as may be mutually agreed to) after award of a contract requiring this change.

(2) For any changes in cost accounting practices proposed in accordance with subdivision (a)(4)(ii) or (iii) of the clauses at FAR 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards - Educational Institution; or with subparagraph (a)(3) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, not less than 60 days (or such other date as may be mutually agreed to) before the effective date of the proposed change.

(3) For any failure to comply with an applicable CAS or to follow a disclosed practice (as contemplated by subparagraph (a)(5) at FAR 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards - Educational Institution; or by subparagraph (a)(4) at FAR 52.230-3 Disclosure and Consistency of Cost Accounting practices):

(i) within 60 days (or such other date as may be mutually agreed to) after the date of agreement with the initial finding of noncompliance, or

(ii) In the event of Contractor disagreement with the initial finding of noncompliance, within 60 days of the date the Contractor is notified by the Contracting Officer of the determination of noncompliance.

(b) After an ACO, or cognizant Federal agency official, determination of materiality, submit a cost impact proposal on the form and manner specified by the Contracting Officer within 60 days (or such other date as may be mutually agreed to) after the date of determination of the adequacy and compliance of a change submitted pursuant to paragraph (a) of this clause. The cost impact proposal shall be in sufficient detail to permit evaluation, determination, and negotiation of the cost impact upon each separate CAS-covered contract and subcontract.

(1) Cost impact proposals submitted for changes in cost accounting practices required in accordance with subparagraph (a)(3) and subdivision (a)(4)(i) of the clause at FAR 52.230-2, Cost Accounting Standards; or subparagraph (a)(3) and subdivisions (a)(4)(i) or (a)(4)(iv) of the clause at FAR 52.230-5, Cost Accounting Standards - Educational Institution; shall identify the applicable standard or cost principle and all contracts and subcontracts containing the clauses entitled Cost Accounting Standards or Cost Accounting Standards - Educational Institution, which have an award date before the effective date of that standard or cost principle.

(2) Cost impact proposals submitted for any change in cost accounting practices proposed in accordance with subdivisions (a)(4)(ii) or (iii) of the clauses at 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards - Educational Institution; or with subparagraph (a)(3) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices; shall identify all contract and subcontracts containing the clauses at FAR 52.230-2, Cost Accounting Standards, FAR 52.230-5, Cost Accounting Standards - Educational Institutions, and FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices.

(3) Cost impact proposals submitted for failure to comply with an applicable CAS or to follow a disclosed practice as contemplated by subparagraph (a)(5) of the clauses at FAR 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards - Educational Institution; or by subparagraph (a)(4) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting practices, shall identify the cost impact on each separate CAS covered contract from the date of failure to comply until the noncompliance is corrected.

(c) If the submission required by paragraphs (a) and (b) of this clause are not submitted within the specified time, or any extension granted by the Contracting Officer, an amount not to exceed 10 percent of each subsequent amount determined payable related to the Contractor's CAS-covered prime contracts, up to the estimated general dollar magnitude of the cost impact, may be withheld until such time as the required submission has been provided in the form and manner specified by the Contracting Officer.

(d) Agree to appropriate contract and subcontract amendments to reflect adjustments established in accordance with subparagraphs (a)(4) and (a)(5) of the clauses at FAR 52.230-2 and 52.230-5; or with subparagraphs (a)(3) or (a) (4) of the Disclosure and Consistency of Cost Accounting Practices clauses at FAR 52.230-3.

(e) For all subcontracts subject to the clauses at FAR 52.230-2, 52.230-3, or 52.230-5 —

(1) So state in the body of the subcontract, in the letter of award, or in both (self-deleting clauses shall not be used);

(2) Include the substance of this clause in all negotiated subcontracts; and

(3) Within 30 days after award of the subcontract, submit the following information to the Contractor's cognizant contract administration office for transmittal to the contract administrative office cognizant of the subcontractor's facility:

(i) Subcontractor's name and subcontract number.

(ii) Dollar amount and date of award.

(iii) Name of Contractor making the award.

(f) Notify the Contracting Officer in writing of any adjustments required to subcontracts under this contract and agree to an adjustment, based on them, to this contract price or estimated cost and fee. This notice is due within 30 days after proposed subcontract adjustments are received and shall include a proposal for adjusting the higher tier subcontractor or the prime contract appropriately.

(g) For subcontracts containing the clauses at FAR 52.230-2 or 52.230-5, require the subcontractor to comply with all Standards in effect on the date of award or of final agreement on price, as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data, whichever is earlier. (End of Clause)

PROTESTS

81. FAR 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 rights 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 the contract.

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

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

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

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

OTHER

82. FAR 52.242-13 BANKRUPTCY (JUL 1995)

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

SERVICE CONTRACT ACT OF 1965, AS AMENDED
AND
STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES

FAR 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 clauses 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 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 of 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

**FAR 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 minimum 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.

Continuation of FAR CLAUSE 52.222-42, STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)

| <u>EMPLOYEE CLASS</u> | <u>HOURLY MONETARY WAGE</u> | <u>% OF BASIC HOURLY RATE AS FRINGE BENEFITS</u> |
|-----------------------------|---------------------------------|---|
| See above classes and rates | | Retirement 24.7% Health Insurance 3.5% Life Insurance .5% |

SICK LEAVE PROVIDED BY LAW:
13 days of sick leave per year.

PAID HOLIDAYS PROVIDED BY LAW:

| | | |
|-------------------------------|------------------|------------------|
| New Years Day | Independence Day | Veterans Day |
| Martin Luther King's Birthday | Labor Day | Thanksgiving Day |
| Washington's Birthday | Columbus Day | Christmas Day |
| Memorial Day | | |

VACATIONS OR PAID LEAVE AS PROVIDED BY LAW:

- (1) 2 hours of annual leave each week for an employee with less than three years of service.
- (2) 3 hours of annual leave each week for an employee with three but less than 15 years of service.
- (3) 4 hours of annual leave each week for an employee with 15 or more years of service.

WAGE DETERMINATION:

Bidders are advised that the various classes of service employees who will be employed in the performance of the contract awarded under this Invitation for Bid/Request for Proposal must be paid the minimum monetary was and shall be furnished fringe benefits shown on the attached Wage Determination No. 1994-2449 (Rev.11). This determination was issued under the provisions of the McNamara-O'Hara Service Contract Act (79 Stat. 1034), and in accordance with Part 4-3 of 29 CFR Part 4.

**FAR 52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES
(MAY 1989)**

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

THIS STATEMENT IS FOR INFORMATION ONLY: IT IS NOT A WAGE DETERMINATION

| EMPLOYEE CLASS | MONETARY WAGE - FRINGE BENEFITS |
|--------------------------|--|
| Lead Dispatcher | \$15.53 |
| Alarm Monitor | \$12.62 |
| Alarm Monitor (Trainee) | \$10.12 |
| Remote Access Programmer | \$14.49 |
| Computer Operator III | \$14.49 |

(End of Clause)

SECTION K **REPRESENTATIONS, CERTIFICATIONS AND OTHER**
STATEMENTS OF OFFERORS

| | |
|------------------|---|
| GSA FORM 3503 | REPRESENTATIONS AND CERTIFICATIONS |
| SF LLL and LLL-A | DISCLOSURE OF LOBBYING ACTIVITIES |
| GSA FORM 527 | FINANCIAL INFORMATION |
| SF 28 | AFFIDAVIT OF INDIVIDUAL SURETY |
| | COVENANT NOT TO ENCUMBER OR CONVEY REAL ESTATE |
| SF 1418 | PERFORMANCE BOND FOR OTHER THAN CONSTRUCTION CONTRACTS |
| FAR 52.214-16 | MINIMUM BID ACCEPTANCE PERIOD (APR 1984) |

REPRESENTATIONS AND CERTIFICATIONS

Solicitation #: GS-03P-00-CDC-0051

Name and Address of Offeror
(Name, Street, City, State and Zip Code)

Date of Offer:

DUNS #: _____ **(See paragraph 1, below)**

1. FAR 52.204-6, DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (JUN 1999)

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" followed by the DUNS number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet Information Services.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. A DUNS number will be provided immediately by telephone at no charge to the offeror. For information on obtaining a DUNS number, the offeror, if located within the United States, should call Dun & Bradstreet at 1-800-333-0505. The offeror should be prepared to provide the following information: (1) Company name. (2) Company address. (3) Company telephone number. (4) Line of Business. (5) Chief executive officer/key manager. (6) Date the company was started. (7) Number of people employed by the company. (8) Company affiliation.

(c) Offerors located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at <http://www.customerservice@dnb.com>. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@mail.dnb.com.

THE OFFEROR MAKES THE FOLLOWING REPRESENTATIONS AND CERTIFICATIONS AS A PART OF THE OFFER IDENTIFIED ABOVE. (Check the appropriate boxes and fill in blanks.)

2. FAR 52.219-1, SMALL BUSINESS PROGRAM REPRESENTATIONS (MAY 1999) - ALTERNATE II (NOV 1999)

(a)(1) The Standard Industrial Classification (SIC) code for this acquisition is

7382 ; NAICS is 561621

(a)(2) The small business size standard is

\$9 million

(a)(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to produce a product which it did not itself manufacture, is 500 employees.

(b) Representations.

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

- (2) **(Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.)** The offeror represents, for general statistical purposes, that it is, is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.
- (3) **(Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.)** The offeror represents as part of its offer that it is, is not a women-owned small business concern.
- (4) **(Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.)** The offeror represents as part of its offer that---

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

(ii) It is, is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (b)(4)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. **[The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____]**

Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

- (5) **(Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision.)** The offeror shall check the category in which its ownership falls:

- _____ Black American
 _____ Hispanic American
 _____ Native American (American Indians, Eskimos, Aleuts, or Native Americans).
 _____ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).
 _____ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).
 _____ Individual/concern, other than one of the preceding.

- (c) Definitions.

“Small Business Concern,” as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

“Women-owned Small Business Concern,” as used in this provision, means a small business concern (1) Which is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and (2) whose management and daily business operations are controlled by one or more women.

(d) Notice. (1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm’s status as a small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the

preference programs established pursuant to sections 8(a), 8(d), 9 or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall (i) Be punished by imposition of fine, imprisonment, or both; (ii) Be subject to administrative remedies, including suspension or debarment; and (iii) Be ineligible for participation in programs conducted under the authority of the Act.

**3. FAR 52.219-19, SMALL BUSINESS CONCERN REPRESENTATION FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (JAN 1997)
(Applicable to solicitations for Architectural/Engineering, Construction, and Trash Removal Contracts)**

(a) Definition. "Emerging small business," as used in this solicitation, means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the Standard Industrial Classification Code assigned to a contracting opportunity.

(b) (Complete only if the Offeror has represented itself under the provision at 52.219-1 as a small business concern under the size standards of this solicitation.) The Offeror is, is not an emerging small business.

(c) (Complete only if the Offeror is a small business or an emerging small business, indicating its size range.)

Offeror's number of employees for the past 12 months (check this column if size standard stated in solicitation is expressed in terms of number of employees), or Offeror's average annual gross revenue for the last 3 fiscal years (check this column if size standard stated in solicitation is expressed in terms of annual receipts) Check one of the following.

| No. of Employees | Avg. Annual Gross Revenues |
|--------------------------------------|--|
| <input type="checkbox"/> 50 or fewer | <input type="checkbox"/> \$1 Million or less |
| <input type="checkbox"/> 51 - 100 | <input type="checkbox"/> \$1,000,001 - \$2 Million |
| <input type="checkbox"/> 101 - 250 | <input type="checkbox"/> \$2,000,001 - \$3.5 Million |
| <input type="checkbox"/> 251 - 500 | <input type="checkbox"/> \$3,500,001 - \$5 Million |
| <input type="checkbox"/> 501 - 750 | <input type="checkbox"/> \$5,000,001 - \$10 Million |
| <input type="checkbox"/> 751 - 1,000 | <input type="checkbox"/> \$10,000,001 - \$17 Million |
| <input type="checkbox"/> Over 1,000 | <input type="checkbox"/> Over \$17 Million |

4. FAR 52.204-3, TAXPAYER IDENTIFICATION (OCT 1998)

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

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

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

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

(d) Taxpayer Identification Number (TIN).

- TIN: _____
 TIN has been applied for.
 TIN is not required because:

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

(e) Type of Organization.

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

(f) Common Parent.

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

NAME _____

TIN _____

NOTE: ITEMS 5 and 6 APPLY ONLY IF OFFER EXCEEDS \$10,000 IN AMOUNT.

5. FAR 52.222-22, PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)
The Offeror represents that ---

- (a) It has, has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;
- (b) It has, has not filed all required compliance reports; and
- (c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

6. FAR 52.222-25, AFFIRMATIVE ACTION COMPLIANCE (APR 1984) (Applicable to other than construction contracts which include the clause at FAR 52.222-26, Equal Opportunity.)

The Offeror represents that ---

- (a) It has developed and has on file, has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2); or
- (b) It has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.