

# ARCHITECT- ENGINEER CONTRACT

1. CONTRACT NO.

DACA67-02-C-0209

2. DATE OF CONTRACT

APR 26 2002

3A. NAME OF ARCHITECT-ENGINEER

WJA, P.L.L.C.

TAX ID # 91-2038309

DUNS # 144609182 Cage Code: 1QF17

3B. TELEPHONE NO. (Include Area Code)

(206) 623-0331

3C. ADDRESS OF ARCHITECT-ENGINEER (Include Zip Code)

1218 Third Avenue, Suite 306  
Seattle, WA 98101-3021

3D. FAX NO. (Include Area Code)

(206) 467-8441  
email: dcallan@wjadc.com

4. DEPARTMENT OR AGENCY AND ADDRESS (Include Zip Code)

Department of the Army  
Seattle District, Corps of Engineers  
P.O. Box 3755  
Seattle, Washington 98124-3755

5. PROJECT TITLE AND LOCATION

Contract for project entitled "Architect-Engineer Design and Support Services for FY03 MCA PN 25057, Battle Simulation Center, Fort Lewis, WA"

6. CONTRACT FOR (General description of services to be provided)

The Architect-Engineer shall provide all services in accordance with the Statement of Work. All work and services shall be completed in accordance with the submittal schedule in the Statement of Work. The Government may exercise the options for additional services as provided for in the Option clause in Section H and the Statement of Work.

7. CONTRACT AMOUNT (Express in words and figures)

One hundred twenty-four thousand, six hundred forty-two dollars and no cents (\$124,642)

8. NEGOTIATION AUTHORITY

Negotiated under and authorized by 10 U.S.C. 2304.

9. ADMINISTRATIVE, APPROPRIATION, AND ACCOUNTING DATA

Original and one copy of invoices shall be mailed to: Department of the Army, Seattle District, Corps of Engineers, ATTN: CENWS-EC-DB, A-E Services Support, P.O. Box 3755, Seattle, WA 98124-3755. Payment will be made by U.S. Army Corps of Engineers Finance Center, CEFPAO-P, 5722 Integrity Drive, Millington, TN 38054-5005; telephone: (901) 874-8556. The services obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to appropriations as stated below:

21220500000 088082 3230FC785232002000000 E3 14 35026 = \$124,642

10. The United States of America (called the Government) represented by the Contracting Officer executing this contract, and the Architect-Engineer agree to perform this contract in strict accordance with the clauses and the documents identified as follows, all of which are made a part of this contract:

Contract No. DACA67-02-C-0209

See attached Schedule(s) as contained in the following Table of Contents

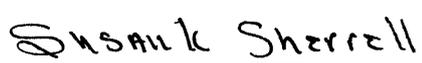
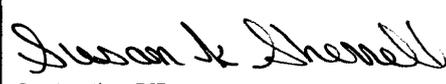
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If the parties to this contract are comprised of more than one legal entity, each entity shall be jointly and severally liable under this contract. The parties hereto have executed this contract as of the date recorded in Item 2.

<u>SIGNATURES</u>		<u>NAMES AND TITLES (Typed)</u>
11. ARCHITECT-ENGINEER OR OTHER PROFESSIONAL SERVICES CONTRACTOR		
A.		Dan P. Callan, President, WJA PLLC
B.		
C.		
D.		

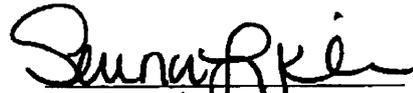
12. THE UNITED STATES OF AMERICA

	 Contracting Officer	26 April 02
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RFP No.: DACA67-02-R-0207  
CONTRACT No.: DACA67-02-C-0209

### CORPORATE CERTIFICATE

I, Serina L. Klein, certify that I am the Controller  
~~Secretary~~ <sup>Limited Liability Partnership</sup> of the ~~corporation~~ named as Contractor herein; that Dan P. Callan  
who signed this contract on behalf of the Contractor was then President of said  
~~corporation~~ <sup>Limited Liability Partnership</sup>; that said contract was duly signed for and on behalf of said ~~corporation~~ <sup>Limited Liability Partnership</sup> by  
authority of its governing body and is within the scope of its corporate powers.

  
(Name) (CORPORATE SEAL)

Controller

(Title)

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**SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS**

The A-E shall provide all labor, materials and equipment necessary to perform all work for project entitled "Architect-Engineer Design and Construction Support Services for FY03 MCA PN 25057 Battle Simulation Center, Fort Lewis, WA in strict accordance with Section C, Statement of Work.

Item	Description	Qty	U/I	Amount
0001	Project Engineering Report	1	LS	\$124,642

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**REVISED STATEMENT OF WORK  
Architect-Engineer Design Services**

**FY03 MCA PN 25057, Battle Simulation Center  
Fort Lewis, Washington**

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**1. PROJECT DESCRIPTION:**

<u>Description</u>	<u>Item</u>
Program	MilCon
Project Number	25057
Project Title	Battle Simulation Center
Project Location	Fort Lewis, Washington
Programmed Gross Square Ft	67,000 (new)
Programmed Amount	\$22,300,000
Estimated Contract Cost	\$20,092,000

**2. PURPOSE:** This contract provides for the procurement of architect-engineer (A-E) project engineering, design, and construction support services for FY03 MCA PN 25057, Battle Simulation Center at Fort Lewis, Washington.

**3. PROJECT SCOPE:** Project scope is set forth in the approved Army construction request for FY03 MCA PN 25057, Battle Simulation Center DD1391 dated 06 Feb 2002, (See Enclosure 1). The project provides for construction of a permanent, 67000 SF non-standard design battle simulation center at Fort Lewis, Washington. The air-conditioned facility includes space for approximately 61 re-configurable work stations (simcenter cells), a 300+ seat auditorium, a computer room, VIP area, terrain board area, conference rooms, briefing areas, audiovisual projection rooms, administrative space, secure compartmentalized intelligence facility (SCIF), general, secure, and sensitive material storage areas, force protection measures to include a guard shack, over-built communications room, maintenance area, tool storage, delivery ramp, field vehicle pads, a mechanical room, and site utilities and improvements; all as more fully described in the construction programming documents. **Fort Lewis wants a simple, flexible, attractive, and architecturally compatible structure. Fort Lewis will not accept a flat roofing system.** The new facility will be sited in the vicinity of the 1400 block near Railroad Avenue and Alder Road on Main Post, Fort Lewis. The construction programmed amount (budget) for this project is \$22.3 million. The estimated construction cost is \$20,092,000.

**4. GENERAL CONTRACT REQUIREMENTS:** The A-E will provide project engineering services, design, and limited engineering support services during construction as follows.

**a. Project Engineering (Contract Base Item):** The project engineering phase involves the development of a clear and final definition of the project's requirements by the A-E with STRICOM, Huntsville Engineering and Support Center, Fort Lewis, and Seattle District involvement. Work includes data gathering, analysis and validation of programmed project requirements, preparation of appropriate site and area plans, functional space relationship diagrams, preliminary site surveys and investigations, utilities layouts, necessary environmental waiver and permit assessments, architectural and Fort Lewis design guide compatibility assessments, utility load assessments, building system narrative descriptions, identification of unique design features affecting project cost, a parametric cost estimate, and reports documenting the basis for design. The A-E will plan, conduct, and document project scoping

conferences (charrettes) and discussions. The A-E will participate in a review of the pre-final project engineering submittal and value engineering report.

**b. Design Services (Contract Option to be negotiated upon completion and approval of project engineering submittals):** The general scope of design services is as described in the Seattle District Design Guide. Work includes preparation of a complete final design analysis (basis of design), metric-based construction plans and technical specifications, construction cost estimate, architectural renderings, and related design services. The design will adhere to sustainable design for military facilities practices and include a sustainable project rating tool (SPiRiT) analysis. The project will be electronically advertised as a 100% design “best value” RFP. The AE will provide appropriate electronic “as designed” and advertising files. AE will also provide technical support during advertising to respond to inquiries from offerors and prepare technical amendments.

**c. Limited Engineering Support Services During Construction (Contract Option to be negotiated upon completion and approval of final design submittals).** The A-E shall provide limited engineering support services to include the following: attendance at the pre-construction and construction partnering conferences, review of selected construction submittals, conducting a specified number of construction site visits, and optional additional technical support services.

## 5. SPECIFIC CONTRACT REQUIREMENTS:

### a. A-E Quality Control:

(1) Quality Control Plan: Within 14 calendar days of contract award, the A-E shall submit a Quality Control Plan for approval by the Contracting Officer. The Quality Control (QC) Plan must include Independent Technical Review (ITR). The performance of the ITR shall not be accomplished by the same element that produced the product. The A-E is responsible for producing complete, competent, properly coordinated and thoroughly checked design documents within the agreed schedules. The A-E is required to maintain quality control to assure completion of work within the specified time. Included in the plan shall be a designated Quality Control Action Officer in the A-E’s organization who will assure adherence to the approved plan and review each submittal for coordination, conformance to criteria, and technical adequacy. The Quality Control Action Officer shall submit written documentation verifying the extent of review to the COR at the conclusion of each submittal review.

(2) All project engineering, design, and engineering support during construction products must be reviewed for accuracy and quality, and stamped by a **registered professional** in the specialty being reported. The A-E will include a brief narrative statement in his/her submittal transmittal letters describing the quality control process used to review the products enclosed for Government review. Completed quality control checklists or evidence of completed internal reviews will be submitted as a separable component of each project engineering and design phase submittal. Interim submittals must also include a statement initialed and stamped by the registered professional

reviewer stating, "This submittal has been reviewed by me and complies with contract requirements, standards of professional practice, applicable codes and life-safety criteria. The accuracy and completeness are commensurate with stated submittal purposes." **All "designed and checked by" blanks shall be initialed by the responsible designer and appropriate registered professional quality control reviewer for both calculations and drawings.**

(3) Conflict of Interest. The A-E shall not furnish information or services pertaining to this contract to any individual or firm other than the Contracting Officer or an authorized representative, except as required to obtain quotations for materials and supplies for subcontract work.

**b. Project Engineering (Contract Base Item):** Project engineering phase requirements are as follows:

(1) CAI will review latest "Lessons Learned" from previous Battle Simulation type projects and be prepared to discuss them at the charrette.

(2) Preliminary Field Investigations and Consultations: Preliminary field investigations and staff consultations will be conducted for orientation and charrette development purposes. The A-E shall, within 5 calendar days of contract award, schedule preliminary field investigations, orientation interviews, and project consultations at Fort Lewis and Seattle District. The A-E shall conduct field investigations and consultations at Fort Lewis and in Seattle with project functional, Installation management staff, and District project team members as listed in enclosure 2, Preliminary Field Investigation and Consultation Requirements Listing, over a one-week period prior to conducting the project charrette. An objective of these on-site discussions and investigations will be to identify issues, which may require some time or independent action to resolve prior to the charrette process. The A-E shall visit and become intimately familiar with the proposed construction site, site utilities, utilities locations, and system capacities, project environmental issues, Installation as-built records, future development plans, the Fort Lewis Design Guide, and Directorate of Information Management (DOIM) telecommunications area plans and system capabilities. The A-E shall video tape and photograph (slides, pictures) the site for subsequent charrette use. The AE shall use standard Fort Lewis telecommunications specifications. The A-E team shall also visit Seattle District offices to meet key members of the District project team. Preliminary field investigations and consultations shall be documented by the A-E in a consolidated trip report.

(3) Charrette Process: The A-E shall plan, organize, and conduct a facilitated project engineering charrette at Fort Lewis to develop and to define project functional and technical requirements and design requirements. The purpose of the charrette will be to review standard design provisions, analyze and define Fort Lewis project functional relationships, technical requirements, and spatial relationships; and develop an appropriate schematic solution to validate project requirements with the customer's active participation; to include SPiRiT guidelines for the installation. The A-E, in developing an appropriate schematic solution through the charrette process, shall select architectural materials and style, determine utilities layouts, select appropriate building systems, develop site and area plans, and complete parametric cost estimates. The A-E shall prepare a detailed agenda and organization plan for the

meeting. Said agenda and meeting organization plan will be submitted to and coordinated with Seattle District well in advance of the meeting date. The A-E shall prepare appropriate project summary material, graphic displays, space and requirements questionnaires/sheets, project issues cards, site issues cards, affinity matrices, people and process flow charts, bubble diagrams, and other visual aids to organize and focus charrette discussions on development of project requirements. The A-E shall provide an appropriately trained group facilitator whose sole responsibilities during the meeting are managing group dynamics and achievement of charrette process objectives. The facilitator shall not be a principal of the firm, the A-E project or design manager. The A-E's parametric cost estimator will revise and validate the project cost estimate during the meeting, actively participating in critical scoping discussions, providing the charrette team cost impact assessments relative to alternatives discussed. The STRICOM project manager, Huntsville Engineering and Support Center representatives, local functional proponents, Installation management staff, and District project team members shall attend the meeting. Selected value engineer team members may attend the information phase of the charrette process. The A-E shall plan the meeting for duration not to exceed three calendar days.

(4) Preliminary Project Engineering Submittal: The A-E shall prepare a preliminary project engineering submittal based upon field investigations, consultations with project proponents, application of Army design criteria, and Fort Lewis design criteria, to clearly define the project functional and technical requirements. The preliminary project engineering submittal is intended to serve as basis for scope definition, clarification, and finalization. The submittal shall include validation of DD1391 requirements, appropriate project site and area plans, functional space relationship diagrams, preliminary site surveys and investigations reports, utilities layouts, environmental waiver and permit assessments, architectural and Fort Lewis design guide compatibility assessments, utility load assessments, building system narrative descriptions, identification of unique design features affecting project cost, a parametric cost estimate, and report documenting the basis for design.

(5) Value Engineering (VE) Review: Value engineering participation/input will be provided to the A-E's preliminary project engineering submittal during the charrette process. A value-engineering letter report containing design improvement recommendations (value engineering proposals) will be provided at least 5 calendar days prior to the project engineering submittal review conference. The A-E will incorporate the VE letter into the final report.

(6) Project Engineering Submittal Review Conference: The A-E shall attend a project engineering review conference at Fort Lewis approximately 14 calendar days after the preliminary submittal is made to review and discuss Government comments on the preliminary project engineering submittal and value engineering proposals. The meeting will serve as final

confirmation of charrette process decisions and project definition as contained in the preliminary project engineering submittal. Final disposition of value engineering proposals will also be determined at the meeting. The approved project engineering phase documents shall serve as the scope for optional design development under this contract.

(7) Final Project Engineering Submittal: The A-E shall revise the preliminary project engineering submittal as required to incorporate Government review comments on the preliminary submittal. Government review comments shall be annotated to reflect the disposition of each comment and action taken by the A-E in response to the comment. The final project engineering submittal will serve as definitive basis for final design development and Army construction programming requirements.

**c. Design Services (Contract Option to be negotiated upon completion and approval of project engineering submittals):** Design services are as described in the Seattle District Design Guide. Work includes preparation of a complete final design analysis (basis of design), metric-based construction plans, technical specifications, construction cost estimate, architectural renderings, and related design services.

**d. Limited Engineering Support Services During Construction (Contract Option to be negotiated upon completion and approval of final design submittals):** The A-E shall provide limited engineering support services to include attendance at the pre-construction and construction partnering conferences, review of selected construction submittals, conducting a specified number of construction site visits, and optional additional technical support services.

## **6. SUPPLEMENTAL INSTRUCTIONS FOR DRAWINGS, SPECIFICATIONS, AND COST ESTIMATES.**

**a. Drawings:** Design shall be developed using as-built drawings, standard design criteria, Fort Lewis specific design criteria, field investigations, and other pertinent information gathered by the A-E to depict existing conditions and the new work required. Drawings shall be in conformance with Seattle District drafting standards and the District Design Guide. The A-E shall use the following drawing numbers and titles:

Drawing Numbers: TBD  
General Drawing Titles: **Battle Simulation Center  
FY 03 MCA, PN 25057  
Fort Lewis, Washington**

Review drawing submittals shall be half-size, except for 2 full size Mylar sets of the corrected final submittal. The A-E shall furnish 2 sets of Intergraph compatible CADD discs or tapes for all drawings. **Drawings shall be furnished in metric units of measure.**

**b. Specifications:** Specifications shall be prepared using military guide specifications provided by the Army. The A-E shall also provide a draft Division 1 of the technical specifications at least 21 days prior to delivery of the final design submittal incorporating any proposed construction phasing requirements or coordination requirements. The A-E shall

complete Section 01300, including the shop drawing submittal register, Engineer Form #4288, Measurement and Payment, Environmental Protection requirements, if necessary, and Construction Contractor Quality Control. The A-E shall furnish discs of all specifications in Microsoft Word format.

**c. Cost Estimates:** The A-E shall design a complete and usable facility within the authorized programmed amount. Parametric and construction cost estimates shall be prepared in accordance with the District's A-E Guide. Copies of parametric cost estimate computer files shall be provided on 3.5" floppy disks for all submittals. The District will be submitting the A-E's parametric cost estimate to Headquarters as part of the Army Military Construction Request for Congressional review and approval. The final design (Code C) construction cost estimate shall be submitted with backup materials to substantiate unit prices (labor, materials, equipment) included in the estimate. The A-E will furnish a draft form 3086 with the final submittal. Preparation of a realistic and accurate estimate cannot be overemphasized. The A-E shall prepare a thorough, well-supported, estimate reflecting the final design features, construction schedule and conditions, and any construction phasing requirements. The A-E shall compute the current working estimate (CWE) which is the estimated construction contract cost (ECC) plus construction contingencies (5%), and Army construction supervision and administration costs (5.74%), escalated to the estimated mid-point of construction. **The final design cost construction cost estimate CWE must be within the approved programmed amount.** If the A-E's final submittal CWE exceeds the authorized programmed amount, redesign may be required at the A-E's expense. The A-E shall discuss redesign alternatives with the COR and evaluate the possible use of additive bid items. A decision will be made by the COR as to functional adequacy of the base bid items when additive bid items are proposed in lieu of redesign.

## **7. PROJECT ENGINEERING AND DESIGN PHASE SUBMITTALS:**

**a. Project Engineering (Contract Base Item):** Project engineering phase submittal requirements are as follows:

**(1) Preliminary Project Engineering Submittal:** The preliminary project engineering submittal will document the A-E preliminary field investigations, interviews, and consultations, and the results of the charette process including the parametric cost estimate. The A-E's submittal shall include:

(a) Project Description. The A-E shall validate the construction programming documents; describing intended planned facility occupants and functions, the project purpose, and types of activities supported. The narrative will also provide a statistical summary of the following facts: Installation, program year (FY), project name, PN, host command, proponent command, real property category code, programmed amount, number of occupants, improved site size and location, building size (as compared to DD1391), tabulated

summary of building functional areas and spaces, project development issues, project cost summary and construction cost limitation, required/desired beneficial occupancy dates, other significant customer project expectations, and unique customer project requirements. The A-E shall prepare a project team directory.

(b) Summary of Site Development Issues/Considerations. The A-E shall provide a narrative document with essential features of the site plan, development of the site within the context of the Fort Lewis master plan and Installation design guide, any required demolition, weather effects, architectural theme integration and site views, describe how the project will affect traffic and utilities, discuss building group relationships, the organization of site access, site drainage, separation of automobile, pedestrian, service vehicle traffic, site security, lighting, and landscaping and street furniture.

(c) Site and Area Development Plans. The A-E shall prepare site and area plans to show all existing and proposed buildings, building orientation, access roads, parking, parking layout (handicapped stalls), landscaping, pedestrian walks, lighting, curbs, gutters, splash blocks, equipment pads, fences, manholes, vaults, and street furniture. The A-E shall prepare a functional relationship diagram for site development. The A-E shall consider using an influence diagram to illustrate site development and environmental factors.

(d) The A-E shall prepare a **Basis of Design** in 8.5"x11" format with foldout 11"x17" drawings and sketches, documenting the project description, site development considerations, design assumptions, preliminary load calculations, life cycle cost considerations for selection of building systems, environmental considerations, economic analysis considerations affecting project development, life safety requirements, and energy conservation requirements. Building system narratives shall describe selected foundation and structural framing systems requirements (criteria, grid layout, material availability, cost); selected wall system characteristics, materials, design considerations, and alternatives; selected roofing system and Public Works operability/maintainability concerns; HVAC design requirements including energy conservation design parameters, and related architectural, mechanical, and electrical design considerations; plumbing requirements including the rationale for the number and type of fixtures, water demand, materials selected, water pressure; significant design parameters for sanitary system design; communications, lighting, and power requirements including the source and capacity of servicing systems; fire protection and life safety code requirements, furniture and equipment requirements.

(e) Building Functional Relationship Diagrams. The A-E shall prepare site and building functional relationship diagrams and matrices that shall be included in the submittal as derived from the standard design materials and the charrette process.

(f) Preliminary Survey and Geotechnical Data. The Seattle District will make preliminary survey and geotechnical data available to the A-E for field investigation and project engineering purposes. Said material shall be incorporated into submittal products as appropriate. Seattle District will provide a preliminary geotechnical report at contract award for project engineering phase use describing the geotechnical conditions expected to be encountered, providing soil bearing capacities, and pavement design recommendations. Seattle District will

provide at award a metric (approx. 40 scale) CADD generated topographic site map derived from aerial photogrammetry, and utilities maps derived from field survey.

(g) The A-E shall provide the approximate facility loads for each supporting utility system and the A-E will include these numbers in the basis for design. Special emphasis will be placed upon development and coordination of telecommunications requirements.

(h) The A-E shall prepare an Architectural Compatibility Statement describing the proposed architectural style, materials, site "feel", and compatibility with the Installation Design Guide and architectural themes.

(i) Trip Reports, Meeting Minutes, Questionnaires, and Other Relevant Data. The A-E shall attach copies of trip reports, meeting agendas, charrette visual aids, questionnaires and other relevant materials to the basis for design as reference material.

(j) Parametric Cost Estimate. The A-E shall provide a parametric cost estimate and cost analysis. The A-E shall apply comparative estimating and generic cost modeling techniques to provide basic cost algorithms for each of the functional and physical characteristics of the project. The A-E shall provide a consolidated cost summary in 3086 format.

**(2) Final Project Engineering Submittal:** The A-E shall revise the preliminary submittal in response to Government review comments and direction provided at the submittal review conference. The A-E shall annotate Government submittal review comments and submit these together with the revised project engineering submittal.

(a) Design Services (Contract Option to be negotiated upon completion and approval of project engineering submittals): Specific design requirements will be established following completion and approval of the project engineering phase requirements.

(b) Limited Engineering Support Services During Construction (Contract Option to be negotiated upon completion and approval of final design submittals): Specific submittal requirements will be established following the project design phase.

**8. GOVERNMENT FURNISHED MATERIAL:** The Army will furnish the following materials for A-E use and as guidance for product development.

**a. Project Forms:** Project DD1391 (w/detailed justification paragraphs), Form Number 43855R, 14 Sep 2001, FY03 MCA PN 25057, Battle Simulation Center, Fort Lewis, Washington, (See Enclosure 1).

**b. Topographic:** Preliminary topographic survey map including location of known site utilities.

**c. Geotechnical:** Preliminary geotechnical report, including reproducible boring logs sheet and boring locations sheet.

d. **AEI:** TI 800-1 Design criteria.

e. **District Guides:** Seattle District Design Guide for Architects-Engineers.

f. **Customer Guides:** Fort Lewis Design Guide.

g. **Military Guide Specifications as requested by the A-E:** District delivery of requested specifications does not guarantee Army acceptance of specification contents relative to the work being performed. The A-E will request the necessary guide specifications for design production upon receipt of the final design notice to proceed.

h. **Computer Disc for M-Caces Gold:** Cost Engineering Program and parametric cost estimating features therein.

j. **Travel:** If it should become necessary for the A/E to travel to a location or locations not specifically covered in the lump sum price of the contract, the cost of such travel will be paid by the U.S. Government only when authorized in advance by the contracting officer. Any such authorization will require a modification to the contract with the amount of payment stated therein.

## 9. GOVERNMENT PROJECT PERSONNEL:

a. **Contracting Officer's Representative:** Mr. James W. Clark, P.E., telephone (206) 764-4474 (e-mail James. w. Clark @nps.usace.army.mil) will serve as the Army's Contracting Officer's Representative (COR) for this contract. Mr. Clark will administer the contract, review and process contract payments, attend submittal review conferences, and evaluate A-E performance. Only the Contracting Officer or designated COR (Mr. Clark) may direct the A-E in the performance of contract services within the scope of the awarded contract. The A-E is directly responsible to Mr. Clark, as COR, for delivery of complete, professional, timely and responsive contract products and services. Major Stephen J. Ward heads the Districts multi-disciplinary, cross-functional project team responsible for life-cycle management and execution of the project. Major Ward will integrate A-E services with in-house activities to provide a comprehensive, responsive, and cost effective overall service to the Army.

b. **Major Command Representative:** Mr. Dan Kiersey, (253) 966-0295 is the Army's major command representative and as such is considered the primary functional proponent for the training facility. Mr. Kiersey's primary interests will be facility compatibility with training systems, conformance with functional design criteria, facility delivery schedule, and related programming issues.

**c. Fort Lewis Project Manager:** Mr. Joe Carroll, (253-966-1797 (e-mail carrollj@lewis.army.mil) has been designated Fort Lewis project manager and will coordinate project activities within Public Works and other organizational elements at Fort Lewis. Mr. Carroll's primary interest will be project compatibility with Installation architectural criteria, site planning issues, conformance with Fort Lewis technical criteria, utilities coordination, construction phasing, and Installation coordination.

**d. Construction Contract Administrator:** Mr. Arill Berg, (206) 967-6937, or his designee will administer the project construction contract after award and will be primarily interest in contract constructibility, timely resolution of construction issues, and construction contract administration issues.

**10. DELIVERY SCHEDULE:**

**a. Project Engineering (Contract Base Item):**

Event	Date
Pre-Negotiations Meeting	Thursday 7 March 2002
Request For Proposal Issued (RFP)	NLT Thursday 14 March 2002
RFP Due Back To District	Monday 25 March 2002
Negotiate Fee	Thursday 11 April 2002
Design Charrette Agenda and Plan	Monday 29 April 2002
Field Investigation	Monday 29 April 2002
Design Charrette	30 April –2 May 2002
Executive In-Progress Review	To be determined (TBD)
Preliminary Project Engineer (PE) Report Submittal	TBD
Corrected PE Report Issued	TBD
Final PE Submittal	TBD

**b. Design Services (Contract Option to be negotiated upon completion and approval of project engineering submittals):** To Be Established.

**c. Limited Engineering Support Services During Construction (Contract Option to be negotiated upon completion and approval of final design submittals):** To be established.

**11. ENGINEERING SUPPORT DURING CONSTRUCTION:** Limited engineering support services during construction may be requested upon completion and approval of final design submittals). Construction support service scope will be developed and a contract modification negotiated for these services, if required.

Enclosures:

1. DD1391 MCA PN 25057 Battle Simulation Center, Fort Lewis, Washington, 14 September 2001.
2. Preliminary Field Investigation and Consultation Requirements Listing
3. Addendum: Submittal Distribution List

**Enclosure 2**  
**PRELIMINARY FIELD INVESTIGATION AND**  
**CONSULTATION REQUIREMENTS LISTING**

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As a minimum, the A-E shall contact the following Installation Offices (probable areas of interest shown in parenthesis) to review project requirements and Installation construction and design criteria:

**1. Fort Lewis Public Works**

- a. Executive Office (Command Guidance)
- b. Master Plans Branch (Project Planning/Construction Programming)
- c. Operations and Management Division (Utilities Services, Capabilities, Location)
- d. Engineering Services Branch (As-Built Records)
- e. Environmental Division (Cultural Resources, Environmental Concerns)
- f. Fire Department (Fire Alarms, Code Requirements)

**2. Fort Lewis Directorate of Plans and Training/ Battle Simulation Center Proponent**

- a. Functional Requirements
- b. Staffing
- c. Equipment and Furnishings Listing

**3. Directorate of Information Management (1115th Signal Battalion)**

- a. Telecommunication Requirements (Telecommunications programming, design standards (interior/exterior), system requirements)
- b. Pre-wire Workstations
- c. Building Information Systems

**4. Fort Lewis Law Enforcement Command**

- a. Physical Security Office (Intrusion Detection System Requirements)
- b. Traffic Management Section

**5. Seattle District Fort Lewis Area Office.**

- a. Construction Management Issues
- b. Orientation

**6. Seattle District Corps of Engineers, Seattle**

- a. Orientation
- b. Technical Specifications

**ADDENDUM**  
**SUBMITTAL DISTRIBUTION LIST**

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Submittals shall be mailed postal express to the offices listed below:

<u>Organization/ Individual</u>	<u>No. of Copies Each Submittal</u>
1. Bruce Mulkey Building 3087 Fort Lewis, WA 98433-5000	2
2. COMMANDER, STRICOM ATTN: AMCPM-CATT (Mr. Keirsey) 12350 Research Parkway Orlando, Florida 32826	2
3. COMMANDER, I CORPS AND FORT LEWIS ATTN: AFZH-EHP (Mr. Joe Carroll) BUILDING T-4301 FORT LEWIS, WASHINGTON 98433-5000	8
4. COMMANDER, SEATTLE DISTRICT U.S. ARMY CORPS OF ENGINEERS P.O. BOX C-3755 (Attn: Major Ward) 4735 EAST MARGINAL WAY SEATTLE, WASHINGTON 98124-2255	6
5. COMMANDER, U.S. ARMY INFORMATION SYSTEMS ATTN: ASQB-COP (MS. WILDERSON) FORT RICHIE, MARYLAND 21719-6010	1
6. CHIEF DOIM ATTN: Cliff Hawkeswood BUILDING 2003 FORT LEWIS WA,98433-5000	
7. PROVOST MARSHALL ATTN: Physical Security Section FORT LEWIS WA 98433-50000	
TOTAL	----- 21 copies

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2003

06 FEB 2002

ARMY

03 APR 1987

Fort Lewis  
Washington

Battle Simulation Center

25057

Description of Proposed Construction: (Continued)

II (WWII) wooden buildings (69,861 SF). Anti-terrorism/force protection measures include laminated glass and traffic control barriers.

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11. REQ:	71,944 SF	ADQT:	NONE	SUBSTD:	100,531 SF
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PROJECT:

Construct a consolidated battle simulation center. (New Mission)

REQUIREMENT:

This project is required to provide effective training in the command and control of individual as well as combined operations in a simulated tactical environment, incorporating appropriate opposing forces. This project will support the commands and staff of I Corps and Fort Lewis units, as well as Reserve and National Guard units training at Fort Lewis. This training will support both battle simulations for maneuver and combat support simulations. The training supported by the BSC will be primarily company/platoon through divisional level simulations, utilizing manual, computer assisted, and computer driven simulations. This facility is also required to accommodate an occasional corps level exercise without impacting the training schedule and support of lower level exercises or a division exercise in progress. This project is a construction program for constructing a Squad through Corps Battle Simulation Training Center. This project will provide simulations space to support the fielding of the Joint Simulations (JSIMS) and Warfighters Simulation (WARSIM) systems scheduled for the following year after construction completion. Additionally, there will be added a Corps Battle Simulation administration, After Action Review (AAR) and terrain board room to the facility.

CURRENT SITUATION:

At present, simulation training is being conducted in 28 small temporary WWII wood structures of 2,000 to 3,000 SF each and three larger structures. The existing structures are only capable of effectively supporting company/platoon through brigade and Corps level exercises. These facilities are not conducive for division or higher level battle simulation exercises due to inadequate exercise and pre-exercise training areas and poor communications between the various exercise areas. Divisional level training in command and control of combined arms operations must be conducted in the field which extends the field training periods of the division and corps, and significantly increases the cost of training. The wood structures have poor lighting, heating systems, and are constantly being repaired or serviced.

2003

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Battle Simulation Center

25057

IMPACT IF NOT PROVIDED:

If this project is not provided, command and control, communications, computers, intelligence, surveillance and reconnaissance (C4ISR) of combined arms operations training at the division level will continue to be done in the field, resulting in training that is not cost effective. The desired levels of throughput for the various levels of simulation training will be unobtainable, resulting in commanders and their staffs, at corps and lower levels, not achieving the desired levels of proficiency required for combat. Simulation training will continue to be restricted to low resolution simulation exercises and splintered in operation, which are more time consuming and require more support personnel from the users than computer associated exercises. Newer simulations involving computers can not be fielded at Fort Lewis which will result in the loss of valuable training.

ADDITIONAL:

This project has been coordinated with the installation physical security plan and all required physical security measures are included. All required anti-terrorism/force protection measures are included. An economic analysis has been prepared and utilized in evaluating this project. This project is the most cost effective method to satisfy the requirement. A parametric cost estimate based on project engineering design was used to develop this budget estimate. Sustainable principles will be integrated into the development, design, and construction of the project in accordance with Executive Order 13123 and other applicable laws and Executive Orders. JOINT USE CERTIFICATION: The Deputy Assistant Secretary of the Army (Installations and Housing) certifies that this project has been considered for joint use potential. This facility will be available for use by other components. A brigade Barracks Complex is scheduled in FY 04 to be constructed on the site of the current Battle Simulation Facilities. As provided by Public Law 107-107, this project has been included in the demonstration program on reduction in long-term facility maintenance costs.

/S/ JAMES T. HILL  
Lieutenant General, USA  
Commanding

ESTIMATED CONSTRUCTION START:	APR 2003	INDEX: 2186
ESTIMATED MIDPOINT OF CONSTRUCTION:	OCT 2003	INDEX: 2209
ESTIMATED CONSTRUCTION COMPLETION:	APR 2004	INDEX: 2227







DATE 03 APR 1987                      FY 2003 PROGRAM  
PROJECT NUMBER: 25057  
PROJECT TITLE: Battle Simulation Center  
INSTALLATION: Fort Lewis  
LOCATION: Washington

GENERAL JUSTIFICATION DATA

GENERAL

A. The Battle Simulation Center is an element of the I Corps G3. The responsibility and missions of the complex are:

(1) Conduct unified command theater wide exercises using a confederation of models and sophisticated networking and interface concepts. Supports Joint Training with the Joint Conflict And Tactical Simulation (JCATS) with JRX's in accordance with the Corps/Division Simulation Branch.

(2) Supports corps and division Command Post Exercises (CPX's) with JSIMS, and WARSIM simulations. JSIMS and WARSIM is a combination of hardware and software that provides the BSC with the capability to support exercises at the Theater, Corps and Division level. WARSIM will be distributed into a PC supported network. The hardware consists of a DEC VAX 7620 super mini-compute linked over a local area network (LAN) to 52 Micro-vax 3100's supported workstations. The software is a government owned. Optimally, the BSC support several Corps exercises (the CASCADE PEAK series) and several division level exercises annually. It also participates in Theater and JTF level linked exercises. These exercises can be part of the JCS/CINC Joint Training Program, Corps internal exercise program or the Battle Command Training Program (BCTP). Exercises can be done at Ft Lewis or in a remote mode with only the controllers at Ft Lewis and the Tactical Operations Centers (TOC's) of the unit(s) at home station or other locations.

(3) Brigade/Battalion Simulation support will be provided utilizing WARSIM and is designed to exercise the commanders and staffs of combat, combat support, and combat service support units at brigade or battalion level. WARSIM utilizes ten computer workstations which are the control apparatus for the OPFOR, Higher Headquarters, Admin/Log, Fire Support, and Maneuver response cells located in the controller facility. The commander and his staff (the players) operate out of nearby simulated TAC/TOC/ALOC facilities using commercial lines and speaker boxes (provided by the BSC) to replicate tactical radio traffic. The unit can set up their field CPs (using their own TO&E equipment) in a nearby field by using landlines and radio remotes to a permanent net. In the new construction plan consideration is needed to provide permanently wired pads and latrine facilities for unit(s) CP's.

(4) JCATS is a tactical training simulation used to train company commanders and platoon leaders. There will be 16-24 workstations in this portion of the facility. Space for the CPU (MV 4,000-500 type) and an area is





## NALYSIS OF DEFICIENCIES

The existing facilities are not air-conditioned, poorly lighted, and have inadequate electrical service which is typical of deteriorating World War II buildings; do not have adequate space to support the training requirements; and must be supplemented by other Fort Lewis activities resulting in disruption of both operations. Storage space for terrain training boards and related storage space is not sufficient. The continued development of

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### GENERAL JUSTIFICATION DATA

#### ANALYSIS OF DEFICIENCIES (CONTD)..

simulation training activities will generate additional facilities requirements that cannot be accommodated in existing facilities.

#### CRITERIA FOR PROPOSED CONSTRUCTION

The design of this project will be in accordance with DOD Construction Criteria Manual (TI 800-01) dated 20 Jul 98, Air-Conditioning, Evaporation, Cooling, Dehumidification, and Mechanical Ventilation, per AR 420-54. Siting of buildings will be developed in accordance with TM 5-803-3 and Installation Requirements Report, ARTBASS Project, Devices A16B15, dated 14 June 1982, prepared by Singer Company, Link Division, 11800 Tech Road, Silver Springs, Maryland, 20904. All applicable National, State and Local Safety Construction Codes will apply.

Installation Engineer: COL Richard Conte  
Phone Number: 253 967-3191

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Renovate and upgrade the existing facilities. Currently, 23 separate, dispersed facilities exist, spread over a 5 mile radius. This option is not feasible.

Use of other DoD installations:

The nearest DoD installation is only 4 miles away, but has no capability (facilities or infrastructure) to meet this type of requirement. The nearest installation with facilities of this type available is over 800 miles distant. This option is not feasible.

Do Nothing:

The current facilities, located in 23 temporary WWII facilities, do not meet fire and safety codes and cannot provide enough space in any one facility to meet current battle simulation scenario. This option is not feasible.

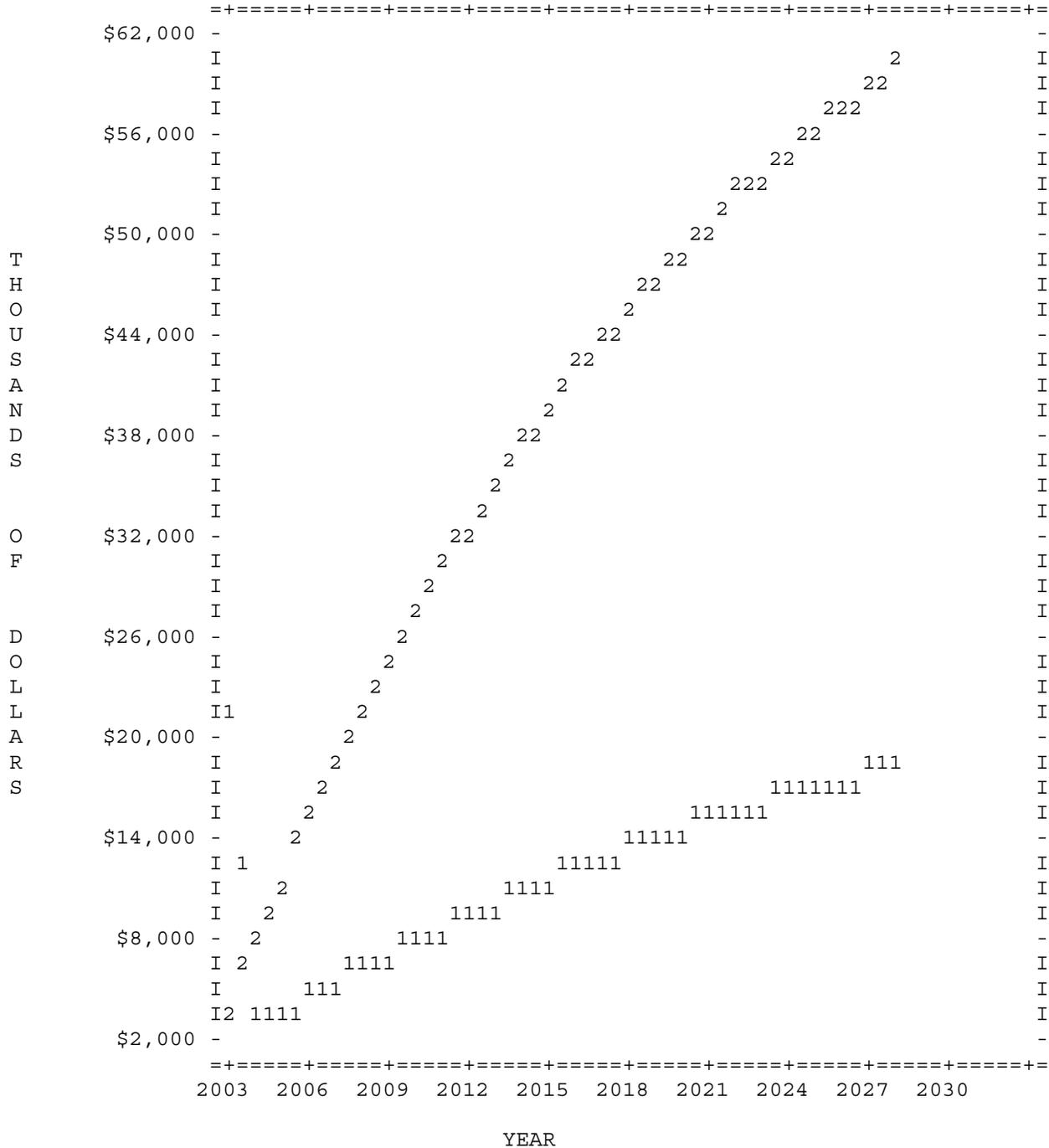
#### ASSUMPTIONS OF THE ANALYSIS:

1. All costs except salvage value occur throughout the year and will be discounted by a "middle-of-year" discount figure.
2. New Construction will take one year; beneficial occupancy date will be 2000. Interim activities will be performed in the existing facilities.
3. Physical life of the new facility is 40 years.
4. Double declining balance method will be used to calculate the salvage value for the new facility.
5. Equipment life is 12 years.
6. Existing facilities will be demolished following new construction.
7. The discount rate used for this OMB Circular A-94 analysis is 5.3 percent. All costs are in current (inflated) dollars.



ECONOMIC ANALYSIS GRAPH 1

CUMULATIVE NET PRESENT VALUE



LEGEND	DESCRIPTION
2	Lease Facilities Offpost
1	New Construction





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LIFE CYCLE COST REPORT

1 New Construction

(\$ in thousands)

YEAR	Building Depreciatn (1)	Land Appreciation (2)	CUMULATIVE NET PRESENT VALUE
2003	\$0	\$0	\$21,532
2004	\$18,920	\$53	\$2,776
2005	\$18,190	\$52	\$3,719
2006	\$17,491	\$52	\$4,625
2007	\$16,823	\$52	\$5,496
2008	\$16,176	\$51	\$6,342
2009	\$15,549	\$51	\$7,163
2010	\$14,951	\$50	\$7,952
2011	\$14,379	\$50	\$8,709
2012	\$13,825	\$50	\$9,445
2013	\$13,288	\$49	\$10,160
2014	\$12,776	\$49	\$10,846
2015	\$12,288	\$49	\$11,505
2016	\$11,814	\$48	\$12,145
2017	\$11,363	\$48	\$12,759
2018	\$10,926	\$48	\$13,356
2019	\$10,502	\$47	\$13,936
2020	\$10,098	\$47	\$14,492
2021	\$9,707	\$47	\$15,032
2022	\$9,335	\$46	\$15,550
2023	\$8,981	\$46	\$16,047
2024	\$8,637	\$46	\$16,531
2025	\$8,305	\$45	\$17,000
2026	\$7,982	\$45	\$17,456
2027	\$7,676	\$45	\$17,893
2028	\$7,271	\$44	\$18,425
%NPV	-39.46	-0.24	
	\$7,271	\$44	
DISCOUNTING			
CONVENTION	M-O-Y	M-O-Y	
INFLATION			
INDEX	94 General	94 General	
	Inflation	Inflation	

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LIFE CYCLE COST REPORT

1 New Construction

(\$ in thousands)

5.30% DISCOUNT RATE, 26 YEARS

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LIFE CYCLE COST REPORT

2 Lease Facilities Offpost

(\$ in thousands)

YEAR	Annual Lease Cost (1)	Annual M&R Cost (2)	Annual Utility Cost (3)	Transport Cost (4)	TOTAL ANNUAL OUTLAYS
2003	\$3,953	\$109	\$124	\$5	\$4,191
2004	\$3,953	\$109	\$124	\$5	\$4,191
2005	\$3,953	\$109	\$124	\$5	\$4,191
2006	\$3,953	\$109	\$124	\$5	\$4,191
2007	\$3,953	\$109	\$124	\$5	\$4,191
2008	\$3,953	\$109	\$124	\$5	\$4,191
2009	\$3,953	\$109	\$124	\$5	\$4,191
2010	\$3,953	\$109	\$124	\$5	\$4,191
2011	\$3,953	\$109	\$124	\$5	\$4,191
2012	\$3,953	\$109	\$124	\$5	\$4,191
2013	\$3,953	\$109	\$124	\$5	\$4,191
2014	\$3,953	\$109	\$124	\$5	\$4,191
2015	\$3,953	\$109	\$124	\$5	\$4,191
2016	\$3,953	\$109	\$124	\$5	\$4,191
2017	\$3,953	\$109	\$124	\$5	\$4,191
2018	\$3,953	\$109	\$124	\$5	\$4,191
2019	\$3,953	\$109	\$124	\$5	\$4,191
2020	\$3,953	\$109	\$124	\$5	\$4,191
2021	\$3,953	\$109	\$124	\$5	\$4,191
2022	\$3,953	\$109	\$124	\$5	\$4,191
2023	\$3,953	\$109	\$124	\$5	\$4,191
2024	\$3,953	\$109	\$124	\$5	\$4,191
2025	\$3,953	\$109	\$124	\$5	\$4,191
2026	\$3,953	\$109	\$124	\$5	\$4,191
2027	\$3,953	\$109	\$124	\$5	\$4,191
2028	\$3,953	\$109	\$124	\$0	\$4,186
%NPV	94.32	2.60	2.96	0.12	
	\$56,550	\$1,559	\$1,774	\$70	
DISCOUNTING CONVENTION	M-O-Y	M-O-Y	M-O-Y	M-O-Y	
INFLATION INDEX	No Inflation	No Inflation	No Inflation	No Inflation	

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LIFE CYCLE COST REPORT

2 Lease Facilities Offpost

(\$ in thousands)

YEAR	MIDDLE OF YEAR DISCOUNT FACTORS	PRESENT VALUE	CUMULATIVE NET PRESENT VALUE
2003	0.975	\$4,084	\$4,084
2004	0.925	\$3,879	\$7,963
2005	0.879	\$3,683	\$11,646
2006	0.835	\$3,498	\$15,144
2007	0.793	\$3,322	\$18,466
2008	0.753	\$3,155	\$21,621
2009	0.715	\$2,996	\$24,617
2010	0.679	\$2,845	\$27,462
2011	0.645	\$2,702	\$30,164
2012	0.612	\$2,566	\$32,730
2013	0.581	\$2,437	\$35,167
2014	0.552	\$2,314	\$37,481
2015	0.524	\$2,198	\$39,678
2016	0.498	\$2,087	\$41,765
2017	0.473	\$1,982	\$43,747
2018	0.449	\$1,882	\$45,630
2019	0.427	\$1,788	\$47,417
2020	0.405	\$1,698	\$49,115
2021	0.385	\$1,612	\$50,727
2022	0.365	\$1,531	\$52,258
2023	0.347	\$1,454	\$53,712
2024	0.329	\$1,381	\$55,092
2025	0.313	\$1,311	\$56,404
2026	0.297	\$1,245	\$57,649
2027	0.282	\$1,183	\$58,832
2028	0.268	\$1,122	\$59,953

5.30% DISCOUNT RATE, 26 YEARS

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LIFE CYCLE COST REPORT

SOURCE AND DERIVATION OF COSTS AND BENEFITS:

Source: "Redbook"

c. Annual Utilities. It is assumed that the utility cost for the new facility will remain constant.

\$1.43/SF x 67,000 SF = \$95,810

Source: Based on historical records at DEH for recently built facilities.

d. Imputed Land. First year value of land.

\$21,630/AC x 4.4 AC = \$95,172

Source: Tacoma County Finance Dept

e. Imputed Insurance. This starts after construction is completed.

\$0.22/SF/YR x 67,000 SF = \$14,740

Source: State Farm

f. Imputed Real Estate Taxes. This starts after construction is completed.

\$0.84/SF/YR x 67,000 SF = \$56,280

Source: Tacoma County Finance Dept

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COST SENSITIVITY ANALYSIS 1
(\$ in thousands)

TITLE: CSA1

This sensitivity analysis checks for alternative 2 to be ranked least cost as a result of changes in the expense item(s) listed below:

Table with 2 columns: ALTERNATIVE and EXPENSE ITEM(S). Row 1: 1 New Construction, \*\* NOTHING CHANGED \*\*. Row 2: 2 Lease Facilities Offpost, 2 Annual M&R Cost. Row 3: 3 Annual Utility Cost.

The selected expense items are allowed to vary from a value of -100.00% to 200.00%.



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FURNISHINGS AND EQUIPMENT

FURNISHINGS AND EQUIPMENT

LINE	DESCRIPTION	TOTAL COST	PROC APPR FY	PROC APPR
1)	Furnishings and Equipment	1,393	2004	OMA
2)	IDS Equipment	16	2004	OPA

LINE	DESCRIPTION	EST. DELIVERY DATE	PROC STATUS	EST. INSTL COST	INSTL FY	INSTL APPR
1)	(CONT'D)			0	0000	
2)	(CONT'D)			0	0000	

INFORMATION SYSTEMS FURNISHINGS AND EQUIPMENT

LINE	DESCRIPTION	TOTAL COST	PROC APPR FY	PROC APPR
1)	Info Sys - ISC	3,710	2004	OPA
2)	Info Sys - PROP	1,467	2004	OPA

LINE	DESCRIPTION	EST. DELIVERY DATE	PROC STATUS	EST. INSTL COST	INSTL FY	INSTL APPR
1)	(CONT'D)			0	0000	
2)	(CONT'D)			0	0000	

TOTALS BY APPROPRIATION TYPE:  
 TOTAL OMA/OMN/3400/OM DHP: 1,393  
 INSTALLED EQUIPMENT - OTHER APPROPRIATIONS: 5,193  
 TOTAL RELATED FURNITURE & EQUIPMENT AMOUNT: 6,586

FURNISHINGS AND EQUIPMENT DISCUSSION

The following list of Furnishings and Equipment were supplied by the unit for

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FURNISHINGS AND EQUIPMENT

FURNISHINGS AND EQUIPMENT DISCUSSION (CONTD)..

the new facility:

LINE DESCRIPTION	UM	QTY	UC	COST
1) Personnel Computers	EA	90	4,500.00	405,000.00
2) Desk	EA	39	605.00	23,595.00
3) Desk w/typing return	EA	1	665.00	665.00
4) Chair, desk	EA	39	307.00	11,973.00
5) Chair, secretary	EA	1	292.00	292.00
6) Chair, straightback	EA	139	94.00	13,066.00
7) Chair, stackable	EA	70	69.00	4,830.00
8) Credenza	EA	1	604.00	604.00
9) File Cabinet, 5 dwr	EA	16	363.00	5,808.84
10) File Cabinet, 4 dwr	EA	2	453.00	906.50
11) Bookcase, 3'x6'	EA	99	272.00	26,928.00
12) Table, 3'X6'	EA	95	318.00	30,210.00
13) Table, work, 4'x8'	EA	1	447.00	447.00
14) Table, Drafting	EA	1	583.00	583.00
15) Shelving LF	LF	30	6.00	180.70
16) Cork Tackboard,	EA	93	101.00	9,393.00
17) Chalkboard w/maprail	EA	1	456.00	456.00
18) Storage Cabinet,	EA	2	228.00	456.00
19) Task Lights	EA	3	72.00	216.00

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FURNISHINGS AND EQUIPMENT

FURNISHINGS AND EQUIPMENT DISCUSSION (CONTD)..

- 20) Projection Screen, EA 2 265.00 530.00
  - 21) Lectern EA 2 212.00 424.00
  - 22) Copy Machine, EA 1 1433.00 1,433.00
  - 23) Coatrack w/hat shelf EA 91 245.00 22,295.00
  - 24) Easel EA 6 181.00 1,086.00
  - 25) Sound Sys, modular w/M.Contr EA 1 139,000.00 139,000.00
  - 26) Elec Multi-Media Imaginf Sys EA 1 294,650.00 294,650.00
  - 27) FCI, cubical equip LOT 1 376,300.00 376,300.00
  - 28) Map Cabinet, Secur, 4 dwr EA 6 2,650.00 15,900.00
  - 29) Racks, commo storage EA 6 186.00 1,116.00
  - 30) Case, Trophy display EA 1 318.00 318.00
  - 31) Chair, Lounge EA 10 350.00 3,500.00
  - 32) Table. Lounge EA 1 550.00 550.00
- TOTAL \$1,392,710.00

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INFORMATION SYSTEMS COST ESTIMATE (ISCE):

INSTALLATION - Fort Lewis                      YEAR - 2003      FNO - 25057  
PROGRAM TYPE - MCA                              PROJECT NO. - 25057  
USACE DISTRICT - NWS                            MACOM - FORSCOM  
CAPABILITY REQUEST NUMBER/RS - NA

PROJECT TITLE - Battle Simulation Center

PRIMARY PROPONENT FUND TYPE - OPA

CONTGY FACTOR - 5.00

INFO SYS DESIGN AGENCY - USACE

CAF FACTOR - 14.00

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SECTION I. PRIMARY FACILITY, INSIDE THE 5 FOOT LINE -  
INSTALLED EQUIPMENT (SEE AR 415-15, APPENDIX L)

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DESCRIPTION	UM	QUANTITY	UNIT PRICE	TOTAL COST	F T
1) M-Media BSC Special Outlet Bx	EA	982	195.00	191490	C
2) 4 port mm outlet black	EA	932	65.00	60580	C
3) Modual Data RJ-45 Cat5	EA	9320	8.73	81364	C
4) Modular Telephone, RJ-14	EA	2000	4.90	9800	C
5) Module FO, ST MM	EA	1864	36.68	68372	C
6) Module, Blank Inset	EA	3000	.38	1140	C
7) Module, Coax, BNC	EA	3000	5.63	16890	C
8) CAT5 4PR TW	LF	2100000	.28	588000	C
9) EMT Stub outs 1-1/2 w/HW	LF	30000	6.50	195000	C
10) Block 66 50PR w/Brkt	EA	250	98.07	24518	C
11) Block 110 Type w/conn Bk	EA	250	117.43	29358	C
12) Cable Tray 18in	LF	1750	45.87	80273	C
13) Patch cord LVL5 1ft	EA	7500	62.01	465075	C
14) Hubs CAT5 10 Base-T	EA	15	35000.00	525000	C
15) Patch Panels 96 port	EA	63	1000.00	63000	C
16) Patch Panel FO	EA	42	1200.00	50400	C
17) Panel NEMA 12 30in x36in	EA	20	347.56	6951	C
18) FO Patch Pnl 96mm w/CPL	EA	32	2496.86	79900	C
19) FO Patch Panel SM 96	EA	1	4738.00	4738	C
20) BACKBOARD: 4' X 8' X 3/4"	EA	12	61.29	735	C
21) EMT 3/4" W/HDW (SGL RJ45 & TV)	LF	3150	4.06	12789	C

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LOCATION: Washington

INFORMATION SYSTEMS COST ESTIMATE (ISCE):

(CONTD)..

DESCRIPTION	UM	QUANTITY	UNIT PRICE	TOTAL COST	F T
22) EMT 1" W/HDW (DUAL OUTLETS)	LF	41940	4.87	204248	C
23) EMT 4" W/HDW (BACKBONE CABLE)	LF	310	22.43	6953	C
24) BACKBOARD: 4' X 8' X 3/4"	EA	7	59.97	420	C
			TOTAL	2766994	

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SECTION IV. SUPPORTING FACILITIES, OUTSIDE THE 5 FOOT LINE -  
EQUIPMENT IN PLACE (SEE AR 415-15, APPENDIX L)

DESCRIPTION	UM	QUANTITY	UNIT PRICE	TOTAL COST	F T
1) Cable FO 72SM	LF	9000	12.35	111150	C
2) UG FO Splice	EA	2	1466.48	2933	C
3) NTI RSU Complete 3600 LN	EA	1	2467000.00	2467000	I
4) UNDRD: 1500 PR, 24 AWG (OSP)	LF	8800	17.74	156112	C
5) CARD: STA VOICE, 1 PORT	EA	486	186.45	90615	I
6) UNDRD: 1500 PR, 24 AWG (B1)	LF	2000	17.36	34720	C
7) UNDRD: 1500 PR, 24 AWG (OSP)	LF	6800	17.36	118048	C
8) UNDRD SPLICE CASES	EA	14	515.27	7214	C
9) UNDRD SPLICE PAIRS	EA	21000	1.07	22470	C
10) FO CBL DC DIELEC SM 48 STR (OS	LF	8800	6.94	61072	C
11) FO SPLICE: UNDRD, 48 STR, SM	EA	1	1408.96	1409	C
12) 5.00% Contgy Factor	LS	0	.00	127881	I
13) 14.00% CAF	LS	0	.00	358066	I

DATE 03 APR 1987                      FY 2003 PROGRAM  
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INSTALLATION: Fort Lewis  
LOCATION: Washington

INFORMATION SYSTEMS COST ESTIMATE (ISCE):                      (CONTD) ..

TOTAL      3558690

SUPPORTING FACILITIES NOTES:

INFORMATION SYSTEMS COST SUMMARY:

	CONF	ISC	PROP	TOTAL
PRIMARY FACILITY	3775526	666178	1467148	5908852
SUPPORTING FACILITIES	1118253	3043562	0	4161815
TOTAL	4893779	3709740	1467148	10070667

REMARKS:

Thomas R. Gregory                      09/05/2001  
LTC  
SC Commanding                      "DOIM"



DATE 03 APR 1987                      FY 2003 PROGRAM  
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INSTALLATION: Fort Lewis  
LOCATION: Washington

ANTITERRORISM/FORCE PROTECTION REQUIREMENTS DATA WITH SIGNATURES

REQUIRED SIGNATURES:

PROVOST MARSHAL

/S/ GEORGE A. FRELS  
LTC, MP  
Executive Officer  
28 FEB 2001

FORCE PROTECTION OFFICER

/S/ JOE CARROLL  
GS-11  
Force Protection Officer  
08 MAR 2001

DATE 03 APR 1987                      FY 2003 PROGRAM  
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 PROJECT TITLE: Battle Simulation Center  
 INSTALLATION: Fort Lewis  
 LOCATION: Washington

PRESENT ACCOMMODATIONS AND DISPOSITIONS

ACCOMMODATIONS NOW IN USE AND DEMOLITIONS

ARLOC	INSTALLATION	BLDG NO	PRES		TOTAL QTY	UM	AREA OCPD	D PLAN	
			CAT CODE	T C				S F	CAT CODE
1)	53456	Fort Lewis	3240	17120	P	1,800	SF	1,295	R 17120
2)	53456	Fort Lewis	3501	17120	P	4,976	SF	3,993	R 17120
3)	53456	Fort Lewis	4A51	17120	T	4,794	SF	3,593	D
4)	53456	Fort Lewis	4A56	14185	T	2,246	SF	2,141	D 14185
5)	53456	Fort Lewis	5A10	72111	T	4,794	SF	2,273	R 72111
6)	53456	Fort Lewis	5A11	72111	T	4,794	SF	2,152	R 72111
7)	53456	Fort Lewis	5A18	14183	T	2,011	SF	1,730	R 14183
8)	53456	Fort Lewis	5A19	61050	T	2,011	SF	1,729	R 61050
9)	53456	Fort Lewis	5A40	72111	T	4,794	SF	3,080	R 72111
10)	53456	Fort Lewis	5A41	72111	T	4,794	SF	3,180	R 72111
11)	53456	Fort Lewis	6A10	61050	T	4,794	SF	3,239	D
12)	53456	Fort Lewis	6A11	72114	T	4,794	SF	2,534	D
13)	53456	Fort Lewis	6A17	72114	T	1,168	SF	686	D
14)	53456	Fort Lewis	6A40	72114	T	4,794	SF	2,966	D
15)	53456	Fort Lewis	6A41	72114	T	4,794	SF	3,091	D
16)	53456	Fort Lewis	11A01	14183	T	2,783	SF	2,473	D
17)	53456	Fort Lewis	11A09	72114	T	1,308	SF	67	D
18)	53456	Fort Lewis	11A10	17120	T	12,536	SF	10,058	D
19)	53456	Fort Lewis	11A11	44110	T	2,895	SF	2,645	D
20)	53456	Fort Lewis	11A12	44110	T	2,045	SF	1,734	D 44110
21)	53456	Fort Lewis	14A11	14183	T	3,138	SF	2,682	D
22)	53456	Fort Lewis	14A13	14183	T	3,138	SF	2,155	D
23)	53456	Fort Lewis	14A15	14183	T	4,166	SF	2,519	D
24)	53456	Fort Lewis	14A51	17120	T	10,468	SF	9,086	D
25)	53456	Fort Lewis	12C75	17120	T	12,138	SF	9,666	R 17120
26)	53456	Fort Lewis	13C17	17120	T	3,686	SF	2,914	R 17120

TOTAL NUMBER OF BUILDINGS TO DEMOLISH = 16  
 TOTAL NUMBER OF BUILDINGS TO RETAIN = 10  
 TOTAL AREA OF BUILDINGS TO DEMOLISH = 69,861 SF  
 TOTAL AREA OF BUILDINGS TO RETAIN = 45,798 SF

PRESENT ACCOMMODATIONS AND DISPOSITIONS

Upon construction completion and occupancy of the new facility, the temporary wooden facilities will be demolished.

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REAL PROPERTY MAINTENANCE ACTIVITY (RPMA) AND ENVIRONMENTAL COMPLIANCE

WORKLOAD IMPACT

.J UTILITIES NET MBTU : 2,676  
                   NET KGAL : 575  
                   NET KWH : 1,402  
 .M ENGR SPT NET SF (CUSTODIAL): 26,758  
                   NET SY (Other ENGR SPT) : 1,200

RESOURCE IMPACT: (\$000)

TOTAL CHANGE (Added)

	.J	.K	.M	ENVR	TOTAL
BOD YEAR	9	22	3	0	34
BOD +1	9	22	3	0	34
BOD +2	9	23	3	0	35

TOTAL CHANGE (Removed)

	.J	.K	.M	ENVR	TOTAL
BOD YEAR	18	44	9	0	71
BOD +1	18	45	9	0	72
BOD +2	19	46	9	0	74

NET CHANGE (Added - Removed)

	.J	.K	.M	ENVR	TOTAL
BOD YEAR	-9	-22	-6	0	-37
BOD +1	-9	-23	-6	0	-38
BOD +2	-10	-23	-6	0	-39

RPMA DISCUSSION

The existing wooden facilities being utilized for this mission will be demolished. A total of 69,861 SF of WWII facilities will be demolished.

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## ENERGY AND UTILITY REQUIREMENTS

### SUMMARY OF ENERGY REQUIREMENTS

A. Project Description. The following energy requirements are for a permanent 67,000 SF battle simulation center located at Fort Lewis, Washington PN 25057.

B. Dual Chiller System.

C. Estimated energy consumption.

1) Heating System. A combination oil-natural gas fired burner with natural gas being the primary fuel and oil as the backup. Natural gas energy usage estimated at 7413 MBTU per year. Heating Load = (100,000 Btu/SF/YR) (67,000 SF) = 6700 MBtu/YR

2) Air Conditioning. Air conditioning is required to provide a climatically controlled environment for sensitive electronic equipment in the facility. Cooling Load = (67,000 SF) (46 Bthu/SF) = 3,082,000 BThu. (67,000)/(260 SF/Ton) = 258 Ton. (67,000 SF) (5.3 KW/Ton) = 355 MW.

3) Water Supply. For Lewis has an adequate water supply system to meet the 575,000 gal/yr requirement for this facility. (13 psn) (20 gal/da/psn) (365 da/yr) + (442 psn) (20 gal/da/psn) (5 da/wk) (13 wk/yr) = 575 KGAL/YR.

4) Electrical Power. The primary electrical loads will be lighting, ventilation, and receptacles. The total electrical power consumption per year is estimated at 1,402,000 KWH/yr. (1000 KVA) (.98pf) (12 Hr/da) (365 da/yr) = 4,292 MWH/yr.

5) Sewage System. The present sewage system can adequately handle the waste generated from this facility. Estimated sewage is equal to 80 percent of the water usage. (575,000 gal/yr) (0.80) = 460,000 gal/yr.

D. Energy Sources.

1) Heating: The heating system will be supplied natural gas from the Washington Natural Gas Company. The secondary fuel, fuel oil, is supplied by yearly vendor contract.

2) Air-Conditioning: Where cost effective, the mechanical ventilation system will recover energy from the exhaust air. Solar energy will be considered if cost effective.

3) Water Supply: Sufficient water supply is available for the

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ENERGY AND UTILITY REQUIREMENTS

SUMMARY OF ENERGY REQUIREMENTS (CONTD)..

increased requirement.

4) Electrical: Electrical power is furnished adequately by a network of substations from Tacoma City Light. The system will be adequate to handle the increased load.

5) Sewage: The Fort Lewis Sewage handling/disposal plant has adequate capacity to handle the increased load.

E. Energy use impacts.

The energy requirements to support the proposed facility do not necessitate enlarging existing base systems.

F. Energy conservation.

This project does not significantly increase the amount of base energy usage. Energy conservation methods include designing the building for a minimal amount of heat loss, using automated controls for energy consumption, and insulating and weather stripping in accordance with DOD Construction Manual (AEI).

G. Energy alternatives.

No additional cost effective alternatives are available for reducing the total energy demand or load. Solar energy will be considered.

H. Energy effects.

No adverse environmental effects will be created resulting from usage of the proposed facility energy systems.

I. Basis of Appraisal.

Total energy and selective energy have been considered and discarded as inapplicable.

SUMMARY OF UTILITY SUPPORT

The existing energy sources are adequate to support all project requirements. Active and passive solar energy will be considered and included if cost

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ENERGY AND UTILITY REQUIREMENTS

SUMMARY OF UTILITY SUPPORT (CONTD)..

effective. Additional funding for solar features will be shown on ENG Form 3086 based on the 35 percent design if they result in increased construction cost.

Bottom of Form

## SECTION G Contract Administration Data

## CLAUSES INCORPORATED BY FULL TEXT

## CLAUSE INDEX: SECTION G Contract Administration Data

52.201-4001	Successor Contracting Officers	DEC 1999
252.201-7000	Contracting Officer's Representative	DEC 1991

## Successor Contracting Officers (52.201-4001)

The Contracting Officer who signed this contract is the primary Contracting Officer for the contract. Nevertheless, any Contracting Officer assigned to the Seattle District and acting within his/her authority may take formal action on this contract when a contract action needs to be taken and the primary Contracting Officer is unavailable.

## 252.201-7000 CONTRACTING OFFICER'S REPRESENTATIVE (DEC 1991)

(a) "Definition. Contracting officer's representative" means an individual designated in accordance with subsection 201.602-2 of the Defense Federal Acquisition Regulation Supplement and authorized in writing by the contracting officer to perform specific technical or administrative functions.

(b) If the Contracting Officer designates a contracting officer's representative (COR), the Contractor will receive a copy of the written designation. It will specify the extent of the COR's authority to act on behalf of the contracting officer. The COR is not authorized to make any commitments or changes that will affect price, quality, quantity, delivery, or any other term or condition of the contract.

(End of clause)

SECTION H Special Contract Requirements

CLAUSES INCORPORATED BY FULL TEXT

CLAUSE INDEX: SECTION H Special Contract Requirements

52.217-4003 Options - AE

JAN 2001

**52.217-4003**

**OPTIONS - AE FIRM FIXED-PRICE CONTRACTS (JAN 2001)**

a. The Government may elect to make certain phases of the work, as described in the Statement of Work, optional. Upon completion of the originally awarded phases of the work, the Government at its discretion may award the options for the work phases specified as optional.

b. The Government may exercise the options at any time within the period specified in the Statement of Work by giving written or official verbal notice to the A-E. Performance shall commence immediately after receipt of written, official verbal notice, or electronic notice and in accordance with the schedule, unless the parties otherwise agree.

## SECTION I Contract Clauses

## CLAUSES INCORPORATED BY FULL TEXT

## CLAUSE INDEX: SECTION I Contract Clauses

52.202-1 Alt I	Definitions (May 2001) --Alternate I	MAY 2001
52.203-3	Gratuities	APR 1984
52.203-5	Covenant Against Contingent Fees	APR 1984
52.203-7	Anti-Kickback Procedures	JUL 1995
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	JAN 1997
52.203-10	Price Or Fee Adjustment For Illegal Or Improper Activity	JAN 1997
52.203-11	Certification And Disclosure Regarding Payments To Influence Certain Federal Transactions	APR 1991
52.203-12	Limitation On Payments To Influence Certain Federal Transactions	JUN 1997
52.204-4	Printed or Copied Double-Sided on Recycled Paper	AUG 2000
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	JUL 1995
52.215-2	Audit and Records--Negotiation	JUN 1999
52.215-11	Price Reduction for Defective Cost or Pricing Data--Modifications	OCT 1997
52.215-12	Subcontractor Cost or Pricing Data	OCT 1997
52.215-13	Subcontractor Cost or Pricing Data--Modifications	OCT 1997
52.215-15	Pension Adjustments and Asset Reversions	DEC 1998
52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions	OCT 1997
52.215-19	Notification of Ownership Changes	OCT 1997
52.222-1	Notice To The Government Of Labor Disputes	FEB 1997
52.222-3	Convict Labor	AUG 1996
52.222-21	Prohibition Of Segregated Facilities	FEB 1999
52.222-25	Affirmative Action Compliance	APR 1984
52.222-26	Equal Opportunity	FEB 1999
52.222-35	Equal Opportunity For Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans	DEC 2001
52.222-36	Affirmative Action For Workers With Disabilities	JUN 1998
52.222-37	Employment Reports On Special Disabled Veterans, Veterans Of The Vietnam Era and Other Eligible Veterans	DEC 2001
52.223-6	Drug Free Workplace	MAY 2001
52.223-14	Toxic Chemical Release Reporting	OCT 2000
52.225-13	Restrictions on Certain Foreign Purchases	JUL 2000
52.227-1	Authorization and Consent	JUL 1995
52.227-2	Notice And Assistance Regarding Patent And Copyright Infringement	AUG 1996
52.229-3	Federal, State And Local Taxes	JAN 1991
52.230-2	Cost Accounting Standards	APR 1998
52.232-10	Payments under Fixed-Price Architect-Engineer Contracts	AUG 1987
52.232-17	Interest	JUN 1996
52.232-23	Assignment Of Claims	JAN 1986
52.232-26	Prompt Payment for Fixed-Price Architect-Engineer Contracts	MAY 2001
52.232-33	Payment by Electronic Funds Transfer--Central Contractor	MAY 1999

	Registration	
52.233-1	Disputes	DEC 1998
52.233-3	Protest After Award	AUG 1996
52.236-22	Design within Funding Limitations	APR 1984
52.236-23	Responsibility of the Architect-Engineer Contractor	APR 1984
52.236-24	Work Oversight in Architect-Engineer Contracts	APR 1984
52.236-25	Requirements for Registration of Designers	APR 1984
52.242-13	Bankruptcy	JUL 1995
52.242-14	Suspension of Work	APR 1984
52.243-1	Alt III Changes--Fixed Price (Aug 1987) - Alternate III	APR 1984
52.243-7	Notification Of Changes	APR 1984
52.244-4	Subcontractors and Outside Associates and Consultants (Architect-Engineer Services)	AUG 1998
52.244-6	Subcontracts for Commercial Items	DEC 2001
52.249-7	Termination (Fixed-Price Architect-Engineer)	APR 1984
52.253-1	Computer Generated Forms	JAN 1991
252.227-7022	Government Rights (Unlimited)	MAR 1979
252.227-7033	Rights in Shop Drawings	APR 1966
252.231-7000	Supplemental Cost Principles	DEC 1991
252.242-7000	Postaward Conference	DEC 1991
252.243-7001	Pricing Of Contract Modifications	DEC 1991

52.202-1 DEFINITIONS (DEC 2001) --ALTERNATE I (MAY 2001)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Nondevelopmental item means--

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

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

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

(End of clause)

52.203-3 GRATUITIES (APR 1984)

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

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

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

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

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

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

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

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

(End of clause)

#### 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

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

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

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

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

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

(End of clause)

#### 52.203-7 ANTI-KICKBACK PROCEDURES. (JUL 1995)

(a) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

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

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

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

(End of clause)

#### 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (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 1996 National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may--

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

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

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

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

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

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

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

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

(End of clause)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

#### 52.203-11 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APR 1991)

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

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

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

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

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

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, Title 31, United States Code. Any person who makes an expenditure prohibited under this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(End of provision)

52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (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 Congress, or an employee of a Member of Congress in connection with any covered Federal action.

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

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

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

"Person," as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This

term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

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

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

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

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

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

(b) Prohibitions.

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

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

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

(i) Agency and legislative liaison by own employees.

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

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

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

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

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

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

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

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

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

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

(ii) Professional and technical services.

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

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

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

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

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

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

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

(c) Disclosure.

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

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

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

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

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

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

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

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

(e) Penalties.

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

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

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

(End of clause)

## 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)

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

(a) The Government suspends or debar Contractors to protect the Government's interests. The Contractor shall not

enter into any subcontract in excess of the \$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 principles, 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)

#### 52.215-2 AUDIT AND RECORDS--NEGOTIATION (JUN 1999)

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

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

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

(1) The proposal for the contract, subcontract, or modification;

(2) The discussions conducted on the proposal(s), including those related to negotiating;

(3) Pricing of the contract, subcontract, or modification; or

(4) Performance of the contract, subcontract or modification.

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

related to this contract or a subcontract hereunder.

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

(e) Reports. If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating (1) the effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports and (2) the data reported.

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

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

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

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

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

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

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

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

(End of clause)

#### 52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA--MODIFICATIONS (OCT 1997)

(a) This clause shall become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, except that this clause does not apply to any modification if an exception under FAR 15.403-1 applies.

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

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

(1) The actual subcontract; or

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

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

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

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

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

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

(2)(i) Except as prohibited by 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 "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

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

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

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

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

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

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.

**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.

**52.215-13 SUBCONTRACTOR COST OR PRICING DATA--MODIFICATIONS (OCT 1997)**

(a) The requirements of paragraphs (b) and (c) of this clause shall--

(1) Become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4; and

(2) Be limited to such modifications.

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

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

The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4 on the date of agreement on price or the date of award, whichever is later.

**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 Accounting 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 that meet the applicability requirement of FAR 15.408(g).

(End of clause)

#### 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (OCT 1997)

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

(End of clause)

#### 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.

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

(End of clause)

#### 52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

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

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

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

(End of clause)

#### 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)

#### 52.222-25 AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

The offeror represents that

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

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

(End of provision)

#### 52.222-26 EQUAL OPPORTUNITY (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 performing 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 after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

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

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

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

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

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

(End of clause)

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

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

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

Executive and top management means any employee--

(1) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;

(2) Who customarily and regularly directs the work of two or more other employees;

(3) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight;

(4) Who customarily and regularly exercises discretionary powers; and

(5) Who does not devote more than 20 percent or, in the case of an employee of a retail or service establishment, who does not devote more than 40 percent of total hours of work in the work week to activities that are not directly and closely related to the performance of the work described in paragraphs (1) through (4) of this definition. This paragraph (5) does not apply in the case of an employee who is in sole charge of an establishment or a physically separated branch establishment, or who owns at least a 20 percent interest in the enterprise in which the individual is employed.

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

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

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

Special disabled veteran means--

(1) A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability--

(i) Rated at 30 percent or more; or

(ii) Rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C. 3106 to have a serious employment handicap (i.e., a significant impairment of the veteran's ability to prepare for, obtain, or retain employment consistent with the veteran's abilities, aptitudes, and interests); or

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

Veteran of the Vietnam era means a person who--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Listing openings. (1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract, and including those occurring at an establishment of the Contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local public employment service office of the State wherein the opening occurs. Listing employment openings with the U.S. Department of Labor's America's Job Bank shall satisfy the requirement to list jobs with the local employment service office.

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

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

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

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

(2) The employment notices shall--

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

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

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

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

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

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

(End of clause)

#### 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)

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

- (a) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on--
  - (1) The number of special disabled veterans, the number of veterans of the Vietnam era, and other eligible veterans in the workforce of the Contractor by job category and hiring location; and
  - (2) The total number of new employees hired during the period covered by the report, and of the total, the number of special disabled veterans, the number of veterans of the Vietnam era, and the number of other eligible veterans; and
  - (3) The maximum number and the minimum number of employees of the Contractor during the period covered by the report.

(b) The Contractor shall report the above items by completing the Form VETS-100, entitled "Federal Contractor Veterans" Employment Report (VETS-100 Report)".

(c) The Contractor shall submit VETS-100 Reports no later than September 30 of each year beginning September 30, 1988.

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

(1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or

(2) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

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

(1) The information is voluntarily provided;

(2) The information will be kept confidential;

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

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

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

(End of clause)

#### 52.223-6 DRUG-FREE WORKPLACE (MAY 2001)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

52.223-14 TOXIC CHEMICAL RELEASE REPORTING (OCT 2000)

(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 of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(4) The facility does not fall within Standard Industrial Classification Code (SIC) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or

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

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

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

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

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

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

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

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

## 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUL 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)

## 52.227-1 AUTHORIZATION AND CONSENT (JUL 1995)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent (1) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or (2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed the simplified acquisition threshold (however, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.)

## 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed under this contract, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) The Contractor agrees to include, and require inclusion of, this clause in all subcontracts at any tier for supplies or services (including construction and architect-engineer subcontracts and those for material, supplies, models,

samples, or design or testing services) expected to exceed the simplified acquisition threshold at (FAR) 2.101.to exceed the dollar amount set forth in 13.000 of the Federal Acquisition Regulation (FAR).

(End of clause)

#### 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)

#### 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 purposes of any contract or subcontract subject to CAS requirements, the change must be applied prospectively to this contract and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with 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 any CAS (or modifications to CAS) which hereafter become applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)(i) Agree to an equitable adjustment as provided in the Changes clause of this contract if the contract cost is affected by a change which, pursuant to 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 9904 or a CAS rule or regulation in 48 CFR 9903 and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the

obligation to comply with all CAS in effect on the subcontractor's award date or if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data. If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in subsection 30.201-4 of the Federal Acquisition Regulation shall be inserted. This requirement shall apply only to negotiated subcontracts in excess of \$500,000, except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1.

#### 52.232-10 PAYMENTS UNDER FIXED-PRICE ARCHITECT-ENGINEER CONTRACTS (AUG 1987)

(a) Estimates shall be made monthly of the amount and value of the work and services performed by the Contractor under this contract which meet the standards of quality established under this contract. The estimates shall be prepared by the Contractor and accompanied by any supporting data required by the Contracting Officer.

(b) Upon approval of the estimate by the Contracting Officer, payment upon properly executed vouchers shall be made to the Contractor, as soon as practicable, of 90 percent of the approved amount, less all previous payments; provided, that payment may be made in full during any months in which the Contracting Officer determines that performance has been satisfactory. Also, whenever the Contracting Officer determines that the work is substantially complete and that the amount retained is in excess of the amount adequate for the protection of the Government, the Contracting Officer may release the excess amount to the Contractor.

(c) Upon satisfactory completion by the Contractor and acceptance by the Contracting Officer of the work done by the Contractor under the "Statement of Architect-Engineer Services", the Contractor will be paid the unpaid balance of any money due for work under the statement, including retained percentages relating to this portion of the work. Upon satisfactory completion and final acceptance of the construction work, the Contractor shall be paid any unpaid balance of money due under this contract.

(d) Before final payment under the contract, or before settlement upon termination of the contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the Contracting Officer a release of all claims against the Government arising under or by virtue of this contract, other than any claims that are specifically excepted by the Contractor from the operation of the release in amounts stated in the release.

(e) Notwithstanding any other provision in this contract, and specifically paragraph (b) of this clause, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

#### 52.232-17 INTEREST (JUNE 1996)

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

#### 52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)

- (a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.
- (b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.
- (c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

#### 52.232-26 PROMPT PAYMENT FOR FIXED-PRICE ARCHITECT-ENGINEER CONTRACTS (FEB 2002)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(3) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

- (a) Invoice payments--(1) Due date. The due date for making invoice payments is--
- (i) For work or services completed by the Contractor, the later of the following two events:
- (A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(iii) of this clause).
- (B) The 30th day after Government acceptance of the work or services completed by the Contractor. For a final invoice, when the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance is deemed to occur on the effective date of the settlement.
- (ii) The due date for progress payments is the 30th day after Government approval of Contractor estimates of work or services accomplished.

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

(2) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(2)(i) through (a)(2)(x) of this clause. If the invoice does not comply with these requirements, the designated billing office will return it within 7 days after receipt, with the reasons why it is not a proper invoice. When computing any interest penalty owed the Contractor, the Government will take into account if the Government notifies the Contractor of an improper invoice in an untimely manner.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of mailing or transmission.)

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

(iv) Description of work or services performed.

(v) Delivery and payment terms (e.g., discount for prompt payment terms).

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

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

(viii) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

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

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

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (e.g., 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer--Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(x) Any other information or documentation required by the contract.

(3) Interest penalty. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

(i) The designated billing office received a proper invoice.

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

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

(4) Computing penalty amount. The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance or approval is deemed to occur constructively as shown in paragraphs (a)(4)(i)(A) and (B) of this clause. If actual acceptance or approval occurs within the constructive acceptance or approval period, the Government will base the determination of an interest penalty on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, Contractor compliance with a contract provision, or requested progress payment amounts. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(A) For work or services completed by the Contractor, Government acceptance is deemed to occur constructively on the 7th day after the Contractor completes the work or services in accordance with the terms and conditions of the contract.

(B) For progress payments, Government approval is deemed to occur on the 7th day after the designated billing office receives the Contractor estimates.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes, and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

(5) Discounts for prompt payment. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with 5 CFR part 1315.

(6) Additional interest penalty. (i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315, in addition to the interest penalty amount only if--

(A) The Government owes an interest penalty of \$1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(6)(ii) of this clause, postmarked not later than 40 days after the date the invoice amount is paid.

(ii)(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall--

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

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

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

(B) If there is no postmark or the postmark is illegible--

(1) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or

(2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.

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

(b) Contract financing payments. If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) Overpayments. If the Contractor becomes aware of a duplicate payment or that the Government has otherwise overpaid on an invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(End of clause)

#### 52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER—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 the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) Contractor's EFT information. The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

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

(d) Suspension of payment. If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) Contractor EFT arrangements. If the Contractor has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the CCR database, and the Contractor has not notified the Government of the payment receiving point applicable to this contract, the Government shall make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

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

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

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

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(g) 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.

(h) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register in the CCR database 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.

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

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

(End of Clause)

52.233-1 DISPUTES. (DEC 1998)

(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 contractors shall provide the certification specified in subparagraph (d)(2)(iii) of this clause when submitting any claim -

(A) Exceeding \$100,000; or

(B) Regardless of the amount claimed, when using -

(1) Arbitration conducted pursuant to 5 U.S.C. 575-580; or

(2) Any other alternative means of dispute resolution (ADR) technique that the agency elects to handle in accordance with the Administrative Dispute Resolution Act (ADRA).

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor.

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the request.

(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) 48 CFR

33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

(End of clause)

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

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

(1) Cancel the stop-work order; or

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

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

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

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

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

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

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

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

#### 52.236-22 DESIGN WITHIN FUNDING LIMITATIONS (APR 1984)

(a) The Contractor shall accomplish the design services required under this contract so as to permit the award of a contract, using standard Federal Acquisition Regulation procedures for the construction of the facilities designed at a price that does not exceed the estimated construction contract price as set forth in paragraph (c) below. When bids or proposals for the construction contract are received that exceed the estimated price, the contractor shall perform such redesign and other services as are necessary to permit contract award within the funding limitation. These additional services shall be performed at no increase in the price of this contract. However, the Contractor shall not be required to perform such additional services at no cost to the Government if the unfavorable bids or proposals are the result of conditions beyond its reasonable control.

(b) The Contractor will promptly advise the Contracting Officer if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these limitations. Upon receipt of such information, the Contracting Officer will review the Contractor's revised estimate of construction cost. The Government may, if it determines that the estimated construction contract price set forth in this contract is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth in paragraph (c) below, or the Government may adjust such estimated construction contract price. When bids or proposals are not solicited or are unreasonably delayed, the Government shall prepare an estimate of constructing the design submitted and such estimate shall be used in lieu of bids or proposals to determine compliance with the funding limitation.

(c) The estimated construction contract price for the project described in this contract is \$

#### 52.236-23 RESPONSIBILITY OF THE ARCHITECT-ENGINEER CONTRACTOR (APR 1984)

(a) The Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Contractor under this contract. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services.

(b) Neither the Government's review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Contractor shall be and remain liable to the Government in accordance with applicable law for all damages to the Government caused by the Contractor's negligent performance of any of the services furnished under this contract.

(c) The rights and remedies of the Government provided for under this contract are in addition to any other rights and remedies provided by law.

(d) If the Contractor is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

#### 52.236-24 WORK OVERSIGHT IN ARCHITECT-ENGINEER CONTRACTS (APR 1984)

The extent and character of the work to be done by the Contractor shall be subject to the general oversight, supervision, direction, control, and approval of the Contracting Officer.

#### 52.236-25 REQUIREMENTS FOR REGISTRATION OF DESIGNERS (APR 1984)

The design of architectural, structural, mechanical, electrical, civil, or other engineering features of the work shall be accomplished or reviewed and approved by architects or engineers registered to practice in the particular professional field involved in a State or possession of the United States, in Puerto Rico, or in the District of

Columbia.

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)

52.242-14 SUSPENSION OF WORK (APR 1984)

(a) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract. (c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

52.243-1 CHANGES--FIXED-PRICE (AUG 1987) - ALTERNATE III (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 the services to be performed.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause

shall excuse the Contractor from proceeding with the contract as changed.

(f) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written authorization of the Contracting Officer.

#### 52.243-7 NOTIFICATION OF CHANGES (APR 1984)

(a) Definitions. "Contracting Officer," as used in this clause, does not include any representative of the Contracting Officer. "Specifically authorized representative (SAR)," as used in this clause, means any person the Contracting Officer has so designated by written notice (a copy of which shall be provided to the Contractor) which shall refer to this subparagraph and shall be issued to the designated representative before the SAR exercises such authority.

(b) Notice. The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers to constitute a change to this contract. Except for changes identified as such in writing and signed by the Contracting Officer, the Contractor shall notify the Administrative Contracting Officer in writing, within \_\_\_\_\_ calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the Contractor regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state--

- (1) The date, nature, and circumstances of the conduct regarded as a change;
- (2) The name, function, and activity of each Government individual and Contractor official or employee involved in or knowledgeable about such conduct;
- (3) The identification of any documents and the substance of any oral communication involved in such conduct;
- (4) In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;
- (5) The particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including--
  - (i) What contract line items have been or may be affected by the alleged change;
  - (ii) What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
  - (iii) To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
  - (iv) What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and
- (6) The Contractor's estimate of the time by which the Government must respond to the Contractor's notice to minimize cost, delay or disruption of performance.

(c) Continued performance. Following submission of the notice required by (b) above, the Contractor shall diligently continue performance of this contract to the maximum extent possible in accordance with its terms and conditions as construed by the Contractor, unless the notice reports a direction of the Contracting Officer or a communication from a SAR of the Contracting Officer, in either of which events the Contractor shall continue performance; provided, however, that if the Contractor regards the direction or communication as a change as described in (b) above, notice shall be given in the manner provided. All directions, communications, interpretations, orders and similar actions of the SAR shall be reduced to writing and copies furnished to the Contractor and to the Contracting Officer. The Contracting Officer shall countermand any action which exceeds the authority of the SAR.

(d) Government response. The Contracting Officer shall promptly, within \_\_\_\_\_ calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer shall either--

(1) Confirm that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance;

(2) Countermand any communication regarded as a change;

(3) Deny that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance; or

(4) In the event the Contractor's notice information is inadequate to make a decision under (1), (2), or (3) above, advise the Contractor what additional information is required, and establish the date by which it should be furnished and the date thereafter by which the Government will respond.

(e) Equitable adjustments.

(1) If the Contracting Officer confirms that Government conduct effected a change as alleged by the Contractor, and the conduct causes an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether changed or not changed by such conduct, an equitable adjustment shall be made--

(i) In the contract price or delivery schedule or both; and

(ii) In such other provisions of the contract as may be affected.

(2) The contract shall be modified in writing accordingly. In the case of drawings, designs or specifications which are defective and for which the Government is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by the Contractor in attempting to comply with the defective drawings, designs or specifications before the Contractor identified, or reasonably should have identified, such defect. When the cost of property made obsolete or excess as a result of a change confirmed by the Contracting Officer under this clause is included in the equitable adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of the property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the Contractor's failure to provide notice or to continue performance as provided, respectively, in (b) and (c) above.

#### 52.244-4 SUBCONTRACTORS AND OUTSIDE ASSOCIATES AND CONSULTANTS (ARCHITECT-ENGINEER SERVICES) (AUG 1998)

Any subcontractors and outside associates or consultants required by the Contractor in connection with the services covered by the contract will be limited to individuals or firms that were specifically identified and agreed to during negotiations. The Contractor shall obtain the Contracting Officer's written consent before making any substitution for these subcontractors, associates, or consultants.

(End of clause)

#### 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2001)

(a) Definitions. As used this clause--

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

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

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

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

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

(ii) 52.222-26, Equal Opportunity (FEB 1999) (E.O. 11246).

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

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

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

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

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

#### 52.249-7 TERMINATION (FIXED-PRICE ARCHITECT-ENGINEER) (APR 1984)

(a) The Government may terminate this contract in whole or, from time to time, in part, for the Government's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

(b) If the termination is for the convenience of the Government, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

(c) If the termination is for failure of the Contractor to fulfill the contract obligations, the Government may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Government.

(d) If, after termination for failure to fulfill contract obligations, it is determined that the Contractor had not failed, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(e) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

#### 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.

#### 252.227-7022 GOVERNMENT RIGHTS (UNLIMITED) (MAR 1979)

The Government shall have unlimited rights, in all drawings, designs, specifications, notes and other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Contractor. The Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws. The Contractor for a period of three (3) years after completion of the project agrees to furnish the original or copies of all such works on the request of the Contracting Officer.

#### 252.227-7033 RIGHTS IN SHOP DRAWINGS (APR 1966)

(a) Shop drawings for construction means drawings, submitted to the Government by the Construction Contractor, subcontractor or any lower-tier subcontractor pursuant to a construction contract, showing in detail (i) the proposed fabrication and assembly of structural elements and (ii) the installation (i.e., form, fit, and attachment details) of materials or equipment. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(b) This clause, including this paragraph (b), shall be included in all subcontracts hereunder at any tier.

#### 252.231-7000 SUPPLEMENTAL COST PRINCIPLES (DEC 1991)

When the allowability of costs under this contract is determined in accordance with part 31 of the Federal Acquisition Regulation (FAR), allowability shall also be determined in accordance with part 231 of the Defense FAR Supplement, in effect on the date of this contract.

#### 252.242-7000 POSTAWARD CONFERENCE (DEC 1991)

The Contractor agrees to attend any postaward conference convened by the contracting activity or contract administration office in accordance with Federal Acquisition Regulation subpart 42.5.

(End of clause)

#### 252.243-7001 PRICING OF CONTRACT MODIFICATIONS (DEC 1991)

When costs are a factor in any price adjustment under this contract, the contract cost principles and procedures in FAR part 31 and DFARS part 231, in effect on the date of this contract, apply.



## SECTION K Representations, Certifications and Other Statements of Offerors

## CLAUSES INCORPORATED BY FULL TEXT

## CLAUSE INDEX: SECTION K Representations, Certifications and Other Statements of Offerors

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## 52.203-2 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)

(a) The offeror certifies that --

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

(i) Those prices,

(ii) The intention to submit an offer, or

(iii) The methods of factors used to calculate the prices offered:

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

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

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

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

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

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

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

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

(End of provision)

#### 52.203-11 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APR 1991)

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

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

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

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

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

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, Title 31, United States Code. Any person who makes an expenditure prohibited under this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such

failure.

(End of provision)

52.204-3 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 \_\_\_\_\_

(End of provision)

52.204-5 WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (MAY 1999)

(a) Definition. Women-owned business concern, as used in this provision, means a concern that is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

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

(End of provision)

52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (DEC 2001)

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

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

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

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

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

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

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

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

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

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

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

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

(End of provision)

Basis of Award (52.214-4022)

Notwithstanding any other provision of this invitation, the Government will award all base bid items as a minimum.

52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS (MAY 2001) ALTERNATE I (OCT 2000) & ALTERNATE II (OCT 2000)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is **541310** .

(2) The small business size standard is annual average gross revenue taken for the last 3 fiscal years does not exceed \$4 million.

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

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

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

(3) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents as part of its offer that it ( ) is, ( ) is not a women-owned small business concern.

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

(5) (Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.) The offeror represents as part of its offer that it ( ) is, ( ) is not a service-disabled veteran-owned small business concern.

(6) (Complete only if offeror represented itself as small business concern in paragraph (b)(1) of this provision). The offeror represents, as part of its offer, that--

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

(ii) It ( ) is, ( ) is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. (The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: \_\_\_\_\_.) Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(7) (Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision.) The offeror shall check the category in which its ownership falls:

( ) Black American.

( ) Hispanic American.

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

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

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

(c) Definitions. As used in this provision--

Service-disabled veteran-owned small business concern--

(1) Means a small business concern--

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

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

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

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

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

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

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

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

(d) Notice.

(1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall--

- (i) Be punished by imposition of fine, imprisonment, or both;
- (ii) Be subject to administrative remedies, including suspension and debarment; and
- (iii) Be ineligible for participation in programs conducted under the authority of the Act.

(End of provision)

#### 52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (JAN 1999)

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

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

- (i) Offers from HUBZone small business concerns that have not waived the evaluation preference;
- (ii) Otherwise successful offers from small business concerns;
- (iii) Otherwise successful offers of eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is exceeded (see 25.402 of the Federal Acquisition Regulation (FAR)); and
- (iv) Otherwise successful offers where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government.

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

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

These individual preference amounts shall be added together to arrive at the total evaluated price for that offer.

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

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

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

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

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

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

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

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

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

(End of clause)

52.219-19 SMALL BUSINESS CONCERN REPRESENTATION FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (OCT 2000)

(a) Definition.

"Emerging small business" as used in this solicitation, means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the North American Industry Classification System (NAICS) code assigned to a contracting opportunity.

(b) [Complete only if the Offeror has represented itself under the provision at 52.219-1 as a small business concern under the size standards of this solicitation.] The Offeror [ ] is, [ ] is not an emerging small business.

(c) (Complete only if the Offeror is a small business or an emerging small business, indicating its size range.)

Offeror's number of employees for the past 12 months (check this column if size standard stated in solicitation is expressed in terms of number of employees) or Offeror's average annual gross revenue for the last 3 fiscal years (check this column if size standard stated in solicitation is expressed in terms of annual receipts). (Check one of the following.)

No. of Employees    Avg. Annual Gross Revenues

- 50 or fewer     \$1 million or less  
 51 - 100         \$1,000,001 - \$2 million  
 101 - 250         \$2,000,001 - \$3.5 million  
 251 - 500         \$3,500,001 - \$5 million  
 501 - 750         \$5,000,001 - \$10 million  
 751 - 1,000       \$10,000,001 - \$17 million  
 Over 1,000       Over \$17 million

(End of provision)

#### 52.222-22    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.

(End of provision)

#### 52.223-13    CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (OCT 2000)

(a) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

(b) By signing this offer, the offeror certifies that--

(1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: (Check each block that is applicable.)

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

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

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

[ ] (iv) The facility does not fall within Standard Industrial Classification Code (SIC) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or

[ ] (v) 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.

#### 252.209-7001 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(a) "Definitions."

As used in this provision --

(a) "Government of a terrorist country" includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) "Terrorist country" means a country determined by the Secretary of State, under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for such acts of international terrorism. As of the date of this provision, terrorist countries include: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

(3) "Significant interest" means --

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as a director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) "Prohibition on award."

In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or a subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) "Disclosure."

If the government of a terrorist country has a significant interest in the Offeror or a subsidiary of the Offeror, the Offeror shall disclose such interest in an attachment to its offer. If the Offeror is a subsidiary, it shall also disclose any significant interest the government of a terrorist country has in any firm that owns or controls the subsidiary. The disclosure shall include --

- (1) Identification of each government holding a significant interest; and
- (2) A description of the significant interest held by each government.

(End of provision)

#### 252.209-7003 COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (MAR 1998)

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of 37 U.S.C. 4212(d) (i.e., the VETS-100 report required by Federal Acquisition Regulation clause 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era), it has submitted the most recent report required by 38 U.S.C. 4212(d).

#### 252.247-7022 REPRESENTATION OF EXTENT OF TRANSPORTATION BY SEA (AUG 1992)

(a) The Offeror shall indicate by checking the appropriate blank in paragraph (b) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term supplies is defined in the Transportation of Supplies by Sea clause of this solicitation.

(b) Representation. The Offeror represents that it:

\_\_\_ (1) Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

\_\_\_ (2) Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(c) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense FAR Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

(End of provision)