Solicitation No. DACW83-03-R-0004
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Solicitation No. DACW83-03-R-0004, Tern Island Shore Protection Projects, Tern Island, French Frigate Shoals, Hawaii

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Instruction to Offerors:

1. This procurement is unrestricted.

2. The Contractor is required to COMPLETE AND RETURN a hard copy of the following sections of this solicitation: SECTION 00010 (ALL) and SECTION 00600 (ALL) and all Appendices. Contractors shall also follow instructions in Section 00120, “Proposal Submission Requirements and Evaluation Factors for Award”.

3. See Section 00700, DFARS clause 52.204-7004, Required Central Contractor Registration (CCR) regarding registration in the CCR database. Lack of registration in the CCR database will make an offeror ineligible for award.

4. SITE VISIT is required for this solicitation. See Section 00100, Provision 52.236-27, Site Visit (Construction) for information regarding site visit.

SOLICITATION, OFFER, AND AWARD *(Construction, Alteration, or Repair)*	1. SOLICITATION NUMBER	2. TYPE OF SOLICITATION	3. DATE ISSUED	PAGE OF PAGES
	DACW83-03-R-0004	☐ SEALED BID *(IFB)* ☒ NEGOTIATED *(RFP)*	6 May 03	1

IMPORTANT - The "offer" section on the reverse must be fully completed by the offeror.

4. CONTRACT NUMBER	5. REQUISITION/PURCHASE REQUEST NUMBER	6. PROJECT NUMBER

7. ISSUED BY CODE

U.S. Army Engineer District, Honolulu
ATTN: CEPOH-CT-C
Building 230
Fort Shafter, Hawaii 96858-5440

8. ADDRESS OFFER TO

U.S. Army Engineer District, Honolulu
ATTN: CEPOH-CT-C
Building 230
Fort Shafter, Hawaii 96858-5440

(Deliver hand-carried proposals to Building 200, Fort Shafter, Hawaii)

9. FOR INFORMATION CALL ▶	A. NAME	B. TELEPHONE NUMBER *(Include area code) (NO COLLECT CALLS)*
	JENNIFER KO	(808) 438-8584

SOLICITATION

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

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS *(Title, identifying number, date):*

Tern Island Shore Protection Projects, Tern Island, French Frigate Shoals, Hawaii

(See Main Table of Contents)

11. The Contractor shall begin performance within 7 **calendar days and complete it within** _____ **calendar days after receiving**

☐ **award,** ☒ **notice to proceed. This performance period is** ☒ **mandatory,** ☐ **negotiable.** *(See* Section 00700, 52.211-10 .

12A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE PAYMENT BONDS?
(If "YES," indicate within how many calendar days after award in Item 12B.)

☒ YES ☐ NO

12B. CALENDAR DAYS
14

13. ADDITIONAL SOLICITATION REQUIREMENTS:

A. Sealed offers in original and 2 **copies to perform the work required are due at the place specified in Item 8 by** 2:00pmHST *(hour,* **local time** 6/5/03 *(date).* **If this is a sealed bid solicitation, offers will be publicly opened at that time. Sealed envelope containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.**

B. An offer guarantee ☒ **is,** ☐ **is not required.**

C. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.

D. Offers providing less than 60 **calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.**

OFFER *(Must be fully completed by offeror)*

14. NAME AND ADDRESS OF OFFEROR *(Include ZIP Code)*	15. TELEPHONE NUMBER *(Include area code)*
	16. REMITTANCE ADDRESS *(Include only if different than Item 14)*
CODE FACILITY CODE	

17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government in writing within _____ calendar days after the date offers are due. *(Insert any number equal or greater than the minimum requirement stated in 13D. Failure to insert any number means the offeror accepts the minimum in Item 13D.)*

AMOUNTS ▶ (See Section 00010, Proposal Schedule)

18. The offeror agrees to furnish any required performance and payment bonds.

19. ACKNOWLEDGEMENT OF AMENDMENTS
(The offeror acknowledges receipt of amendments to the solicitation - give number and date of each)

AMENDMENT NO.										
DATE										

20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER *(Type or print)*	20B. SIGNATURE	20C. OFFER DATE

AWARD *(To be completed by Government)*

21. ITEMS ACCEPTED

22. AMOUNT	23. ACCOUNTING AND APPROPRIATION DATA
24. SUBMIT INVOICES TO ADDRESS SHOWN IN ▶ *(4 copies unless otherwise specified)* ITEM	25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO ☐ 10 U.S.C. 2304(c) ( ) ☐ 41 U.S.C. 253(c) ( )
26. ADMINISTERED BY CODE	27. PAYMENT WILL BE MADE BY

CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE

☐ 28. NEGOTIATED AGREEMENT *(Contractor is required to sign this document and return _____ copies to the issuing office.)* Contractor agrees to furnish and deliver all items or perform all work requirements identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications incorporated by reference in or attached to this contract.

☐ 29. AWARD. *(Contractor is not required to sign this document.)* Your offer on this solicitation is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.

30A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN *(Type or print)*		31A. NAME OF CONTRACTING OFFICER *(Type or print)*	
30B. SIGNATURE	30C. DATE	31B. UNITED STATES OF AMERICA BY	31C. AWARD DATE

SECTION 00010
PROPOSAL SCHEDULE

SHORE PROTECTION PROJECTS
TERN ISLAND, FRENCH FRIGATE SHOALS, HAWAII

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	ESTIMATED AMOUNT
	BASE SCHEDULE				
	IMPROVEMENTS TO TERN ISLAND PHASE II SHORE PROTECTION (ROCK REVETMENT WORK)				
1.	Mobilization and Demobilization	1	Job		$_____
2.	Revetment, RL "B"	1	Job		$_____
3.	Revetment, RL "A" Sta. 0+73 to Sta. 2+50	1	Job		$_____
4.	Revetment, RL "A" Sta. 4+50 to Sta. 14+50	1	Job		$_____
	TOTAL BASE SCHEDULE				$_____
	OPTIONS				
	IMPROVEMENTS TO TERN ISLAND PHASE II SHORE PROTECTION (ROCK REVETMENT WORK)				
5.	Option 1, Revetment Tie-Back No.1	1	Job		$_____
6.	Option 2, Revetment Tie-Back No. 2	1	Job		$_____
7.	Option 3, Revetment Tie-Back No. 3	1	Job		$_____
8.	Option 4, Revetment Tie-Back No. 4	1	Job		$_____
9.	Option 5, Revetment, RL "A" Sta. 2+50 to Sta. 4+50	1	Job		$_____
10.	Option 6A, Revetment, RL "A" Sta. 14+50 to Sta. 25+00	1,050	LF	$_____	$_____
11.	Option 6B, Demolition and Disposal Of Sheet Pile Bulkhead, Sta. 16+25 To Sta. 17+25	1	Job		$_____
12.	Option 7, Revetment, RL "A" Sta. 25+00 to Sta. 30+50	550	LF	$_____	$_____

13.	Option 8, Revetment, RL "A" Sta. 30+50 to Sta. 36+00	550	LF	$_____	$_____

IMPROVEMENTS TO TERN ISLAND
(STEEL SHEET PILE WORK)

14.	Option 9, Improvements	1	Job		$_____

U.S. FISH & WILDLIFE SERVICE
TERN ISLAND NWR, SHEET PILE SEA WALL
GALVANIC CATHODIC PROTECTION SYSTEM

15.	Option 10, Cathodic Protection System	1	Job		$_____
16.	Option 11, Removal Action				
	a. Mobilization and Demobilization	1	Job		$_____
	b. Non-Hazardous Waste less than 50 ppm (PCB)	2,000	Tons	$_____	$_____
	c. Soil more than 50 ppm (PCB)	15	Tons	$_____	$_____
	d. Soil more than 400 ppm (Pb)	15	Tons	$_____	$_____
	e. Remove Transformer	1	Each		$_____
	f. Analytical Cost	1	Job	$_____	$_____
	TOTAL OPTIONS				$_____

TOTAL BASE SCHEDULE PLUS OPTIONS $_____

THE FOLLOWING WILL BE COMPLETED BY THE CONTRACTING OFFICER UPON AWARD:
TOTAL AWARD AMOUNT (Base Schedule Plus Option Nos._____) $_____

NOTES TO PROPOSAL SCHEDULE:

1. By submission of an offer under the OPTIONS, Offeror agrees that the Government may exercise some or all of the OPTION(S) at the time of the award, or at any time following the date of the award of the contract. (See Paragraph S-17.1, OPTION FOR INCREASED SCOPE--SEPARATELY PRICED LINE ITEM, in Section 00800 and PROVISION No. 52.217-5, EVALUATIONS OF OPTIONS, in Section 00100).

2. Any key personnel or joint venture partners identified in the Offeror's proposal in connection with performance of the subject contract shall be the same individuals or firms that are employed in performing the contract. The Offeror shall obtain the Contracting Officer's written consent before making any substitution for these key personnel or joint venture partners. Any request for substitution shall be in writing to the Contracting Officer, shall allow 30 days for a response, and shall include the following: 1) the reason for the proposed substitution; and 2) documentation demonstrating that the substitute possesses past performance, experience, personnel qualifications, and operating capacity at least equal to those that the entity that the substitute will replace reflecting the proposed substitution. Any associated cost or time loss resulting from this substitution process shall be the responsibility of the Contractor and shall not be a basis for any claim.

MEASUREMENT AND PAYMENT(S)

Compensation for all work to be performed under this contract will be made under the payment item(s) listed herein. The principal features of the work to be included under the payment items(s) are noted. Work required by the drawings and specifications and not particularly mentioned shall be included in and be paid for under the contract price for the item to which the work pertains. Price(s) and payment(s) for the item(s) shall cover all work, complete and finished in accordance with the specifications, schedules, and drawings, and shall be full compensation for all work in connection therewith, including quality control and cost of performance and payment bond premiums as specified in the CONTRACT CLAUSES. Price(S) and payment(S) shall constitute full and final compensation for furnishing all materials, equipment, management, supervision, labor, transportation, fuel, power, water, and all incidental items necessary to complete the work, except as otherwise specified to be furnished by the Government. For the purpose of CONTRACT CLAUSE entitled "PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS" the term "designated billing office" and "designated payment office" area as follows:

a. Billing Office:
U.S. Army Engineer District, Honolulu
Fort Shafter Resident Office, Bldg. 230
Fort Shafter, HI 96858-5440

b. Payment Office:
USACE Finance Center
ATTN: CEFC-FP
5722 Integrity Drive
Millington, TN 38054-5005

Item numbers mentioned herein after correspond to the item numbers in the PROPOSAL SCHEDULE.

a. Item No. 1, MOBILIZATION AND DEMOBILIZATION, will be paid for at the contract price, complete, including miscellaneous items, protection of the environment, cleanup, demobilization, and all the incidental items necessary to complete the work. This item shall include all work not called for by any other bid item. Payment shall also include the cost of premiums for performance and payment bonds specified in the SPECIAL CONTRACT CLAUSES. Payment for this item will be in the proportion of 70 percent mobilization and 30 percent demobilization.

b. Item No. 2, REVETMENT, RL "B", will be paid for at the contract price, complete in place, including site preparation, excavation, removal and disposal, quarrying or borrowing, hauling and shipping, stockpiling, placement of fill material, furnishing and placing of geotextile filter fabric, placement of stones, demolition, removal and disposal as required, cleanup, and all incidental items necessary to complete the work.

c. Item No. 3, REVETMENT RL "A" STA. 0+73 TO STA. 2+50, will be paid for at the contract price, complete in place, including site preparation, excavation, removal and disposal, quarrying or borrowing, hauling and shipping, stockpiling, placement of fill material, furnishing and placing of geotextile filter fabric, placement of stones, demolition, removal and disposal as required, cleanup, and all incidental items necessary to complete the work.

d. Item No. 4, REVETMENT RL "A" STA. 4+50 TO STA. 14+50, will be paid for at the contract price, complete in place, including site preparation, excavation, removal and disposal, quarrying or borrowing, hauling and shipping, stockpiling, placement of fill material, furnishing and placing of geotextile filter fabric, placement of stones, demolition, removal and disposal as required, cleanup, and all incidental items necessary to complete the work.

e. Item No. 5, (OPTION 1), REVETMENT TIE-BACK NO. 1, will be paid for at the contract price, complete in place, including site preparation, excavation, removal and disposal, quarrying or borrowing, hauling and shipping, stockpiling, placement of fill material, furnishing and placing of geotextile filter fabric, placement of stones, demolition, removal and disposal as required, cleanup, and all incidental items necessary to complete the work.

f. Item No. 6, (OPTION 2), REVETMENT TIE-BACK NO. 2, will be paid for at the contract price, complete in place, including site preparation, excavation, removal and disposal, quarrying or borrowing, hauling and shipping, stockpiling, placement of fill material, furnishing and placing of geotextile filter fabric, placement of stones, demolition, removal and disposal as required, cleanup, and all incidental items necessary to complete the work.

g. Item No. 7, (OPTION 3), REVETMENT TIE-BACK NO. 3, will be paid for at the contract price, complete in place, including site preparation, excavation, removal and disposal, quarrying or borrowing, hauling and shipping, stockpiling, placement of fill material, furnishing and placing of geotextile filter fabric, placement of stones, demolition, removal and disposal as required, cleanup, and all incidental items necessary to complete the work.

h. Item No. 8, (OPTION 4), REVETMENT TIE-BACK NO. 4, will be paid for at the contract price, complete in place, including site preparation, excavation, removal and disposal, quarrying or borrowing, hauling and shipping, stockpiling, placement of fill material, furnishing and placing of geotextile filter fabric, placement of stones, demolition, removal and disposal as required, cleanup, and all incidental items necessary to complete the work.

i. Item No. 9, (OPTION 5), REVETMENT, RL "A" STA. 2+50 TO STA. 4+50, will be paid for at the contract price, complete in place, including site preparation, excavation, removal and disposal, quarrying or borrowing, hauling and shipping, stockpiling, placement of fill material, furnishing and placing of geotextile filter fabric, placement of stones, demolition, removal and disposal as required, cleanup, and all incidental items necessary to complete the work.

j. Item No. 10, (OPTION 6A), REVETMENT, RL "A" STA. 14+50 TO STA. 25+00, will be paid for at the contract price, complete in place, including site preparation, excavation, removal and disposal, quarrying or borrowing, hauling and shipping, stockpiling, placement of fill material, furnishing and placing of geotextile filter fabric, placement of stones, demolition, removal and disposal as required, cleanup, and all incidental items necessary to complete the work.

k. Item No. 11, (OPTION 6B), DEMOLITION AND DISPOSAL OF SHEET PILE BULKHEAD, STA. 16+25 TO STA. 17+25, will be paid for at the job price, complete in place, including site preparation, excavation, demolition, disposal as required, cleanup, and all incidental items necessary to complete the work.

l. Item No. 12, (OPTION 7), REVETMENT, RL "A" STA. 25+00 TO STA. 30+50, will be paid for at the contract price, complete in place, including site preparation, excavation, removal and disposal, quarrying or borrowing, hauling and shipping, stockpiling, placement of fill material, furnishing and placing of geotextile filter fabric, placement of stones, demolition, removal and disposal as required, cleanup, and all incidental items necessary to complete the work.

m. Item No. 13, (OPTION 8), REVETMENT, RL "A" STA. 30+50 TO STA. 36+00, will be paid for at the contract price, complete in place, including site preparation, excavation, removal and disposal, quarrying or borrowing, hauling and shipping, stockpiling, placement of fill material, furnishing and placing of geotextile filter fabric, placement of stones, demolition, removal and disposal as required, cleanup, and all incidental items necessary to complete the work.

n. Item No. 14, (OPTION 9), IMPROVEMENTS, will be paid for at the contract price, complete in place and ready for use, including mobilization and demobilization, demolition, earthwork, sheet pile wall and anchors, small boat launch ramp, small boat dock, testing, final connections, cleanup, and all incidental items necessary to complete the work.

o. Item No. 15, (OPTION 10), CATHODIC PROTECTION SYSTEM, will be paid for at the contract price, complete in place and ready for use, including cleanup and all incidental items necessary to complete the work.

p. Item No. 16a, (OPTION 11a), REMOVAL ACTION, MOBILIZATION AND DEMOBILIZATION, will be paid for at the contract price, complete, including miscellaneous items, protection of the environment, cleanup, demobilization, and all the incidental items necessary to complete the work.

q. Item No. 16b, (OPTION 11b), REMOVAL ACTION, NON-HAZARDOUS WASTE LESS THAN 50 PPM (PCB).

(1) Measurement for payment will be to the nearest ton of non-hazardous waste less than 50 ppm (PCB) acceptably removed and disposed.
(2) Payment for tons of non-hazardous waste less than 50 ppm (PCB) acceptably removed and disposed will be made at the applicable contract price per ton, including cleanup and all incidental items necessary to complete the work.

r. Item No. 16c, (OPTION 11c), REMOVAL ACTION, SOIL MORE THAN 50 PPM (PCB).

(1) Measurement for payment will be to the nearest ton of soil more than 50 ppm (PCB) acceptably removed and disposed.
(2) Payment for tons of soil more than 50 ppm (PCB) acceptably removed and disposed will be made at the applicable contract price per ton, including cleanup and all incidental items necessary to complete the work.

s. Item No. 16d, (OPTION 11d), REMOVAL ACTION, SOIL MORE THAN 400 PPM (PCB).

(1) Measurement for payment will be to the nearest ton of soil more than 400 ppm (PCB) acceptably removed and disposed.
(2) Payment for tons of soil more than 400 ppm (PCB) acceptably removed and disposed will be made at the applicable contract price per ton, including cleanup and all incidental items necessary to complete the work.

t. Item No. 16e, (OPTION 11e), REMOVAL ACTION, REMOVE TRANSFORMER, will be paid for at the contract price, including cleanup, and all incidental items necessary to complete the work.

u. Item No. 16f, (OPTION 11f), REMOVAL ACTION, ANALYTICAL COST, will be paid for at the contract price, complete for sampling and testing as shown in Table 1 and paragraph 4.4, and SSHP and PWP as required in paragraph 4.2 and paragraph 4.4 of Scope of Work (Removal of Contaminated Soil and Other Wastes, at Form U.S. Coast Guard Loran Station, Tern Island, French Frigate Shoals, Hawaii).

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Appendix A - Sample Small Business Subcontracting Plan

52.204-6 DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (JUN 99)

(a) Contractor identification is essential for complying with statutory contract reporting requirements. Therefore, the offeror is requested to enter, in the block with its name and address on the Standard Form 33 or similar document, the annotation "DUNS" followed by the DUNS number which identifies the offeror's name and address exactly as stated in the offer.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. A DUNS number will be provided immediately by telephone at no charge to the offeror. For information on obtaining a DUNS number, the offeror, if located within the United States, should call Dun and Bradstreet at 1-800-333-0505. The offeror should be prepared to provide the following information:

(1) Company name.

(2) Company address.

(3) Company telephone number.

(4) Line of business.

(5) Chief executive officer/key manager.

(6) Date the company was started.

(7) Number of people employed by the company.

(8) Company affiliation.

(c) Offerors located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at http://www.customerservice@dnb.com/. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@dnb.com.

(End of provision)

52.211-2 AVAILABILITY OF SPECIFICATIONS LISTED IN THE DOD INDEX OF SPECIFICATIONS AND STANDARDS (DODISS) AND DESCRIPTIONS LISTED IN THE ACQUISITION MANAGEMENT SYSTEMS AND DATA REQUIREMENTS CONTROL LIST, DOD 5010.12-L (DEC 1999)

Copies of specifications, standards, and data item descriptions cited in this solicitation may be obtained--

(a) From the ASSIST database via the Internet at http://assist.daps.mil; or

(b) By submitting a request to the--Department of Defense Single Stock Point (DoDSSP), Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697-2667/2179, Facsimile (215) 697-1462.

(End of provision)

52.215-1 INSTRUCTIONS TO OFFERORS--COMPETITIVE ACQUISITION (MAY 2001)

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

“Discussions” are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer's discretion, result in the offeror being allowed to revise its proposal.

In writing, writing, or written means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

“Proposal modification” is a change made to a proposal before the solicitation's closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

“Proposal revision” is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

“Time”, if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) Amendments to solicitations. If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) Submission, modification, revision, and withdrawal of proposals. (1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals and modifications to proposals shall be submitted in paper media in sealed envelopes or packages (i) addressed to the office specified in the solicitation, and (ii) showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror. Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

(2) The first page of the proposal must show--

(i) The solicitation number;

(ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);

(iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;

(iv) Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate on the offeror's behalf with the Government in connection with this solicitation; and

(v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(3) Submission, modification, or revision, of proposals.

(i) Offerors are responsible for submitting proposals, and any modifications, or revisions, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposal or revision is due.

(ii)(A) Any proposal, modification, or revision received at the Government office designated in the solicitation after the exact time specified for receipt of offers is “late” and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and--

(1) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(2) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(3) It is the only proposal received.

(B) However, a late modification of an otherwise successful proposal that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(iii) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(v) Proposals may be withdrawn by written notice received at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision at 52.215-5, Facsimile Proposals. Proposals may be withdrawn in person by an offeror or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

(4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.

(5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR 52.225-17, Evaluation of Foreign Currency Offers, is included in the solicitation.

(6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) Offer expiration date. Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet (unless a different period is proposed by the offeror).

(e) Restriction on disclosure and use of data. Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall--

(1) Mark the title page with the following legend: This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed--in whole or in part--for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of--or in connection with-- the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [insert numbers or other identification of sheets]; and

(2) Mark each sheet of data it wishes to restrict with the following legend: Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(f) Contract award. (1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.

(2) The Government may reject any or all proposals if such action is in the Government's interest.

(3) The Government may waive informalities and minor irregularities in proposals received.

(4) The Government intends to evaluate proposals and award a contract without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

(5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.

(6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.

(7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.

(8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of

balance poses an unacceptable risk to the Government.

(9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.

(10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.

(11) The Government may disclose the following information in postaward debriefings to other offerors:

(i) The overall evaluated cost or price and technical rating of the successful offeror;

(ii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection;

(iii) A summary of the rationale for award; and

(iv) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(End of provision)

52.215-5 FACSIMILE PROPOSALS (OCT 1997)

(a) *Definition.*
Facsimile proposal, as used in this provision, means a proposal, revision or modification of a proposal, or withdrawal of a proposal that is transmitted to and received by the Government via facsimile machine.

(b) Offerors may submit facsimile proposals as responses to this solicitation. Facsimile proposals are subject to the same rules as paper proposals.

(c) The telephone number of receiving facsimile equipment is: (808) 438-8588.

(d) If any portion of a facsimile proposal received by the Contracting Officer is unreadable to the degree that conformance to the essential requirements of the solicitation cannot be ascertained from the document --
(1) The Contracting Officer immediately shall notify the offeror and permit the offeror to resubmit the proposal;
(2) The method and time for resubmission shall be prescribed by the Contracting Officer after consultation with the offeror; and
(3) The resubmission shall be considered as if it were received at the date and time of the original unreadable submission for the purpose of determining timeliness, provided the offeror complies with the time and format requirements for resubmission prescribed by the Contracting Officer.

(e) The Government reserves the right to make award solely on the facsimile proposal. However, if requested to do so by the Contracting Officer, the apparently successful offeror promptly shall submit the complete original signed proposal.

(End of Provision)

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

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

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

(End of provision)

52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a firm-fixed price construction contract resulting from this solicitation.

(End of clause)

52.217-5 EVALUATION OF OPTIONS (JUL 1990)

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(End of Provision)

52.219-24 SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM--TARGETS (OCT 2000)

(a) This solicitation contains a source selection factor or subfactor related to the participation of small disadvantaged business (SDB) concerns in the contract. Credit under that evaluation factor or subfactor is not available to an SDB concern that qualifies for a price evaluation adjustment under the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, unless the SDB concern specifically waives the price evaluation adjustment.

(b) In order to receive credit under the source selection factor or subfactor, the offeror must provide, with its offer, targets, expressed as dollars and percentages of total contract value, for SDB participation in any of the North American Industry Classification System (NAICS Industry Subsectors as determined by the Department of Commerce. The targets may provide for participation by a prime contractor, joint venture partner, teaming arrangement member, or subcontractor; however, the targets for subcontractors must be listed separately.

(End of provision)

52.222-23 NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY FOR CONSTRUCTION (FEB 1999)

(a) The offeror's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.

(b) The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation for each trade	Goals for female participation for each trade
69.1%	6.9%

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the Federal Register in notice form, and these notices may be obtained from any Office of Federal Contract Compliance Programs office.

(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on (1) its implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and (3) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor, or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

(d) The Contractor shall provide written notification to the Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, within 10 working days following award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the --

(1) Name, address, and telephone number of the subcontractor;

(2) Employer's identification number of the subcontractor;

(3) Estimated dollar amount of the subcontract;

(4) Estimated starting and completion dates of the subcontract; and

(5) Geographical area in which the subcontract is to be performed.

(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is Tern Island, French Frigate Shoals, Hawaii.

52.225-12 -- NOTICE OF BUY AMERICAN ACT REQUIREMENT-CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS. (MAY 2002)

(a) *Definitions*. "Construction material," "designated country construction material," "domestic construction material," "foreign construction material," and "NAFTA country construction material," as used in this provision, are defined in the clause of this solicitation entitled ``Buy

American Act--Construction Materials under Trade Agreements" (Federal Acquisition Regulation (FAR) clause 52.225-11).

(b) *Requests for determination of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-11 in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) *Evaluation of offers*.

(1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act, based on claimed unreasonable cost of domestic construction materials, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(4)(i) of FAR clause 52.225-11.

(2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on unreasonable cost.

(d) *Alternate offers.*

(1) When an offer includes foreign construction material, other than designated country or NAFTA country construction material, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225-11, the offeror also may submit an alternate offer based on use of equivalent domestic, designated country, or NAFTA country construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of FAR clause 52.225-11 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic, designated country, or NAFTA country construction material, and the offeror shall be required to furnish such domestic, designated country, or NAFTA country construction material. An offer based on use of the foreign construction material for which an exception was requested--

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

(End of provision)

52.233-2 SERVICE OF PROTEST (AUG 1996)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

U.S. Army Engineer District, Honolulu
Corps of Engineers, Bldg 230
ATTN: Directorate of Contracting, CEPOH-CT
Fort Shafter, HI 96858-5440

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of provision)

52.236-27 SITE VISIT (CONSTRUCTION) (FEB 1995) – ALTERNATE I (FEB 1995)

(a) The clauses at 52.236-2, Differing Site Conditions, and 52.236-3, Site Investigations and Conditions Affecting the Work, will be included in any contract awarded as a result of this solicitation. Accordingly, offerors or quoters are urged and expected to inspect the site where the work will be performed.

(b) An organized site visit has been scheduled for May 16, 2003. A site visit to Tern Island is REQUIRED for all construction contractors wishing to put in a proposal for this solicitation. Contractors who visited the site previously under Solicitation No. DACW83-03-R-0002, are NOT REQUIRED to do so for this solicitation. Contact Stanley Boc at telephone no. (808) 438-9526, facsimile no. (808) 438-1307, or email stanley.boc@usace.army.mil by May 14, 2003.

(SEE SECTION 00900, PARAGRAPH 2.3, "SITE VISIT" FOR ADDITIONAL INFORMATION OF THE SITE VISIT)

52.236-28 PREPARATION OF PROPOSALS--CONSTRUCTION (OCT 1997)

(a) Proposals must be (1) submitted on the forms furnished by the Government or on copies of those forms, and (2) manually signed. The person signing a proposal must initial each erasure or change
appearing on any proposal form.

(b) The proposal form may require offerors to submit proposed prices for one or more items on various bases, including--

(1) Lump sum price;

(2) Alternate prices;

(3) Units of construction; or

(4) Any combination of paragraphs (b)(1) through (b)(3) of this provision.

(c) If the solicitation requires submission of a proposal on all items, failure to do so may result in the proposal being rejected without further consideration. If a proposal on all items is not required, offerors should insert the words "no proposal" in the space provided for any item on which no price is submitted.

(d) Alternate proposals will not be considered unless this solicitation authorizes their submission.

(End of provision)

S-36.2 MAGNITUDE OF THE PROPOSED PROJECT [FAR 36.204]

(a) Physical Characteristics: Tern Island is a 37 acre islet located at the northern extremity of the French Frigate Shoals, Northwest Hawaiian Islands. It is located approximately 500 nautical miles northwest of Honolulu, Hawaii. The plan of improvement consists of a small boat dock, launching ramp, approximately 770 feet of sheet pile bulkhead and 3,700 feet of rock revetment. The sheet pile bulkhead will consist of cantilevered and anchored walls and will be located immediately seaward of the existing sheet pile wall. The rock revetment consists of one and two layer armor stones sections. In the reaches of the single layer armor, stones range in weight from 2000 to 3000 lbs while in the two armor stone layer reaches, the armor stone range in weight from 1200 to 2000 lbs.

(b) Estimated Price Range: The estimated price range of this work is: $10,000,000 to $25,000,000.

[End of Statement]

S-3 PRE-AWARD INFORMATION

Each bidder or offeror shall, upon request of the contracting officer, furnish information on whether he is now or ever has been engaged in any work similar to that covered by the specifications herein, the dollar value thereof, the year in which such work was performed, and the manner of its execution, and giving such other information as will tend to show the bidder's or offeror's ability to prosecute the required work. The 'such other information' referred to above shall include but is not limited to the following:

a. The name and address of the office or firm under which such similar work was performed.

b. A list of key personnel available for the instant project and their qualifications.

c. A copy of bidder's or offeror's last three (3) financial statements, including the names of banks or other financial institutions with which the bidder or offeror conducts business. If the latest financial statement is more than 60 days old, a certificate should be attached stating that the financial condition is substantially the same, or if not the same, the changes that have taken place. Such statement will be treated as confidential.

d. A list of present commitments, including the dollar value thereof, and name of office under which the work is being performed.

[End of Statement]

S-28.3 PENAL SUM AND FORM OF OFFER GUARANTEE

(Applicable to offers exceeding $100,000)

Each offeror shall submit with its offer a separate offer guarantee using Standard Form 24, Bid Bond, with good and sufficient surety or sureties acceptable to the Government, or other security as provided in the clause entitled OFFER GUARANTEE in the CONTRACT CLAUSES section. This security shall be in the form of twenty percent (20%) of the offered price or three million dollars ($3,000,000), whichever is less. The penal sum of the bond may be expressed in terms of a percentage of the offered price or may be expressed in dollars and cents.

Failure to submit a offer guarantee by the time and date set for receipt of proposals may be cause for rejection of a proposal, except as provided in provision 52.215-1, Instructions to Offerors--Competitive Acquisition.

[End of Statement]

S-19.3 SMALL DISADVANTAGED BUSINESS GOAL FOR SMALL BUSINESS SUBCONTRACTING PLAN

When a small business subcontracting plan is required by FAR clause entitled, “SMALL BUSINESS SUBCONTRACTING PLAN”, the minimum goal that will be accepted for subcontracting with Small Disadvantaged Business is five percent (5%).

[End of Statement]

S-19.1 APPROVAL OF SUBCONTRACTING PLAN

If the Contract Clause in this solicitation entitled "Small Business Subcontracting Plan" or its Alternate I or II applies, no award will be made until the subcontracting plan under the stated clause is approved.

[End of Statement]

S-1 POTENTIAL FOR ASBESTOS ABATEMENT (NOV 1998)

The Government is uncertain as to the presence of asbestos in the building(s) or structure(s) to be worked on by the Contractor. If asbestos is discovered during the work, it will be handled in accordance with statement entitled, “PRICE ADJUSTMENT FOR CONTINGENT SCOPE OF WORK", found in Section 00800 of this solicitation.

[End of Statement]

SAMPLE

SMALL BUSINESS SUBCONTRACTING PLAN

CONTRACTOR: _____
ADDRESS: _____
_____
_____
PHONE: _____

DUNS NO.: _____

SOLICITATION OR CONTRACT NUMBER: _____
DESCRIPTION: _____
_____
_____

1. The information herein provided, together with any attachments and subsequent amendments, is submitted as a subcontracting plan to satisfy the applicable requirements of P.L. 99-661 Section 1207, P.L. 100-180 Section 806, and FAR 52.219-9 (Jan 1991).

2. The following percentage goals, expressed in terms of a percentage of total planned subcontracting dollars, are applicable to the contract cited above or to the contract awarded under the solicitation cited above.

a. The total estimated percentage of all planned subcontracting to all types of business concerns under this contract is ***Insert whole dollars & percentage***.

b. Small Business Concerns: ***Insert whole dollars & percentage*** of total planned subcontracting dollars under this contract is estimated to go to small business concerns.

c. Small Disadvantaged Business Concerns: ***Insert whole dollars & percentage*** of total planned subcontracting dollars under this contract is estimated to go to small disadvantaged business concerns.

d. Women-Owned Small Business Concerns: ***Insert whole dollars & percentage*** of total planned subcontracting dollars under this contract is estimated to go to women-owned small business concerns.

e. HUBZone Small Business Concerns: ***Insert whole dollars & percentage*** of total planned subcontracting dollars under this contract is estimated to go to HUBZone small business concerns.

f. Veteran-Owned Small Business Concerns: ***Insert whole dollars & percentage*** of total planned subcontracting dollars under this contract is estimated to go to veteran-owned small business concerns.

g. Service Disabled Veteran-Owned Small Business Concerns: ***Insert whole dollars & percentage*** of total planned subcontracting dollars under this contract is estimated to go to service disabled veteran-owned small business concerns.

3. Option Years: (***State the goals for the option years. If the same percentages will be used, state, "Same percentages as noted above will be used for each option year." If there are no option years, leave this portion out of your plan***.)

4. The following principle types of supplies and services are anticipated to be subcontracted under this contract to small business, small disadvantaged business, women-owned small business, HUBZone small business, veteran-owned small business, and service disabled veteran owned small business concerns:

Provide listing of subcontractors, their business size, and amount to be subcontracted. For example:

Contractor	*Size*	*Type of Work*	*$ or %*
S&S Sampling	*SB*	*Soil drilling*	*$5,000*
ABC Testing	*SDB*	*Material testing*	*$15,000*
XYZ Consultants	*WOSB*	*Civil engineering*	*$7,500*
John Doe Surveying	*HUBZone SB*	*Survey*	*$15,000*
Acme Plumbing	*SDB*	*Plumbing*	*$8,225*
Ace Equipment Rental	*SB*	*Equipment rental*	*$20,000*
Bob's Warehouse	*VOSB*	*Electrical supplies*	*$15,000*

5. The method used to develop the subcontracting goals in paragraph 2 above involved… ***Provide statement that describes how goals were developed, e.g., "Identified firms that are capable of performing the services required in the disciplines indicated above and past experience in similar contracts."***

6. The method used to identify potential sources for solicitation purposes involve: ***List sources of potential subcontractors. For example: SBA's PRO-Net database, Corps of Engineers' vendor listing, General Contractors' Association, past experience and/or familiarity with specific subcontractors, etc.***

7. Within the goals specified in paragraph 2 above, indirect costs ***are*** ***or*** **are not** included. ***(A statement as to whether or not you included indirect costs in establishing subcontracting goals, and if they are, a description of the method used to determine the proportionate share of indirect costs to be incurred with (i) small, (ii) small disadvantaged and (iii) women-owned business concerns).***

8. The following individual will administer the subcontracting program:
Name: _____ Title: _____
Address: _____
_____
_____
Telephone: _(____)_____
FAX: _(____)_____

The duties of the above named person(s) involve:

a. Developing and maintaining subcontractor and supplier lists of small, small disadvantaged, women-owned, HUBZone, and veteran-owned small business concerns.

b. Ensuring small business concerns, small disadvantaged business concerns, women-owned small business concerns, HUBZone, and veteran-owned small business concerns are considered for assignments in which they are capable of performing.

c. Monitoring the progress toward proposed subcontracting goals.

d. Preparing and submitting periodic subcontracting reports to include the Standard Form (SF) 295 Summary Subcontract Report and the SF 294 Subcontracting Report for Individual Contracts.

e. Notifying the Contracting Officer of any deviation from this subcontracting plan.

9. The following outreach efforts will be taken to assure small business concerns and small disadvantaged business concerns will have an equitable opportunity to compete for subcontracts***:***
Provide description of your outreach efforts. For example:

a. Sources will be identified from the Small Business Administration's PRO-Net database.

b. Sources will be requested from business development organizations such as the Chamber of Commerce and Regional Minority Development Councils.

c. Participation in small business trade fairs.

10. The offeror agrees that the clause in this contract entitled "*Utilization of Small Business Concerns*" will be included in all subcontracts which offer further subcontracting opportunities, and all subcontractors except small business concerns who receive subcontracts in excess of $500,000 for supplies or services or greater than $1,000,000 for construction will be required to adopt and comply with a subcontracting plan similar to this one. The acceptability of percentage goals shall be determined on a case-by-case basis depending on the supplies or services involved, the availability of potential small business, small disadvantaged business, veteran-owned small business and women-owned small business subcontractors, and prior experience.

11. The offeror agrees to:

a. Cooperate in any studies or surveys as may be required.

b. Submit periodic reports in order to allow the Government to determine the extent of compliance by the offeror with the subcontracting plan.

c. Submit on a semiannual basis, Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and SF 295, Summary Subcontract Report, in accordance with the instructions on the forms and the administering contracting office.

d. Ensure that its subcontractors agree to submit SF 294 and SF 295, if applicable.

12. The offeror agrees to maintain the following types of records to demonstrate compliance with this subcontracting plan:

a. Small business, small disadvantaged business, women-owned small business, HUBZone small business, and veteran owned small business concerns source lists, guides, and other data lists.

b. Organizations contacted for small, small disadvantaged, women-owned small business, HUBZone small business, and veteran owned small business sources.

c. On a contract-by-contract basis, records on each subcontract solicitation resulting in an award of more than $100,000, indicating: (1) whether small business concerns were solicited and if not, why not, (2) whether small disadvantaged business concerns were solicited and if not, why not, and (3) if applicable, the reason award was not made to a small business concern.

d. Records to support other outreach efforts: contacts with business development organizations, chamber of commerce, and participation in business trade fairs.

13. ***Provide a narrative on past performance of meeting/not meeting or exceeding your subcontracting goals.***

14. ***Provide a statement on how you will foster Historical Black Colleges /Universities and Minority Institutions and that you will give them equitable opportunity to compete on any of the subcontracting disciplines that may be applicable to Colleges, Universities, or Minority Institutions.***

Signed: _____

Typed Name: _____

Title: _____

Date: _____

Typed Name: _____

Signed: _____ Date Approved: _____
Deputy for Small Business

Typed Name: _____

Signed: _____ Date Approved: _____
Procurement Center Representative
Small Business Administration

Plan Approved by: _____
Contracting Officer

Date Approved: _____

SECTION 00120

PROPOSAL SUBMISSION REQUIREMENTS
AND
EVALUATION FACTORS FOR AWARD

1.0 GENERAL:

1.1 Cost of Preparing Proposals: The Government will not reimburse any Offeror its costs incurred in submitting an offer in response to this solicitation.

1.2 Inquiries: Address all inquiries regarding this Request for Proposals to:

U.S. Army Engineer District, Honolulu
Attn: Ms. Jennifer Ko (CEPOH-CT-C)
Building S-200
Fort Shafter, Hawaii 96858-5440
Phone No. (808) 438-8584
Fax No. (808) 438-8588
E-Mail: jennifer.ko@usace.army.mil

1.3 Proposal submission and evaluation:

1.3.1 The Government will evaluate offers in accordance with the NON-PRICE EVALUATION FACTORS (the technical proposal) and the offeror's price, as set forth in this Provision.

1.3.2 During proposal evaluation, the NON-PRICE EVALUATION FACTORS will be evaluated to determine acceptability by a Source Evaluation Board (SEB) utilizing the method described below.

1.3.3 Basis for award. The Government intends to award a contract to the responsible Offeror whose proposal is the Lowest Priced Technically Acceptable (LPTA) proposal. The technical proposal will consist of evaluation factors in which offerors will receive either an acceptable or unacceptable rating for each non-price evaluation factor and subfactor.

1.3.3.1 Technical proposals (Volume I)

1.3.3.2 Price Proposals (Volume II)

1.3.4 The Government intends to award a contract without discussions to the offeror with the lowest priced, technically acceptable proposal, in accordance with the provisions of this solicitation and applicable acquisition regulations. An acceptable rating for each non-price evaluation factor and subfactor is required for an offeror's proposal to be considered for award. Failure to receive an acceptable rating for any factor or subfactor will result in rejection of the offeror's proposal notwithstanding acceptable ratings for other factors or subfactors. Those Offerors who receive an unacceptable rating on any of the non-price evaluation factors/subfactors will not be considered for award without discussions.

1.3.4.1 Price proposals from only those offerors that received an acceptable rating for each non-price evaluation factor and subfactor will be considered for award. If discussions of an Offeror's price proposal are determined to be necessary, discussions will be conducted with Offeror(s) determined to be in the competitive range.

1.3.4.2 If all technical proposals are determined to be technically unacceptable, the Contracting Officer may conduct discussions. Discussions will be conducted with Offeror(s) determined to be in the competitive range.

1.3.4.3 Upon conclusion of discussions, if necessary, the Contracting Officer will request final proposal revisions from the Offerors remaining in the competitive range and may, upon receipt of final proposal revisions, proceed to award a contract without further discussions or notice.

1.3.5 TECHNICAL. Numerical scores and other point-scoring techniques will not be used in the evaluation process. Each factor or subfactor will be rated either Acceptable or Unacceptable. The Government will evaluate offers in accordance with the EVALUATION FACTORS described in paragraph 3.0 of this section and the Offeror's proposed total price.

1.3.5.1 Factors/subfactors will be evaluated against the standards described in this section. Each factor/subfactor will receive one of the following ratings:

1.3.5.1.1 Acceptable: Proposal is acceptable; proposal demonstrates acceptable understanding of requirements. Offeror's proposed capability or proposed effort is of an acceptable level of quality and justified or substantiated by meeting the requirements of each factor.

1.3.5.1.2 Unacceptable: Proposal is unacceptable; Government's requirements are not met. The Offeror's proposal lacks evidence of capability to perform proposed effort or did not provide adequate responses to the requested data to receive an acceptable rating.

1.3.6 PRICE. The Offeror's price proposal will not be rated, but will be evaluated separately from the offeror's technical proposal. The Government shall compare the competing prices proposed by all offerors determined to have submitted acceptable offers, together with the Government's Estimate, to establish price reasonableness. Cost analysis will not likely be performed under this solicitation, however, the offerors' price breakdown will be evaluated for reasonableness.

2.0 PROPOSAL SUBMISSION REQUIREMENTS: Offeror shall provide an INDEX for each of the proposal volumes/sections that shows the title of the subject matter discussed therein and the page number where the information can be found. In particular, Offeror shall specifically refer to the topics and evaluation factors addressed in this section of the instructions. Offeror shall tab and index the proposal to match the listed factors and subfactors. Proposals that are not tabbed and indexed may be considered non-responsive.

2.1 General Requirements for Proposals:

2.1.1 Submission requirements for proposals.

2.1.1.1 Volume 1 - Technical Proposals. The first envelope shall be clearly marked, ‘VOLUME I - TECHNICAL PROPOSAL”, RFP NO. DACW83-03-R-0004.” It shall contain:

2.1.1.1.1 Submit one (1) original proposal and four (4) copies, in the format for Technical Proposals as set forth in this Provision.

2.1.1.2 Volume 2 - Price Proposals. The second envelope shall be clearly marked, “VOLUME II - PRICE PROPOSAL”, RFP NO. DACW83-03-R-0004.” It shall contain:

2.1.1.2.1 One (1) original and two (2) copies of the Offeror’s completed Standard Form (SF) 1442, using a printed copy of the SF 1442 that has been issued under this solicitation;

2.1.1.2.2 Complete and submit one (1) original and two (2) copies of Section 00010, the Price Proposal Schedule. Indicate on the Price Breakdown whether or not Facilities Capital Cost of Money is included in the contractor’s costs of performing the work. Proposals that state that Facilities Capital Cost of Money is not included in the contractor’s costs of performing the work——or proposals that don’t state anything at all about Facilities Capital Cost of Money——will be deemed to have waived Facilities Capital Cost of Money.

2.1.1.2.3 One (1) electronic copy of the Price Breakdown, formatted in either Microsoft Excel 2000 or Word for Windows 2000 or an earlier version of the same. Submit the electronic copy of a three and one-half inch (3-1/2”) diskette, IBM compatible, labeled with the offeror’s name, the solicitation number and title, and the words, “Price Breakdown - Electronic Copy.”

2.1.1.2.4 One (1) copy (certified as a true copy) of the Offeror’s executed joint venture agreement (if the Offeror is a joint venture);

2.1.1.2.5 One (1) copy of the Offeror’s completed Section 00600, Representations and Certifications, using a printed copy of Section 00600 that has been issued under this solicitation;

2.1.1.2.6 One (1) copy of the Offeror’s completed (if applicable) SF LLL, Disclosure of Lobbying Activities, using a printed copy of the SF LLL which is found in Appendix A to Section 00600; and

2.1.1.2.7 Submit one original bid bond in the form and amount that is required by the provision entitled, “PENAL SUM AND FORM OF OFFER GUARANTEE,” in Section 00100, and other pertinent provisions and clauses in this solicitation.

2.2 Format Requirements for Proposals:

2.2.1 Any information, presented with a proposal that an Offeror wants to have safeguarded from disclosure to other parties must be identified and labeled in accordance with the requirements of Provision “52.215-1, Instructions to Offerors——Competitive Acquisition (May 2001),” subparagraph (e), which is found in Section 00100 of this solicitation. The Government

will endeavor to honor the restrictions against release requested by Offerors, to the extent permitted under United States law and regulations.

2.2.2 Prepare proposals in the English language.

2.2.3 Type or print all information presented in the proposal, to the extent possible. Use clear, simple English letters and numbers. Laser printer-quality printing is adequate for the proposals. Elaborate calligraphy is not desired. Do not use size printing or typing less than 10 pitch (United States). Use black characters on white paper as much as possible. Color should be used for clarity, not for purposes of decoration. Do not use colors that do not reproduce legibly using standard office or commercial facsimile or copying machines. Prepare technical proposals on standard (United States), letter-sized (8.5 x 11 inches) or substantially similar international/metric-sized pages. Use only one side of the page. Use non-glossy paper of good weight and quality. Expensive or elaborate paper stock is not desired.

2.2.4 Submit proposal packages to the US Army Corps of Engineers ("the Government") as shown in Block 8 of Standard Form 1442.

2.2.5 Proposals received by the Government after the date and time set for receipt of proposals will be handled in accordance with the requirements of Provision "52.215-1, Instructions to Offerors—Competitive Acquisition (May 2001)," subparagraph (c), found in Section 00100.

2.3 Specific Requirements for Technical Proposals:

2.3.1 Submit technical proposals in a narrative format, organized and titled so that each section of the proposal follows the order and format of the factors and subfactors set forth below in paragraph 3.0. "Evaluation Factors and Submission Requirements."

2.3.2 Proposal clarity, organization and cross referencing is mandatory. Failure to submit and organize proposals as requested may adversely affect an offeror's evaluation. Offerors should provide sufficient detail and clearly address all items required in this section. Written portions of the proposal shall be on 8-1/2 by 11 inch paper with three holes punched, in a three-ring binder. Drawings shall be full-size bound separately. Offerors shall label and tab their proposals consistent with the requirements of this section. A table of contents shall be provided to facilitate review and cross referencing. The proposal shall have an index for each item submitted. Each page of the proposal shall have the page number on the bottom of the page starting with the first page to the last numbered consecutively.

2.3.3 Information presented in the technical proposal should be sufficiently detailed to clearly describe how the technical proposal addresses the technical proposal evaluation factors. Professional looking and well organized proposals will likely be considered to reflect more favorably on the capabilities of the Offeror; however, it is not the Government's intent to require elaborate "magazine-style" proposals. It is not necessary, nor desired, that Offerors prepare elaborate or lengthy proposals.

2.3.4 There is no limit to the size of technical proposals, or the amount of information that may be submitted to the Government. However,

information should be concisely presented, to the extent possible. Information presented should be organized so as to pertain to only the evaluation factor or subfactor in which section the information is presented. Information pertaining to more than one evaluation factor or subfactor should be repeated for each factor or subfactor.

2.3.5 The proposal must set forth full, accurate, and complete information as required by this solicitation. The Government will rely on such information in the award of a contract. By submission of an offer, the Offeror agrees that all items (i.e. Key personnel) in its proposal will be used throughout the duration of the contract and any substitutions of items will be equally or better qualified and shall require prior approval by the Contracting Officer.

2.3.6 The Offeror's price proposal will be evaluated separately from the offeror's technical proposal. The Government will compare the competing prices proposed by all offerors determined to have submitted technically acceptable offers to establish price reasonableness.

3.0 EVALUATION FACTORS AND SUBMISSION REQUIREMENTS

3.1 All proposals will be evaluated on non-price factors and price. Offerors are required to provide data addressing all stated factors. If an Offeror does not have data relating to a specific factor, it shall be clearly stated. Offers that do not address all factors may be considered non-responsive and may not receive further consideration.

3.2 Non-price evaluation factors are equally important. All subfactors within a factor have equal importance.

3.2.1 TECHNICAL FACTORS:

Factor I, Past Performance and Past Experience

Subfactor A - Past Performance

Subfactor B - Past Experience

Factor II, - Key Personnel

Factor III, Small Business Program

3.2.2 PRICE

3.3 Each technical factor and subfactor will be evaluated on an acceptable/unacceptable basis. Acceptability will be based upon submission of all of the requirements identified in the respective submission section, and the following:

3.3.1 For Past Performance - The Offeror has provided at least two (2) projects meeting the stated criteria for relevancy and recency (completed after 1990) receiving no less than a satisfactory final performance rating and at least one performance rating shall be above average or better; and the Offeror must not have received an Unsatisfactory performance evaluation on any State or Federal Government contract after 1990.

3.3.2 For Past Experience - The offeror must demonstrate experience on at least two (2) relevant projects completed after 1990, in which they were/are the prime contractor on a project that contained marine construction in an island setting.

3.3.2.1 Offerors will receive an acceptable or unacceptable rating for experience. If the Government concludes, based upon the evaluation of an Offeror's proposal, that there is significant doubt as to the offeror's ability to successfully perform and complete the required work, the offeror will be found technically unacceptable for this subfactor.

3.3.3 For Key Personnel - The proposal includes all requested information for the factor. All proposed key personnel shall meet the minimum qualification standards described in paragraph 3.4.3.

3.3.4 For Small Business Program - Offeror's Small Business Subcontracting Plan goals were met or reasonable justifications for not achieving these goals were provided. Offers from Small Business concerns shall receive an acceptable rating for this factor.

3.4 Technical Proposal. Data provided in response to the non-price factors described below shall be included in the “Technical Proposal”.

3.4.1 Relevant Experience. Relevant experience refers to marine construction (the construction/reconstruction activities and maintenance of piers, abutments, harbor improvements, channel improvements and other marine related structures or activities) in an island setting.

3.4.2 Evaluation Factor (1) Past Performance and Past Experience. Data provided in support of this factor shall clearly demonstrate the Offeror’s ability to meet the requirements of the contract based on his past experience and past performance history on relevant projects similar in scope to this contract and performed in an island setting. Only past experience and past performance considered relevant to this project will be considered (see paragraph 3.4.1 above).

3.4.2.1 Subfactor (1)(A) Past Performance. For each of the contracts identified in Subfactor B, Past Experience, indicate the final overall performance rating received. Only performance ratings for the Offeror will be considered. Provide documentation of the indicated rating in this tab. Undocumented performance ratings will not be considered.

3.4.2.1.1 The Government will review and evaluate information about each offeror's past performance and will rate offerors as acceptable or unacceptable on the basis of their documented past performance. By "past performance" the Government means an offeror's reputation for satisfying its customers by delivering quality work in a timely manner at a reasonable price. Past Performance also includes an offeror's reputation for integrity, reasonable and cooperative conduct, effective subcontractor management, and commitment to customer satisfaction. In reviewing and evaluating an offeror's past performance, the Government will consider information obtained from the offeror and may consider information from other sources, including past and present customers and their current and former employees. Note the unavailability (due to nonexistence) of past performance records or information cannot result in an unacceptable rating for this subfactor, but instead, will result in a neutral rating. Evidence that an

offeror has poor past performance in any area may result in an unacceptable rating for the entire subfactor.

3.4.2.1.2 The information provided by the Offeror will include the major portion of the information used in the Government's evaluation for past performance. The Government may use other sources to assess past performance information including the Construction Contractor Appraisal Support System (CCASS) and make inquiries to previous customers/owners/subcontractors.

3.4.2.2 Subfactor (1)(B) Past Experience. Offerors shall identify contracts demonstrating relevant experience completed after 1990, or still underway, in which they were/are the prime contractor.

3.4.2.2.1 For each of the projects provided in support of this factor, a Project Data Sheet shall be completed. This sheet shall include all of the data listed below. All requested information must be provided. Failure to provide any of the requested data may be cause to eliminate a project from consideration in the evaluation.

3.4.2.2.1.1 Contract Number, Project Description and Location,

3.4.2.2.1.2 Contracting Officer/Owner's Point of Contact, Telephone Number, Facsimile Number,

3.4.2.2.1.3 Original Contract Amount,

3.4.2.2.1.4 Final Contract Amount,

3.4.2.2.1.5 Contract Award Date,

3.4.2.2.1.6 Original Completion Date,

3.4.2.2.1.7 Final Completion Date (as established by contract modifications),

3.4.2.2.1.8 Actual Completion Date (date work accepted by the customer),

3.4.2.2.1.9 Estimated Percentage of Actual onsite Construction Work that the Offeror and its employees performed on the project,

3.4.2.2.1.10 Letters of Appreciation or Commendation and Awards. Letters or other communications generated specifically for purposes of this solicitation may not be given as much weight as evaluations and other communications that are generated in the ordinary course of business.

3.4.2.2.1.11 Final Performance evaluation (if customer was the Federal Government, submit Standard Form 1420 or DD Form 2626),

3.4.2.2.1.12 Offerors that report an adverse or unfavorable interim or final performance evaluation should attach a narrative that explains, rebuts, or describes lessons learned from the

adverse or unfavorable evaluation.

3.4.2.2.1.13 For each completed project which the Offeror identifies as an example of past performance, describe that completed project's relevance to the current, proposed project in terms of the Offeror's proposed use of the same key management personnel.

3.4.2.2.1.14 State why or how the Offeror's experience with the described project is relevant to the Offeror's expectation of successful completion of this project.

3.4.2.2.2 If the Offeror intends to rely on its joint venture partners past experience, the Offeror shall submit Project Data Sheets demonstrating relevant past experience.

3.4.2.2.3 In order to demonstrate the depth of its experience, Offerors may submit data for themselves and their joint venture partners for the same project. However, the submission of data on the same project will only be counted as a single project.

3.4.2.2.4 The Government will review and evaluate the documentation submitted with each proposal with respect to the offeror's past and current work experience, including technical similarities between the offeror's work experience and the work described in this solicitation. Direct experience of the offeror or any joint venture partners that any offeror proposes to utilize in the execution of this project will be considered.

3.4.3 Evaluation Factor (2) Key Personnel.

3.4.3.1 If an Offeror is awarded a contract, all key personnel identified in the Offeror’s proposal shall be used on the contract. Substitution or addition of any key personnel not identified in a successful Offeror’s proposal must be submitted for review and acceptance by the Contracting Officer prior to the start of work by that individual. The Contractor is informed that the Government will be allowed 30 days to respond. Any delays resulting from this post-award process shall be the responsibility of the contractor and shall not be a basis for any equitable contract adjustment.

3.4.3.2 The Government will review and evaluate the qualifications and experience of each of the offeror’s proposed key personnel. The offeror must include the following three (3) positions to be used on this project: Contractor Quality Control Systems Manager, Project Manager, and On-Site Construction Manager. The On-Site Construction Manager may be the same person as the Project Manager. The offeror's Contractor Quality Control Systems Manager shall have a minimum of two (2) years marine construction experience (in the proposed position) on projects of similar scope and complexity. In addition, the offeror’s Contractor Quality Control Systems Manager shall have a minimum of 5 years construction experience. Offeror must address how the proposed Contractor Quality Control Systems Manager has met or will meet the requirement for completing the course entitled, “Construction Quality Management for Contractors” prior to beginning work. The Project Manager/On-Site Construction Manager shall have a minimum of two (2) years experience on marine construction and rock revetment or rock breakwater construction projects.

3.4.3.2.1 Identify the individuals proposed to fill the key personnel positions identified above. Provide resumes for each individual. Resumes must support the individual’s qualifications to perform in the identified position, including any special skills or experiences deemed worthy of note. Resumes shall include a List of projects completed by the proposed individual. The list shall include contract number, completion date, title, detailed description, and dollar value, and position held.

3.4.4 Evaluation Factor (3)- Small Business Program. Past performance in complying with Small Business Subcontracting Plan. Offerors shall submit data that demonstrate its use of Small Business Concerns. Small Business Concerns include small disadvantaged businesses (SDB), women-owned small businesses, HUBZone small businesses, veteran-owned small businesses and service disabled veteran-owned small businesses.

- Provide SF 294' s, "Subcontracting Report for Individual Contracts" for projects of similar scope. Provide reasonable justifications if goals were not met.

3.5 Price Proposal

3.5.1 The Offeror's price proposal will be evaluated separately from the offeror's non-price proposal. The Government will compare the competing prices proposed by all Offerors determined to have submitted technically acceptable offers to establish price reasonableness.

3.5.2 A price breakdown shall be included in Volume II, “Price Proposal”. Only a lump sum price for each of the items identified below is required. Do not submit a cost breakdown.

Proposal costs shall be broken down as follows:	
Bid item No. 1, Mob and demob	
1	Barging costs including unloading and stockpiling
2	Setup costs to include contractors offices and facilities, and all temporary structures.
3	All other associated costs.
4	Total Direct Cost
5	Field Overhead Cost
6	All other indirect costs
7	Total Cost Bid item No. 1, Mob and demob
Bid item No. 2 RL "B"	
1	Barging costs including unloading and stockpiling
2	Revetment cost including cost for stone, excavation, backfill and all associated costs.
3	Total Direct Cost
4	Field Overhead Cost
5	All other indirect costs
6	Total Cost Bid item No. 2
Bid item No. 3 RL "A" 0+73 to 2+50	
1	Breakdown items 1 thru 6 same as Bid item No. 2
Bid item No. 4 RL "A" 4+50 to 14+50	

1	Breakdown items 1 thru 6 same as Bid item No. 2
Bid item No. 5, Option 1: Revetment Tie-back No. 1	
1	Breakdown items 1 thru 6 same as Bid item No. 3
Bid item No. 6, Option 2: Revetment Tie-back No. 2	
1	Breakdown items 1 thru 6 same as Bid item No. 3
Bid item No. 7, Option 3: Revetment Tie-back No. 3	
1	Breakdown items 1 thru 6 same as Bid item No. 3
Bid item No. 8, Option 4: Revetment Tie-back No. 4	
1	Breakdown items 1 thru 6 same as Bid item No. 3
Bid item No. 9, Option 5: RL "A" 2+50 to 4+50	
1	Breakdown items 1 thru 6 same as Bid item No. 3
Bid item No. 10, Option 6a: RL "A" 14+50 to 25+00	
1	Breakdown items 1 thru 6 same as Bid item No. 3
Bid item No. 11, Option 6b: Demolition & disposal of sheetpile bulkhead 16+25 to 17+25	
1	No further breakdown required.
Bid item No. 12, Option 7: RL "A" 25+00 to 30+50	
1	Breakdown items 1 thru 6 same as Bid item No. 3
Bid item No. 13, Option 8: RL "A" 30+50 to 36+00	
1	Breakdown items 1 thru 6 same as Bid item No. 3
Bid item No. 14, Option No. 9: Improvements	
1	Mob and demob including barging costs, unloading and stockpiling
2	Sheetpile bulkhead including sheetpile, concrete pilecap, tie-rods, deadman and all other associated costs.
3	Bollards and fenders
4	Boatramp including AZ-18 retaining sheetpile
5	Total Direct Cost
6	Field Overhead Cost
7	All other indirect costs
8	Total Cost Bid item No. 2, Improvements
Bid item No. 15, Option 10 Cathodic Protection System	
1	No further breakdown required.
Bid item No. 16, Option 11 Removal Action	
16a	Mob and demob including barging costs, unloading and stockpiling
16b	Soil less than 50 ppm (PCB)
1	Excavation cost including testing, monitoring, loading barges and all associated costs.
2	Disposal cost including barging, fees, trucking and all associated costs.
3	Total Direct Cost
4	Field Overhead Cost
5	All other indirect costs

16c	Soil more than 50 ppm (PCB)
1	Breakdown items 1 thru 5 same as Bid item No. 6a
16d	Soil more than 400 ppm (Pb)
1	Breakdown items 1 thru 5 same as Bid item No. 6a
16e	Remove transformer
1	No further breadkown required.
16f	Analytical Cost
1	No further breadkown required.

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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 contradictory to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as an 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) above _____ (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) above.

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

(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)

52.204-3 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;

(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)

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 indebtness 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 disclosure 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)

52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS (APR 200) ALTERNATE I (APR 2002)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 237990.

(2) The small business size standard is $28,500,000.

(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 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--

(i) It (0 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 or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; or

(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)

52.219-19 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)

52.219-22 SMALL DISADVANTAGED BUSINESS STATUS (OCT 1999) ALTERNATE I (OCT 1998)

(a) General. This provision is used to assess an offeror's small disadvantaged business status for the purpose of obtaining a benefit on this solicitation. Status as a small business and status as a small disadvantaged business for general statistical purposes is covered by the provision at FAR 52.219-1, Small Business Program Representation.

(b) Representations.

(1) General. The offeror represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either--

___ (i) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

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

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

(C) It is identified , on the date of this representation, as a certifies small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net); or

___ (ii) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(2)___ For Joint Ventures. The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements at 13 CFR 124.1002(f) and that the representation in paragraph (b)(1) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: _____.]

(3) Address. The offeror represents that its address_____is, _____is not in a region for which a small disadvantaged business procurement mechanism is authorized and its address has not changed since its certification as a small disadvantaged business concern or submission of its application for certification. The list of authorized small disadvantaged business procurement mechanisms and regions is posted at http://www.arnet.gov/References/ sdbadjustments.htm. The offeror shall use the list in effect on the date of this solicitation. ``Address,'' as used in this provision, means the address of the offeror as listed on the Small Business Administrations register of small disadvantaged business concerns or the address on the completed application that the concern has submitted to the Small Business Administration or a Private Certifier in accordance with 13 CFR part 124, subpart B. For joint ventures, ``address'' refers to the address of the small disadvantaged business concern that is participating in the joint venture.

(c) Penalties and Remedies. Anyone who misrepresents any aspects of the disadvantaged status of a concern for the purposes of securing a contract or subcontract shall:

(1) Be punished by imposition of a fine, imprisonment, or both;

(2) Be subject to administrative remedies, including suspension and debarment; and

(3) Be ineligible for participation in programs conducted under the authority of the Small Business Act.

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)

52.222-38 COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (DEC 2001)

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

(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.

252.247-7022 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)

S-7 IDENTIFICATION OF PARTNERS

(Applicable where the offeror has identified itself as a partnership or joint venture.)

The full names of all partners are listed below:

_____

_____

_____

_____

[End of Statement]

S-28.5 IDENTIFICATION OF BID GUARANTEE

(Applicable if bid/offer exceeds $100,000)

A bid guarantee, consisting of _____, in the

amount of _____ is enclosed with this offer.

(SPECIFY THE TYPE AND THE AMOUNT OF THE BID GUARANTEE SUBMITTED.)

[End of Statement]

REFER TO CLAUSE 52.203-12, Limitation on Payments to Influence Certain Federal Transactions in Section 00700.

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
- ☐ a. CONTRACT
- b. GRANT
- c. COOPERATIVE AGREEMENT
- d. LOAN
- e. LOAN GUARANTEE
- f. LOAN INSURANCE

2. Status of Federal Action:
- ☐ a. BID/OFFER/APPLICATION
- b. INITIAL AWARD
- c. POST-AWARD

3. Report Type
- ☐ a. INITIAL FILING
- b. MATERIAL CHANGE

FOR MATERIAL CHANGE ONLY:
YEAR _____ QUARTER _____
DATE OF LAST REPORT _____

4. Name and Address of Reporting Entity:
☐ PRIME ☐ SUBAWARDEE
TIER _____, *IF KNOWN:*

Congressional District, *if known:*

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of

Congressional District, *if known:*

6. Federal Department/Agency

7. Federal Program Name/Description:

CFDA Number, *if applicable:* _____

8. Federal Action Number *if known:*

9. Award Amount *if known:*
$

10a. Name and Address of Lobbying Entity
(If individual, last name, first name, MI)

b. Individual Performing Services *(including address if different from No. 10A) (last name, first name, MI)*

(attach Continuation sheet(s) SF LLL-A, if necessary)

11. Amount of Payment *(check all that apply):*
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply):*
- ☐ a. cash
- ☐ b. in-kind; specify: nature _____
  value _____

13. Type of Payment *(check all that apply):*
- ☐ a. RETAINER
- ☐ b. ONE-TIME FEE
- ☐ c. COMMISSION
- ☐ d. CONTINGENT FEE
- ☐ e. DEFERRED
- ☐ f. OTHER; SPECIFY:

14. Brief Description of Services performed or to be Performed and Date(s) of Service, including offier(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11:

(attach Continuation sheet(s) SF LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Printed Name: _____

Title: _____

Telephone No.: _____ **Date:** _____

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Standard Form - LLL

INSTRUCTIONS

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in Item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in Item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in Item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 9a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. if payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. In other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

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Standard Form - LLL-A

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52.225-9	BUY AMERICAN ACT-CONSTRUCTION MATERIALS (MAY 2002)
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52.228-2	ADDITIONAL BOND SECURITY (OCT 1997)
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Appendix A - Davis Bacon Wage Determination
Appendix B - List of Drawings

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)

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.

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.

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)

52.203-12 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)

252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES (MAR 1999)

(a) Definitions. As used in this clause—

(1) “Arising out of a contract with the DoD” means any act in connection with—

(i) Attempting to obtain;

(ii) Obtaining, or

(iii) Performing a contract or first-tier subcontract of any agency, department, or component of the Department of Defense (DoD).

(2) “Conviction of fraud or any other felony” means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of *nolo contendere*, for which sentence has been imposed.

(3) “Date of conviction” means the date judgment was entered against the individual.

(b) Any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD is prohibited from servi ng--

(1) In a management or supervisory capacity on any DoD contract or first-tier subcontract;

(2) On the board of directors of any DoD contractor or first-tier subcontractor;

(3) As a consultant, agent, or representative for any DoD contractor or first-tier subcontractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

(c) Unless waived, the prohibition in paragraph (b) of this clause applies for not less than 5 years from the date of conviction.

(d) 10 U.S.C. 2408 provides that a defense contractor or first-tier subcontractor shall be subject to a criminal penalty of not more than $500,000 if convicted of knowingly—

(1) Employing a person under a prohibition specified in paragraph (b) of this clause; or

(2) Allowing such a person to serve on the board of directors of the contractor or first-tier subcontractor.

(e) In addition to the criminal penalties contained in 10 U.S.C. 2408, the Government may consider other available remedies, such as—

(1) Suspension or debarment;

(2) Cancellation of the contract at no cost to the Government; or

(3) Termination of the contract for default.

(f) The Contractor may submit written requests for waiver of the prohibition in paragraph (b) of this clause to the Contracting Officer. Requests shall clearly identify—

(1) The person involved;

(2) The nature of the conviction and resultant sentence or punishment imposed;

(3) The reasons for the requested waiver; and

(4) An explanation of why a waiver is in the interest of national security.

(g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation, except those for commercial items or components.

(h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone (202) 616-3507.

(End of clause)

252.203-7002 DISPLAY OF DOD HOTLINE POSTER (DEC 1991)

(a) The Contractor shall display prominently in common work areas within business segments performing work under Department of Defense (DoD) contracts, DoD Hotline Posters prepared by the DoD Office of the Inspector General.

(b) DoD Hotline Posters may be obtained from the DoD Inspector General, ATTN: Defense Hotline, 400 Army Navy Drive, Washington, DC 22202-2884.

(c) The Contractor need not comply with paragraph (a) of this clause if it has established a mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(End of clause)

52.204-4 PRINTING/COPYING 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)

252.204-7000 DISCLOSURE OF INFORMATION (DEC 1991)

(a) The Contractor shall not release to anyone outside the Contractor's organization any unclassified information, regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any program related to this contract, unless--

(1) The Contracting Officer has given prior written approval; or

(2) The information is otherwise in the public domain before the date of release.

(b) Requests for approval shall identify the specific information to be released, the medium to be used, and the purpose for the release. The Contractor shall submit its request to the Contracting Officer at least 45 days before the proposed date for release.

(c) The Contractor agrees to include a similar requirement in each subcontract under this contract. Subcontractors shall submit requests for authorization to release through the prime contractor to the Contracting Officer.

(End of clause)

252.204-7003 CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992)

The Contractor's procedures for protecting against unauthorized disclosure of information shall not require Department of Defense employees or members of the Armed Forces to relinquish control of their work products, whether classified or not, to the contractor.

(End of clause)

252.204-7004 REQUIRED CENTRAL CONTRACTOR REGISTRATION (NOV 2001)

(a) Definitions.

As used in this clause--

(1) Central Contractor Registration (CCR) database means the primary DoD repository for contractor information required for the conduct of business with DoD.

(2) Data Universal Numbering System (DUNS) number means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.

(3) Data Universal Numbering System +4 (DUNS+4) number means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned by a parent (controlling) business concern. This 4-digit suffix may be assigned at the discretion of the parent business concern for such purposes as identifying subunits or affiliates of the parent business concern.

(4) Registered in the CCR database means that all mandatory information, including the DUNS number or the DUNS+4 number, if applicable, and the corresponding Commercial and Government Entity (CAGE) code, is in the CCR database; the DUNS number and the CAGE code have been validated; and all edits have been successfully completed.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee must be registered in the CCR database prior to award, during performance, and through final payment of any contract resulting from this solicitation, except for awards to foreign vendors for work to be performed outside the United States.

(2) The offeror shall provide its DUNS or, if applicable, its DUNS+4 number with its offer, which will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(3) Lack of registration in the CCR database will make an offeror ineligible for award.

(4) DoD has established a goal of registering an applicant in the CCR database within 48 hours after receipt of a complete and accurate application via the Internet. However, registration of an applicant submitting an application through a method other than the Internet may take up to 30 days. Therefore, offerors that are not registered should consider applying for registration immediately upon receipt of this solicitation.

(c) The Contractor is responsible for the accuracy and completeness of the data within the CCR, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to confirm on an annual basis that its information in the CCR database is accurate and complete.

(d) Offerors and contractors may obtain information on registration and annual confirmation requirements by calling 1-888-227-2423, or via the Internet at http://www.ccr.com.

(End of clause)

252.205-7000 PROVISION OF INFORMATION TO COOPERATIVE AGREEMENT HOLDERS (DEC 1991)

(a) Definition.

"Cooperative agreement holder" means a State or local government; a private, nonprofit organization; a tribal organization (as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-268; 25 U.S.C. 450 (c))); or an economic enterprise (as defined in section 3(e) of the Indian Financing Act of 1974 (Pub. L. 93-362; 25 U.S.C. 1452(e))) whether such economic enterprise is organized for profit or nonprofit purposes; which has an agreement with the Defense Logistics Agency to furnish procurement technical assistance to business entities.

(b) The Contractor shall provide cooperative agreement holders, upon their request, with a list of those appropriate employees or offices responsible for entering into subcontracts under defense contracts. The

list shall include the business address, telephone number, and area of responsibility of each employee or office.

(c) The Contractor need not provide the listing to a particular cooperative agreement holder more frequently than once a year.

(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 debars 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)

252.209-7000 ACQUISITION FROM SUBCONTRACTORS SUBJECT TO ONSITE INSPECTION UNDER THE INTERMEDIATE-RANGE NUCLEAR FORCES (INF) TREATY (NOV 1995)

(a) The Contractor shall not deny consideration for a subcontract award under this contract to a potential subcontractor subject to on-site inspection under the INF Treaty, or a similar treaty, solely or in part because of the actual or potential presence of Soviet inspectors at the subcontractor's facility, unless the decision is approved by the Contracting Officer.

(b) The Contractor shall incorporate this clause, including this paragraph (b), in all solicitations and contracts exceeding the simplified acquisition threshold in part 13 of the Federal Acquisition Regulation, except those for commercial items.

252.209-7004 SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE

GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(a) Unless the Government determines that there is a compelling reason to do so, the Contractor shall not enter into any subcontract in excess of $25,000 with a firm, or subsidiary of a firm, that is identified, on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country.

(b) 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 identified, on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country. The notice must include the name of the proposed subcontractor notwithstanding its inclusion on the List of Parties Excluded From Federal Procurement and Nonprocurement Programs.

52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984)

The Contractor shall be required to (a) commence work under this contract within seven (7) calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than the number of calendar days after the Contractor receives the notice to proceed as set forth below:

Contractor may not begin any operations on Tern Island until December 1, 2003. Additionally, operations on Rev. B may not begin until January 1, 2004. (See General Special Conditions, in Section 00900)

Base Schedule:

Item Nos. 1 through 4	Three Hundred Sixty-Five (365) calendar days

OPTIONS AWARDED SHALL INCREASE THE CONTRACT PERFORMANCE PERIOD AS FOLLOWS:

Options:

Item No. 5 (Option 1)	10 calendar days
Item No. 6 (Option 2)	10 calendar days
Item No. 7 (Option 3)	10 calendar days
Item No. 8 (Option 4)	10 calendar days
Item No. 9 (Option 5)	24 calendar days
Item No. 10 (Option 6A)	120 calendar days
Item No. 11 (Option 6B)	12 calendar days
Item No. 12 (Option 7)	65 calendar days
Item No. 13 (Option 8)	65 calendar days
Item No. 14 (Option 9)	190 calendar days
Item No. 15 (Option 10)	10 calendar days
Item No. 16 (Option 11)	120 calendar days

The time stated for completion shall include final cleanup of the premises.

(End of clause)

52.211-12 LIQUIDATED DAMAGES--CONSTRUCTION (SEP 2000)

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of $750 for each calendar day of delay until the work is completed or accepted.

(b) If the Government terminates the Contractor's right to proceed, liquidated damages will continue to accrue until the work is completed. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

(End of clause)

52.211-13 TIME EXTENSIONS (SEP 2000)

Time extensions for contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of construction. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements related to the changed work and that the remaining contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

(End of clause)

52.211-18 VARIATION IN ESTIMATED QUANTITY (APR 1984)

If the quantity of a unit-priced item in this contract is an estimated quantity and the actual quantity of the unit-priced item varies more than 15 percent above or below the estimated quantity, an equitable adjustment in the contract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 115 percent or below 85 percent of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Contractor may request, in writing, an extension of time, to be received by the Contracting Officer within 10 days from the beginning of the delay, or within such further period as may be granted by the Contracting Officer before the date of final settlement of the contract. Upon the receipt of a written request for an extension, the Contracting Officer shall ascertain the facts and make an adjustment for extending the completion date as, in the judgment of the Contracting Officer, is justified.

(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.

52.215-13 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

252.215-7000 PRICING ADJUSTMENTS (DEC 1991)

The term "pricing adjustment," as used in paragraph (a) of the clauses entitled "Price Reduction for

Defective Cost or Pricing Data - Modifications," "Subcontractor Cost or Pricing Data," and "Subcontractor Cost or Pricing Data - Modifications," means the aggregate increases and/or decreases in cost plus applicable profits.

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 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)

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

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

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

(c) *Definition*s. As used in this contract—

"HUBZone small business concern" means a small busi-ness concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration .

"Service-disabled veteran-owned small business concern " —

(1) Means a small business concern—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Whose management and daily business operations are controlled by one or more women.

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

(End of clause)

52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2002)

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

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

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

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

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

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

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

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

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

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

(2) A statement of--

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

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

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

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

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

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

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to--

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) HUBZone small business concerns;

(iv) Small disadvantaged business concerns; and

(v) Women-owned small business concerns.

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

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

(6) A statement as to whether or not the offeror in included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with—

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) HUBZone small business concerns;

(iv) Small disadvantaged business concerns; and

(v) Women-owned small business concerns.

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

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

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

(10) Assurances that the offeror will--

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

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

(iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with paragraph (j) of this clause. The reports shall provide

information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, small disadvantaged business concerns, women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with the instructions on the forms or as provided in agency regulations.

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

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

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

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

(iii) Records on each subcontract solicitation resulting in an award of more than $100,000, indicating--

(A) Whether small business concerns were solicited and, if not, why not;

(B) Whether veteran-owned small business concerns were solicited and, if not, why not;

(C) Whether HUBZone small business concerns were solicited and, if not, why not;

(D) Whether small disadvantaged business concerns were solicited and, if not, why not;

(E) Whether women-owned small business concerns were solicited and, if not, why not; and

(F) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact--

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and

(D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through--

(A) Workshops, seminars, training, etc.; and

(B) Monitoring performance to evaluate compliance with the program's requirements.

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

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

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

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owner small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all ``make-or-buy'' decisions.

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

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

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

(1) the master plan has been approved, (2) the offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer, and (3) goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

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

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

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

(j) The Contractor shall submit the following reports:

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

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

(End of clause)

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

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

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

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

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

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

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

(End of clause)

52.219-25 SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM—DISADVANTAGED STATUS AND REPORTING (OCT 1999)

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

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

(End of clause)

252.219-7003 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS) (APR. 1996)

This clause supplements the Federal Acquisition Regulation 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, clause of this contract.

(a) *Definitions. Historically black colleges and universities,* as used in this clause, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. The term also means any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

Minority institutions, as used in this clause, means institutions meeting the requirements of section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)). The term also includes Hispanic-serving institutions as defined in section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

(b) Except for company or division-wide commercial items subcontracting plans, the term *small disadvantaged business,* when used in the FAR 52.219-9 clause, includes historically black colleges and universities and minority institutions, in addition to small disadvantaged business concerns.

(c) Work under the contract or its subcontracts shall be credited toward meeting the small disadvantaged business concern goal required by paragraph (d) of the FAR 52.219-9 clause when:

(1) It is performed on Indian lands or in joint venture with an Indian tribe or a tribally-owned corporation, and

(2) It meets the requirements of 10 U.S.C. 2323a.

(d) Subcontracts awarded to workshops approved by the Committee for Purchase from People Who are Blind or Severely Disabled (41 U.S.C. 46-48), may be counted toward the Contractor's small business subcontracting goal.

(e) A mentor firm, under the Pilot Mentor-Protege Program established under Section 831 of Pub. L. 101-510, as amended, may count toward its small disadvantaged business goal, subcontracts awarded--

(f) The master plan approval referred to in paragraph (f) of the FAR 52.219-9 clause is approval by the Contractor's cognizant contract administration activity.

(g) In those subcontracting plans which specifically identify small, small disadvantaged, and women-owned small businesses, the Contractor shall notify the Administrative Contracting Officer of any substitutions of firms that are not small, small disadvantaged, or women-owned small businesses for the firms listed in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

(End of clause)

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)

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

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

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

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

(d) Payrolls and basic records.

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

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

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

(End of clause)

52.222-6 DAVIS-BACON ACT (FEB 1995)

(a) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (d) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period. Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated

at the rate specified for each classification for the time actually worked therein; provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (b) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(b)(1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the construction industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to subparagraphs (b)(2) and (b)(3) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(c) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(d) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

52.222-7 WITHHOLDING OF FUNDS (FEB 1988)

The Contracting Officer shall, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other Federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

52.222-8 PAYROLLS AND BASIC RECORDS (FEB 1988)

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify--

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage

determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph (b)(2) of this clause.

(4) The falsification of any of the certifications in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

52.222-9 APPRENTICES AND TRAINEES (FEB 1988)

(a) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on

the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(c) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

52.222-10 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)

The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

52.222-11 SUBCONTRACTS (LABOR STANDARDS (FEB 1988)

(a) The Contractor or subcontractor shall insert in any subcontracts the clauses entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act-Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Withholding of Funds, Subcontracts (Labor Standards), Contract Termination-Debarment, Disputes Concerning Labor Standards, Compliance with Davis-Bacon and Related Act Regulations, and Certification of Eligibility, and such other clauses as the Contracting Officer may, by appropriate instructions, require, and also a clause requiring subcontractors to include these clauses in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with all the contract clauses cited in this paragraph.

(b)(1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed Statement and Acknowledgment Form (SF 1413) for each subcontract, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (a) of this clause have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for such additional subcontract.

52.222-12 CONTRACT TERMINATION--DEBARMENT (FEB 1988)

A breach of the contract clauses entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act--Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Davis-Bacon and Related Act Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

52.222-13 COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS (FEB 1988)

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are hereby incorporated by reference in this contract.

52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)

The United States Department of Labor has set forth in 29 CFR Parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

52.222-15 CERTIFICATION OF ELIGIBILITY (FEB 1988)

(a) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

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

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)

52.222-26 EQUAL OPPORTUNITY (APR 2002)

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

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

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

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.

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

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

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

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

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

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

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

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

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

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

(End of clause)

52.222-27 AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (FEB 1999)

(a) Definitions. "Covered area," as used in this clause, means the geographical area described in the solicitation for this contract.

"Deputy Assistant Secretary," as used in this clause, means Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, or a designee.

"Employer's identification number," as used in this clause, means the Federal Social Security number used on the employer's quarterly federal tax return, U.S. Treasury Department Form 941.

"Minority," as used in this clause, means--

(1) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(2) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);

(3) Black (all persons having origins in any of the black African racial groups not of Hispanic origin); and

(4) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race).

(b) If the Contractor, or a subcontractor at any tier, subcontracts a portion of the work involving any construction trade, each such subcontract in excess of $10,000 shall include this clause and the Notice containing the goals for minority and female participation stated in the solicitation for this contract.

(c) If the Contractor is participating in a Hometown Plan (41 CFR 60-4) approved by the U.S. Department of Labor in a covered area, either individually or through an association, its affirmative action obligations on all work in the plan area (including goals) shall comply with the plan for those trades that have unions participating in the plan. Contractors must be able to demonstrate participation in, and compliance with, the provisions of the plan. Each Contractor or subcontractor participating in an approved plan is also required to comply with its obligations under the Equal Opportunity clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good-faith performance by other Contractors or subcontractors toward a goal in an approved plan does not excuse

any Contractor's or subcontractor's failure to make good-faith efforts to achieve the plan's goals.

(d) The Contractor shall implement the affirmative action procedures in subparagraphs (g)(1) through (16) of this clause. The goals stated in the solicitation for this contract are expressed as percentages of the total hours of employment and training of minority and female utilization that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for the geographical area where that work is actually performed. The Contractor is expected to make substantially uniform progress toward its goals in each craft.

(e) Neither the terms and conditions of any collective bargaining agreement, nor the failure by a union with which the Contractor has a collective bargaining agreement, to refer minorities or women shall excuse the Contractor's obligations under this clause, Executive Order 11246, as amended, or the regulations thereunder.

(f) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

(g) The Contractor shall take affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with this clause shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and implement affirmative action steps at least as extensive as the following:

(1) Ensure a working environment free of harassment, intimidation, and coercion at all sites and in all facilities where the Contractor's employees are assigned to work. The Contractor, if possible, will assign two or more women to each construction project. The Contractor shall ensure that foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at these sites or facilities.

(2) Establish and maintain a current list of sources for minority and female recruitment. Provide written notification to minority and female recruitment sources and community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

(3) Establish and maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant, referrals of minorities or females from unions, recruitment sources, or community organizations, and the action taken with respect to each individual. If an individual was sent to the union hiring hall for referral and not referred back to the Contractor by the union or, if referred back, not employed by the
Contractor, this shall be documented in the file, along with whatever additional actions the Contractor may have taken.

(4) Immediately notify the Deputy Assistant Secretary when the union or unions with which the Contractor has a collective bargaining agreement has not referred back to the Contractor a minority or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

(5) Develop on-the-job training opportunities and/or participate in training programs for the area that expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under subparagraph (g)(2) of this clause.

(6) Disseminate the Contractor's equal employment policy by--

(i) Providing notice of the policy to unions and to training, recruitment, and outreach programs, and requesting their cooperation in assisting the Contractor in meeting its contract obligations;

(ii) Including the policy in any policy manual and in collective bargaining agreements;

(iii) Publicizing the policy in the company newspaper, annual report, etc.;

(iv) Reviewing the policy with all management personnel and with all minority and female employees at least once a year; and

(v) Posting the policy on bulletin boards accessible to employees at each location where construction work is performed.

(7) Review, at least annually, the Contractor's equal employment policy and affirmative action obligations with all employees having responsibility for hiring, assignment, layoff, termination, or other employment decisions. Conduct review of this policy with all on-site supervisory personnel before initiating construction work at a job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

(8) Disseminate the Contractor's equal employment policy externally by including it in any advertising in the news media, specifically including minority and female news media. Provide written notification to, and discuss this policy with, other Contractors and subcontractors with which the Contractor does or anticipates doing business.

(9) Direct recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than 1 month before the date for acceptance of applications for apprenticeship or training by any recruitment source, send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

(10) Encourage present minority and female employees to recruit minority persons and women. Where reasonable, provide after-school, summer, and vacation employment to minority and female youth both on the site and in other areas of the Contractor's workforce.

(11) Validate all tests and other selection requirements where required under 41 CFR 60-3.

(12) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities. Encourage these employees to seek or to prepare for, through appropriate training, etc., opportunities for promotion.

(13) Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the Contractor's obligations under this contract are being carried out.

(14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user rest rooms and necessary dressing or sleeping areas shall be provided to assure privacy between the sexes.

(15) Maintain a record of solicitations for subcontracts for minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's equal employment policy and affirmative action obligations.

(h) The Contractor is encouraged to participate in voluntary associations that may assist in fulfilling one or more of the affirmative action obligations contained in subparagraphs (g)(1) through (16) of this clause. The efforts of a contractor association, joint contractor-union, contractor-community, or similar group of which the contractor is a member and participant may be asserted as fulfilling one or more of its obligations under subparagraphs (g)(1) through (16) of this clause, provided the Contractor--

(1) Actively participates in the group;

(2) Makes every effort to ensure that the group has a positive impact on the employment of minorities and women in the industry;

(3) Ensures that concrete benefits of the program are reflected in the Contractor's minority and female workforce participation;

(4) Makes a good-faith effort to meet its individual goals and timetables; and

(5) Can provide access to documentation that demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply is the Contractor's, and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

(i) A single goal for minorities and a separate single goal for women shall be established. The Contractor is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the Contractor may be in violation of Executive Order 11246, as amended, if a particular group is employed in a substantially disparate manner.

(j) The Contractor shall not use goals or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

(k) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts under Executive Order 11246, as amended.

(l) The Contractor shall carry out such sanctions and penalties for violation of this clause and of the Equal Opportunity clause, including suspension, termination, and cancellation of existing subcontracts, as may be imposed or ordered under Executive Order 11246, as amended, and its implementing regulations, by the OFCCP. Any failure to carry out these sanctions and penalties as ordered shall be a violation of this clause and Executive Order 11246, as amended.

(m) The Contractor in fulfilling its obligations under this clause shall implement affirmative action procedures at least as extensive as those prescribed in paragraph (g) of this clause, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of Executive Order 11246, as amended, the implementing regulations, or this clause, the Deputy Assistant Secretary shall take action as prescribed in 41 CFR 60-4.8.

(n) The Contractor shall designate a responsible official to--

(1) Monitor all employment-related activity to ensure that the Contractor's equal employment policy is being carried out;

(2) Submit reports as may be required by the Government; and

(3) Keep records that shall at least include for each employee the name, address, telephone number,

construction trade, union affiliation (if any), employee identification number, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, separate records are not required to be maintained.

Nothing contained herein shall be construed as a limitation upon the application of other laws that establish different standards of compliance or upon the requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

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)

252.222-7000 RESTRICTIONS ON EMPLOYMENT OF PERSONNEL (MAR 2000)

(a) The Contractor shall employ, for the purpose of performing that portion of the contract work in Tern Island, French Frigate Shoals, Hawaii, individuals who are residents thereof and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills to perform the contract.

(b) The Contractor shall insert the substance of this clause, including this paragraph (b), in each subcontract awarded under this contract.

(End of clause)

52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997)

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

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

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

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

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

award.

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

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

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

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

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

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

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

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

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

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

(End of clause)

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

(a) Executive Order 12856 of August 3, 1993, requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA)(42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (PPA)(42 U.S.C. 13101-13109).

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

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 deter- mine 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) though (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).

252.223-7001 HAZARD WARNING LABELS (DEC 1991)

(a) "Hazardous material," as used in this clause, is defined in the Hazardous Material Identification and Material Safety Data clause of this contract.

(b) The Contractor shall label the item package (unit container) of any hazardous material to be delivered under this contract in accordance with the Hazard Communication Standard (29 CFR 1910.1200 et seq). The Standard requires that the hazard warning label conform to the requirements of the standard unless the material is otherwise subject to the labeling requirements of one of the following statutes:

(1) Federal Insecticide, Fungicide and Rodenticide Act;

(2) Federal Food, Drug and Cosmetics Act;

(3) Consumer Product Safety Act;

(4) Federal Hazardous Substances Act; or

(5) Federal Alcohol Administration Act.

(c) The Offeror shall list which hazardous material listed in the Hazardous Material Identification and Material Safety Data clause of this contract will be labeled in accordance with one of the Acts in paragraphs (b)(1) through
(5) of this clause instead of the Hazard Communication Standard. Any hazardous material not listed will be interpreted to mean that a label is required in accordance with the Hazard Communication Standard.

MATERIAL (If None, Insert "None.")	ACT
_____	_____
_____	_____

(d) The apparently successful Offeror agrees to submit, before award, a copy of the hazard warning label for all hazardous materials not listed in paragraph (c) of this clause. The Offeror shall submit the label with the Material Safety Data Sheet being furnished under the Hazardous Material Identification and Material Safety Data clause of this contract.

(e) The Contractor shall also comply with MIL-STD-129, Marking for Shipment and Storage (including revisions adopted during the term of this contract).

(End of clause)

252.223-7004 DRUG-FREE WORK FORCE (SEP 1988)

(a) Definitions.

(1) "Employee in a sensitive position," as used in this clause, means an employee who has been granted access to classified information; or employees in other positions that the Contractor determines involve national security; health or safety, or functions other than the foregoing requiring a high degree of trust and confidence.

(2) "Illegal drugs," as used in this clause, means controlled substances included in Schedules I and II, as defined by section 802(6) of title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

(b) The Contractor agrees to institute and maintain a program for achieving the objective of a drug-free work force. While this clause defines criteria for such a program, contractors are encouraged to implement alternative approaches comparable to the criteria in paragraph (c) that are designed to achieve the objectives of this clause.

(c) Contractor programs shall include the following, or appropriate alternatives:

(1) Employee assistance programs emphasizing high level direction, education, counseling, rehabilitation, and coordination with available community resources;

(2) Supervisory training to assist in identifying and addressing illegal drug use by Contractor employees;

(3) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues;

(4) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis. Employee drug testing programs shall be established taking account of the following:

(i) The Contractor shall establish a program that provides for testing for the use of illegal drugs by employees in sensitive positions. The extent of and criteria for such testing shall be determined by the Contractor based on considerations that include the nature of the work being performed under the contract, the employee's duties, and efficient use of Contractor resources, and the risks to health, safety, or national security that could result from the failure of an employee adequately to discharge his or her position.

(ii) In addition, the Contractor may establish a program for employee drug testing--

(A) When there is a reasonable suspicion that an employee uses illegal drugs; or

(B) When an employees has been involved in an accident or unsafe practice;

(C) As part of or as a follow-up to counseling or rehabilitation for illegal drug use;

(D) As part of a voluntary employee drug testing program.

(iii) The Contractor may establish a program to test applicants for employment for illegal drug use.

(iv) For the purpose of administering this clause, testing for illegal drugs may be limited to those substances for which testing is prescribed by section 2..1 of subpart B of the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (53 FR 11980 (April 11, 1988), issued by the Department of Health and Human Services.

(d) Contractors shall adopt appropriate personnel procedures to deal with employees who are found to be using drugs illegally. Contractors shall not allow any employee to remain on duty or perform in a sensitive position who is found to use illegal drugs until such times as the Contractor, in accordance with procedures established by the Contractor, determines that the employee may perform in such a position.

(e) The provisions of this clause pertaining to drug testing program shall not apply to the extent that are inconsistent with state or local law, or with an existing collective bargaining agreement; provided that with respect to the latter, the Contractor agrees those issues that are in conflict will be a subject of negotiation at the next collective bargaining session.

(End of clause)

52.225-9 -- BUY AMERICAN ACT-CONSTRUCTION MATERIALS. (MAY 2002)

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

"Component" means an article, material, or supply incorporated directly into a construction material.

"Construction material" means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

"Cost of components" means--

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

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

"Domestic construction material" means--

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

"Foreign construction material" means a construction material other than a domestic construction material.

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

(b) *Domestic preference.*

(1) This clause implements the Buy American Act (41 U.S.C. 10a-10d) by providing a preference for domestic construction material. The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

(2) This requirement does not apply to the construction material or components listed by the Government as follows: NONE

(3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

(ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) Request for determination of inapplicability of the Buy American Act.
(1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including--

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American Act applies, use of foreign construction material is noncompliant with the Buy American Act.

(d) *Data.* To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison

Construction material description	Unit of measure	Quantity	Price (dollars) *
Item 1			
Foreign construction material			
Domestic construction material			
Item 2			
Foreign construction material			
Domestic construction material			

[*List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.*]

[*Include other applicable supporting information.*]

[**Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]*

(End of Clause)

52.225-11 BUY AMERICAN ACT -- CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (JULY 2002)

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

"Component" means an article, material, or supply incorporated directly into a construction material.

"Construction material" means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

"Cost of components" means--

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

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

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

"Designated country construction material" means a construction material that--

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

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different construction material distinct from the materials from which it was transformed.

"Domestic construction material" means--

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

"Foreign construction material" means a construction material other than a domestic construction material.

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

"North American Free Trade Agreement country construction material" means a construction material that--

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

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a NAFTA country into a new and different construction material distinct from the materials from which it was transformed.

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

(b) *Construction materials.*

(1) This clause implements the Buy American Act (41 U.S.C. 10a-10d) by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the Trade Agreements Act and the North American Free Trade Agreement (NAFTA) apply to this acquisition. Therefore, the Buy American Act restrictions are waived for designated country and NAFTA country construction materials.

(2) The Contractor shall use only domestic, designated country, or NAFTA country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

(3) The requirement in paragraph (b)(2) of this clause does not apply to the construction materials or components listed by the Government as follows: NONE

(4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that--

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

(ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(b) Request for determination of inapplicability of the Buy American Act.

(1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including--

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American Act applies, use of foreign construction material is noncompliant with the Buy American Act.

(d) *Data.* To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison

Construction material description	Unit of measure	Quantity	Price (dollars) *
Item 1			
Foreign construction material			
Domestic construction material			
Item 2			
Foreign construction material			
Domestic construction material			

[*List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.*]

[*Include other applicable supporting information.*]

[** Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]*

(End of clause)

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)

252.225-7031 SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 1992)

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

(1) "Foreign person" means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec 2415).

(2) "United States person" is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concerns, as determined under regulations of the President.

(b) Certification. By submitting this offer, the Offeror, if a foreign person, company or entity, certifies that it--

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec 2407(a) prohibits a United States person from taking.

(End of clause)

252.226-7001 Utilization of Indian Organizations and Indian-Owned Economic Enterprises-DoD Contracts (Sep 2001)

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

“Indian” means any person who is a member of any Indian tribe, band, group, pueblo, or community that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c) and any “Native” as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

“Indian organization” means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C. Chapter 17.

“Indian-owned economic enterprise” means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership constitutes not less than 51 percent of the enterprise.

“Indian tribe” means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, that is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1452 (c).

“Interested party” means a contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

(b) The Contract shall use its best efforts to give Indian organizations and Indian-owned economic enterprises the maximum practicable opportunity to participate in the subcontracts it awards, to the fullest extent consistent with efficient performance of the contract.

(c) The Contracting Officer and the Contractor, acting in good faith, may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless and interested party challenges its status or the Contracting Officer has independent reason to question that status.

(d) In the event of a challenge to the representation of a subcontractor, the Contracting Officer will refer the matter to the U.S. Department of the Interior, Bureau of Indian Affairs, Attn: Chief, Division of Contracting and Grants Administration, 1849 C Street NW, MS-2626-MIB, Washington, DC 20240-4000. The BIA will determine the eligibility and will notify the Contracting Officer. No incentive payment will be made--

(1) Within 59 working days of subcontract award;

(2) While a challenge is pending; or

(3) If a subcontractor is determined to be an ineligible participant.

(e)(1) The Contractor, on its own behalf or on behalf of a subcontractor at any tier, may request an adjustment under the Indian Incentive Program to the following:

(i) The estimated cost of cost-type contract.

(ii) The target cost of a cost-plus-incentive-fee contract.

(iii) The target cost and ceiling price of a fixed-price incentive contract.

(iv) The price of a firm-fixed-price contract.

(2) The amount of the adjustment that may be made to the contract is 5 percent of the estimated cost, target cost, or firm-fixed price included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

(3) The Contractor has the burden of proving the amount claimed and must assert its request for an adjustment prior to completion of contract performance.

(4) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the amount paid to the subcontractor.

(5) If the Contractor requests and receives an adjustment on behalf of a subcontractor, the Contractor is obligated to pay the subcontractor the adjustment.

(f) The Contractor shall insert the substance of this clause, including this paragraph (f), in all subcontracts that--

(1) Are for other than commercial items; and

(2) Are expected to exceed the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation.

(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)

52.227-4 PATENT INDEMNITY--CONSTRUCTION CONTRACTS (APR 1984)

Except as otherwise provided, the Contractor agrees to indemnify the Government and its officers, agents, and employees against liability, including costs and expenses, for infringement upon any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of performing this contract or out of the use or disposal by or for the account of the Government of supplies furnished or work performed under this contract.

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.

52.228-2 ADDITIONAL BOND SECURITY (OCT 1997)

The Contractor shall promptly furnish additional security required to protect the Government and persons supplying labor or materials under this contract if--

(a) Any surety upon any bond, or issuing financial institution for other security, furnished with this contract becomes unacceptable to the Government.

(b) Any surety fails to furnish reports on its financial condition as required by the Government;

(c) The contract price is increased so that the penal sum of any bond becomes inadequate in the opinion of the Contracting Officer; or

(d) An irrevocable letter of credit (ILC) used as security will expire before the end of the period of required security. If the Contractor does not furnish an acceptable extension or replacement ILC, or other acceptable substitute, at least 30 days before an ILC's scheduled expiration, the Contracting officer has the right to immediately draw on the ILC.

52.228-5 INSURANCE--WORK ON A GOVERNMENT INSTALLATION (JAN 1997)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective (1) for such period as the laws of the State in which this contract is to be performed prescribe, or (2) until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

(End of clause)

52.228-11 PLEDGES OF ASSETS (FEB 1992)

(a) Offerors shall obtain from each person acting as an individual surety on a bid guarantee, a performance bond, or a payment bond--

(1) Pledge of assets; and

(2) Standard Form 28, Affidavit of Individual Surety.

(b) Pledges of assets from each person acting as an individual surety shall be in the form of--

(1) Evidence of an escrow account containing cash, certificates of deposit, commercial or Government securities, or other assets described in FAR 28.203-2 (except see 28.203-2(b)(2) with respect to Government securities held in book entry form) and/or;

(2) A recorded lien on real estate. The offeror will be required to provide--

(i) Evidence of title in the form of a certificate of title prepared by a title insurance company approved by the United States Department of Justice. This title evidence must show fee simple title vested in the surety along with any concurrent owners; whether any real estate taxes are due and payable; and any recorded encumbrances against the property, including the lien filed in favor of the Government as required by FAR 28.203-3(d);

(ii) Evidence of the amount due under any encumbrance shown in the evidence of title;

(iii) A copy of the current real estate tax assessment of the property or a current appraisal dated no earlier than 6 months prior to the date of the bond, prepared by a professional appraiser who certifies that the appraisal has been conducted in accordance with the generally accepted appraisal standards as reflected in the Uniform Standards of Professional Appraisal Practice, as promulgated by the Appraisal Foundation.

(End of clause)

52.228-14 IRREVOCABLE LETTER OF CREDIT (DEC 1999)

(a) “Irrevocable letter of credit” (ILC), as used in this clause, means a written commitment by a federally insured financial institution to pay all or part of a stated amount of money, until the expiration date of the letter, upon presentation by the Government (the beneficiary) of a written demand therefor. Neither the financial institution nor the offeror/Contractor can revoke or condition the letter of credit.

(b) If the offeror intends to use an ILC in lieu of a bid bond, or to secure other types of bonds such as performance and payment bonds, the letter of credit and letter of confirmation formats in paragraphs (e) and (f) of this clause shall be used.

(c) The letter of credit shall be irrevocable, shall require presentation of no document other than a written demand and the ILC (including confirming letter, if any), shall be issued/confirmed by an acceptable federally insured financial institution as provided in paragraph (d) of this clause, and--

(1) If used as a bid guarantee, the ILC shall expire no earlier than 60 days after the close of the bid acceptance period;

(2) If used as an alternative to corporate or individual sureties as security for a performance or payment bond, the offeror/Contractor may submit an ILC with an initial expiration date estimated to cover the entire period for which financial security is required or may submit an ILC with an initial expiration date that is a minimum period of one year from the date of issuance. The ILC shall provide that, unless the issuer provides the beneficiary written notice of non-renewal at least 60 days in advance of the current expiration date, the ILC is automatically extended without amendment for one year from the expiration date, or any future expiration date, until the period of required coverage is completed and the Contracting Officer provides the financial institution with a written statement waiving the right to payment. The period of required coverage shall be:

(i) For contracts subject to the Miller Act, the later of--

(A) One year following the expected date of final payment;

(B) For performance bonds only, until completion of any warranty period; or

(C) For payment bonds only, until resolution of all claims filed against the payment bond during the one-year period following final payment.

(ii) For contracts not subject to the Miller Act, the later of--

(A) 90 days following final payment; or

(B) For performance bonds only, until completion of any warranty period.

(d) Only federally insured financial institutions rated investment grade or higher shall issue or confirm the ILC. The offeror/Contractor shall provide the Contracting Officer a credit rating that indicates the financial institution has the required rating(s) as of the date of issuance of the ILC. Unless the financial institution issuing the ILC had letter of credit business of less than $25 million in the past year, ILCs over $5 million must be confirmed by another acceptable financial institution that had letter of credit business of less than $25 million in the past year.

(e) The following format shall be used by the issuing financial institution to create an ILC:

_____

[Issuing Financial Institution's Letterhead or Name and Address]

Issue Date _____

IRREVOCABLE LETTER OF CREDIT NO. _____

Account party's name _____

Account party's address _____

For Solicitation No. _____(for reference only)

TO: [U.S. Government agency]

[U.S. Government agency's address]

1. We hereby establish this irrevocable and transferable Letter of Credit in your favor for one or more drawings up to United States $_____. This Letter of Credit is payable at [issuing financial institution's and, if any, confirming financial institution's] office at [issuing financial institution's address and, if any, confirming financial institution's address] and expires with our close of business on _____, or any automatically extended expiration date.

2. We hereby undertake to honor your or the transferee's sight draft(s) drawn on the issuing or, if any, the confirming financial institution, for all or any part of this credit if presented with this Letter of Credit and confirmation, if any, at the office specified in paragraph 1 of this Letter of Credit on or before the expiration date or any automatically extended expiration date.

3. [This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.] It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for one year from the expiration date hereof, or any future expiration date, unless at least 60 days prior to any expiration date, we notify you or the transferee by registered mail, or other receipted means of delivery, that we elect not to consider this Letter of Credit renewed for any such additional period. At the time we notify you, we also agree to notify the account party (and confirming financial institution, if any) by the same means of delivery.

4. This Letter of Credit is transferable. Transfers and assignments of proceeds are to be effected without charge to either the beneficiary or the transferee/assignee of proceeds. Such transfer or assignment shall be only at the written direction of the Government (the beneficiary) in a form satisfactory to the issuing financial institution and the confirming financial institution, if any.

5. This Letter of Credit is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500, and to the extent not inconsistent therewith, to the laws of _____ [state of confirming financial institution, if any, otherwise state of issuing financial institution].

6. If this credit expires during an interruption of business of this financial institution as described in Article 17 of the UCP, the financial institution specifically agrees to effect payment if this credit is drawn against within 30 days after the resumption of our business.

Sincerely,

_____

[Issuing financial institution]

(f) The following format shall be used by the financial institution to confirm an ILC:

_____
[Confirming Financial Institution's Letterhead or Name and Address]

(Date) _____

Our Letter of Credit Advice Number _____

Beneficiary: _____ [U.S. Government agency]

Issuing Financial Institution: _____

Issuing Financial Institution's LC No.: _____

Gentlemen:

1. We hereby confirm the above indicated Letter of Credit, the original of which is attached, issued by _____ [name of issuing financial institution] for drawings of up to United States dollars _____/U.S. $_____ and expiring with our close of business on _____ [the expiration date], or any automatically extended expiration date.

2. Draft(s) drawn under the Letter of Credit and this Confirmation are payable at our office located at _____.

3. We hereby undertake to honor sight draft(s) drawn under and presented with the Letter of Credit and this Confirmation at our offices as specified herein.

4. [This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.] It is a condition of this confirmation that it be deemed automatically extended without amendment for one year from the expiration date hereof, or any automatically extended expiration date, unless:

(a) At least 60 days prior to any such expiration date, we shall notify the Contracting Officer, or the transferee and the issuing financial institution, by registered mail or other receipted means of delivery, that we elect not to consider this confirmation extended for any such additional period; or

(b) The issuing financial institution shall have exercised its right to notify you or the transferee, the account party, and ourselves, of its election not to extend the expiration date of the Letter of Credit.

5. This confirmation is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500, and to the extent not inconsistent therewith, to the laws of _____ [state of confirming financial institution].

6. If this confirmation expires during an interruption of business of this financial institution as described in Article 17 of the UCP, we specifically agree to effect payment if this credit is drawn against within 30 days after the resumption of our business.

Sincerely,

_____

[Confirming financial institution]

(g) The following format shall be used by the Contracting Officer for a sight draft to draw on the Letter of Credit:

SIGHT DRAFT

_____

[City, State]

(Date) _____

[Name and address of financial institution]

Pay to the order of _____ [Beneficiary Agency] _____ the sum of United States $_____. This draft is drawn under Irrevocable Letter of Credit No. _____.

_____

[Beneficiary Agency]

By: _____

(End of clause)

52.228-15 PERFORMANCE AND PAYMENT BONDS--CONSTRUCTION (JULY 2000)

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

"Original contract price" means the award price of the contract; or, for requirements contracts, the price payable for the estimated total quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

(b) *Amount of required bonds*. Unless the resulting contract price is $100,000 or less, the successful offeror shall furnish performance and payment bonds to the Contracting Officer as follows:

(1) *Performance bonds (Standard Form 25)*. The penal amount of performance bonds at the time of contract award shall be 100 percent of the original contract price.

(2) *Payment Bonds (Standard Form 25-A)*. The penal amount of payment bonds at the time of contract award shall be 100 percent of the original contract price.

(3) *Additional bond protection*. (i) The Government may require additional performance and payment bond protection if the contract price is increased. The increase in protection generally will equal 100 percent of the increase in contract price.

(ii) The Government may secure the additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) *Furnishing executed bonds*. The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within the time period specified in the Bid Guarantee provision of the solicitation, or otherwise specified by the Contracting Officer, but in any event, before starting work.

(d) *Surety or other security for bonds*. The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the *Federal Register* or may be obtained from the:

U.S. Department of Treasury
Financial Management Service
Surety Bond Branch
401 14th Street, NW, 2nd Floor, West Wing
Washington, DC 20227.

(e) *Notice of subcontractor waiver of protection (40 U.S.C. 270b(c)*. Any waiver of the right to sue on the payment bond is void unless it is in writing, signed by the person whose right is waived, and executed after such person has first furnished labor or material for use in the performance of the contract.

(End of clause)

52.229-3 FEDERAL, STATE, AND LOCAL TAXES (APR 2003)

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

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

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

"Contract date," means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

"Local taxes," includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

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

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

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

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

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

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

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

(End of Clause)

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.

52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS. (SEP 2002)

(a) *Payment of price*. The Government shall pay the Contractor the contract price as provided in this contract.

(b) *Progress payments*. The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer.

(1) The Contractor's request for progress payments shall include the following substantiation:

(i) An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.

(ii) A listing of the amount included for work performed by each subcontractor under the contract.

(iii) A listing of the total amount of each subcontract under the contract.

(iv) A listing of the amounts previously paid to each such subcontractor under the contract.

(v) Additional supporting data in a form and detail required by the Contracting Officer.

(2) In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site also may be taken into consideration if-

(i) Consideration is specifically authorized by this contract; and

(ii) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) *Contractor certification*. Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made: (However, if the Contractor elects to delete paragraph (c)(4) from the certification, the certification is still acceptable.)

I hereby certify, to the best of my knowledge and belief, that-

(1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(2) All payments due to subcontractors and suppliers from previous payments received under the contract have been made, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of Title 31, United States Code;

(3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and

(4) This certification is not to be construed as final acceptance of a subcontractor's performance.

_____

(*Name*)

_____

(*Title*)

_____

(*Date*)

(d) *Refund of unearned amounts*. If the Contractor, after making a certified request for progress payments, discovers that a portion or all of such request constitutes a payment for performance by the Contractor that fails to conform to the specifications, terms, and conditions of this contract (hereinafter referred to as the "unearned amount"), the Contractor shall-

(1) Notify the Contracting Officer of such performance deficiency; and

(2) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in paragraph (j) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until-

(i) The date the Contractor notifies the Contracting Officer that the performance deficiency has been corrected; or

(ii) The date the Contractor reduces the amount of any subsequent certified request for progress payments by an amount equal to the unearned amount.

(e) *Retainage*. If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.

(f) *Title, liability, and reservation of rights*. All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as-

(1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of the Government to require the fulfillment of all of the terms of the contract.

(g) *Reimbursement for bond premiums*. In making these progress payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (e) of this clause shall not apply to that portion of progress payments attributable to bond premiums.

(h) *Final payment*. The Government shall pay the amount due the Contractor under this contract after-

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 15).

(i) *Limitation because of undefinitized work*. Notwithstanding any provision of this contract, 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.

(j) *Interest computation on unearned amounts*. In accordance with 31 U.S.C. 3903(c)(1), the amount payable under paragraph (d)(2) of this clause shall be-

(1) Computed at the rate of average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the Contractor receives the unearned amount; and

(2) Deducted from the next available payment to the Contractor.

(End of clause)

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) - ALTERNATE I (APR 1984)

(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. Unless otherwise stated in this contract, payments to an assignee of any amounts due or to become due under this contract shall not, to the extent specified in the Act, be subject to reduction or setoff.

(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.

52.232-27 PROMPT PAYMENT FOR CONSTRUCTION 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) concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments--(1) Types of invoice payments. For purposes of this clause, there are several types of invoice payments that may occur under this contract, as follows:

(i) Progress payments, if provided for elsewhere in this contract, based on Contracting Officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project.

(A) The due date for making such payments is 14 days after the designated billing office receives a proper payment request. If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of receipt, the payment due date is the 14th day after the date of the Contractor's payment request, provided the designated billing office receives a proper payment request and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) The due date for payment of any amounts retained by the Contracting Officer in accordance with the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, is as specified in the contract or, if not specified, 30 days after approval by the Contracting Officer for release to the Contractor.

(ii) Final payments based on completion and acceptance of all work and presentation of release of all claims against the Government arising by virtue of the contract, and payments for partial deliveries that have been accepted by the Government (e.g., each separate building, public work, or other division of the contract for which the price is stated separately in the contract).

(A) The due date for making such payments is the later of the following two events:

(1) The 30th day after the designated billing office receives a proper invoice from the Contractor.

(2) 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 contract settlement.

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

(2) 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)(xi) of this clause. If the invoice does not comply with these requirements, the designated billing office must 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) For payments described in paragraph (a)(1)(i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts.

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

(x) 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.

(xi) 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 for payments described in paragraph (a)(1)(ii) of this clause, Government acceptance or approval is deemed to occur constructively on the 7th day after the Contractor has completed the work or services in accordance with

the terms and conditions of the contract. 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, or Contractor compliance with a contract provision. 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.

(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 the prompt payment regulations at 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 was 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.

(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) Subcontract clause requirements. The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:

(1) Prompt payment for subcontractors. A payment clause that obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.

(2) Interest for subcontractors. An interest penalty clause that obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause--

(i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(3) Subcontractor clause flowdown. A clause requiring each subcontractor to use:

(i) Include a payment clause and an interest penalty clause conforming to the standards set forth in paragraphs (c)(1) and (c)(2) of this clause in each of its subcontracts; and

(ii) Require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) Subcontract clause interpretation. The clauses required by paragraph (c) of this clause shall not be construed to impair the right of the Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions that--

(1) Retainage permitted. Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) Withholding permitted. Permit the Contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) Withholding requirements. Permit such withholding without incurring any obligation to pay a late payment penalty if--

(i) A notice conforming to the standards of paragraph (g) of this clause previously has been furnished to the subcontractor; and

(ii) The Contractor furnishes to the Contracting Officer a copy of any notice issued by a Contractor pursuant to paragraph (d)(3)(i) of this clause.

(e) Subcontractor withholding procedures. If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the Contractor shall--

(1) Subcontractor notice. Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

(2) Contracting Officer notice. Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to paragraph (e)(1) of this clause;

(3) Subcontractor progress payment reduction. Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (e)(1) of this clause;

(4) Subsequent subcontractor payment. Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and--

(i) Make such payment within--

(A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under paragraph (e)(5)(i)) of this clause; or

(B) Seven days after the Contractor recovers such funds from the Government; or

(ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty;

(5) Notice to Contracting Officer. Notify the Contracting Officer upon--

(i) Reduction of the amount of any subsequent certified application for payment; or

(ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying--

(A) The amounts withheld under paragraph (e)(1) of this clause; and

(B) The dates that such withholding began and ended; and

(6) Interest to Government. Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1)), from the 8th day after receipt of the withheld amounts from the Government until--

(i) The day the identified subcontractor performance deficiency is corrected; or

(ii) The date that any subsequent payment is reduced under paragraph (e)(5)(i) of this clause.

(f) Third-party deficiency reports--(1) Withholding from subcontractor. If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a “second-tier subcontractor”) a written notice in accordance with section 2 of the Act of August 24, 1935 (40 U.S.C. 270b, Miller Act), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, the Contractor may, without incurring an obligation to pay an interest penalty under paragraph (e)(6) of this clause--

(i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and

(ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (f)(1)(i) of this clause.

(2) Subsequent payment or interest charge. As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall--

(i) Pay the amount withheld under paragraph (f)(1)(ii) of this clause to such first-tier subcontractor; or

(ii) Incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts DisputesAct of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(g) Written notice of subcontractor withholding. The Contractor shall issue a written notice of any withholding to a subcontractor (with a copy furnished to the Contracting Officer), specifying--

(1) The amount to be withheld;

(2) The specific causes for the withholding under the terms of the subcontract; and

(3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) Subcontractor payment entitlement. The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.

(i) Prime-subcontractor disputes. A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the Government is a party. The Government may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) Preservation of prime-subcontractor rights. Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) Non-recourse for prime contractor interest penalty. The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the Government for such interest penalty. A cost-reimbursement claim may not include any amount for reimbursement of such interest penalty.

(l) 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 (JULY 2002)

a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding $100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d)(1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) (i) The contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding $100,000.

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

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

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

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

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

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

(h) The Government shall pay interest on the amount found due and unpaid from

(1) the date that the Contracting Officer receives the claim (certified, if required); or

(2) the date that payment otherwise would be due, if that date is later, until the date of payment.

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

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

(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.

52.236-1 PERFORMANCE OF WORK BY THE CONTRACTOR (APR 1984)

The Contractor shall perform on the site, and with its own organization, work equivalent to at least 50 percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

52.236-2 DIFFERING SITE CONDITIONS (APR 1984)

As prescribed in 36.502, insert the following clause in solicitations and contracts when a fixed-price construction contract or a fixed-price dismantling, demolition, or removal of improvements contract is contemplated and the contract amount is expected to exceed the small purchase limitation. The Contracting Officer may insert the clause in solicitations and contracts when a fixed-price construction or a fixed-price contract for dismantling, demolition, or removal of improvements is contemplated and the contract amount is expected to be within the small purchase limitation.

(a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of

(1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or

(2) unknown physical conditions at the site, of an unusual nature, which differ materially from those

ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

(b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.

(c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.

(d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

52.236-3 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984)

(a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to

(1) conditions bearing upon transportation, disposal, handling, and storage of materials;

(2) the availability of labor, water, electric power, and roads;

(3) uncertainties of weather, river stages, tides, or similar physical conditions at the site;

(4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Government, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Government.

(b) The Government assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Government. Nor does the Government assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

52.236-4 PHYSICAL DATA (APR 1984)

Data and information furnished or referred to below is for the Contractor's information. The Government shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor.

(a) The indications of physical conditions on the drawings and in the specifications are the result of site investigations by surveys.

(b) Weather conditions: Tropical. Data on temperature and rainfall may be obtained from the National

Weather Service in Honolulu.

(c) Transportation facilities: The Contractor shall make his own investigation of the condition and availability of public and private roads as well as clearances, restrictions, and load limits of bridges.

(d) Security Requirements. The Contractor shall comply with the industrial security requirements of the Army. Contractor personnel requiring access to the military installation in connection with the contract may be subject to security investigation and shall be admitted to only those parts of the installation or building(s) where their presence is required. While on the job, Contractor employees shall display identification as may be required under the Special Contract Requirements paragraph 'Identification of Employees.' Vehicles operating on the military installation are subject to search by security personnel at any time. Immediately upon receipt of notice to proceed, the Contractor shall furnish to the Contracting Officer the following:

(i) A roster of all employees who will need access to the military installation in connection with the contract. The roster shall be submitted in three copies. If requested in writing by the Contracting Officer, additional personnel data shall also be furnished.

(ii) A list of automotive vehicles which will be used on the military installation in connection with the contract. The list shall include make, year, license number, details of insurance coverage required by the Special Contract Requirements paragraph "Required Insurance', and expiration date of safety inspection decal. The list of automotive vehicles shall be submitted in four copies. The Contractor shall be responsible for vehicle permits issued to him and its subcontractors. When so authorized by the Contracting Officer, the Contractor may coordinate directly with the military police concerning permits for contractor-owned vehicles. Privately-owned vehicles used by Contractor personnel must be registered with the military police by the individual owners.

(End of Clause)
(R 7-603.25 1965 JAN)

52.236-5 MATERIAL AND WORKMANSHIP (APR 1984)

(a) All equipment, material, and articles incorporated into the work covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.

(b) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. When directed to do so, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

(c) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may require, in writing, that the Contractor remove from the work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

52.236-6 SUPERINTENDENCE BY THE CONTRACTOR (APR 1984)

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the worksite a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

52.236-7 PERMITS AND RESPONSIBILITIES (NOV 1991)

The Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

52.236-8 OTHER CONTRACTS (APR 1984)

The Government may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Government employees.

52.236-9 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984)

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities

(1) at or near the work site, and

(2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

52.236-10 OPERATIONS AND STORAGE AREAS (APR 1984)

(a) The Contractor shall confine all operations (including storage of materials) on Government premises to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature occasioned by the

Contractor's performance.

(b) Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the Government. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

52.236-11 USE AND POSSESSION PRIOR TO COMPLETION (APR 1984)

(a) The Government shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Government intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Government's possession or use shall not be deemed an acceptance of any work under the contract.

(b) While the Government has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the work resulting from the Government's possession or use, notwithstanding the terms of the clause in this contract entitled "Permits and Responsibilities." If prior possession or use by the Government delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

52.236-12 CLEANING UP (APR 1984)

The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the Government. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.

52.236-13 ACCIDENT PREVENTION (NOV 1991) – ALTERNATE I (NOV 1991)

(a) The Contractor shall provide and maintain work environments and procedures which will

(1) safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities;

(2) avoid interruptions of Government operations and delays in project completion dates; and

(3) control costs in the performance of this contract.

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

(1) Provide appropriate safety barricades, signs, and signal lights;

(2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and

(3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the purposes are taken.

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

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

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

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

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

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

52.236-15 SCHEDULES FOR CONSTRUCTION CONTRACTS (APR 1984)

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the

Contracting Officer, without additional cost to the Government. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.

52.236-17 LAYOUT OF WORK (APR 1984)

The Contractor shall lay out its work from Government established base lines and bench marks indicated on the drawings, and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work. The Contractor shall be responsible for executing the work to the lines and grades that may be established or indicated by the Contracting Officer. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Contracting Officer may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

52.236-21 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997)

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory", or words of like import shall mean "approved by," or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(c) Where "as shown," as indicated", "as detailed", or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed".

(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements, and (2) the installation (i.e., fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail specific portions of the work required by the contract. The Government may duplicate,

use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the Government's reasons therefor. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor.

52.236-26 PRECONSTRUCTION CONFERENCE (FEB 1995)

If the Contracting Officer decides to conduct a preconstruction conference, the successful offeror will be notified and will be required to attend. The Contracting Officer's notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

252.236-7000 MODIFICATION PROPOSALS - PRICE BREAKDOWN. (DEC 1991)

(a) The Contractor shall furnish a price breakdown, itemized as required and within the time specified by the Contracting Officer, with any proposal for a contract modification.

(b) The price breakdown --

(1) Must include sufficient detail to permit an analysis of profit, and of all costs for --

(i) Material;

(ii) Labor;

(iii) Equipment;

(iv) Subcontracts; and

(v) Overhead; and

(2) Must cover all work involved in the modification, whether the work was deleted, added, or changed.

(c) The Contractor shall provide similar price breakdowns to support any amounts claimed for subcontracts.

(d) The Contractor's proposal shall include a justification for any time extension proposed.

252.236-7001 CONTRACT DRAWINGS AND SPECIFICATIONS (AUG 2000)

(a) The Government will provide to the Contractor, without charge, one set of contract drawings and specifications, except publications incorporated into the technical provisions by reference, in electronic or paper media as chosen by the Contracting Officer.

(b) The Contractor shall--

(1) Check all drawings furnished immediately upon receipt;

(2) Compare all drawings and verify the figures before laying out the work;

(3) Promptly notify the Contracting Officer of any discrepancies;

(4) Be responsible for any errors that might have been avoided by complying with this paragraph (b); and

(5) Reproduce and print contract drawings and specifications as needed.

(c) In general--

(1) Large-scale drawings shall govern small-scale drawings; and

(2) The Contractor shall follow figures marked on drawings in preference to scale measurements.

(d) Omissions from the drawings or specifications or the misdescription of details of work that are manifestly necessary to carry out the intent of the drawings and specifications, or that are customarily performed, shall not relieve the Contractor from performing such omitted or misdescribed details of the work. The Contractor shall perform such details as if fully and correctly set forth and described in the drawings and specifications.

(e) The work shall conform to the specifications and the contract drawings identified on the following index of drawings:

See list of drawings at the end of this section.

(End of clause)

252.236-7002 OBSTRUCTION OF NAVIGABLE WATERWAYS (DEC 1991)

(a) The Contractor shall-

(1) Promptly recover and remove any material, plant, machinery, or appliance which the contractor loses, dumps, throws overboard, sinks, or misplaces, and which, in the opinion of the Contracting Officer, may be dangerous to or obstruct navigation;

(2) Give immediate notice, with description and locations of any such obstructions, to the Contracting Officer; and

(3) When required by the Contracting Officer, mark or buoy such obstructions until the same are removed.

(b) The Contracting Officer may-

(1) Remove the obstructions by contract or otherwise should the Contractor refuse, neglect, or delay compliance with paragraph (a) of this clause; and

(2) Deduct the cost of removal from any monies due or to become due to the Contractor; or

(3) Recover the cost of removal under the Contractor's bond.

(c) The Contractor's liability for the removal of a vessel wrecked or sunk without fault or negligence is limited to that provided in Sections 15, 19, and 20 of the River and Harbor Act of March 3, 1899 (33 U.S.C. 410 *et.seq.*).

(End of clause)

252.236-7004 PAYMENT FOR MOBILIZATION AND DEMOBILIZATION. (DEC 1991)

(a) The Government will pay all costs for the mobilization and demobilization of all of the Contractor's plant and equipment at the contract lump sum price for this item.

(1) 70 percent of the lump sum price upon completion of the contractor's mobilization at the work site.

(2) The remaining 30 percent upon completion of demobilization.

(b) The Contracting Officer may require the Contractor to furnish cost data to justify this portion of the bid if the Contracting Officer believes that the percentages in paragraphs (a) (1) and (2) of this clause do not bear a reasonable relation to the cost of the work in this contract.

(1) Failure to justify such price to the satisfaction of the Contracting Officer will result in payment, as determined by the Contracting Officer, of --

(i) Actual mobilization costs at completion of mobilization;

(ii) Actual demobilization costs at completion of demobilization; and

(iii) The remainder of this item in the final payment under this contract.

(2) The Contracting Officer's determination of the actual costs in paragraph (b)(1) of this clause is not subject to appeal.

252.236-7005 AIRFIELD SAFETY PRECAUTIONS. (DEC 1991)

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

(1) "Landing areas means" --

(i) The primary surfaces, comprising the surface of the runway, runway shoulders, and lateral safety zones. The length of each primary surface is the same as the runway length. The width of each primary surface is 2,000 feet (1,000 feet on each side of the runway centerline);

(ii) The "clear zone" beyond the ends of each runway, i.e., the extension of the primary surface for a distance of 1,000 feet beyond each end of each runway;

(iii) All taxiways, plus the lateral clearance zones along each side for the length of the taxiways (the outer edge of each lateral clearance zone is laterally 250 feet from the far or opposite edge of the taxiway, e.g.,

a 75-foot-wide taxiway would have a combined width of taxiway and lateral clearance zones of 425 feet); and

(iv) All aircraft parking aprons, plus the area 125 feet in width extending beyond each edge all around the aprons.

(2) "Safety precaution" areas means those portions of approach-departure clearance zones and transitional zones where placement of objects incident to contract performance might result in vertical projections at or above the approach-departure clearance, or the transitional surface.

(i) "The approach-departure clearance surface" is an extension of the primary surface and the clear zone at each end of each runway, for a distance of 50,000 feet, first along an inclined (glide angle) and then along a horizontal plane, both flaring symmetrically about the runway centerline extended.

(A) The inclined plane (glide angle) begins in the clear zone 200 feet past the end of the runway (and primary surface) at the same elevation as the end of the runway. It continues upward at a slope of 50:1 (1 foot vertically for each 50 feet horizontally) to an elevation of 500 feet above the established airfield elevation. At that point the plane becomes horizontal, continuing at that same uniform elevation to a point 50,000 feet longitudinally from the beginning of the inclined plane (glide angle) and ending there.

(B) The width of the surface at the beginning of the inclined plane (glide angle) is the same as the width of the clear zone. It then flares uniformly, reaching the maximum width of 16,000 feet at the end.

(ii) The "approach-departure clearance zone" is the ground area under the approach-departure clearance surface.

(iii) The "transitional surface" is a sideways extension of all primary surfaces, clear zones, and approach-departure clearance surfaces along inclined planes.

(A) The inclined plane in each case begins at the edge of the surface.

(B) The slope of the incline plane is 7:1 (1 foot vertically for each 7 feet horizontally). It continues to the point of intersection with the --

(1) Inner horizontal surface (which is the horizontal plane 150 feet above the established airfield elevation); or

(2) Outer horizontal surface (which is the horizontal plane 500 feet above the established airfield elevation), whichever is applicable.

(iv) The "transitional zone" is the ground area under the transitional surface. (It adjoins the primary surface, clear zone, and approach-departure clearance zone.)

(b) General. (1) The Contractor shall comply with the requirements of this clause while --

(i) Operating all ground equipment (mobile or stationary);

(ii) Placing all materials; and

(iii) Performing all work, upon and around all airfields.

(2) The requirements of this clause are in addition to any other safety requirements of this contract.

(c) The Contractor shall -

(1) Report to the Contracting Officer before initiating any work;

(2) Notify the Contracting Officer of proposed changes to locations and operations;

(3) Not permit either its equipment or personnel to use any runway for purposes other than aircraft operation without permission of the Contracting Officer, unless the runway is -

(i) Closed by order of the Contracting Officer; and

(ii) Marked as provided in paragraph (d)(2) of this clause;

(4) Keep all paved surfaces, such as runways, taxiways, and hardstands, clean at all times and, specifically, free from small stones which might damage aircraft propellers or jet aircraft;

(5) Operate mobile equipment according to the safety provisions of this clause, while actually performing work on the airfield. At all other times, the Contractor shall remove all mobile equipment to locations -

(i) Approved by the Contracting Officer;

(ii) At a distance of at least 750 feet from the runway centerline, plus any additional distance; and

(iii) Necessary to ensure compliance with the other provisions of this clause; and

(6) Not open a trench unless material is on hand and ready for placing in the trench. As soon as practicable after material has been placed and work approved, the Contractor shall backfill and compact trenches as required by the contract. Meanwhile, all hazardous conditions shall be marked and lighted in accordance with the other provisions of this clause.

(d) Landing areas. The Contractor shall -

(1) Place nothing upon the landing areas without the authorization of the Contracting Officer;

(2) Outline those landing areas hazardous to aircraft, using (unless otherwise authorized by the Contracting Officer) red flags by day, and electric, battery-operated low-intensity red flasher lights by night;

(3) Obtain, at an airfield where flying is controlled, additional permission from the control tower operator every time before entering any landing area, unless the landing area is marked as hazardous in accordance with paragraph (d)(2) of this clause;

(4) Identify all vehicles it operates in landing areas by means of a flag on a staff attached to, and flying above, the vehicle. The flag shall be three feet square, and consist of a checkered pattern of international orange and white squares of 1 foot on each side (except that the flag may vary up to ten percent from each of these dimensions);

(5) Mark all other equipment and materials in the landing areas, using the same marking devices as in paragraph (d)(2) of this clause; and

(6) Perform work so as to leave that portion of the landing area which is available to aircraft free from hazards, holes, piles of material, and projecting shoulders that might damage an airplane tire.

(e) Safety precaution areas. The Contractor shall -

(1) Place nothing upon the safety precaution areas without authorization of the Contracting Officer;

(2) Mark all equipment and materials in safety precaution areas, using (unless otherwise authorized by the Contracting Officer) red flags by day, and electric, battery-operated, low-intensity red flasher lights by

night; and

(3) Provide all objects placed in safety precaution areas with a red light or red lantern at night, if the objects project above the approach-departure clearance surface or above the transitional surface.

252.236-7008 CONTRACT PRICES - BIDDING SCHEDULES. (DEC 1991)

(a) The Government's payment for the items listed in the Bidding Schedule shall constitute full compensation to the Contractor for --

(1) Furnishing all plant, labor, equipment, appliances, and materials; and

(2) Performing all operations required to complete the work in conformity with the drawings and specifications.

(b) The Contractor shall include in the prices for the items listed in the Bidding Schedule all costs for work in the specifications, whether or not specifically listed in the Bidding Schedule.

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.

52.243-4 CHANGES (AUG 1987)

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes--

(1) In the specifications (including drawings and designs);

(2) In the method or manner of performance of the work;

(3) In the Government-furnished facilities, equipment, materials, services, or site; or

(4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating

(1) the date, circumstances, and source of the order and

(2) that the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after

(1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) above.

(f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

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.

252.243-7002 REQUESTS FOR EQUITABLE ADJUSTMENT (MAR 1998)

(a) The amount of any request for equitable adjustment to contract terms shall accurately reflect the contract adjustment for which the Contractor believes the Government is liable. The request shall include only costs for performing the change, and shall not include any costs that already have been reimbursed or that have been separately claimed. All indirect costs included in the request shall be properly allocable to the change in accordance with applicable acquisition regulations.

(b) In accordance with 10 U.S.C. 2410(a), any request for equitable adjustment to contract terms that exceeds the simplified acquisition threshold shall bear, at the time of submission, the following certificate executed by an individual authorized to certify the request on behalf of the Contractor:

I certify that the request is made in good faith, and that the supporting data are accurate and complete to the best of my knowledge and belief.

(Official's Name)

(Title)

(c) The certification in paragraph (b) of this clause requires full disclosure of all relevant facts, including--

(1) Cost or pricing data if required in accordance with subsection 15.403-4 of the Federal Acquisition Regulation (FAR); and

(2) Information other than cost or pricing data, in accordance with subsection 15.403-3 of the FAR, including actual cost data and data to support any estimated costs, even if cost or pricing data are not required.

(d) The certification requirement in paragraph (b) of this clause does not apply to----

(1) Requests for routine contract payments; for example, requests for payment for accepted supplies and services, routine vouchers under a cost-reimbursement type contract, or progress payment invoices; or

(2) Final adjustment under an incentive provision of the contract.

52.245-1 PROPERTY RECORDS (APR 1984)

The Government shall maintain the Government's official property records in connection with Government property under this contract. The Government Property clause is hereby modified by deleting the requirement for the Contractor to maintain such records.

52.246-12 INSPECTION OF CONSTRUCTION (AUG 1996)

(a) Definition. "Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.

(b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

(c) Government inspections and tests are for the sole benefit of the Government and do not--

(1) Relieve the Contractor of responsibility for providing adequate quality control measures;

(2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;

(3) Constitute or imply acceptance; or

(4) Affect the continuing rights of the Government after acceptance of the completed work under paragraph (i) of this section.

(d) The presence or absence of a Government inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer's written authorization.

(e) The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Government may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

(f) The Contractor shall, without charge, replace or correct work found by the Government not to conform to contract requirements, unless in the public interest the Government consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

(g) If the Contractor does not promptly replace or correct rejected work, the Government may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor or (2) terminate for default the Contractor's right to proceed.

(h) If, before acceptance of the entire work, the Government decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

(i) Unless otherwise specified in the contract, the Government shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government's rights under any warranty or guarantee.

52.246-21 WARRANTY OF CONSTRUCTION (MAR 1994)

(a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (i) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If the Government takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the Government takes possession.

(c) The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Government-owned or controlled real or personal property, when that damage is the result of--

(1) The Contractor's failure to conform to contract requirements; or

(2) Any defect of equipment, material, workmanship, or design furnished.

(d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(e) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

(f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Government shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.
(g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall--

(1) Obtain all warranties that would be given in normal commercial practice;

(2) Require all warranties to be executed, in writing, for the benefit of the Government, if directed by the Contracting Officer; and

(3) Enforce all warranties for the benefit of the Government, if directed by the Contracting Officer.

(h) In the event the Contractor's warranty under paragraph (b) of this clause has expired, the Government may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

(i) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the Government nor for the repair of any damage that results from any defect in Government-furnished material or design.

(j) This warranty shall not limit the Government's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.

(End of clause)

52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JAN 1997)

(a) "International air transportation," as used in this clause, means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

"United States," as used in this clause, means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and possessions of the United States.

“U.S.-flag air carrier”, as used in this clause, means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

(b) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

(c) The Contractor agrees, in performing work under this contract, to use U.S.-flag air carriers for international air transportation of personnel (and their personal effects) or property to the extent that service by those carriers is available.

(d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

STATEMENT OF UNAVAILABILITY OF U.S.-FLAG AIR CARRIERS

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see section 47.403 of the Federal Acquisition Regulation): [State reasons]: _____

(End of statement)

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

(End of clause)

252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (MAY 2002)

(a) Definitions. As used in this clause-

(1) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Contractor or any subcontractor.

(2) "Department of Defense" (DoD) means the Army, Navy, Air Force, Marine Corps, and defense agencies.

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) "Subcontractor" means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

(6) "Supplies" means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.

(ii) "Supplies" includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.

(7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b)(1) The Contractor shall use U.S.-flag vessels when transporting any supplies by sea under this contract.

(2) A subcontractor transporting supplies by sea under this contract shall use U.S.-flag vessels if-

(i) This contract is a construction contract; or

(ii) The supplies being transported are-

(A) Noncommercial items; or

(B) Commercial items that-

(1) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);

(2) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(3) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(c) The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that-

(1) U.S.-flag vessels are not available for timely shipment;

(2) The freight charges are inordinately excessive or unreasonable; or

(3) Freight charges are higher than charges to private persons for transportation of like goods.

(d) The Contractor must submit any request for use of other than U.S.-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum-

(1) Type, weight, and cube of cargo;

(2) Required shipping date;

(3) Special handling and discharge requirements;

(4) Loading and discharge points;

(5) Name of shipper and consignee;

(6) Prime contract number; and

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(e) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Maritime Administration, Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street SW, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information:

(1) Prime contract number;

(2) Name of vessel;

(3) Vessel flag of registry;

(4) Date of loading;

(5) Port of loading;

(6) Port of final discharge;

(7) Description of commodity;

(8) Gross weight in pounds and cubic feet if available;

(9) Total ocean freight in U.S. dollars; and

(10) Name of steamship company.

(f) The Contractor shall provide with its final invoice under this contract a representation that to the best of its knowledge and belief-

(1) No ocean transportation was used in the performance of this contract;

(2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;

(3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or

(4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

	ITEM DESCRIPTION	CONTRACT LINE ITEMS	QUANTITY
TOTAL			

(g) If the final invoice does not include the required representation, the Government will reject and return it to the Contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(h) In the award of subcontracts for the types of supplies described in paragraph (b)(2) of this clause, the Contractor shall flow down the requirements of this clause as follows:

(1) The Contractor shall insert the substance of this clause, including this paragraph (h), in subcontracts that exceed the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation.

(2) The Contractor shall insert the substance of paragraphs (a) through (e) of this clause, and this paragraph (h), in subcontracts that are at or below the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation.

(End of clause)

252.247-7024 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA (MAR 2000)

(a) The Contractor has indicated by the response to the solicitation provision, Representation of Extent of Transportation by Sea, that it did not anticipate transporting by sea any supplies. If, however, after the award of this contract, the Contractor learns that supplies, as defined in the Transportation of Supplies by Sea clause of this contract, will be transported by sea, the Contractor --

(1) Shall notify the Contracting Officer of that fact; and

(2) Hereby agrees to comply with all the terms and conditions of the Transportation of Supplies by Sea clause of this contract.

(b) The Contractor shall include this clause; including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties--

(1) In all subcontracts under this contract, if this contract is a construction contract; or

(2) If this contract is not a construction contract, in all subcontracts under this contract that are for--

(i) Noncommercial items; or

(ii) Commercial items that--

(A) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);

(B) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(C) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(End of clause)

52.248-3 VALUE ENGINEERING--CONSTRUCTION (FEB 2000) - ALTERNATE I (APR 1984)

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

(b) Definitions. "Collateral costs," as used in this clause, means agency costs of operation, maintenance, logistic support, or Government-furnished property.

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

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

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistic support. The term does not include the normal administrative costs of processing the VECP.

"Instant contract savings," as used in this clause, means the estimated reduction in Contractor cost of performance resulting from acceptance of the VECP, minus allowable Contractor's development and implementation costs, including subcontractors' development and implementation costs (see paragraph (h) below).

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

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

(2) Results in reducing the contract price or estimated cost without impairing essential functions or characteristics; provided, that it does not involve a change--

(i) In deliverable end item quantities only; or

(ii) To the contract type only.

(c) VECP preparation. As a minimum, the Contractor shall include in each VECP the information described in subparagraphs (1) through (7) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

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

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

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

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

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

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

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

(d) Submission. The Contractor shall submit VECP's to the Resident Engineer at the worksite, with a copy to the Contracting Officer.

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

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

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause. The Contracting Officer may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.

(f) Sharing.

(1) Rates. The Government's share of savings is determined by subtracting Government costs from instant contract savings and multiplying the result by (i) 45 percent for fixed-price contracts or (ii) 75 percent for cost-reimbursement contracts.

(2) Payment. Payment of any share due the Contractor for use of a VECP on this contract shall be authorized by a modification to this contract to--

(i) Accept the VECP;

(ii) Reduce the contract price or estimated cost by the amount of instant contract savings; and

(iii) Provide the Contractor's share of savings by adding the amount calculated to the contract price or fee.

(g) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of $50,000 or more and may include one in subcontracts of lesser value. In computing any adjustment in this contract's price under paragraph (f) above, the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs clearly resulting from a VECP accepted by the Government under this contract, but shall exclude any value engineering incentive payments to a subcontractor. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that these payments shall not reduce the Government's share of the savings resulting from the VECP.

(h) Data. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

"These data, furnished under the Value Engineering--Construction clause of contract . . . . . , shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations."

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

(j) Collateral savings. If a VECP is accepted, the Contracting Officer will increase the instant contract amount by 20 percent of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price or estimated cost, at the time the VECP is accepted, or $100,000, whichever is greater. The Contracting Officer will be the sole determiner of the amount of collateral savings.

(End of clause)

52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SEP 1996) - ALTERNATE I (SEP 1996)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.

(6) As directed by the Contracting Officer, transfer title and deliver to the Government (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and

other property that, if the contract had been completed, would be required to be furnished to the Government.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (b)(6) of this clause; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(c) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

(d) After expiration of the plant clearance period as defined in Subpart 45.6 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(e) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(f) Subject to paragraph (e) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (g) or paragraph (g) of this clause, exclusive of costs shown in subparagraph (g)(3) of this clause, may not exceed the total contract price as reduced by (1) the amount of payments previously made and (2) the contract price of work not terminated. The contract shall be modified, and the Contractor paid the agreed amount. Paragraph (g) of this clause shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(g) If the Contractor and Contracting Officer fail to agree on the whole amount to be paid the Contractor because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined as follows, but without duplication of any amounts agreed upon under paragraph (f) of this clause:

(1) For contract work performed before the effective date of termination, the total (without duplication of any items) of--

(i) The cost of this work;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (g)(1)(i) of this clause; and

(iii) A sum, as profit on subdivision (g)(1)(i) of this clause, determined by the Contracting Officer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subdivision (iii) and shall reduce the settlement to reflect the indicated rate of loss.

(2) The reasonable costs of settlement of the work terminated, including--

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

(h) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair value, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to a buyer.

(i) The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(j) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (e), (g), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal or request for equitable adjustment within the time provided in paragraph (e) or (l), respectively, and failed to request a time extension, there is no right of appeal.

(k) In arriving at the amount due the Contractor under this clause, there shall be deducted--

(1) All unliquidated advance or other payments to the Contractor under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Government.

(l) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 90 days from the effective date of termination unless extended in writing by the Contracting Officer.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

52.249-10 DEFAULT (FIXED-PRICE CONSTRUCTION) (APR 1984)

(a) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if--

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include

(i) acts of God or of the public enemy,

(ii) acts of the Government in either its sovereign or contractual capacity,

(iii) acts of another Contractor in the performance of a contract with the Government,

(iv) fires,

(v) floods,

(vi) epidemics,

(vii) quarantine restrictions,

(viii) strikes,

(ix) freight embargoes,

(x) unusually severe weather, or delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Government.

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

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.

S-28.10 OFFER GUARANTEE (APR 1984)

(a) Failure to furnish an offer guarantee in the proper form and amount, by the time set for receipt of proposals, may be cause for rejection of the offer.

(b) The offeror shall furnish an offer guarantee in the form of a firm commitment, such as a bid bond, postal money order, certified check, cashier's check, irrevocable letter of credit, or under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return offer guarantees, other than bid bonds, (1) to unsuccessful offeror upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the offer as accepted.

(c) If the successful offeror, upon acceptance of its offer by the Government within the period specified for acceptance, fails to execute all contractual documents or give a bond(s) as required by the solicitation within the time specified, the Contracting Officer may terminate the contract for default.

(d) In the event that the contract is terminated for default, the offeror is liable for any cost of acquiring the work that exceeds the amount of its offer, and the offer guarantee is available to offset the difference.

(End of clause)

(R 7-2003.25 1964 JUN)

GENERAL DECISION **HI020001** 04/04/2003 HI1

Date: April 4, 2003
General Decision Number **HI020001**

Superseded General Decision No. HI010001

State: Hawaii

Construction Type:
BUILDING
DREDGING
HEAVY
HIGHWAY
RESIDENTIAL

County(ies):
STATEWIDE

BUILDING CONSTRUCTION PROJECTS; RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories); HEAVY AND HIGHWAY CONSTRUCTION PROJECTS AND DREDGING

Modification Number	Publication Date
0	03/01/2002
1	03/08/2002
2	04/19/2002
3	05/03/2002
4	07/05/2002
5	08/02/2002
6	08/16/2002
7	09/06/2002
8	09/27/2002
9	10/04/2002
10	11/08/2002
11	11/15/2002
12	11/22/2002
13	01/03/2003
14	01/10/2003
15	01/24/2003
16	03/07/2003
17	03/21/2003
18	04/04/2003

COUNTY(ies):
STATEWIDE

* ASBE0132A 03/02/2003

	Rates	Fringes
ASBESTOS WORKERS/INSULATORS Includes application of all insulating materials, protective coverings, coatings and finishes to all types of mechanical systems. Also the application of firestopping material for wall		

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 openings and penetrations in walls,
 floors, ceilings and curtain walls.  30.45           17.34
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 BOIL0204A  10/01/1998
                                      Rates           Fringes
BOILERMAKERS                          26.25           13.76
-----------------------------------------------------------------

 * BRHI0001A  03/01/2003
                                      Rates           Fringes
BRICKLAYERS;
 Cement Block Layers;
 and Stonemasons                      26.35           16.72
-----------------------------------------------------------------

 BRHI0001B  03/01/2003
                                      Rates           Fringes
TERRAZZO WORKERS:
  Terrazzo Workers                    26.60           16.72
  Terrazzo Base Grinders              24.79           16.72
  Terrazzo Floor Grinders
 and Tenders                        23.24           16.72
-----------------------------------------------------------------

 * BRHI0001C  03/01/2003
                                      Rates           Fringes
MARBLE MASONS                         26.60           16.72
-----------------------------------------------------------------

 * BRHI0001D  03/01/2003
                                      Rates           Fringes
TILE LAYERS (CERAMIC)                 26.60           16.72
POINTERS, CAULKERS, CLEANERS          26.60           16.72
TILE LAYER FINISHERS (CERAMIC)        23.24           16.72
-----------------------------------------------------------------

 CARP0745A  03/04/2002
                                      Rates           Fringes
CARPENTERS:

  Carpenters; Hardwood Floor
Layers; Patent Scaffold
Erectors (14 ft. and over);
Piledrivers; Pneumatic Nailers;
Wood Shinglers; and Transit
and/or Layout Man                   30.90           15.45
  Millwrights and Machine Erectors    31.15           15.45
  Power Saw Operators
 (2 H.P. and over)                  31.05           15.45
-----------------------------------------------------------------

 CARP0745B  03/04/2002
                                      Rates           Fringes
DRYWALL HANGERS                       31.15           15.42
LATHERS                               31.15           15.42
-----------------------------------------------------------------

 ELEC1186A  08/18/2002
                                      Rates           Fringes
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ELECTRICIANS:

Electricians	31.70	6.54+30.6%
Technicians	32.65	6.54+30.6%
Cable Splicers	34.87	6.54+30.6%

ELEC1186B 08/18/2002

	Rates	Fringes
LINE CONSTRUCTION:		
Linemen	31.70	6.54+30.6%
Technicians	32.65	6.54+30.6%
Heavy Equipment Operators	28.53	6.54+30.6%
Cable Splicers	34.87	6.54+30.6%
Groundmen; Truck Drivers	23.78	6.54+30.6%

ELEV0126A 10/04/1999

	Rates	Fringes
ELEVATOR MECHANICS	34.65	6.935+a+b

a. VACATION: Employer contributes 8% of basic hourly rate for 5 years service and 6% of basic hourly rate for 6 months to 5 years service as vacation pay credit.
b. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving Day and Christmas Day.

ENGI0003I 09/01/2002

	Rates	Fringes
POWER EQUIPMENT OPERATORS (Includes All Types of Paving):		
GROUP 1	28.59	16.53
GROUP 2	28.70	16.53
GROUP 3	28.87	16.53
GROUP 4	29.14	16.53
GROUP 5	29.45	16.53
GROUP 6	30.10	16.53
GROUP 7	30.42	16.53
GROUP 8	30.53	16.53
GROUP 9	30.64	16.53
GROUP 9A	30.87	16.53
GROUP 10	30.93	16.53
GROUP 10A	31.08	16.53
GROUP 11	31.25	16.53
GROUP 12	31.58	16.53
GROUP 12A	31.95	16.53
WAGE RATES FOR TUNNEL WORK:		
GROUP 1	28.89	16.53
GROUP 2	29.00	16.53
GROUP 3	29.17	16.53
GROUP 4	29.44	16.53
GROUP 5	29.75	16.53
GROUP 6	30.40	16.53
GROUP 7	30.72	16.53
GROUP 8	30.83	16.53

GROUP 9	30.94	16.53
GROUP 9A	31.17	16.53
GROUP 10	31.23	16.53
GROUP 10A	31.38	16.53
GROUP 11	31.53	16.53
GROUP 12	31.89	16.53
GROUP 12A	32.25	16.53

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Fork Lift (up to and including 10 tons); Partsman (heavy duty repair shop parts room when needed).

GROUP 2: Conveyor Operator (Handling building material); Hydraulic Monitor; Mixer Box Operator (Concrete Plant).

GROUP 3: Brakeman; Deckhand; Fireman; Oiler; Oiler/Gradechecker; Signalman; Switchman; Highline Cableway Signalman; Bargeman; Bunkerman; Concrete Curing Machine (self-propelled, automatically applied unit on streets, highways, airports and canals); Leveeman; Roller (5 tons and under); Tugger Hoist.

GROUP 4: Boom Truck or dual purpose "A" Frame Truck (5 tons or less); Concrete Placing Boom (Building Construction); Dinky Operator; Elevator Operator; Hoist and/or Winch (one drum); Straddle Truck (Ross Carrier, Hyster and similar).

GROUP 5: Asphalt Plant Fireman; Compressors, Pumps, Generators and Welding Machines ("Bank" of 9 or more, individually or collectively); Concrete Pumps or Pumpcrete Guns; Lubrication and

Service Engineer (Grease Rack); Screedman.

GROUP 6: Boom Truck or Dual Purpose "A"Frame Truck (over 5 tons); Combination Loader/Backhoe (up to and including 3/4 cu. yd.); Concrete Batch Plants (wet or dry); Concrete Cutter, Groover and/or Grinder (self-propelled unit on streets, highways, airports, and canals); Conveyor or Concrete Pump (Truck or Equipment Mounted); Drilling Machinery (not to apply to waterliners, wagon drills or jack hammers); Fork Lift (over 10 tons); Loader (up to and including 3 and 1/2 cu. yds); Lull High Lift (under 40 feet); Lubrication and Service Engineer (Mobile); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Man or Material Hoist; Mechanical Concrete Finisher (Large Clary, Johnson Bidwell, Bridge Deck and similar); Mobile Truck Crane Driver; Portable Shotblast Concrete Cleaning Machine; Portable Boring Machine (under streets, highways, etc.); Portable Crusher; Power Jumbo Operator (setting slip forms, etc., in tunnels); Rollers (over 5 tons); Self-propelled Compactor (single engine); Self-propelled Pavement Breaker; Skidsteer Loader with attachments; Slip Form Pumps (Power driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Small Rubber Tired Tractors; Trencher (up to and including 6 feet); Underbridge Personnel Aerial Platform (50 feet of platform or less).

GROUP 7: Crusher Plant Engineer, Dozer (D-4, Case 450, John Deere 450, and similar); Dual Drum Mixer, Extend Lift; Hoist and/or Winch (2 drums); Loader (over 3 and 1/2 cu. yds. up to and including 6 yards.); Mechanical Finisher or Spreader

Machine (asphalt), (Barber Greene and similar) (Screedman required); Mine or Shaft Hoist; Mobile Concrete Mixer (over 5 tons); Pipe Bending Machine (pipelines only); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Roller Operator (Asphalt); Self-Propelled Elevating Grade Plane; Slusher Operator; Tractor (with boom) (D-6, or similar); Trencher (over 6 feet and less than 200 h.p.); Water Tanker (pulled by Euclids, T-Pulls, DW-10, 20 or 21, or similar); Winchman (Stern Winch on Dredge).

GROUP 8: Asphalt Plant Operator; Barge Mate (Seagoing); Cast-in-Place Pipe Laying Machine; Concrete Batch Plant (multiple units); Conveyor Operator (tunnel); Deckmate; Dozer (D-6 and similar); Finishing Machine Operator (airports and highways); Gradesetter; Kolman Loader (and similar); Mucking Machine (Crawler-type); Mucking Machine (Conveyor-type); No-Joint Pipe Laying Machine; Portable Crushing and Screening Plant; Power Blade Operator (under 12); Saurman Type Dragline (up to and including 5 yds.); Stationary Pipe Wrapping, Cleaning and Bending Machine; Surface Heater and Planer Operator, Tractor (D-6 and similar); Tri-Batch Paver; Tunnel Badger; Tunnel Mole and/or Boring Machine Operator Underbridge Personnel Aerial Platform (over 50 feet of platform).

GROUP 9: Combination Mixer and Compressor (gunite); Do-Mor Loader and Adams Elegrader; Dozer (D-7 or equal); Wheel and/or Ladder Trencher (over 6 feet and 200 to 749 h.p.).

GROUP 9A: Dozer (D-8 and similar); Gradesetter (when required by the Contractor to work from drawings, plans or specifications without the direct supervision of a foreman or superintendent); Push Cat; Scrapers (up to and including 20 cu. yds); Self-propelled Compactor with Dozer; Self-Propelled, Rubber-Tired Earthmoving Equipment (up to and including 20 cu. yds) (621 Band and similar); Sheep's Foot; Tractor (D-8 and similar); Tractors with boom (larger than D-6, and similar).

GROUP 10: Chicago Boom; Cold Planers; Heavy Duty Repairman or Welder; Hoist and/or Winch (3 drums); Hydraulic Skooper (Koehring and similar); Loader (over 6 cu. yds. up to and including 12 cu. yds.); Saurman type Dragline (over 5 cu. yds.); Self-propelled, rubber-tired Earthmoving Equipment (over 20 cu. yds. up to and including 31 cu. yds.) (637D and similar); Soil Stabilizer (P & H or equal); Sub-Grader (Gurries or other automatic type); Tractors (D-9 or equivalent, all attachments); Tractor (Tandem Scraper); Watch Engineer.

GROUP 10A: Boat Operator; Cable-operated Crawler Crane (up to and including 25 tons); Cable-operated Power Shovel, Clamshell, Dragline and Backhoe (up to and including 1 cu. yd.); Dozer D9-L; Dozer (D-10, HD41 and similar) (all attachments); Gradall (up to and including 1 cu. yd.); Hydraulic Backhoe (over 3/4 cu. yds. up to and including 2 cu. yds.); Mobile Truck Crane Operator (up to and including 25 tons) (Mobile Truck Crane Driver Required); Self-propelled Boom Type Lifting Device (Center Mount) (up to and including 25 tons) (Grove, Drott, P&H, Pettibone and similar; Trencher (over 6 feet and 750 h.p. or more); Watch Engineer (steam or electric).

GROUP 11: Automatic Slip Form Paver (concrete or asphalt); Band Wagon (in conjunction with Wheel Excavator); Cable-operated

Crawler Cranes (over 25 tons but less than 50 tons); Cable-operated Power Shovel, Clamshell, Dragline and Backhoe (over 1 cu. yd. up to 7 cu. yds.); Gradall (over 1 cu. yds. up to 7 cu. yds.); DW-10, 20, etc. (Tandem); Earthmoving Machines (multiple propulsion power units and 2 or more Scrapers) (up to and including 35 cu. yds.," struck" m.r.c.); Highline Cableway; Hydraulic Backhoe (over 2 cu. yds. up to and including 4 cu. yds.); Leverman; Lift Slab Machine; Loader (over 12 cu. yds); Master Boat Operator; Mobile Truck Crane Operator (over 25 tons but less than 50 tons); (Mobile Truck Crane Driver required); Pre-stress Wire Wrapping Machine; Self-propelled Boom-type Lifting Device (Center Mount) (over 25 tons m.r.c); Self-propelled Compactor (with multiple-propulsion power units); Single Engine Rubber Tired Earthmoving Machine (with Tandem Scraper); Tandem Cats; Trencher (pulling attached shield).

GROUP 12: Clamshell or Dipper Operator; Derricks; Drill Rigs; Multi-Propulsion Earthmoving Machines (2 or more Scrapers) (over 35 cu. yds "struck"m.r.c.); Operators (Derricks, Piledrivers and Cranes); Power Shovels and Draglines (7 cu. yds. m.r.c. and over); Self-propelled rubber-tired Earthmoving equipment (over 31 cu. yds.) (657B and similar); Wheel Excavator (up to and including 750 cu. yds. per hour); Wheel Excavator (over 750 cu.

yds. per hour).

GROUP 12A: Dozer (D-11 or similar or larger); Hydraulic Excavators (over 4 cu. yds.); Lifting cranes (50 tons and over); Pioneering Dozer/Backhoe (initial clearing and excavation for the purpose of providing access for other equipment where the terrain worked involves 1-to-1 slopes that are 50 feet in height or depth, the scope of this work does not include normal clearing and grubbing on usual hilly terrain nor the excavation work once the access is provided); Power Blade Operator (Cat 12 or equivalent or over); Straddle Lifts (over 50 tons); Tower Crane, Mobile; Traveling Truss Cranes; Universal, Liebher, Linden, and similar types of Tower Cranes (in the erection, dismantling, and moving of equipment there shall be an additional Operating Engineer or Heavy Duty Repairman); Yo-Yo Cat or Dozer.

HELICOPTER WORK:		
Pilot of Helicopter	32.76	16.53
Co-Pilot of Helicopter	32.59	16.53
Airborne Hoist Operator for Helicopter	32.45	16.53
DIVERS (AQUA LUNG) (SCUBA):		
Diver (Aqua Lung) (Scuba) (up to a depth of 30 feet)	43.28	16.53
Diver (Aqua Lung) (Scuba) (over a depth of 30 feet)	52.65	16.53
Stand-by Diver (Aqua Lung) (Scuba)	33.90	16.53
DIVERS (OTHER THAN AQUA LUNG):		
Diver (Other than Aqua Lung)	52.65	16.53
Stand-By Diver (Other than Aqua Lung)	33.90	16.53
Diver Tender (Other than		

Aqua Lung)	30.87	16.53

BOOMS AND/OR LEADS (HOURLY PREMIUMS):
The Operator of a crane (under 50 tons) with a boom of 80 feet or more (including jib), or of a crane (under 50 tons) with leads of 100 feet or more, shall receive a per hour premium for each hour worked on said crane (under 50 tons) in accordance with the following schedule:

Booms of 80 feet up to but not including 130 feet or Leads of 100 feet up to but not including 130 feet	0.50
Booms and/or Leads of 130 feet up to but not including 180 feet	0.75
Booms and/or Leads of 180 feet up to and including 250 feet	1.15
Booms and/or Leads over 250 feet	1.50

The Operator of a crane (50 tons and over) with a boom of 180 feet or more (including jib) shall receive a per hour premium for each hour worked on said crane (50 tons and over) in accordance with the following schedule:

Booms of 180 feet up to and including 250 feet	1.25
Booms over 250 feet	1.75

ENGI0003K 09/01/2002

	Rates	Fringes
TRUCK DRIVERS:		
GROUP 1	28.87	16.53+a
GROUP 2	29.14	16.53+a
GROUP 3	29.45	16.53+a
GROUP 4	30.10	16.53+a
GROUP 5	30.42	16.53+a
GROUP 6	30.53	16.53+a

TRUCK DRIVERS CLASSIFICATIONS

GROUP 1: Utility, flatbed, or similar.
GROUP 2: Dump, 8 yards, and under (water level); water truck, up to and including 2,000 gallons.
GROUP 3: Tandem Dump, over 8 yards (water level); water truck (over 2,000 gallons).
GROUP 4: Semi-trailer, rock cans, or semi-dump.
GROUP 5: Slip-in or pup.
GROUP 6: End dumps (unlicensed); tractor trailer (hauling equipment).

a. An employee who has completed 1 but less than 2 years service- 1 week's paid vacation; 2 but less than 10 years service - 2 weeks paid vacation; 10 but less than 15 years service - 3 weeks paid vacation; and 15 or more years service - 4 weeks paid vacation.

ENGI0003L 09/01/2002

	Rates	Fringes
DREDGING:		
CLAMSHELL OR DIPPER DREDGES:		
GROUP 1	31.59	16.53
GROUP 2	30.93	16.53
GROUP 3	30.53	16.53
GROUP 4	28.87	16.53

DREDGING CLASSIFICATIONS

GROUP 1: Clamshell or Dipper Operator.
GROUP 2: Mechanic or Welder; Watch Engineer.

GROUP 3: Barge Mate; Deckmate.
GROUP 4: Bargeman; Deckhand; Fireman; Oiler.

HYDRAULIC SUCTION DREDGES:

GROUP 1	31.23	16.53
GROUP 2	31.08	16.53
GROUP 3	30.93	16.53
GROUP 4	30.87	16.53
GROUP 5	30.53	16.53
GROUP 6	30.42	16.53
GROUP 7	28.87	16.53

DREDGING CLASSIFICATIONS

GROUP 1: Leverman.
GROUP 2: Watch Engineer (steam or electric).
GROUP 3: Mechanic or Welder.
GROUP 4: Dozer Operator.
GROUP 5: Deckmate.
GROUP 6: Winchman (Stern Winch on Dredge).
GROUP 7: Deckhand (can operate anchor scow under direction of Deckmate); Fireman; Leveeman; Oiler.

DERRICKS:

GROUP 1	31.59	16.53
GROUP 2	30.93	16.53
GROUP 3	30.53	16.53
GROUP 4	28.87	16.53

DERRICK CLASSIFICATIONS

GROUP 1: Operators (Derricks, Piledrivers and Cranes).
GROUP 2: Saurman Type Dragline (over 5 cubic yards).
GROUP 3: Deckmate; Saurman Type Dragline (up to and including 5 yards).
GROUP 4: Deckhand, Fireman, Oiler.

BOAT OPERATORS:

Master Boat Operator	31.23	16.53
Boat Operator	31.08	16.53
Boat Deckhand	28.87	16.53

IRON0625A 09/02/2002

	Rates	Fringes
IRONWORKERS	27.00+a	20.81

a. Employees will be paid $.50 per hour more while working in tunnels and coffer dams; $1.00 per hour more when required to work under or are covered with water (submerged) and when they are required to work on the summit of Mauna Kea, Mauna Loa or Haleakala.

LABO0368A 09/03/2002

	Rates	Fringes
LABORERS:		
GROUP 1	23.25	12.35
GROUP 2	21.50	12.35
GROUP 3	24.25	12.35
GROUP 4	23.75	12.35
GROUP 5	22.75	12.35
GROUP 6	15.50	8.10

LABORERS CLASSIFICATIONS

GROUP 1: Asbestos Removal Worker (EPA certified workers); Asphalt Ironer, Raker, Luteman, and Handroller, and all types of Asphalt Spreader Boxes; Asphalt Shoveler; Assembly and Installation of Multiplates, Liner Plates, Rings, Mesh, Mats; Batching Plant (portable and temporary); Boring Machine Operator (under streets and sidewalks); Buggymobile; Burning, Welding, Signalling, Choke Setting, and Rigging in connection with Laborers' work (except demolition); Chainsaw, Faller, Logloader, and Bucker; Compactors (Jackson and similar); Concrete Bucket Dumpman; Concrete Chipping; Concrete Chuteman/Hoseman (pouring concrete) (the handling of the chute from ready-mix trucks for such jobs as walls, slabs, decks, floors, foundations, footings, curbs, gutters, and sidewalks); Concrete Core Cutter (Walls, Floors, and Ceiling); Concrete Curer (impervious membrane and form oiler); Concrete Grinding or Sanding; Concrete: Hooking on, signaling, dumping of concrete for treme work over water on caissons, pilings, abutments, etc.; Concrete: Mixing, handling, conveying, pouring, vibrating, otherwise placing of concrete or aggregates or by any other process; Concrete: Operation of motorized wheelbarrows or buggies or machines of similar character, whether run by gas, diesel, or electric power; Concrete Pump Machine (laying, coupling, uncoupling of all connections and cleaning of equipment); Concrete and/or Asphalt Saw (Walking or Handtype) (cutting walls or flatwork) (scoring old or new concrete and/or asphalt) (cutting for expansion joints) (streets and ways for laying of pipe, cable or conduit for all purposes); Concrete Shovelers/Laborers (Wet or Dry); Concrete Screeding for Rough Strike-Off; Rodding or striking-off, by hand or mechanical means prior to finishing; Concrete Vibrator Operator; Coring Holes: Walls, footings, piers or other obstructions for passage of pipes or conduits for any purpose and the pouring of concrete to secure the hole; Curbing, Concreting, and Asphalt; Curing of Concrete, mortar, and other materials by

any mode or method; Cut Granite Curb Setter (setting, leveling and grouting of all precast concrete or stone curbs); Cutting and Burning Torch (demolition); Dri Pak-It Machine; Driller (Track, Diamond Core, and Wagon); Driller (Joydrill Model TWM-2A, Gardner Denver DH-143 and similar type drills); Driller (Mechanical) (not covered elsewhere) (including multiple unit); (Ingersoll-Rand DM45E/DM50E/LM-100/LM-600C, Gardner-Denver SCH2500/SCH3500BV,

Furukawa HCR-C300, Tamrock Drilltech CHA800/DHH 850 Tamrock Commando) (similar and replacement equipment thereof); Drilling for blasting; Operation of all rock and concrete drills and Jack Hammers, including handling, carrying, laying out of hose; (Ingersoll-Rand DM45E/DM50E/LM-100/LM-600C), Gardner-Denver SCH2500/SCH3500 BV, Furukawa HCR-C300, Tamrock Drilltech CHA 800/DHH 850/Tamrock Commando) (similar and replacement equipment thereof); Drilling (Mechanical) on the site or along the right-of-way as well as access roads, reservoirs, including areas adjacent or pertinent to construction sites); Falling, bucking, yarding, loading or burning of all trees or timber on construction site; Fence and/or Guardrail Erector; Forklift (9 ft. and under); Grating and Grill work for drains or other purposes; Green Cutter of concrete or aggregate in any form, by hand, mechanical means, grindstone or air and/or water; Grout: Spreading for any purpose; Guinea Chaser (Grade Checker) for general utility trenches, sitework, and excavation; Headerboard Man (Asphalt or Concrete); Heat Welder of Plastic (Laborers' AGC certified workers) (when work involves waterproofing for waterponds, artificial lakes and reservoir, or heat welding for sewer pipes); Heavy Highway Laborer (Rigging, signaling, handling, and installation of pre-cast catch basins, manholes, curbs and gutters); High Pressure Nozzleman - Hydraulic Monitor (over 100# pressure); Installation of Gilsulate 500XR; Jackhammer Operator; Jacking of slip forms; All semi and unskilled work connected therewithin; Laying of all multi-cell conduit or multi-purpose pipe; Magnesite and Mastic Workers (Wet or Dry)(including mixer operator); Mason Tender,Mortar Man; Mortar Mixer (Block, Brick, Masonry, and Plastering); Nozzleman (Sandblasting and/or Water Blasting); Operation, Manual or Hydraulic jacking of shields and the use of such other mechanical equipment as may be necessary; Pavement Breakers; Paving, curbing and surfacing of streets, ways, courts, under and overpasses, bridges, approaches, slope walls, and all other labor connected therewith; Pilecutters; Pipe Accessment in place, bolting and lining up of sectional metal or other pipe including corrugated pipe; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit, and any other stationary-type of tubular device used for conveying of any substance or element, whether water, sewage, solid, gas, air, or other product whatsoever and without regard to the nature of material from which tubular material is fabricated; No-joint pipe and stripping of same, Pipewrapper, Caulker, Bander, Kettlemen, and men applying asphalt, Laykold, treating Creosote and similar-type materials (6-inch) pipe and over); Piping: resurfacing and paving of all ditches in preparation for laying of all pipes; Pipe laying of lateral sewer pipe from main or side sewer to buildings or structure (except Contactor may direct work be done under proper supervision); Pipe laying, leveling and marking of the joint used for main or side sewers and storm sewers; Laying

of all clay, terra cotta, ironstone, vitrified concrete or other pipe for drainage; Placing and setting of water mains, gas mains and all pipe including removal of skids; Plaster Mortar Mixer/ Pump; Pneumatic Impact Wrench; Portable Sawmill Operation: Choker

setters, off bearers, and lumber handlers connected with clearing; Posthole Digger (Hand Held, Gas, Air and Electric); Power Broom Sweepers (Small); Preparation and Compaction of roadbeds for railroad track laying, highway construction, and the preparation of trenches, footings, etc., for cross-country transmission by pipelines, electrical transmission or underground lines or cables (by mechanical means); Raising of structure by manual or hydraulic jacks or other methods and resetting of structure in new locations, including all concrete work; Ramming or compaction; Riprap, Stonepaver, and Rock Slinger (includes placement of stacked concrete, wet or dry and loading, unloading, signaling, slinging and setting of other similar materials); Rotary Scarifier (including multiple head concrete chipping Scarifier); Salamander Heater, Drying of plaster, concrete mortar or other aggregate; Sandblaster (Nozzleman) handling, placing and operation of nozzle; Scaffold Erector; Scaffolds: (Swing and hanging) including maintenance thereof; Scaler; Septic Tank/Cesspool and Drain Fields Digger and Installer; Shredder/Chipper (tree branches, brush, etc.); Stripping and Setting Forms; Stripping of Forms: Other than panel forms which are to be re-used in their original form, and stripping of forms on all flat arch work; Tampers (Barko, Wacker, and similar type); Tank Scaler and Cleaners; Tarman; Tree Climbers and Trimmers; Trencher (includes hand-held, Davis T-66 and similar type); Trucks (flatbed up to and including 2 1/2 tons when used in connection with on-site Laborers'work; Trucks (Refuse and Garbage Disposal) (from job site to dump); Vibra-Screed (Bull Float in connection with Laborers' work); Well Points, Installation of or any other dewatering system.

GROUP 2: Air Blasting; Appliance Handling (job site) (after delivery and unloading in storage area); Asphalt Laborer; Asphalt Plant Laborer; Backfill work connected with the installation of Gilsulate 500XR; Backfilling, Grading and all other labor connected therewith; Boring Machine; Bridge Laborer; Burning of all debris (crates, boxes, packaging waste materials); Cemetary Laborers; Chainman, Rodmen, and Grade Markers; Cleaning and Clearing of all debris; Cleaning, clearing, grading and/or removal for streets, highways, roadways, aprons, runways, sidewalks, parking areas, airports, approaches, and other similar installations; Cleaning or reconditioning of streets, ways, sewers and waterlines, all maintenance work and work of an unskilled and semi-skilled nature; Cleanup of Grounds and Buildings (other than "Light Clean-Up") (Janitorial Laborer); Clean-up of right-of-way; Clearing and slashing of brush or trees by hand or mechanical cutting; Concrete Bucket Tender (Groundman) hooking and unhooking of bucket; Concrete Forms; moving, cleaning, oiling and carrying to the next point of erection of all forms; Concrete Products Plant Laborers; Conveyor Tender (conveying of building materials); Cribbers, Shorer, Lagging, Sheeting, and Trench Jacking and Bracing, Hand-Guided Lagging Hammer Whaling Bracing; Crushed Stone Yards and Gravel and Sand Pit Laborers and all other similar plants; Demolition, Wrecking and Salvage Laborers: Wrecking and dismantling of buildings and all structures, with use of cutting or wrecking tools, burning or

cutting, breaking away, cleaning and removal of all masonry, wood

or metal fixtures for salvage or scrap, All hooking, unhooking, signaling of materials for salvage or scrap removed by crane or derrick; Digging under streets, roadways, aprons or other paved surfaces; Driller, Chuck Tender, Outside Nipper; Dry-packing of concrete (plugging and filling of she-bolt holes); Excavation, Preparation of street ways and bridges; Fence and/or Guardrail Erector; Dismantling and/or re-installation of all fence; Finegrader; Firewatcher; Flagman (Coning, preparing, establishing and removing portable roadway barricade devices); Signal Men on all construction work defined herein, including Traffic Control Signal Men at construction site; Garbage and Debris Handlers and Cleaners; Gas, Pneumatic, and Electric Tools, not listed Group 1 (except Rototiller); General Clean-up: sweeeping, cleaning, washdown, wiping of construction facility, and equipment (other than "Light Clean-up" [Janitorial] Laborer); General Excavation and Grading (all labor connected therewith); Digging of trenches, ditches and manholes and the leveling, grading and other preparation prior to laying pipe or conduit for any purpose; Excavations and foundations for buildings, piers, foundations and holes, and all other construction; General Laborer; Gunite Operator; Junk Yard Laborers (same as Salvage Yard); Landscape Nursery Laborers; Laser Beam "Target Man" in connection with Laborers' work; Layout Person for Plastic (when work involves waterproofing for waterponds, artificial lakes and reservoirs); Limbers, Brush Loaders, and Pilers; Loading, Unloading, carrying, distributing and handling of all rods and material for use in reinforcing concrete construction (except when a derrick or outrigger operated by other than hand power is used); Loading, unloading, sorting, stockpiling, handling and distribution of water mains, gas mains and all pipes; Loading and unloading of all materials, fixtures, furnishings and appliances from point of delivery to stockkpile to point of installation; hooking and signalling from truck, conveyance or stockpile; Material Yard Laborers; Parks and Sports arenas and all recreational center employees; Pipelayer Tender; Pipewrapper, Caulker, Bander, Kettlemen, and men applying asphalt, Laykold, Creosote, and similar-type materials (pipe under 6 inches); Plasterer Laborer (including Hod Carrier); Preparation, construction and maintenance of roadbeds and sub-grade for all paving, including excavation, dumping, and spreading of sub-grade material; Prestressed or prescast concrete slabs, walls, or sections: all loading, unloading, stockpiling, hooking on of such slabs, walls or sections; Quarry Laborers; Railroad, Streetcar, and Rail Transit Maintenance and Repair; Removal of surplus material; Roustabout; Rubbish Trucks in connection with Building Construction Projects (excluding clearing, grubbing, and excavating); Salvage Yard: All work connected with cutting, cleaning, storing, stockpiling or handling of materials, all cleanup, removal of debris, burning, back-filling and landscaping of the site; Scaffolds: Erection, planking and removal of all scaffolds used for support for lathers, plasters, brick layers, masons, and other construction trades crafts; Scaffolds: (Specially designed by carpenters) laborers shall tend said carpenter on erection and dismantling therof, preparation for foundation or mudsills, maintenance; Scraping of floors; Screeds: Handling of all screeds to be reused; handling, dismantling and

conveyance of screeds; Setting, leveling and securing or bracing

of metal or other road forms and expansion joints; Sheeting Piling/trench shoring (handling and placing of skip sheet or wood plank trench shoring); Ship Scalers; Shipwright; Sign Erector (subdivision traffic, regulatory, and street-name signs); Sloper; Slurry Seal Crews (Mixer Operator, Applicator, Squeegee Man, Shuttle Man, Top Man); Snapping of wall ties and removal of tie rods; Soil Test operations of semi and unskilled labor such as filling sand bags; Striper (Asphalt, Concrete or other Paved Surfaces); Tagging and Signaling of all building materials into high-rise units; Tool Room Attendant (Job Site); Traffic Delineating Device Applicator; Underpinning, lagging, bracing, propping and shoring, loading, signaling, right-of-way clearance along the route of movement, The clearance of new site, excavation of foundation when moving a house or structure from old site to new site; Utilities employees; Water Man; Waterscape/Hardscape Laborers; Wire Mesh Pulling (all concrete pouring operations); Wrecking, stripping, dismantling and handling concrete forms an false work.
GROUP 3: Licensed Powdermen.

GROUP 4: Gunnite Operator; High Scaler (working suspended), Pipelaying.

GROUP 5: Window Washer (Outside) (Working from bosun's chair and/or cable-suspended scaffold or work platform).

GROUP 6: Light Clean-Up.

LABO0368B 09/30/2002

	Rates	Fringes
LANDSCAPE AND IRRIGATION LABORERS:		
Group 1	17.66	5.47
Group 2	18.16	5.47
Group 3	14.51	5.47

LABORERS CLASSIFICATIONS

GROUP 1: Installation of non-potable permanent or temporary irrigation water systems performed for the purposes of Landscaping and Irrigation architectural horticultural work; the installation of drinking fountains and permanent or temporary irrigation systems using potable water for Landscaping and Irrigation architectural horticultural purposes only. This work includes (a) the installation of all heads, risers, valves, valve boxes, vacuum breakers (pressure and non-pressure), low voltage electrical lines and, provided such work involves electrical wiring that will carry 24 volts or less, the installation of sensors, master control panels, display boards, junction boxes, conductors, including all other components for controllers, (b) and metallic (copper, brass, galvanized, or similar) pipe, as well as PVC or other plastic pipe including all work incidental thereto, i.e., unloading, handling and distribution of all pipes fittings, tools, materials and equipment, (c) all soldering work

in connection with the above whether done by torch, soldering iron, or other means; (d) tie-in to main lines, thrust blocks (both precast and poured in place), pipe hangers and supports incidental to installation of the entire irrigation system, (e) making of pressure tests, start-up testing, flushing,

purging, water balancing, placing into operation all irrigation equipment, fixtures and appurtenances installed under this agreement, and (f) the fabrication, replacement, repair and servicing oflandscaping and irrigation systems. Operation of hand-held gas, air, electric, or self-powered tools and equipment used in the performance of Landscape and Irrigation work in connection with architectural horticulture; Choke-setting, signaling, and rigging for equipment operators on job-site in the performance of such Landscaping and Irrigation work; Concrete work (wet or dry) performed in connection with such Landscaping and Irrigation work. This work shall also include the setting of rock, stone, or riprap in connection with such Landscape, Waterscape, Rockscape, and Irrigation work; Grubbing, pick and shovel excavation, and hand rolling or tamping in connection with the performance of such Landscaping and Irrigation work; Sprigging, handseeding, and planting of trees, shrubs, ground covers, and other plantings and the performance of all types of gardening and horticultural work relating to said planting; Operation of flat bed trucks (up to and including 2 1/2 tons).

GROUP 2: Layout of irrigation and other non-potable irrigation water systems and the layout of drinking fountains and other potable irrigation water systems in connection with such Landscaping and Irrigation work. This includes the layout of all heads, risers, valves, valve boxes, vacuum breakers, low voltage electrical lines, hydraulic and electrical controllers, and metallic (coppers, brass, galvanized, or similar) pipe, as well as PVC or other plastic pipe. This work also includes the reading and interpretation of plans and specifications in connection with the layout of Landscaping, Rockscape, Waterscape, and Irrigation work; Operation of Hydro-Mulching machines (sprayman and driver), Drillers, Trenchers (riding type, Davis T-66, and similar) and fork lifts used in connection with the performance of such Landscaping and Irrigation work; Tree climbers and chain saw tree trimmers, Sporadic operation (when used in connection with Landscaping, Rockscape, Waterscape, and Irrigation work) of Skid-Steer Loaders (Bobcat and similar), Cranes (Bantam, Grove, and similar), Hoptos, Backhoes, Loaders, Rollers, and Dozers (Case, John Deere, and similar), Water Trucks, Trucks requiring a State of Hawaii Public Utilities Commission Type 5 and/or type 7 license, sit-down type and "gang" mowers, and other self-propelled, sit-down operated machines not listed under Landscape & Irrigation Maintenance Laborer; Chemical spraying using self-propelled power spraying equipment (200 gallon capacity or more).

GROUP 3: Maintenance of trees, shrubs, ground covers, lawns and other planted areas, including the replanting of trees, shrubs, ground covers, and other plantings that did not "take" or which are damaged; provided, however, that re-planting that requires

the use of equipment, machinery, or power tools shall be paid for at the rate of pay specified under Landscape and Irrigation Laborer, Group 1; Raking, mowing, trimming, and pruning, including the use of "weed eaters", hedge trimmers, vacuums, blowers, and other hand-held gas, air, electric, or self-powered tools, and the operation of lawn mowers (Note: The operation of sit-down type and "gang" mowers shall be paid for at the rate of pay specified under Landscape & Irrigation Laborer, Group 2);

Guywiring, staking, propping, and supporting trees;
Fertilizing, Chemical spraying using spray equipment with less
than 200 gallon capacity, Maintaining irrigation and sprinkler
systems, including the staking, clamping, and adjustment of
risers, and the adjustment and/or replacement of sprinkler heads,
(Note: the cleaning and gluing of pipe and fittings shall be paid
for at the rate of pay specified under Landscape & Irrigation
Laborer(Group 1); Watering by hand or sprinkler system and the
peformance of other types of gardening, yardman, and
horticultural-related work.

LABO0368C 09/03/2002

	Rates	Fringes
UNDERGROUND LABORERS:		
GROUP 1	23.85	12.35
GROUP 2	25.35	12.35
GROUP 3	25.85	12.35
GROUP 4	26.85	12.35
GROUP 5	27.20	12.35
GROUP 6	27.45	12.35
GROUP 7	27.90	12.35

GROUP 1: Watchmen; Change House Attendant
GROUP 2: Swamper; Brakeman; Bull Gang-Muckers, Trackmen;
Dumpmen (any method); Concrete Crew (includes rodding
and spreading); Grout Crew; Reboundmen
GROUP 3: Chucktenders and Cabletenders; Powderman (Prime House);
Vibratorman, Pavement Breakers
GROUP 4: Miners - Tunnel (including top and bottom man on shaft
and raise work); Timberman, Retimberman (wood or steel
or substitute materials thereof); Blasters, Drillers,
Powderman (in heading); Headman; Cherry Pickerman
(where car is lifted); Nipper; Grout Gunmen; Grout
Pumpman & Potman; Gunite, Shotcrete Gunmen & Potmen;
Concrete Finisher (in tunnel); Concrete Screed Man;
Bit Grinder; Steel Form Raisers & Setters; High
Pressure Nozzleman; Nozzleman (on slick line);
Sandblater-Potman (combination work assignment
interchangeable); Tugger
GROUP 5: Shaft Work & Raise (below actual or excavated ground
level); Diamond Driller; Gunite or Shotcrete
Nozzleman
GROUP 6: Shifter
GROUP 7: Shifter (Shaft Work & Raiser)

PAIN1791A 02/01/2003

	Rates	Fringes
PAINTERS:		
Brush	26.55	19.15
Sandblaster; Spray	27.05	19.15

PAIN1889A 01/01/2001

	Rates	Fringes
GLAZIERS	23.07	17.30

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 PAIN1926B  02/25/2001
                                      Rates           Fringes
SOFT FLOOR LAYERS                     22.90           15.50
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 PAIN1944A  01/01/2003
                                      Rates           Fringes
TAPERS                                32.75           13.05
----------------------------------------------------------------

 * PLAS0630A  03/01/2003
                                      Rates           Fringes
PLASTERERS                            27.14           16.72
----------------------------------------------------------------

 * PLAS0630B  03/01/2003
                                      Rates           Fringes
CEMENT MASONS:
  Cement Masons                       26.30           16.72
  Trowel Machine Operators            26.45           16.72
----------------------------------------------------------------

 PLUM0675A  01/05/2003
                                      Rates           Fringes
PLUMBERS, PIPEFITTERS,
 STEAMFITTERS & SPRINKLER
 FITTERS                              30.30           16.70
----------------------------------------------------------------

 ROOF0221A  04/28/2002
                                      Rates           Fringes
R00FERS                               28.10           12.83
----------------------------------------------------------------

 SHEE0293A  09/01/2002
                                      Rates           Fringes
SHEET METAL WORKERS                   33.47           14.12
----------------------------------------------------------------

 SUHI1001A  09/15/1997
                                      Rates           Fringes
DRAPERY INSTALLERS                    13.60            1.20
----------------------------------------------------------------


 SUHI2001A  09/15/1997
                                      Rates           Fringes
FENCE ERECTORS (Chain Link)            9.33            1.65
---------------------------------------------------------------

RIGGERS; WELDERS - Receive rate prescribed for craft performing
         op
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LIST OF DRAWINGS
For
Cathodic Protection System

RING NO.	SHT NO.	TITLE
		U.S. FISH AND WILDLIFE SERVICE TERN ISLAND, NWR SHEET PILE SEA WALL GALVANIC CATHODIC PROTECTION SYSTEM
CP-1		TITLE SHEET AND SPECIFICATIONS
CP-2		SITE LAYOUT
CP-3		DETAILS

LIST OF DRAWINGS
For
Steel Sheet Pile Work

Drawings Dated: 12/04/00

RING NO.	DRAWING NO.	SHT NO.	TITLE
			IMPROVEMENTS TO TERN ISLAND TERN ISLAND, FRENCH FRIGATE SHOALS, HAWAII
1	164-90-16	T-1	TITLE SHEET
2	164-90-16	C-1	STAGING AREA AND ACCESS ROAD PLAN
3	164-90-16	C-2	SITE PLAN
4	164-90-16	S-1	GENERAL NOTES AND TYPICAL DETAILS
5	164-90-16	S-2	SECTOR 1 PLAN
6	164-90-16	S-3	SECTOR 2 PLAN
7	164-90-16	S-4	SECTOR 3 PLAN
8	164-90-16	S-5	SECTIONS AND DETAILS
9	164-90-16	S-6	SECTIONS AND DETAILS
10	164-90-16	S-7	SECTIONS AND DETAILS
11	164-90-16	S-8	SECTIONS AND DETAILS
12	164-90-16	S-9	ELEVATIONS
13	164-90-16	S-10	ELEVATIONS
14	164-90-16	S-11	ELEVATIONS
15	164-90-16	S-12	HOIST DETAILS AND SECTIONS
16	164-90-16	S-13	HOIST DETAILS AND SECTIONS
17	164-90-16	S-14	TYP. DETAIL OF CORNER CONNECTION

LIST OF DRAWINGS

Drawings Dated: April 23, 2003

RING NO.	DRAWING NO.	SHEET NO.	TITLE
1	164-90-17	T-1	TITLE SHEET
2	164-90-17	C-1	EXISTING CONDITIONS AND SURVEY CONTROLS
3	164-90-17	C-2	PROJECT PLAN, BASIC WORK: RL “A”, STA. 0+73 TO STA. 2+50 AND STA. 4+50 TO STA. 8+00, RL “B”, OPTION 5 WORK: RL “A”, STA. 2+50 TO STA. 4+50
4	164-90-17	C-3	PROJECT PLAN, BASE WORK: RL “A”, STA. 8+00 TO STA. 14+50, OPTION WORK 6A AND 6B WORK: RL “A”, STA. 14+50 TO STA. 22+00
5	164-90-17	C-4	PROJECT PLAN, OPTION 6A WORK: RL “A”, STA. 22+00 TO STA. 25+00, OPTION 7 WORK: RL “A”, STA. 25+00 TO STA. 30+50, OPTION 8 WORK: RL “A”, STA. 30+50 TO STA. 36+00
6	164-90-17	C-5	TYPICAL SECTIONS AND DETAILS
7	164-90-17	C-6	CROSS SECTIONS, BASE WORK: RL “A”, STA. 0+73 TO STA. 2+50 AND STA. 4+50 TO STA. 6+00, OPTION 5 WORK: RL “A”, STA. 2+50 TO STA. 4+50
8	164-90-17	C-7	CROSS SECTIONS, BASE WORK: RL “A”, STA. 6+50 TO STA. 14+00
9	164-90-17	C-8	CROSS SECTIONS, BASE WORK: RL “A”, STA. 14+50, OPTION 6A WORK: RL “A”, STA. 15+00 TO STA. 21+00
10	164-90-17	C-9	CROSS SECTIONS, OPTION 6A WORK: RL “A”, STA. 21+50 TO STA 25+00, OPTION 7 WORK: RL “A”, STA. 25+50 TO STA. 29+00
11	164-90-17	C-10	CROSS SECTIONS, OPTION 7 WORK. RL “A”, STA. 29+50 TO STA. 30+50, OPTION 8 WORK: RL ”A”, STA. 31+00 TO STA. 35+00
12	164-90-17	C-11	CROSS SECTIONS, OPTION 8 WORK: RL “A”, STA. 35+50 TO STA 36+00, BASE WORK: RL “B”, STA. 3+60 TO STA. 5+25

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S-9 SIGNAL LIGHTS

The Contractor shall display signal lights and conduct its operation in accordance with the General Regulations of the Department of the Army and of the Coast Guard governing lights and day signals to be displayed by towing vessels with tows on which no signals can be displayed, vessels working on wrecks, dredges, and vessels engaged in laying cables or pipe or in submarine or bank protection operations, lights to be displayed on dredge pipe lines, and day signals to be displayed by vessels of more than 65 feet in length moored or anchored in a fairway or channel, and the passing by other vessels of floating plant working in navigable channels, as approved by the Secretary of the Army (33 C.F.R. 201.1-201.16) and theCommandant, U.S. Coast Guard (33 C.F.R. 80.18-80.31a and 33 C.F.R. 95.51-95.70)

[End of Statement]

S-36.8 GROUND-FAULT CIRCUIT INTERRUPTERS

Ground-fault circuit interrupters for all 125-volt single phase 15- and 20-ampere receptacle outlets which are not part of the permanent wiring of the building or structure shall be provided by the Contractor in accordance with Section 305-6 of the 1999 National Electrical Code.

[End of Statement]

S-36.7 IDENTIFICATION OF EMPLOYEES

The Contractor shall be responsible for furnishing to each employee and for requiring each employee engaged on the work to display such identification as may be approved and directed by the Contracting Officer. All prescribed identification shall immediately be delivered to the Contracting Officer for cancellation upon the release of any employee. When required by the Contracting Officer, the Contractor shall obtain and submit fingerprints of all persons employed or to be employed on the project.

[End of Statement]

S-36.6 CERTIFICATES OF COMPLIANCE

Any certificates required for demonstrating proof of compliance of materials with specification requirements shall be executed in five (5) copies. Each certificate shall be signed by an official authorized to certify in behalf of the manufacturing company and shall contain the name and address of the Contractor, the project name and location, and the quantity and date or dates of shipment or delivery to which the certificates apply. Copies of laboratory test reports submitted with certificates shall contain the name and address of the testing laboratory and the date or dates of the tests to which the report applies. Certification shall not be construed as relieving the Contractor from furnishing satisfactory material, if after tests are performed on selected samples, the material is found not to meet the specific requirements.

[End of Statement]

S-36.5 TIME EXTENSIONS FOR UNUSUALLY SEVERE WEATHER

1. This provision specifies the procedure for determination of time extensions for unusually severe weather in accordance with the contract clause entitled DEFAULT (FIXED-PRICE CONSTRUCTION). In order for the Contracting Officer to award a time extension under this clause, the following conditions must be satisfied:

a. The weather experienced at the project site during the contract period must be found to be unusually severe, that is, more severe than the adverse weather anticipated for the project location during any given month.

b. The unusually severe weather must actually cause a delay to the completion of the project. The delay must be beyond the control and without the fault or negligence of the Contractor.

2. The following schedule of monthly anticipated adverse weather delays is based on National Oceanic and Atmospheric Administration (NOAA) or similar data for the project location and will constitute the base line for monthly weather time evaluations. The Contractor's progress schedule must reflect these anticipated adverse weather delays in all weather dependent activities.

MONTHLY ANTICIPATED ADVERSE WEATHER DELAY
WORK DAYS BASED ON 5 DAY WORK WEEK

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
3	2	2	1	1	0	1	0	2	2	2	3

3. Upon acknowledgment of the Notice to Proceed (NTP) and continuing throughout the contract, the Contractor will record on the daily CQC report, the occurrence of adverse weather and resultant impact to normally scheduled work. Actual adverse weather delay days must prevent work on criticial activities for 50 percent or more of the Contractor's scheduled work day. The number of actual adverse weather delay days shall include days impacted by actual adverse weather (even if adverse weather occurred in previous month), be calculated chronologically from the first to the last day of each month, and be recorded as full days. If the number of actual adverse weather delay days exceeds the number of days anticipated in paragraph 2, above, the Contracting Officer will convert any qualifying delays to calendar days, giving full consideration for equivalent fair weather work days, and issue a modification in accordance with the contract clause entitled DEFAULT (FIXED-PRICE CONSTRUCTION). [ER 415-1-15, 31 Oct 89]

S-36.20 PERFORMANCE OF WORK BY THE CONTRACTOR - DEFINED (NOV 1998)

(a) "Work," means physical work activities, involving any of the trades required to directly place the construction required by the contract. It also includes physical activities that directly support the work, such as: (1) warehousing; (2) maintenance of equipment; (3) procurement and transportation of supplies or construction materials to the site for use by the contractor; (4) procuring, transporting and providing equipment for use by the contractor; (5) logistical activities that directly support the contractor's employees; and (6) similar activities. The meaning of the term does not include: (1) physical work performed by subcontractors; (2) procurement and transportation of supplies or construction materials to the site for use by subcontractors; (3) procuring, transporting and providing equipment for use by subcontractors; logistical activities undertaken by subcontractors for the benefit of contractor or subcontractor employees; (4) superintendence, quality control, clerical or similar activities; or (5) other activities of a similar nature.

Work will be quantified in terms of its monetary cost to the contractor, and will be compared to the total direct costs that the contractor incurs in performing the contract.

(b) "On the site" means the area within the construction limits depicted or described in the contract drawings or specifications. Activities such as transportation, maintenance and logistics that take place outside of the construction limits depicted or described are still "on the site," if in direct support of activities within the construction limits.

(c) "The contractor's own organization" means those individuals who are employed and paid by the contractor, whether full or part time. If a joint venture or partnership, members (and their paid employees) of the joint venture or partners are considered part of "the contractor's own organization." If a corporation, wholly-owned subsidiary elements of the corporation and their paid employees, are considered part of "the contractor's own organization." Any individual who is employed or paid, even on a occasional basis by an entity other than the contractor (such as a subcontractor), or any subcontractor or supplier to the contractor, is not considered part of "the contractor's own organization."

[End of Statement]

S-36.19 PROGRESS CHARTS

If the Government revises the work to be accomplished by issuing a Notice to Proceed with a change to the contract which would affect the order of work or duration of time for completing the work, the progress chart prepared by the Contractor pursuant to the Contract Clause entitled 'SCHEDULE FOR CONSTRUCTION CONTRACTS' shall be revised promptly by the Contractor by adding to, deleting, or rescheduling the affected features to indicate the Contractor's current plans for completing the work as revised. The cost for this revision of the schedule is a part of the cost of the change. Revisions to the progress charts shall be made no later than the next regular progress updating following notice to proceed with the change, whether or not the formal modification to the contract has been issued. If the Contractor fails or refuses to incorporate the changed work in the progress chart, the Contracting Officer may furnish revisions which the Contractor shall include and use in the progress chart until the modification is settled or until actual dates supersede the estimated data. If the Contractor objects to the changes furnished by the Contracting Officer, it shall submit such objections in writing along with a counterplan within 20 days after the date suggested revisions were furnished by the Contracting Officer. Failure to submit objections and counterplan within the 20 days will be deemed to indicate the Contractor's concurrence in the Contracting Officer's suggested revisions. The schedule into which these revisions have been incorporated shall become the current schedule for continued evaluation of progress and the document which will be used to evaluate impact on the Contractor's work for time extensions.

[End of Statement]

S-36.18 ACCIDENT PREVENTION PLAN (DEC 1998)

Within 15 days after receipt of Notice of Award of the contract, and at least 7 days prior to the preconstruction conference, four copies of the Accident Prevention Program shall be submitted to the Contracting Officer for review and acceptance. The program shall consist of the following forms and documents:

(a) An executed POD Form 248-R Rev (1 Jun 98), Accident Prevention Program, Administrative Plan.

(b) An executed POD Form 184-R Rev (16 Oct 98), Activity Hazard Analysis. (At the Contracting Officer's discretion, the Contractor may submit its Activity Hazard Analysis only for the first phase of construction provided that it is accompanied by an outline of the remaining phases of construction. All remaining phases shall be submitted and accepted prior to the beginning of work in each phase.)

(c) A copy of company policy statement of accident prevention and any other guidance statements normally provided new employees.

Contractor shall not commence physical work at the site until the program has been accepted by the Contracting Officer, or his authorized representative. In developing and implementing its Accident Prevention Program, the Contractor is also responsible for reviewing Section 1 of the most current edition (Sep 1996) of US Army Corps of Engineers Safety and Health Requirements Manual, Engineer Manual 385-1-1. [See paragraph entitled, SAFETY STANDARDS, in Section 00800]

[End of Statement]

S-36.17 EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE (AUG 1999)

Whenever a contract or modification of contract price is negotiated, the Contractor's cost proposals for equipment ownership and operating expenses shall be determined in accordance with the requirements of Special Contract Requirements statement, entitled "EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE," of this solicitation. EP 1110-1-8 "Construction Equipment Ownership and Operating Expense Schedule" is available at http://www.usace.army.mil/inet/usace-docs/eng-pamphlets/ep1110-1-8(vol10)/toc.htm for State of Hawaii (Region 10) and at http://www.usace.army.mil/inet/usace-docs/eng-pamphlets/ep1110-1-8(vol12)/toc.htm
for Kwajalein Island, Roi-Namur Island, and Meck Island (Area 12), including Guam, American Samoa, and Johnston Island). [FAR 31.105(d)(2)(i) and EFARS 31.105(d)(2)(i)(b)].

[End of Statement]

S-36.13 AGGREGATE SOURCES

(a) Concrete aggregates can be produced from the approved sources listed below:

Ameron HC&D, Ltd., Kapaa Quarry, Kailua, Oahu, Hawaii
Hawaiian Cement, Halawa Quarry, Oahu, Hawaii
Grace Pacific Corp., Puu Makakilo Quarry, Oahu, Hawaii
Jas W. Glover, Ltd., Hilo Quarry, Hilo, Hawaii
Y.S. Rock, Hilo Quarry, Hilo, Hawaii
Ameron HC&D, Ltd., Puunene Quarry, Maui, Hawaii
Maui Concrete and Aggregates, Waikapu Quarry, Maui, Hawaii
Camp 6, Old Railroad Quarry, Puunene, Maui, Hawaii
Hale Kauai, Ltd., Halfway Bridge, Kauai, Hawaii

(b) Concrete aggregates may be furnished from any of the above listed sources or, at the option of the contractor, may be furnished from any other source designated by the contractor and approved by the Contracting Officer, subject to the conditions hereinafter stated.

(c) After the award of the contract, the contractor shall designate in writing only one source or combination of sources from which he proposes to furnish aggregates. If the contractor proposes to furnish aggregates from a source or from sources not listed above, he may designate only a single source or single combination of sources for aggregates. Samples for acceptance testing shall be provided as required by Section 03300 of the Technical Requirements. If a source for coarse or fine aggregate so designated by the contractor is not approved for use by the Contracting Officer, the contractor may not submit for approval other sources but shall furnish the coarse or fine aggregate, as the case may be, from an approved source listed above at no additional cost to the Government.

(d) Listing of a concrete aggregate source is not to be construed as approval of all material from the source. The right is reserved to reject materials from certain localized areas, zones, strata, or channels, when such materials are unsuitable for concrete aggregate as determined by the Contracting Officer. Materials produced from an approved source shall meet all the requirements of Section 03300 of the Technical Requirements of these specifications.

[End of Statement]

S-36.11 POSTERS AND NOTICES

Wage Rate, Equal Employment Opportunity, and Nondiscrimination in Employment Posters and Notices will be provided to the Contractor by the Contracting Officer. The Contractor shall mount these posters and notices, together with the wage determination decision, under weatherproof, transparent, protective covering, in one or more conspicuous places, as approved, and readily available to employees.

[End of Statement]

S-28.8 PERFORMANCE AND PAYMENT BONDS (OCT 1995)

(Applicable to contracts exceeding $100,000)

Within fourteen (14) calendar days after the date of contract award, the bidder to whom award is made shall furnish the Government with two bonds, each with good and sufficient surety or sureties acceptable to the Government; namely, a Performance Bond (Standard Form 25) and a Payment Bond (Standard Form 25-A).

Any bonds furnished will be furnished by the Contractor to the Government prior to issuance of a Notice to Proceed by the Government. [FAR 28.102-3]

[End of Statement]

S-28.7 REQUIRED INSURANCE (Dec 1993)

(The following is applicable when work is performed on a government installation.)

The minimum insurance requirements, pursuant to Section 00700, Contract Clause, "INSURANCE - - WORK ON A GOVERNMENT INSTALLATION" of this contract, are:

Workers' Compensation and Employer's Liability Insurance - Minimum coverage of $100,000.

Comprehensive General Liability Insurance - Minimum coverage of $500,000 per occurrence.

Automobile Liability Insurance

(1) Bodily Injury: Minimum coverage of $200,000 per person and $500,000 per occurrence.

(2) Property Damage: Minimum coverage of $20,000 per occurrence.

The Contractor shall insert the substance of this clause in subcontracts under this contract that require work on a Government installation. The Certificate Holder for Subcontractors' Certificates of Insurance shall be the U.S. Army Engineer District, Honolulu, Fort Shafter, Hawaii 96858-5440. [FAR 28.306 and 28.307-2]

[End of Statement]

S-22 VALIDATION OF COMMERCIAL ANALYTICAL CHEMISTRY LABORATORIES FOR U.S. ARMY ENGINEER CORPS OF ENGINEERS' (USACE) HAZARDOUS, TOXIC & RADIOACTIVE WASTE (HTRW) PROJECTS (MAR 1994)

Laboratories must be validated for project specific parameters and matrices prior to analyzing any samples under contract as part of USACE HTRW Program execution. Laboratories must be revalidated every eighteen month if they are actively supporting USACE projects.

Initial laboratory validations require eight to twelve weeks, depending on the responsiveness of the laboratory. Revalidation usually requires less time.

The list of currently validated laboratories and information on the validation process are included behind Section 00800 of the solicitation as an attachment. An updated list will be made available approximately 30 days from the date of the list in the solicitation. An updated list can be obtained by writing to the contracting office shown on the cover page of this solicitation.

Potential contractors may use laboratories on the list or propose to use laboratories not on the list. Proposed laboratories not on the list must be validated prior to analysis of the samples.

[End of Statement]

S-20 ENVIRONMENTAL LITIGATION

(a) If the performance of all or any part of the work is suspended, delayed, or interrupted due to an order of a court of competent jurisdiction as a result of environmental litigation, as defined below, the Contracting Officer, at the request of the Contractor, shall determine whether the order is due in any part to the acts or omissions of the Contractor or a Subcontractor at any tier not required by the terms of this contract. If it is determined that the order is not due in any part to acts or omissions of the Contractor or a Subcontractor at any tier other than as required by the terms of this contract, such suspension, delay, or interruption shall be considered as if ordered by the Contracting Officer in the administration of this contract under the terms of the SUSPENSION OF WORK clause of this contract. The period of such suspension, delay, or interruption shall be considered unreasonable, and an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) as provided in that clause, subject to all the provisions thereof.

(b) The term 'environmental litigation', as used herein, means a lawsuit alleging that the work will have an adverse effect on the environment or that the Government has not duly considered, either substantively or procedurally, the effect of the work on the environment.

[End of Statement]

S-19 SAFETY STANDARDS

The successful offeror will be required to comply with Chapter 396 of the Hawaii Occupational Safety and Health Act (OSHA) standards and Title 12 Department of Labor and Industrial Relations, Subtitle 8 Division of Occupational Safety and Health, Part 2 General Industry Standards as well as with the Corps of Engineers Manual 385-1-1, Safety and Health Requirements Manual. [Title 29, CFR, Chap 18, Part 1910 (OSHA)]

[End of Statement]

S-19A U.S. ARMY CORPS OF ENGINEERS SAFETY AND HEALTH REQUIREMENTS MANUAL, EM 385-1-1 (AUG 2002)

This paragraph applies to contracts and purchase orders that require the contractor to comply with EM 385-1-1 (e.g., contracts that include the Accident Prevention clause at FAR 52.236-13 and/or other safety provisions). EM 385-1-1 and its changes are available at the following web site:

http://www.hq.usace.army.mil/soh/hqusace_soh.htm

The Contractor shall be responsible for complying with the current edition and all changes posted on the web as of the effective date of this solicitation.

Per EM 385-1-1 (latest version) Contractors shall ensure timely accident reporting is strictly adhered to. PODR 265 will be completed within 24 hours of all accidents (excluding first aid injuries). ENG 3394 forms will be completed within 5 days of lost time accident and forwarded to the Contracting Officer or Contracting Officer Representative. All accidents will be reported through the Honolulu Engineer District Safety Office, (808) 438-1316 within 24 hours of the incident.

[End of Statement]

S-17.1 OPTION FOR INCREASED SCOPE -- SEPARATELY PRICED LINE ITEM (APR 1996)

The Government may require the construction of the numbered line item(s), identified in the proposal schedule as (an) option item(s), in the quantity and at the price stated. The Contracting Officer may exercise the option(s) at time of award or by written notice to the Contractor within Two Hundred Seventy (270) calendar days for Item Nos. 1 through 13, 15, 16 and One Hundred Eighty (180) calendar days for Item No. 14 from time of award. Performance period(s) for the option(s) will be identified in the FAR clause entitled COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK, in Section 00700.

[End of Statement]

S-17 ASBESTOS --- (OCCUPATIONAL HEALTH AND ENVIRONMENTAL)

The Government is uncertain on the presence of asbestos at the time of award. The following paragraphs only apply if asbestos is discovered during the performance of the work. Refer to paragraph entitled PRICE ADJUSTMENT FOR CONTINGENT SCOPE OF WORK in Section 00800 for procedural information upon discovery of asbestos.

(a) THE CONTRACTOR IS WARNED THAT EXPOSURE TO AIRBORNE ASBESTOS HAS BEEN ASSOCIATED WITH FOUR DISEASES: LUNG CANCER, CERTAIN GASTROINTESTINAL CANCERS, PLEURAL OR PERITONEAL MESOTHELIOMA AND ASBESTOSIS. Studies indicate there are significantly increased health dangers to persons exposed to asbestos who smoke and further, to family members and other persons who become indirectly exposed as a result of the exposed worker bringing asbestos-laden work clothing home to be laundered.

(b) The Contractor is advised that friable and/or nonfriable asbestos containing material has been identified in area(s) where contract work is to be performed. Friable asbestos containing material means any material that contains more than 1 percent asbestos by weight that hand pressure can crumble, pulverize or reduce to powder when dry. Nonfriable asbestos containing materials do not release asbestos fiber during routine handling and end-use. However, excessive fiber

concentrations may be produced during uncontrolled abrading, sanding, drilling, cutting, machining, removal, demolition or other similar activities.

(c) Care must be taken to avoid releasing, or causing to be released, asbestos fibers into the atmosphere where they may be inhaled or ingested. The Occupational Safety and Health Administration (OSHA) has set standards at 29 CFR 1910.1001, for exposure to airborne concentrations of asbestos, fibers, methods of compliance, medical surveillance, housekeeping procedures and other measures that must be taken when working with or around asbestos containing materials which release airborne asbestos fibers at concentrations in excess of those established 29 CFR 1910.1001. 29 CFR 1910.1001 has been identified as applicable to construction (29 CFR 1926.55 gases, vapors, fumes, dusts and mists). The Environmental Protection Agency (EPA) has established standards at 40 CFR 61.140-156 for the control of asbestos emissions to the environment and the handling and disposal of asbestos wastes.

(d) When contract work activities are carried out in locations where the potential exists for exposure to airborne asbestos fibers as described in paragraph (b), or where asbestos waste will be generated, the Contractor shall assure that all measures necessary to provide effective protection to persons from exposure to asbestos fibers (and prevention of contamination to property, materials, supplies, equipment and the internal and external environment) are effectively instituted.

(e) As a minimum, the Contractor shall comply with the provisions of 29 CFR 1910.1001 and 1926.55; 49 CFR 72.101, 172.200-204, 172.316, 173.1090; 40 CFR 61.140-156; and any state implementing hazardous waste under the Resources Conservation and Recovery Act (RCRA) requirements and any other applicable federal, state or local requirements.

(f) In addition to the information required in Contract Clause, ACCIDENT PREVENTION, of this contract, the Contractor's Accident Prevention Plan must also fully address the following topics, and at the Contractor's option may include additional information as applicable.

(1) Medical Surveillance: (29 CFR 1910.1001(J)).

(2) Employee training: Prior to beginning work in asbestos containing material area(s) (29 CFR 1910.1001 and 29 CFR 1910.134).

(3) Respiratory protection: (29 CFR 1910.1001 and 29 CFR 1910.134)

(4) Personal protective clothing and equipment: (29 CFR 1910.1001(d)). The use of compressed air to remove asbestos from workers' clothing is prohibited. The Contractor shall specify the type of change room, wash facilities and laundering facilities as applicable.

(5) Airborne asbestos monitoring: 29 CFR 1910.1001(f)). Specify the monitoring and analytical procedures to be used before, during, and after completion of contract work in areas where asbestos containing materials are located. All asbestos monitoring shall be conducted under the guidance of an industrial hygienist certified by the American Board of Industrial Hygiene. Samples shall be analyzed by an American Industrial Hygiene Association (AIHA) accredited laboratory proficient in the analysis of asbestos and asbestos containing materials. Turn around time from end of sampling period to review of results of analyses by Contractor shall be no longer than 72 hours.

(6) Housekeeping: (29 CFR 1910.1001(h)). Dry sweeping of contract work areas contaminated with asbestos containing material is prohibited. The Contractor shall specify methods and materials used to package asbestos containing waste and plan to control any incidental airborne release or spill of asbestos containing material.

(7) Methods of compliance: (29 CFR 1910.1001(c)). Contractor shall include procedures relating to engineering controls, local exhaust ventilation, particular tools to be used and work practices (1910.1001(c)). Specify methods, materials and equipment to be used to prevent asbestos contamination to property, materials, supplies, equipment and the internal and external environment during maintenance, renovation or other contract activities. Local Exhaust ventilation equipment including power operated tools equipped with local exhaust ventilation shall conform with the Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems ANSI Z9.2 latest revised edition. Describe the type of high-efficiency filtered (HEPA) vacuum cleaners that shall be used to vacuum asbestos containing materials. Describe methods and materials to be used to assure all asbestos containing material will be thoroughly wetted by use of a wetting agent and water before removal and that airborne asbestos dust will be kept to a minimum.

(8) Methods and materials to be used to decontaminate any property, materials, supplies, equipment and the environment if asbestos contamination results. (29 CFR 1910.1001(c)).

(9) Recordkeeping procedures. (29 CFR 1910.1001(i) and 1910.20).

(10) Specific description of packaging, marking and shipping conveyances to be used to transport asbestos containing waste from the generation point to a storage or disposal facility in compliance with Department of Transportation requirements. (49 CFR 172.101, 172.200-204, 176,316, 173.1090).

(11) Emergency procedures that would be taken if an accident of spill of asbestos containing material occurs during the transport of asbestos containing waste. (40 CFR 61.20-25).

(12) Methods and equipment used to off load and bury asbestos containing waste control airborne emissions at the burial site. (40 CFR 61.20-25).

(g) The Contractor shall complete and return to the Contracting Officer within 15 working days after the completion of all airborne asbestos monitoring conducted under this contract, a 'Summarization of Airborne Asbestos Sampling Results' form (ENG Form 4921-R, Jan 86) provided by the Government. NOTE: This completed summarization form is to be used by the US Army Corps of Engineers for statistical information purposes and does not relieve the Contractor from his recordkeeping requirements as described in 29 CFR 1910.1001(i) and 1910.20.

[End of Statement]

S-14 PRICE ADJUSTMENT FOR CONTINGENT SCOPE OF WORK

As of the time this contract is awarded, the Government is uncertain as to presence of asbestos in the buildings or any other structures to be worked on by the Contractor. Upon discovering presence of asbestos in any part of the structures, the Contractor shall notify the Government thereof as soon as practicable. Upon becoming aware of presence of asbestos in any part of the structures through the contractor's notice or otherwise, the Government shall modify the contract for asbestos abatement and make an equitable adjustment to the contract price as called under the contract clause entitled Changes.

[End of Statement]

52.231-5000 EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE.
EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE (MAR 1995) — EFARS

(a) This clause does not apply to terminations. See 52.249-5000, Basis for settlement of proposals and FAR Part 49.

(b) Allowable cost for construction and marine plant and equipment in sound workable condition owned or controlled and furnished by a contractor or subcontractor at any tier shall be based on actual cost data for each piece of equipment or groups of similar serial and series for which the Government can determine both ownership and operating costs from the contractor's accounting records. When both ownership and operating costs cannot be determined for any piece of equipment or groups of similar serial or series equipment from the contractor's accounting records, costs for that equipment shall be based upon the applicable provisions of EP 1110-1-8, Construction Equipment Ownership and Operating Expense Schedule, Region *[insert Roman numeral for the appropriate region of the schedule*]. Working conditions shall be considered to be average for determining equipment rates using the schedule unless specified otherwise by the contracting officer. For equipment not included in the schedule, rates for comparable pieces of equipment may be used or a rate may be developed using the formula provided in the schedule. For forward pricing, the schedule in effect at the time of negotiations shall apply. For retroactive pricing, the schedule in effect at the time the work was performed shall apply.

(c) Equipment rental costs are allowable, subject to the provisions of FAR 31.105(d)(ii) and FAR 31.205-36. Rates for equipment rented from an organization under common control, lease-purchase arrangements, and sale-leaseback arrangements, will be determined using the schedule, except that actual rates will be used for equipment leased from an organization under common control that has an established practice of leasing the same or similar equipment to unaffiliated lessees.

(d) When actual equipment costs are proposed and the total amount of the pricing action exceeds the small purchase threshold, the contracting officer shall request the contractor to submit either certified cost or pricing data, or partial/limited data, as appropriate. The data shall be submitted on Standard Form 1411, Contract Pricing Proposal Cover Sheet.

(End of clause)

52.249-5000 BASIS FOR SETTLEMENT OF PROPOSALS.

"Actual costs will be used to determine equipment costs for a settlement proposal submitted on the total cost basis under FAR 49.206-2(b). In evaluating a terminations settlement proposal using the total cost basis, the following principles will be applied to determine allowable equipment costs:

(1) Actual costs for each piece of equipment, or groups of similar serial or series equipment, need not be available in the contractor's accounting records to determine total actual equipment costs.

(2) If equipment costs have been allocated to a contract using predetermined rates , those charges will be adjusted to actual costs.

(3) Recorded job costs adjusted for unallowable expenses will be used to determine equipment operating expenses.

(4) Ownership costs (depreciation) will be determined using the contractor's depreciation schedule (subject to the provisions of FAR 31.205-11).

(5) License, taxes, storage and insurance costs are normally recovered as an indirect expense and unless the contractor charges these costs directly to contracts, they will be recovered through the indirect expense rate."

(End of Statement)

SECTION 00900

INDEX OF
MISCELLANEOUS ATTACHMENTS

1. Scope of Work for Removal of Contaminated Soils and Other Wastes
2. Section 401 Waste Quality Certification (WQC)
3. Special Use Permit
4. Shoreline Investigations, Tern Island National Wildlife Refuge, State of Hawaii
5. Appendix A, Best Management Practices, Tern Island Shore Protection Reconstructions
6. 401 Hawaii State Water Quality Certification Application, Tern Island Shore Protection
7. Applicable Monitoring and Assessment Plan.
8. List of Validated Laboratories

SCOPE OF WORK

REMOVAL OF CONTAMINATED SOIL AND OTHER WASTES
at
FORMER U.S. COAST GUARD LORAN STATION
TERN ISLAND, FRENCH FRIGATE SHOALS, HAWAII
(this SOW replaces the document entitled "Remediation Requirements for Tern Island PCB Cleanup")

1. PROJECT DESCRIPTION AND SCOPE

1.1 Contract Work. Under this Scope of Work (SOW), the Contractors shall perform on-site field testing for Laed (Pb) and PolyChlorinated Biphenyls (PCBs); collect soil samples for off-site analysis of PCB and metals; excavate, transport and dispose of hazardous, toxic, and other wastes at two (2) different areas on Tern Island which will be referred to as "project site" throughout this SOW.

In addition to soil and sand, materials to be removed may include, but not be limited to: concrete chunks, transformers, capacitors, light ballasts, potential Asbestos Containing Materials (ACM) like ceiling material and floor tile etc.
Appendix A of this SOW list the specifications for Asbestos Abatement work.
Appendix B lists the specifications while Handling of Mercury Lamps/Switches

The Government reserves the right to substitute similar areas within the project site for those listed in this SOW prior to the commencement of the fieldwork. Also, during execution of this project, the Government reserves the right to modify this task order to include additional areas in the project site that waste removal and/or soil sampling is needed.

1.2 Project Scope. The project shall be divided into two distinct types of activities: 1) Sampling and Testing (S&T) which consists of, but not be limited to, field sampling and screening and shipping of field samples off island for laboratory analysis; and 2) Removal Action (RA) which involves the excavation, waste segregation, packaging and disposal of hazardous and other solid wastes.

The contractor shall submit his proposal for both activities. The S&T proposal shall be based on the number of samples and analyses listed in Table 1 of this SOW, while the proposal for the RA shall be determined by unit price and assumed quantities (Table 2.)

All identified and required work shall be conducted in an environmentally acceptable manner conforming to existing Federal, State and local regulations.

1.3 Project Site. Tern Island is, to some extent, rectangular in shape and runs 3,100 feet in length and 350 feet in width. The northern perimeter of the island is bordered by steel sheet pile that has deteriorated over time. This wall of sheet pile will be replaced as part of a revetment project that is contingent upon the removal of all material and wastes currently "leaning" against the wall. The entire section located adjacent to the sheet pile is subdivided into areas, as follows:

Area 1, also known as the “Bulky Dump”, is located at the northwestern portion of the island. It is approximately 120 feet by 60 feet with a portion of it submerged in seawater. Area 1 is largely covered with broken concrete slab and metal debris in the top layer (2 to 3 feet). Under this top layer, it appeared to have smaller chunks of concrete mixed in with sand. Under this SOW, Area 1 shall undergo S&T (in the lower layer) and RA activities. Average depth of excavation shall be approximately 6 feet.

Area 2, located east of Area 1, runs approximately 120 feet in length and 15 feet in width. This area consists mostly of sand and small chunks of coral, and was excavated during a previous PCB cleanup project. This area will not be part of this SOW, but is included for clarification purposes for it connects Area 1 to Area 3.

Area 3 continues east from Area 2 by approximately 30 feet and extends south an average of 5feet. Area 3 consists mostly of sand and small chunks of coral. During previous site investigations and cleanup projects, soil in Area 3, found to be contaminated with PCB, was excavated and transported offsite as both PCB and non-hazardous wastes. Presently, imported coral rock and sand bags support portions of the sheet pile. Under this SOW, Area 3 shall undergo S&T as well as RA. Average depth of excavation shall be approximately 3 feet.

2. BACKGROUND INFORMATION

2.1 Site History. Tern Island came to existence when the U.S. Navy built an airbase at French Frigate Shoals during World War II. The airbase was intended for the landing and refueling of ferrying aircraft between Pearl Harbor and Midway Atoll. The Navy occupied Tern Island until 1946.
U.S Coast Guard (USCG) then started their occupation of Tern Island, and installed a Long Range Navigation (LORAN) Transmitting Station in 1952. During the early 1960’s, Pacific Missile Range (PMR) operations were conducted on this man-made island. Equipment brought to the island to support the PMR activities included a 50,000 gallon neoprene fuel tank was installed, diesel generators, electrical switching equipment and house/trailers for

personnel offices space and lodging. All PMR activities stopped by mid-1960s while the LORAN operations continued on until 1979. Tern Island has been under the jurisdiction of the US Fish and Wildlife Service (USFWS) since 1979.

2.2 Previous Site Investigations and Cleanup Actions.

-*Closure of twenty-one underground storage tanks, Tern Island, French Frigate Shoals, Hawaiian Island.* Environmental Technologies International, Inc. 1992 for the U.S. Army Corps of Engineers, Honolulu District.

-*Environmental Investigations, U.S. Coast Guard Base, Tern Island, French Frigate Shoals.* URS Greiner Woodward Clyde, 1999a for the USCG Civil Engineering Unit, Honolulu

-*Environmental Investigations and Ecological Risk Assessment, U.S. Coast Guard Base, Tern Island, French Frigate Shoals.* URS Greiner Woodward Clyde, 1999b for the USCG Civil Engineering Unit, Honolulu .

- *Geophysical Investigation, U.S. Coast Guard Base, Tern Island, French Frigate Shoals.* Woodward Clyde Federal Services, 1997.

3. PROJECT REQUIREMENTS

3.1 The contractor, as an independent contractor and not as an agent of the Government, shall provide the necessary services, personnel, facilities, equipment, and material to perform the work described herein. Contractor shall provide the necessary scientific and technical expertise for accomplishing the remedial actions that are proposed and utilized. All work conducted under this project shall be in strict compliance with EPA guidelines, Occupational Safety and Health Act (OSHA) standards (29CFR 1910 and 1926), State of Hawaii Regulations (when applicable), and shall comply with Department of Army Regulations.

3.2 Applicable Federal, State and Army guidelines to include but not limited to the following:

- 29 CFR Part 1910 -Occupational Safety and Health Standards
- 29 CFR Part 1926-Safety and Health Regulations for Construction
- 40 CFR Part 761- Toxic Substances Control Act (TSCA) PCBs Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions.
- 40 CFR Part 261-Resource Conservation and Recovery Act
- 49 CFR Department of Transportation (DOT)-Hazardous Materials, Substances &Wastes Compliance Guide

- 49CFR Part 107-Hazardous Materials Program Procedures
- 49CFR Part 173-Preparation of Hazardous Materials for Transportation.
- AR 200-1, Environmental Protection and Enhancement.
- USACE-Safety and Health Requirements Manual, EM 385-1-1
- USACE-Requirements for the Sampling and Analysis Plans, EM 200-1-3
- USACE-Construction Specification 13280- Asbestos Abatement
- USACE-Construction Specification 13286N-Handling Mercury Lamps/Switches

3.3 Summary of Tasks

3.3.1 Project Management and Coordination with the Government.
- 3.3.1.1 Project Management
- 3.3.1.2 Coordination and Permits
- 3.3.1.3 Review and Evaluation of Prior Studies

3.3.2 Development of Safety and Health Plan (SSHP)

3.3.3 Development of Project Work Plan (PWP)
- 3.3.3.1 Work Plan
- 3.3.3.2 Sampling and Analysis Plan

3.3.4 Sampling and Testing
- 3.3.4.1 Soil Samples.
- 3.3.4.2 Field/On-site Analysis
- 3.3.4.3 Off-site Analysis

3.3.5 Removal Action
- 3.3.5.1 Debris Removal and Waste Segregation
- 3.3.5.2 Excavation, Transport, and Treatment
- 3.3.5.3 Post Cleanup Verification
- 3.3.5.4 Site Restoration

3.3.6 Removal Completion Report.

4. DESCRIPTION OF SERVICES.

Under the Description of Services section, each area listed in section 1.3 of this SOW shall be addressed separately where it is necessary to clearly define the rationale used and the action selected. Separate documents are not required unless it is necessary to clarify the work.

4.1 Project Management and Coordination with the Government

4.1.1 Project Management

The Contractor shall appoint at a minimum two points of contact (POC) for this delivery order. These POCs shall be responsible for coordination with the Government regarding

deliverables, technical approach, contractual matters, schedule, meetings, permits for PCB work at the project site, if applicable, to satisfy the requirements under this SOW.

The Contractor's POCs shall regularly coordinate the progress of the Contractor's activities with the customer U.S Fish and Wildlife Services (USFWS) and their agent, the U.S. Army Corps of Engineers, Pacific Ocean Division, Honolulu District (POH) and specifically, the Project Manager (Mr. Stan Boc, phone 808-438-9526) and Contract Monitor (CM) (Ms. Uyen Tran at 808-438-0512). In addition, the Contractor shall coordinate with individual(s) from other Government offices specified by the PM/CM to obtain pertinent information for the development of plans and reports.

4.1.2 Coordination and Permits. The Contractor shall coordinate with all applicable resource and regulatory agencies at all levels of government. These coordination efforts shall focus on identifying all the permits, if applicable, that are required for the various activities that will take place at the project site. As part of coordination, the Contractor may be required to write draft letters/application and Public Notices through several iterations of review by USFWS and POH. POH will finalize all formal correspondence before submitting it to the agencies. The Contractor shall be responsible for the publication of the Public Notices. For estimating purposes, the Contractor shall include in his fee proposal the cost for publishing a Public Notice in two major daily newspapers servicing the island of Oahu.

Agency coordination shall include, but not be limited to, the following: State of Hawaii, Department of Health (HDOH), US EPA-Region IX, US Coast Guard, National Marine Fisheries Service (NMFS).

4.1.3 Review and Evaluation of Prior Studies.
The Contractor shall review and evaluate existing prior studies, and data as provided by the POH Contracting Officer (CO) or his representative (COR), and obtained from persons contacted in connection with this project. Information gathered from these review shall be used to establish or approximate the source and quantity of spills, if any; thus enable the Contractor to provide rationale for his proposed technical approach. POH will provide any existing and available document listed under section 2.2 of this SOW.

4.2 Site Safety and Health Plan (SSHP).

4.2.1 The Contractor shall be responsible for reviewing all information provided, and preparing the necessary documents that contain the health and safety criteria, procedures, and practices for the project sites sufficient to comply with the pertinent regulation to protect the on-site personnel and the environment. The document shall include safety aspects while working in areas potentially submerged in seawater.

4.2.2 The required health and safety documents shall be submitted and accepted by the CM prior to the commencement of the field work.

4.2.3 Detailed requirements for the SSHP are listed in the USACE EM 385-1-1.

4.3 Project Work Plan. (PWP)

The contractor shall prepare a Project Work Plan based on the information gathered after his review and evaluation of previous investigations and cleanup at the project site. The Project Work Plan is the entire set of documents that shall be used to plan, control, and document all phases of this project. The PWP shall have as attachments: 1) Work Plan and 2) Sampling and Analysis Plan.

4.3.1 Work Plan. The WP shall include but not limited to project objectives, site description and history, information from previous investigations. The Contractor shall discuss the identified data gaps based on available and existing information, and subsequently the project specific Data Quality Objectives. (DQOs). The WP shall also submit project schedule (i.e Gant Chart) and project organization chart including field personnel, their qualifications and responsibilities.

4.3.1.1 The Contractor shall propose in his WP temporary dam/structures to be installed offshore, outside the existing sheet pile, to prevent field personnel from having to work in standing water, and contamination from running off to the marine environment during excavation and soil removal.

4.3.1.2 The WP shall propose the sequence in which the Contractor plans to carry out the requirement in this SOW. Even though the contract work was listed as two distinct phases: S&T and RA, the Contractor is not required to perform these two (2) activities sequentially, especially, if it would be more time efficient and cost effective in performing them co-currently.

4.3.2 Sampling and Analysis Plan. The Contractor shall prepare site specific SAP for all field analysis, laboratory activities, and contract deliverables related to the acquisition and reporting of chemical data. The Contractor shall select the sampling locations and prepare the SAP in accordance with the requirements stated below. The SAP requirement also applies to the waste characterization sampling and post clean-up verification activities required in the project's removal action.

4.3.2.1 The cleanup goal for Pb shall be 400 mg/Kg, which is the same as the EPA Region 9-Preliminary Remediation Goals (PRG) for residential. PCB cleanup goal shall be at 2 mg/Kg, a site-specific action level agreed by the US EPA and USFWS.

The SAP shall address chemical quality management including means to achieve projects DQOs. The Contractor shall propose in the SAP the number of samples to be collected in each area to attain representativeness, the method for assigning sample identification, the appropriate field documentation during site activities, QA/QC check samples, field and laboratory testing methods, sample packaging, chain-of-custody, and shipping requirements. In addition, the SAP shall list the laboratories' method detection limits to be evaluated and accepted by the Government before the start of the field work.

4.3.2.2 The Contractor shall propose his plan to properly excavate, package, transport, treat, conduct post cleanup verification, and restore the excavated site to grade that would avert wildlife entrapment and/or any tripping hazards.
The Contractor shall identify the name and location of the disposal facility in the plan. The Contractor shall discuss the methods of disposal, treatment, or remediation of the contaminated soil/structure(s). The Contractor shall summarize all applicable regulatory requirements and permits including verification that the treatment facility has the appropriate EPA permits. The plan shall provide a schedule of projected activities and time frames including delivery of soil and debris to and receipt at the disposal facility. The work plan shall include a network type schedule, identifying schedule dates and resources required.

4.3.2.3 The SAP shall include a section on Action Correction Plan (ACP) which shall list steps to be taken in the event that set DQOs could be compromised such as data discrepancies between the primary and the QA laboratories, laboratory method detection limits exceeding the contract required DL etc. The ACP shall also list the name and telephone numbers of personnel to be contacted for timely response to unforeseen circumstances: field work, holding time, detection limits, etc.

4.3.2.4 The SAP shall include provisions for collecting and analyzing ten percent quality assurance samples. The Contractor shall propose USACE validated laboratories for primary and QA analyses. Since the USACE validation process usually takes approximately six (6) months to one year, it is recommended that the Contractor not use this project to request validation for his (contract) laboratories since it could impact project schedule.

4.3.2.5 Detailed requirements for the preparation of a SAP are defined in USACE EM 200-1-3

4.4 Sampling and Testing.

Activities under this task include, but not limited to, sampling of surface and subsurface soils, using field testing methods to determine the extent of contamination and limits of excavation action, packaging and shipping of soil samples for off-site analysis. All work shall be carried out in accordance with the Contractor's accepted PWP.

4.4.1 Soil Samples. The Contractor shall collect surface and subsurface soil samples to determine the three dimensional contamination plumes at each area. Under this SOW, surface soil samples are defined as discrete soil samples collected at 0 to 12 inches BGS, while subsurface soil samples are obtained at depths of 2 feet or greater. For estimating purposes, the Contractor shall include in his fee proposal the cost to collect and analyzed in the field 200-soil samples from Area 1 and Area 3. 30% or 60 samples of the 200 samples shall be split for off-site laboratory analysis.

4.4.2 Field / On-site Analysis. The Contractor shall select the field screening methods that have the capability to rapidly profile sites, locating regions of higher and lower contaminations, thus enable the field personnel to determine whether the cleanup action goals were attained. Based on the project's cleanup goals for Pb and PCB, the Contractor shall use the field screening methods that have detection limits of, at most, half of the contaminants cleanup goals (i.e. Pb at 200 mg / Kg and PCB at 1 mg / Kg)

4.4.3 Off site Analysis.
Based on the detailed site-contamination profiled by the field analyses, the Contractor shall select the samples to be sent for laboratories analysis. The preferred approach would be to choose samples that represent the full range of contamination such as: non-detect or less than the cleanup goals, detected at or about the cleanup goals, and detected at levels much higher than the cleanup goals.

4.4.3.1 The Contractor shall be responsible for packaging and shipping of all samples collected to the Contractor's lab, as well as the QA lab. For number and of samples and target analytes, refer to Table 1 of this SOW. Ten percent Quality Control (QC) and ten percent Quality Assurance (QA) samples shall be collected by the Contractor and analyzed by USACE validated laboratories.

4.5 Removal Action.

4.5.1 Debris Removal and Waste Segregation. Debris found in previous site investigations included large concrete chunks, batteries, capacitors, transformers, glass, metal grates. The Contractor will likely encounter this debris again on the surface and / or during excavation. The Contractor shall remove and segregate the wastes according to their potential types:

TSCA (PCB articles, capacitors, Asbestos containing material (ACM) etc) or RCRA (construction debris, Pb wastes etc) before setting up any grid for field sampling and testing.

All waste materials shall be classified according to their waste types, and disposed of off island, with the exception of large concrete chunks in Area 1 and the clean sand in the bags located in Area 3. The Contractor shall stockpile the concrete chunks on island, in an area approved by USFWS. The concrete shall be tested for PCB and Lead. The government will exercise the option to dispose of the concrete in the event that analytical results exceed the cleanup goals. Estimated quantity for concrete disposal is listed in Table 2 of this SOW.

4.5.2 The Contractor shall in-place measure the areas to be excavated before and after excavation. This approach will give a more accurate amount of gross cubic yards removed.

4.5.3 Excavation, Transport and Treatment.

The Contractor shall excavate at the different areas based on the field screening results. The Contractor shall remove the contaminated soil until the levels of Pb and PCB contamination in the soil are less than or equal to the respective cleanup goals (i.e. PCBs at 2 mg/Kg). For estimating purposes, the Contractor shall refer to Table 2 of this SOW for the assumed tonnage of soil to be remediated. The contaminated soil shall be excavated, shipped, and disposed, using DOT and EPA approved containers as discussed in 49 CFR 191-179 and 40 CFR 761.60 and 40 CFR 761.65. The Contractor shall propose a unit cost basis for those listed quantities in Table 2 of this SOW.

All excavated soil shall be packaged and transported off Tern Island in accordance with U.S. Department of Transportation and U.S. EPA Regulations.

The soil shall be treated at a US. EPA permitted Treatment Disposal and Storage (TDS) facility. The Contractor shall conduct all coordination with federal, state, and local agencies and with the TDS facility. The Contractor shall prepare all documentation required for disposal (wastes manifest) and provide the documents to the Government for review prior to the shipping date. The USFWS is the generator of wastes who may designate POH to review and sign the manifest on their behalf. The Contractor shall be knowledgeable in waste manifesting, and ensure that contaminated soil is disposed of in accordance with federal, state, and local guidelines. Documents certifying proper transport and disposal shall be included in the Completion report.

4.5.4 Post Cleanup Verification. The Contractor shall conduct verification and post cleanup verification soil sampling. Verification and Post Cleanup Verification samplings shall be

performed after the contaminated soil is removed. The number of samples to be collected for post cleanup verification is listed in Table 1 of this SOW.

4.5.5 Site Restoration. At completion of the RA process, the Contractor shall backfill the excavated areas using the available material on-site. Imported backfill is not part of this SOW. Excavated areas shall be backfilled to prevent potential entrapment of wildlife and tripping hazards.

4.6 Preparation of Removal Completion Report.

The Contractor shall prepare a report that describes the contamination that was present at each area based on the field and off-site analytical results. The Contractor shall validate all analytical results and discuss the correlation between field screening and laboratory methods. The report shall also summarize the removal activities, and the final disposition of the excavated soil. The removal completion report shall include copies of all analysis performed for disposal and copies of all certifications of final disposal signed by the responsible disposal facility officials.

5. PROJECT SCHEDULE

The contractor shall be responsible for all necessary work to ensure successful implementation of the various components of this project. Inherent in all projects, contractor shall be responsible for all coordinating project work with all Federal, State, and Army Corps personnel, and all subcontractors. This will include, but not limited to, meetings, conference calls, on-island clearances, medical/respirator clearances, and other coordination activities necessary for successful completion of this scope of work. The following table depicts the milestone completion dates for this project.

Milestone	DACA*	% Completion
Submit Draft PWP/SSHP	30	5
Submit Final PWP/SSHP	45	10
Begin Field Work	60	20
End Field Work	90	80
Submit Draft RC Report	135	90
Submit Final Report	170	100

*DACA=Days after Contract Awarded.

There will be some overlap of phases during the implementation of the project. Contractor will be responsible to coordinate these efforts so as to avoid scheduling conflicts among the phases of work.

6. SUBMITTAL AND REVIEWS.

6.1 Submittals. The Contractor shall be responsible to furnish by hand delivery, overnight mail, or express mail (maximum 2 day delivery service) to the different Government offices including, but not limited to, the USFWS, USACE-POH. The exact address for each office will be provided after contract award. Following each submission, comments generated as a result of the Government's review shall be incorporated by the Contractor.

6.2 Correspondence. The Contractor shall make a record of phone conversations, written correspondence, minutes of the meetings regarding information related to the performance of this contract. A summary of the phone conversations, written correspondence, and meetings shall be submitted to the Government.

6.3 Monthly Status Report (MSR). The contractor shall prepare and submit MSR with each invoice for payment. The MSR shall describe the management approach to controlling the project. The MSR shall include but is not limited to monthly project cost/performance reports, and amended project schedule (Gant Chart) if warranted. The MSR shall describe the project's actual cost and progress against the proposed schedule and resources. The reports shall also contain a narrative description of the following information: status of all project elements; highlights of contractor's major accomplishments and /or deviation during the month. The MSR shall also discuss any problems or obstacles encountered and what actions were taken to remedy the situation(s).

6.4 The Contractor shall submit plans and reports and other documents as follows:

Documents	copies*
Draft PWP	5
Draft SSHP	2
Final PWP	6
Draft RC Report	5
Final RC Report	6
Monthly Status Report	1
Minutes of the meetings	4

7. PERSONNEL QUALIFICATIONS. The Contractor shall ensure that all personnel working onsite, transporting, storing, treating, or disposing of PCB and lead-contaminated material, are qualified through proper training and experience. Qualifications include 40 hour HAZWOPER and Refresher courses (29 CFR 1910), 32 hour Hazardous Waste Manifesting and Refresher courses (49 CFR 171). The Contractor shall provide copies of

training certificates and a statement describing work experience pertinent to this SOW on Federal and non-Federal projects.

8. PUBLIC AFFAIRS. The Contractor or his subcontractors shall not make available to the news media or publicly disclose any data generated or reviewed under this contract. The Contractor shall not release any news articles concerning this project without the consent of the Contracting Officer. When approached by the news media, the Contractor shall refer all questions to the POH Project Manager for response.

9. RELEASE OF INFORMATION. The information developed, gathered, and assembled in fulfillment of the contract required as defined in or related to the Scope of Work shall not be released by the Contractor, his/her consultants, his/her subcontractors or their associates without prior coordination and approval by the Contracting Officer or his/her designee.

10. USE OF INFORMATION. The information developed, gathered, and assembled in fulfillment of the contract requirements as defined or related to the Scope of Work will become the complete property of the Government and shall, therefore, not be used by the Contractor for any purpose at any time without the written consent of the Contracting Officer.

Table 1- Number of Samples and Analyses

Site		Description	Analyses	Field Analysis	Off-site Analysis-Primary	Off-site Analysis-QC	Off-site Analysis-QA
A. Initial Site Characterization							
Area 1		*120 ft x 60 ft. Excavation: 3ft-6ft*	Pb, PCBs	60	18	2	2
Area 3		*30 ft x 5 ft Excavation: 3ft*	Pb, PCBs	20	6	1	1
B. Verification sampling after initial removal							
Area 1		*120 ft x 60 ft. Excavation: 3ft-6ft*	Pb, PCBs	40	12	1	1
Area 3		*165 ft x 20 ft. Excavation: 3ft*	Pb, PCBs	20	6	0	0
C. Post Cleanup Verification Sampling-final round							
Area 1		*120 ft x 60 ft. Excavation: 3ft-6ft*	Pb, PCBs	40	12	1	1
Area 3		*165 ft x 20 ft. Excavation: 3ft*	Pb, PCBs	20	6	1	1
		TOTAL NUMBER of soil samples		**200**	**60**	**6**	**6**
D. Waste Profiling-requirement of TSDF			Full TCLP	20			

Table 2- Types of Wastes and Estimated Tonnage

Types of wastes	**Description**	**Tonnage**	**Disposal Options**
Non-Hazardous	*Bulky Wastes, Srcap Metals, Batteries, general trash*	2000	Not regulated-Municipal solid wastes
PCB Wastes	*Soil and concrete- > 50 ppm*	15	TSCA regulated- landfill
Lead Wastes	*Soil and concrete > 400 ppm*	15	RCRA regulated-landfill
Asbestos Wastes	*Ceiling and floor tiles*	2	Double bagged
Re-use material	*Clean Concrete and Clean Sand*	700	Remain on-island

BENJAMIN J. CAYETANO
GOVERNOR

BRUCE S. ANDERSON, Ph.D., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to
EMD / CWB

WQC532.FNL

June 24, 2002

Ms. Ann Badgley, Regional Director
United States Fish and Wildlife Service
300 Ala Moana Blvd., Room 5-231
Honolulu, Hawaii 96850-5000

Dear Ms. Badgley:

Subject: Section 401 Water Quality Certification (WQC)
Tern Island Shore Protection Project, Tern Island, French Frigate Shoal, Hawaiian Islands National Wildlife Refuge, Hawaii
File No. WQC 0000532/Army File No. 200100305

In accordance with the provisions of the Clean Water Act (CWA), as amended (33 U.S.C. 1251, et seq.; the "CWA"), Chapters 91, 92 and 342D of the Hawaii Revised Statutes (HRS), Part 121 of Title 40, Code of Federal Regulations (CFR), and Chapter 11-54 of the Hawaii Administrative Rules (HAR), the Department of Health (Department) has reviewed your WQC application and appurtenant data relevant to water quality considerations for the proposed discharge activity. The subject discharge activity is authorized under the U.S. Department of the Army (DA), Corps of Engineers' (COE) Individual Permit (IP, File No. 200100305), to be issued by the Honolulu Engineer District (HED) under CWA, Section 404 (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act (RHA) of 1899. The processing of this WQC application is based on requirements contained in CWA, Section 401; HRS, Chapters 91, 92, and 342D; 40 CFR Part 121; and HAR, Chapter 11-54 .

The following is the information of the Applicant and the Agent:

Applicant: United States Fish and Wildlife Service (USFWS)
300 Ala Moana Blvd., Room 5-231
Honolulu, Hawaii 96850-5000

Contact: Mr. Jerry Leinecke, Project Leader, Hawaiian/Pacific Islands National Wildlife Refuge Complex
Phone: (808) 541-1201

Agent: Honolulu Engineer District
Army Corps of Engineers
Department of the Army
Building 230
Fort Shafter, Hawaii 96858-5440

Contact: Lt. Col. Ronald N. Light, District Engineer
Phone: (808) 438-1069

The Director of Health (Director) attests to the following statements based on information contained in the WQC application package.

1. The Director has either:

   a. Examined the application submitted by the Applicant and bases its certification upon an evaluation of the information contained in such application which is relevant to water quality considerations; or

   b. Examined other information furnished by the Applicant sufficient to permit the statement described in Item No. 2. below.

2. When all requirements and conditions contained in item 3. of this WQC are fully complied with, there is a reasonable assurance that the activity will be conducted in a manner which will not violate the Basic Water Quality Criteria applicable to all waters and the Specific Water Quality Criteria applicable to the class of State waters where the proposed discharge(s) would take place.

3. The following conditions are deemed necessary to be imposed with respect to the project construction related discharge activities authorized under the DA, IP (File No. 200100305) to be issued by the HED/COE under CWA, Section 404 and RHA, Section 10.

   a.. The discharges evaluated under this application are those which would be the result of the reconstruction of shoreline protection and related improvements.

   b. Materials to be temporarily or permanently placed into the Pacific Ocean evaluated under this certification application are those necessary for or related to the construction of the shoreline protection and dredging of the remaining Polychlorinated Biphenyls (PCB) contaminated soil and sediments, include:

      (1) **The expected discharges as specified in item 10.e of the USFWS's revised WQC application, dated July 31, 2001, which includes:**

(a) The permanent placement of the:

(i) Basalt armor stone: 9,000 Cubic Yards (CY).

(ii) Geotextile fabric: 7,560 SquareYards.

(iii) Sheet pile: 500 Tons (including above waters).

(iv) Pre-cast concrete planks: 11CY.

(v) Coral rubble and sand fill material behind new sheet pile: 800 CY.

(vi) Coral rubble and sand fill material to create grade for rock revetment : 1,175 CY.

(b) The temporary placement of the silt containment device(s), such as the silt curtain.

(2) **Potential Discharges as specified in item 10.e of the USFWS's revised WQC application, dated July 31, 2001, which includes:**

(a) Cast-in-place concrete for boat ramp above waterline: 21 CY.

(b) Cast-in-place concrete for dock platform: 54 CY.

(c) Cast-in-place concrete for sheet pile cap below waterline: 280 CY.

(d) Diesel fuel.

(e) Hydraulic oil.

(f) Lubrication oil.

c. This WQC:

(1) Shall become effective when:

(a) A site-specific Best Management Practices (BMPs) Plan has been submitted to the Department of Health (Department), Clean Water Branch (CWB). The site-specific BMPs Plan shall also include measures to be implemented for the proposed PCB clean up activities. The CWB shall have 30 days to provide its concerns and comments, if any; and

(b) The USFWS has received a written acceptance of the site-specific BMPs Plan from the Director after all related concern(s) and comment(s) are properly addressed to the Director's satisfaction.

(2) Shall expire two (2) years from the effective date of this WQC, or until the applicable State Water Quality Standards (WQS) is revised or modified, or when the applicable DA IP is modified, revoked, suspended, or expired, or when the proposed project construction is completed, whichever is earliest. If the applicable WQS is revised or modified during the two year period and the activity complies with the revisions or modifications, this WQC shall continue to be valid for the remainder of the two (2) year period.

The Director may, upon the written request from the USFWS administratively extend the expiration date of this WQC if the written request can demonstrate to the CWB that there are no significant changes to the project scope and the changes will not, either individually or cumulatively, causing adverse impact to the receiving water quality.

(3) May be revoked when:

(a) Any new State WQS applicable to the waters into which the activity may discharge is subsequently established before the activity is completed and/or the Director determines that the activity is violating any new State WQS.

The Director will notify the USFWS of the violation. The USFWS shall cease the violation within 180 days of the date of the notice. If the USFWS fails within 180 days of the date of the notice to cease the violation, the Director may revoke this certification, at the Director's discretion; or

(b) The Director determines that the discharge(s) from the activity is violating the existing State WQS or any condition of this WQC.

The Director shall notify the USFWS of the violation. The USFWS shall cease the violation within seven (7) days of the date of the notice. If the USFWS fails within seven (7) days of the date of the notice to cease the violation, the Director may revoke this WQC, at the Director's discretion.

This action shall not preclude the Department from taking other enforcement action authorized by law.

Written notification by the Department under this section is complete upon mailing or sending a facsimile transmission or electronic mailing of the document or actual receipt of the document by USFWS.

d. The USFWS shall:

(1) Comply and shall also require the contractor(s) to comply with applicable specifications, schedules, procedures, pollution control/treatment measures plan, and any other project construction related requirements, information contained in the revised WQC application, dated July 31, 2001, and subsequent submittal of the site-specific BMPs Plan as specified in item 3.c(1), above.

(2) Conduct or contract with a qualified laboratory/environmental consultant to conduct applicable monitoring based on the applicable monitoring and assessment plan proposed in the revised WQC application, dated July 31, 2001.

Test methods promulgated in 40 CFR Part 136, effective on July 1, 1998, and when applicable, the chemical methodology for sea water analyses (see HAR, Section 11-54-10) shall be used. The detection limits of the test methods used shall be equal to or lower than the applicable WQS as specified in HAR, Chapter 11-54. For situations where the applicable water quality standard is below the detection limits of the available test methods, the test method which has the detection limit closest to the applicable WQS shall be used. If a test method has not been promulgated for a particular parameter, the USFWS may submit an application through the Director for the approval of an alternate test procedure by following 40 CFR §136.4.

The Director may, at the Director's own discretion or upon written request from the USFWS and on a case-by-case basis, require the USFWS to modify the monitoring frequency(ies) or change the sampling locations, as appropriate. If a written request is submitted for the reduction of monitoring frequency(ies), it shall be accompanied by an assessment of the monitoring results which shall clearly demonstrate that the project construction activity related discharge has fully complied with the applicable WQS.

(3) (a) Submit to the CWB for review and comment a modified receiving water quality monitoring plan which shall include additional sampling measures, locations, and frequencies designed to properly address the PCB clean up activity-related potential water pollution concerns. The modified receiving water quality monitoring plan shall also be submitted to the National Marine Fisheries Service (NMFS) for review and comment. The USFWS

shall not begin to construct the proposed shore protection project and clean up the remaining PCB contaminated soil, simultaneously, except after received a written confirmation from the CWB that the modified receiving water quality monitoring plan and the required site-specific BMPs Plan (as specified in item 3.c(1), above) are acceptable to the Director after all related concern(s) and comment(s) are properly addressed to the Director's satisfaction;

(b) Coordinate with the U.S. Coast Guard (USCG) and ensure that the biannual monitoring will be properly conducted and the monitoring results are reported to the NMFS and the CWB. The biannual monitoring will be conducted by the USCG in the years 2003, 2005 and 2007;

(c) Report to the NMFS and the CWB the completion of the remaining PCB clean up; and

(d) Work with the NMFS and the Department's Office of Hazardous Evaluation and Emergency Response (HEER) to mitigate the adverse impacts, if any, identified during any periods of the monitoring plan.

(4) Ensure that all "discharges" associated with the proposed construction activities are conducted in a manner that will comply with "Basic Water Quality Criteria Applicable to All Waters" as specified in HAR, Section 11-54-4.

(5) Ensure that all material(s) placed or to be placed in State waters are free of waste metal products, organic materials, debris and any pollutants at toxic or potentially hazardous concentrations to aquatic life as specified in HAR, Section 11-54-4(b).

(6) Ensure that water tight forms shall be used when repair or rehabilitation work involving cast-in-place concrete below the ordinary high water mark or spring high tide line is anticipated. The USFWS shall also ensure that silt curtain(s) and/or other appropriate and effective silt containment or treatment device(s) be properly deployed prior to the commencement of any construction work; be properly maintained throughout the entire period of the construction work; and not be removed until the construction work is completed and the condition in the affected area(s) has returned to its pre-construction condition.

(7) Ensure that construction debris is contained and prevented from entering or re-entering State waters.

(8) Ensure that all temporarily constructed structures, including the silt containment device(s) or other similar structures constructed, are removed following the completion of the proposed construction activities and when the affected area water quality has returned to its preconstruction condition.

(9) Immediately cease the portion of the dredging activity or the dredged spoils dewatering/filtering return flow discharging activity if water quality monitoring or daily inspection or observation result(s) indicates that noncompliance to HAR, Section 11-54-4(a) or Section 11-54-4(b), will occur or is occurring. The construction activity shall not resume until adequate mitigative measures are implemented and appropriate corrective actions are taken and concurred by the Department. The USFWS shall not hold the Department responsible for any damages or costs incurred due to the ceasing of the construction works.

(10) Report immediately to the CWB any spill(s) or other contamination(s) that occurs at the project site.

(11) Submit information on the selected general contractor. Information shall, at a minimum, include the general contractor's legal name, address, contact person's name and position, telephone and fax numbers, to the CWB.

(12) Provide the information of the primary on-site contact person.

(13) Notify the CWB:

(a) Via telephone (808) 586-4309 at least three (3) working days before any in-water construction work is to begin; and

(b) Notify the CWB within 14 days after the completion of the proposed construction activity.

(14) Ensure that:

(a) Erosion and sediment control measures are in place and functional before earth moving operations begin;

(b) Temporary soil stabilization be applied on areas that will remain unfinished for more than 30 calendar days; and

(c) Permanent soil stabilization be applied as soon as practicable after final grading.

(15) The USFWS shall insure that the contractor(s) maintains, at the construction site or in the nearby field office, a record that item 3.d(14) requirements have been fully complied with.

(16) Ensure that all areas impacted, either directly or indirectly, by the project construction activities are fully restored.

The USFWS shall submit photographic documentation (including video tapes, color photographs, etc.) to the CWB. Photographic documentation shall be taken in a manner that allows the Director to compare ambient conditions before and after the construction activities. Copies of the photographic documents taken should note the date and time the photographic documents were taken. Photographic documents taken before the project construction shall be submitted to the CWB. Photographic documents taken after the construction shall be submitted to the CWB within two (2) weeks after the completion of the construction project.

e. Work shall be discontinued during flood conditions.

f. Clearing and grubbing shall be held to the minimum.

g. The USFWS shall review and update the effectiveness and adequacy of the water quality monitoring plan, implemented site-specific BMPs measures, and/or other environmental protection measures as often as needed. The USFWS shall modify the monitoring plan, site-specific BMPs Plan, and/or environmental protection measures upon request or when instructed by the Director.

Any change(s) to the implemented site-specific BMPs Plan, water quality monitoring plan or correction(s) or modification(s) to information already on file with the Department shall be submitted to the CWB, for review and comment, as such change(s), correction(s) or modification(s) arise. The USFWS shall properly address all comment(s) and/or concern(s) to the Director's satisfaction before such change(s), correction(s) or modification(s) becomes effective.

h. By applying for and accepting this WQC, the USFWS agrees that the Department may conduct routine inspection of the construction site in accordance with HRS, Section 342D-8.

i. Construction debris, vegetation and/or dredged material removed from the project site shall be properly disposed at upland State and/or County approved landfill . The

enclosed Solid Waste Disclosure Form for Construction Sites shall be completed and returned to the Department's Office of Solid Waste Management. No construction material or construction-related materials shall be stockpiled, stored or placed within the construction limits or in ways that will disturb or adversely impact the aquatic environment.

j. There shall be no discharge of any wash water into State waters.

k. The USFWS shall obtain a National Pollutant Discharge Elimination System (NPDES) Permit before discharging, either directly or indirectly, treated effluent from construction dewatering processing activity.

The USFWS shall also obtain an NPDES Permit for discharge of treated storm water associated with the minor construction activity if the proposed construction activities begin on or after or extended beyond March 10, 2003.

Please include File No. **WQC 0000532** and the following certification in all future correspondence with the Department for the subject project:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The USFWS has published a public notice of the proposed certification in the Midweek Publication on October 29, 2001, for the subject activity.

After consideration of the expressed views of all interested persons and agencies and pertinent State statutes and rules, the Department hereby issues this conditional WQC to USFWS for the proposed shore protection construction project.

Should you have any questions, please contact Mr. Edward Chen of the Engineering Section, CWB, at (808) 586-4309.

Sincerely,

BRUCE S. ANDERSON, Ph.D., M.P.H.
Director of Health

Enclosure: Solid Waste Disclosure Form for Construction Sites

c: Pacific Island Contact Office/Region 9/EPA (w/o encl.)
Regulatory Branch, HED/COE (w/o encl.)
National Marine Fisheries Service (w/o encl.)
CZM Program, Office of Planning/DBEDT (w/o encl.)
Department of Land and Natural Resources (w/o encl.)
Office of Solid Waste/DOH (w/encl.)
Office of Hazardous Evaluation and Emergency Response/DOH (w/o encl.)

DEPARTMENT OF THE ARMY PERMIT 200100305

Permittee: Mr. Jerry Leinecke, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 50167, Honolulu, Hawaii 96850

Permit No: 200100305

Issuing Office: U.S. ARMY CORPS OF ENGINEERS, Honolulu Engineer District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The project involves the restoration of the shore protection of Tern Island, French Frigate Shoals. Approximately 820 feet of sheet pile and 3,854 feet of rock revetment will be installed to replace the existing deteriorated sheet pile.

Purpose: The overall purpose of the project is to prevent further erosion of the island.

Project Location: Tern Island, French Frigate Shoals, Northwestern Hawaiian Islands, Hawaii.

General Conditions:

1. The time limit for completing the work authorized ends on **June 5, 2006**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least two months before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State of Hawaii coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

See page 3

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Jerry F. Leinecke 7/2/02

NAME Jerry Leinecke (DATE)
Title Project Leader

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Ronald N. Light 7/8/02

Ronald N. Light (DATE)
Lieutenant Colonel, U.S. Army
District Engineer

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE) (DATE)

II. Special Conditions:

A. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

B. All activities associated with this project must comply with State of Hawaii Water Quality Standards (HAR 11-54 and HRS 342D), and the conditions contained in the Water Quality Certification from the State of Hawaii, Department of Health.

C. Comply with all conditions in the Federal Coastal Zone Consistency Determination.

D. The following conditions shall be incorporated into the project to minimize impacts to fish and wildlife resources and water quality:

(1) No project related materials shall be stockpiled in the aquatic environment.
(2) All project related equipment and materials placed in the water shall be free of pollutants.
(3) No contamination of the aquatic environment (from trash, debris disposal, etc.) shall result from project activities.
(4) A contingency plan to control petroleum products accidentally spilled during the project shall be developed.
(5) Turbidity and siltation from the proposed work shall be minimized and contained within the vicinity of the day-to-day construction site through the use of effective silt containment devices.

UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE

Hawaiian Islands National Wildlife Refuge
P.O. Box 50167
Honolulu, HI 96850

SPECIAL USE PERMIT

Station No. to be Credited Permit No.
12526 - 02006

Date May 16, 2002

Period of Use (inclusive)
From August 1, 2002
To August 31, 2005

Permittee Name	Permittee Address
U.S. Army Corps of Engineers	Honolulu Engineering District U.S. Army Corps of Engineers Fort Shafter Honolulu, HI

Purpose (specify in detail privilege requested, or units of products involved)

The purpose of this permit it to allow the permittee to enter the Hawaiian Islands NWR for the use of Tern Island, French Frigate Shoals (FFS), Hawaii facilities for a specified number of workers who will be contracted and managed by the permittee to replace the shore protection sheet pile around the island.

Description (specify unit numbers: metes and bounds, or other recognizable designations)

All specific designations will be provided in the attached Special Conditions of this Special Use Permit (SUP).

Amount of fee $0 if not a fixed payment, specify rate and unit of charge:

- [x] Payment Exempt - Justification: Cooperative Project.
- [ ] Full Payment
- [ ] Partial Payment - Balance of payments to be made as follows:

Record of Payments
N/A

Special Conditions
See attached.

This permit is issued by the U.S. Fish and Wildlife Service and accepted by the undersigned, subject to the terms, covenants, obligations, and reservations, expressed or implied herein, and to the conditions and requirements appearing on the reverse side.

Permittee Signature	Issuing Officer Signature and Title
Ronald N. Light LTC, EN U.S. Army	Donald Palanski Pacific Remote Islands NWRC Refuge Manager

Form 3-1383 (Rev. 5/97)

General Conditions

1. *Payments*
All payments shall be made on or before the due date to the local representative of the U.S. Fish and Wildlife Service by a postal money order or check made payable to the U.S. Fish and Wildlife Service.

2. *Use limitations*
The permittee's use of the described premises is limited to the purposes herein specified; does not unless provided for in this permit allow him/her to restrict other authorized entry on to his/her area; and permits the Service to carry on whatever activities are necessary for (1) protection and maintenance of the premises and adjacent lands administered by the Service and (2) the management of wildlife and fish using the premises and other Service lands.

3. *Damages*
The United States shall not be responsible for any loss or damage to property including but not limited to growing crops, animals, and machinery; or injury to the permittee, or his/her relatives, or to the officers, agents, employees, or any others who are on the premises from instructions or by the sufferance of the permittee or his/her associates; or for damages or interference caused by wildlife or employees or representatives of the Government carrying out their official responsibilities. The permittee agrees to save the United States or any of its agencies harmless from any and all claims for damages or losses that may arise or be incident to the flooding of the premises resulting from any associated Government river and harbor, flood control, reclamation, or Tennessee Valley Authority activity.

4. *Operating Rules and Laws*
The permittee shall keep the premises in a neat and orderly condition at all times, and shall comply with all municipal, county, and State laws applicable to the operations under the permit as well as all Federal laws, rules, and regulations governing National Wildlife Refuges and the area described in this permit. The permittee shall comply with all instructions applicable to this permit issued by the refuge officer in charge. The permittee shall take all reasonable precautions to prevent the escape of fires and to suppress fires and shall render all reasonable assistance in the suppression of refuge fires.

5. *Responsibility of Permittee*
The permittee, by operating on the premises, shall be considered to have accepted these premises with all the facilities, fixtures, or improvements in their existing condition as of the date of this permit. At the end of the period specified or upon earlier termination, the permittee shall give up the premises in as good order and condition as when received except for reasonable wear, tear, or damage occurring without fault or negligence. The permittee will fully repay the Service for any and all damage directly or indirectly resulting from negligence or failure on his/her part, or the part of anyone of his/her associates, to use reasonable care.

6. *Revocation Policy*
This permit may be revoked by the Regional Director of the Service without notice for noncompliance with the terms hereof or for violation of general and/or specific laws or regulations governing National Wildlife Refuges or for nonuse. It is at all times subject to discretionary revocation by the Director of the Service. Upon such revocation the Service, by and through any authorized representative, may take possession of the said premises for its own and sole use, or may enter and posses the premises as the agent of the permittee and for his/her account.

7. *Compliance*
Failure of the Service to insist upon a strict compliance with any of this permit's terms, conditions, and requirements shall not constitute a waiver or be considered as a giving up of the Service's right to thereafter enforce any of the permit's terms, conditions, or requirements.

8. *Termination Policy*
At the termination of this permit, the permittee shall immediately give up possession to the Service representative, reserving, however, the rights specified in paragraph 9. If he/she fails to do so, he/she will pay the Government, as liquidated damages, an amount double the rate specified in this permit for the entire time possession is withheld. Upon yielding possession, the permittee will still be allowed to reenter as needed to remove his/her property as stated in paragraph 9. The acceptance of any fee for liquidated damages or any other act of administration relating to the continued tenancy is not to be considered as an affirmance of the permittees action nor shall it operate as a waiver of the Government's right to terminate or cancel the permit for the breach of any specified condition or requirement.

9. *Removal of Permittee's Property*
Upon the expiration or termination of this permit, if all rental charges and/or damage claims due to the Government have been paid, the permittee may, within a reasonable period as stated in the permit or as determined by the refuge officer in charge but not to exceed 60 days, remove all structures, machinery, and/or other equipment, etc., from the premises for which he/she is responsible. Within this period the permittee must also remove any other of his/her property including his/her acknowledged share of products or crops grown, cut, harvested, stored, or stacked on the premises. Upon failure to remove any of the above items within the aforesaid period, they shall become the property of the United States.

10. *Transfer of Privileges*
This permit is not transferable, and no privileges herein mentioned may be sublet or made available to any person or interest not mentioned in this permit. No interest hereunder may accrue through lien or be transferred to a third party without the approval of the Regional Director of the U.S. Fish and Wildlife Service and the permit shall not be used for speculative purposes.

11. *Conditions of Permit not Fulfilled*
If the permittee fails to fulfill any of the conditions and requirements set forth herein, all money paid under this permit shall be retained by the Government to be used to satisfy as much of the permittee's obligation as possible.

12. *Officials Barred from Participating*
No Member of Congress or Resident Commissioner shall participate in any part of this contract or to any benefit that may arise from it, but this provision shall not pertain to this contract if made with a corporation for its general benefit.

13. *Nondiscrimination in Employment*
The permittee agrees to be bound by the equal opportunity clause of Executive Order 11246, as amended.

Privacy Act Statement—Special Use Permit

NOTICE: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, please be advised that:

1. The issuance of a permit and collection of fees on lands of the National Wildlife Refuge System is authorized by the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd - 668ee), and the Refuge Recreation Act, (16 U.S.C. 460k-3), implemented by regulations in 50 CFR 25-36.
2. Information collected in issuing a permit may be used to evaluate and conclude the eligibility of, or merely document, permit applicants.
3. Routine use disclosures may also be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of the individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department (48FR 54716; December 6, 1983).
4. Any information requested is required to receive this permit. Failure to answer questions may jeopardize the eligibility of individuals to receive permits.

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APPENDICES

Appendix A. Example of "Permittee Personnel List"

Appendix B. Refuge Boundary Definitions

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Appendix G. Tern Island Snorkeling and Swimming Policy

LIST OF ACRONYMS AND ABBREVIATIONS

CORPS United States Army Corps of Engineers
Refuge Hawaiian Islands National Wildlife Refuge
NMFS National Marine Fisheries Service
POC Point of Contact
Service United States Fish and Wildlife Service
Shoals French Frigate Shoals
SUP Special Use Permit

Definitions

POC The POC will be the person(s) delegated by the Service Refuge Complex Manager and by the Permittee at Tern Island and in Honolulu to arrange and coordinate logistics, answer questions, address concerns, and communicate information to other POC's. There will be a total of 4 POC's; a Service Tern POC, a Service Honolulu POC, a Permittee Tern POC, and a Permittee Honolulu POC. The 2 Service POC's will act on behalf of the Refuge Complex Manager.

1. GENERAL SPECIAL CONDITIONS

1.1 This Special Use Permit (SUP) applies to the following persons:

Permittee: Commander/District Engineer, Honolulu District, U.S. Army Corps of Engineers

Other Personnel: A complete list of all personnel that will enter the Hawaiian Islands National Wildlife Refuge (Refuge), whether by ship or plane, during the first 2 months of the project will be provided to the Refuge Complex Manager 30 days prior to the Permittee arriving at the Refuge. Following arrival to the Refuge, and for the duration of the project, the Permittee must provide an updated list to the Refuge Complex Manager on the first of each month one month in advance of personnel projected presence within the Refuge. Appendix A provides an example of the information required and format to

be used for the above mentioned personnel list.

Only Persons named on the personnel lists will be allowed entry into the Refuge, or permission to work under the authority of this SUP. The Permittee and all personnel working under this permit are required to read and follow these Special Conditions. The Permittee is ultimately responsible for all actions of his/her direct staff and contracted employees working within the Refuge boundaries (See Appendix B for Refuge Boundary Definitions).

A maximum of 21 Permittee personnel will be allowed to stay on Tern Island at any given time, including the Corps Project Inspector who will make an overnight site visit once a month.

1.2 The Refuge Complex Manager, Pacific Remote Islands NWR Complex, is responsible for administering the SUP programs within the Refuge. The Permittee must contact the Refuge Complex Manager prior to entering the Refuge. This notification must include the above mentioned personnel list and an itinerary. The Refuge Complex Manager may require changes to itineraries or personnel for reasons of safety, protection of wildlife or other Refuge resources, or logistical constraints.

1.3 All activities of the Permittee and his/her assistants are subject to all federal laws, rules and regulations governing wildlife and National Wildlife Refuges, including the conditions outlined in biological opinions issued by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

1.4 Upon arrival at Tern Island, Permittee personnel will be briefed by the resident Refuge Manager and the Service Tern POC on regulations, schedules, facilities usage, and other special considerations concerning activities allowed under this permit.

1.5 Belligerent, abusive, and/or intimidating behavior will not be tolerated, and will result in immediate expulsion from the island for the offender, at the Permittee's expense.

1.6 The Permittee must coordinate all activities on the Refuge with Refuge staff. The Permittee Tern POC will have the responsibility of coordinating all project activities with the on-site Service Tern POC. Weekly meetings, at a minimum, will be held between the Service Tern POC and the Permittee Tern POC to update the status on project progress and plans, and to allow concerns to be voiced regarding potential problems.

1.7 On-site Refuge staff will have the authority to regulate and restrict activities more stringently than defined in this SUP if, in their opinion, such action is necessary to limit disturbance to

wildlife, to protect government equipment, or to insure the safety of personnel. If verbal instructions or SUP conditions are disregarded or violated, Refuge staff members have the authority to terminate all activities and to arrange for immediate departure of the person and/or Permittee.

1.8 All equipment or supplies brought into the Refuge, or structures of any kind built on the Refuge by the Permittee are the responsibility of the Permittee. Requests to store equipment and supplies at the island will be handled by the Service Tern POC. Any Permittee structures, equipment, or supplies that require maintenance, or are determined to be unserviceable or a safety hazard to humans or wildlife are the responsibility of the Permittee and must be immediately repaired or removed from the Refuge by the Permittee. No structures, equipment, or supplies may be left in the Refuge following the completion of the project without approval from the Service Tern POC.

1.9 The federal government will not be held liable for any damages to equipment or injuries to persons covered by this SUP.

1.10 The Permittee must request written permission from Service Honolulu POC prior to using photographs or film obtained under this permit in any production, publication, document or presentation.

1.11 Two copies of any article, publication, presentation, or product created as a result of the information gained or work completed under this permit, including materials generated at any time in the future following expiration of this permit must be forwarded to the Service Honolulu POC within a month of creation.

1.12 The U.S. Fish and Wildlife Service and Hawaiian Islands National Wildlife Refuge must be credited in any document, publication or presentation as follows:

Hawaiian Islands National Wildlife Refuge
U.S. Fish and Wildlife Service
Department of the Interior

1.14 The Permittee must arrange a debriefing meeting with the Service Honolulu POC following the completion of all work in the Refuge covered under this permit.

1.15 The Permittee may not begin any operations on Tern Island until December 1, 2003. Additionally, operations on Rev. B may not begin until January 1, 2004. These restrictions allow the Service to prepare the construction and construction staging areas to minimize the disturbance to resident wildlife.

1.16 Pile Driving operations may not take place from April 1 through August 31. The endangered Hawaiian monk seals raise there young at approximately this time every year, and the high level of noise associated with pile driving is considered to be unacceptable when there are mother/pup pairs on the island.

2. ADDITIONAL SPECIAL CONDITIONS

2.1. Wildlife Disturbance

2.1.1 There will be no tolerance of any intentional disturbance to wildlife of any kind. If intentional disturbance is witnessed by Service staff, the individual(s) may be removed from the island immediately at the Service Tern POC's discretion. All costs of personnel transfer off Tern Island will be the responsibility of the Permittee.

2.1.2 Entry into seabird colonies is prohibited unless authorized by the Service Tern POC. Care must be taken to avoid disturbance to nesting birds and their habitat.

2.1.3 Disturbance to sea turtles and monk seals must be avoided. Minimum distances of 150 feet from all monk seals and sea turtles, and 300 feet from female seals with pups must be maintained. No harassment of any kind will be tolerated. Since this SUP may allow the Permittee entrance to critical seal pupping and sea turtle nesting areas during breeding seasons, extreme care must be taken to avoid disturbance. All entry into pupping or nesting areas must be accomplished with a Service staff member or designated representative present. If monk seals or green turtles approach the construction area, either on land or in the water, during construction operations, potentially hazardous activities must cease until the animal(s) are clear of danger. Service staff will erect fences on land in an effort to keep seals and turtles away from construction areas. In most cases seals and turtles in the water will be in transit and would only delay construction briefly. If any seals or turtles are found dead or injured, a determination will be made by the Service Tern POC as to the cause. If the project is suspected or proven to have caused the take, work will be temporarily suspended by the Refuge Complex Manager until conditions or activities are altered to prevent further take. The Service and the National Marine Fisheries Service Endangered Species offices must concur prior to resuming work.

2.1.4 Artificial light sources on any ship or barge within the atoll must be reduced at night to prevent disorienting seabirds and turtles. If a ship is anchored within the Refuge, but outside of

the Tern Island turning basin, lights must be reduced to the minimum navigation lights required to communicate to other vessels which could be in the area. Additional exterior lights may only be turned on during safety checks or inspections between sunset and sunrise. If a ship and barge are anchored at the end of Tern Island within the turning basin, exterior lights may only be turned on during safety checks or inspections between sunset and sunrise. Additionally, when exterior lights are turned on, they must be directed and reflected away from the island. The ships' interior lights must not be allowed to shine out of windows or doors at any time between sunset and sunrise.

2.1.5 The use of loud speakers or horns will only be permitted within the Refuge in cases of emergencies. All communications must be by radio or direct person to person.

2.1.6 The Service has placed geo-textile fabric on the ground on the western half of the island in locations that have been designated as material storage areas and construction easements which are specified on the Corps Shore Protection Design Specifications and Drawings. The Permittee must maintain the fabric so that it is laying flat with its anchors in place and without gaps, and remains clean of any rocks, sand, soil, vegetation, or debris. As the project progresses in an easterly direction, the Service will place additional fabric within the construction easement which will allow the Permittee access to complete the additional phases of the project.

2.1.7 To prevent birds from nesting on equipment and materials that are brought to the island, the following guidelines, at a minimum, will be required of the permittee at all times:

2.1.7.1 All mechanical equipment that is not used for a 48 hour period must be covered with a tarp.

2.1.7.2 All supplies that are stored in predesignated storage locations for longer than 48 hours must be covered from sunset to sunrise every night. If any material will not be used on any given day, it must remain covered.

2.1.7.3 The coverings and material piles will be closely monitored for potential infiltration by nesting birds. It is mandatory that all methods to prevent wildlife entrapment are employed.

2.1.8 Before moving any equipment once on the island, individuals using machinery must always search around and under their equipment to locate birds that may be using it for nesting cover or its shadow for shade. If a bird is located, a Service staff member must be notified immediately to move the animal to a safe location.

2.1.9 Each sleeping room will have one 24 inch flourescent wall mounted lamp. When any light is in use, between sunset and sunrise, the blinds must be drawn on the windows to prevent disorienting wildlife. All lights must be turned off when no one is in the room.

2.2 Flights

2.2.1 Aircraft service to Tern Island will be provided by the Service contract pilot and aircraft. Requests to the Service Honolulu POC for flights should be made by the 13th of the month prior to the desired dates (i.e., to schedule a flight for 23 June, the Permittee must make the request by 13 May). To meet the requirements of the flight service contract, flights can only be guaranteed if scheduled by the 13th of the month prior to the flight date.

Flights may only be scheduled to arrive or depart Tern Island Monday through Friday, except in emergency situations.

2.2.2 In 2002 the Service completed a Risk Assessment of aviation hazards relating to Tern Island flight operations. Based on the assessment, restricting the total number of flights to Tern Island is the most effective method of reducing bird strikes and ultimately providing a safe method of transportation to and from the island.

Flights will be limited to one Permittee flight per month during the months of June and July due to high bird populations on the island. Restrictions during other months may also apply if bird activity is deemed hazardous to flight operations by the Service Honolulu POC. The Permittee must make every effort to limit the number of flights utilized throughout the contract period. The Permittee will be required to submit a proposed flight schedule stating the number of flights per month for the entire construction period. The Service will make every effort to work with the Permittee to accommodate the Permittee's flight requirements.

2.2.3 The Permittee Honolulu POC will coordinate all passenger and cargo information and logistics. The Permittee must also see that all personnel and cargo that will be flying are delivered to, and picked up from, the parking lot at the end of Lagoon Drive at the times designated by the Service Honolulu POC.

The Service will not be responsible to pick up or drop off passengers or cargo. Passengers and cargo traveling to Tern Island from Honolulu must be at the parking lot at the end of Lagoon Drive no later than 0630 on the day of the flight.

2.2.4 All flights will depart Honolulu no later than 0700 unless otherwise designated by the Service. All flights will depart Tern Island within 1 hour of landing on the island unless otherwise designated by the Service. Any flight designated to remain on the ground at Tern Island overnight will depart Tern Island by 1200 the day of its departure from Tern Island unless otherwise designated by the Service.

2.2.5 The Service will provide flight following safety services for all flights scheduled by the Permittee. The Service will also provide one representative for each flight who will meet Permittee personnel at the parking lot at the end of Lagoon Drive on departure and at the plane on return to move personnel and cargo from the parking lot to the plane and vice versa.

2.2.6 The Service will provide one round trip seat on one Service overnight flight each month for the Permittee's CORPS project inspector.

2.2.7 All flights to be scheduled by the Permittee must be budgeted and payed for by the Permittee. The costs for flights are as follows, but are subject to change with Service contract renewal/contract reassignment agreements with pilots.
1 round trip flight = $4,995.00
1 round trip flight with one overnight stay = $5,328.00

2.2.8 For flight payment, the Permittee must sign a Consignment Agreement provided by the Service for each scheduled flight. The original Consignment Agreement and a photocopy of the Purchase Order to pay for the flight must be returned to the Service by 10 calendar days prior to the flight. The Purchase Order must be made out to:

Department of the Interior
Office of Aircraft Services
4405 Lear Court
Anchorage, AK 99502

The original Purchase Order must be mailed to the above address attention to Alf Aanensen.

2.2.9 The official flight manifest will be written by Service personnel. To facilitate this, the Permittee must provide all necessary information in a Flight Report to the Service Honolulu POC at least 2 full working days prior to the departure of the flight. A Flight Report must be provided for each leg of the flight to/from Tern Island (See Appendix D for blank Flight Report).

2.2.10 Transport of any hazardous materials are subject to advance approval by the Pilot in Command and must be listed on the Flight Report described above in section 2.2.8.

2.2.11 Total weight available for passengers and cargo on each flight is dependant on the pilot, co-pilot, number of seats in the plane, and number of life rafts on the plane. However, for planning purposes, the Permittee should use 850 pounds as an estimated available weight. There is a limit of 4 passengers going to and returning from Tern Island on each flight.

2.2.12 The Service reserves the right to schedule the use of any remaining payload space on each flight following the submission of the Flight Report. All Permittee passengers and cargo are subject to being re-weighed at the plane, and any weight that is not accounted for in the Flight Report provided to the Service 2 working days prior to the departure of the flight could potentially be bumped from the flight (See Appendix E for example of a flight manifest).

2.3 Site Visit

2.3.1 A site visit to Tern Island is required of all construction contractors bidding on the seawall project, and must be completed within the time frame described below. Contractors who visited the site under the previous Solicitation No. DACW83-03-R-0002, are not required to do so for this solicitation. Aircraft service to Tern Island will be provided by the Service contract pilot and aircraft. Within 8 calendar days of the release of the solicitation package, all bidders must contact Mr. Stanley Boc, Army Corps of Engineers, Honolulu Engineering District (808 438-9526), to request a seat on a Site Visit flight to Tern Island. Only one seat will be allowed per prospective bidder. Consignment Agreements will be mailed to prospective bidders (see section 2.3.5 for additional details). The day of the site visit will be May 16, 2003.

2.3.2 The site visit will be a day trip. The plane will depart at 0600 from Honolulu and must depart Tern Island no later than 1400 the day of the flight, allowing maximum time on the ground at Tern Island. Typical flight time is 3.5 hours each way. Carry-on baggage weight will be determined following seat assignments (approximately 5-10 pounds will be allowed).

2.3.3 The Service will not be responsible to pick up or drop off passengers. Passengers traveling to Tern Island must be at the parking lot at the end of Lagoon Drive, Honolulu, no later than 0530 on the day of the flight.

2.3.4 The cost of each round trip flight to Tern Island is $4,995. The expense per seat to each bidder will be prorated based on the number of total passengers during the week of Site Visits.

2.3.5 For Site Visit flight payment, each construction contractor must sign a Consignment Agreement provided by the Service. The original Consignment Agreement and a photocopy of the Purchase Order to pay for a seat on a flight must be returned to the Service by close of business on Friday of the third week of the solicitation period. The Service mailing address is:

US Fish and Wildlife Service
Attn: Dominique Horvath
PO Box 50167
300 Ala Moana Blvd, Room 5-231
Honolulu, HI 96850

The Purchase Order must be made out to:

Department of the Interior
Office of Aircraft Services
4405 Lear Court
Anchorage, AK 99502

The original Purchase Order must be mailed to the above Anchorage address, attention to Alf Aanensen.

2.3.6 During site visits, the Service will provide small boat support to allow construction bidders the opportunity to see the mooring area for ships in the lagoon and at Tern Island, the channel accessing Tern Island from the lagoon, and the boat channel running the length of Tern Island's north side. Small boat support will include one boat, a Service certified boat operator, safety equipment, and fuel needed for operations. Bad weather or sea conditions may limit the Service's ability to provide small boat operations on the day of the site visit.

2.3.7 The Service will provide drinking water and lunch to all visitors on island during the site visits.

2.4 Alien Species Prevention

2.4.1 All personnel entering the Refuge must comply with the general rules for alien species control to minimize the risk of alien species introductions to the HINWR. All personnel should ensure that boots, clothing, and personal effects are free of dirt, seeds and insects. Before leaving Honolulu, the Permittee must steam clean or pressure wash all machinery, equipment, shipping containers, barge and tug deck space and holds, and all water resistant construction materials, including rocks, to ensure the removal of all dirt, insects, and seeds from external surfaces of items being sent to Tern Island.

The Service Honolulu POC must be notified 2 full working days prior to departure of shipments from Honolulu in order to complete an inspection of all cargo and vessels for satisfaction of these quarantine conditions.

2.4.2 The Permittee must install rat guards on vessel and barge lines at Tern Island to prevent rodents from reaching land. Refuge personnel will place rodent bait stations and traps containing rodenticide on the boat and barge decks, around the dock, and in areas where shipping containers are stored on the island.

2.4.3 Prior to any ship or barge entering the Refuge, the hull must be inspected for fouling marine organisms by Bishop Museum scientist Scott Godwin (848-4156) in Honolulu. Any vessel found to

have a fouled hull will be required to have the entire hull cleaned. Reinspection of the cleaned hull by Bishop Museum scientists will be required in Honolulu before the barge or ship is allowed to enter the Refuge. All expenses relating to inspections and cleaning will be the responsibility of the Permittee. Results of all hull inspections must be submitted to the Service Honolulu POC prior to the vessel departure from Honolulu.

Following the initial hull inspections, follow up inspections will be required every six (6) months for all barges and ships that will be operating around the Tern Island docking area. Barges and ships that will be operating within the Refuge but are not being used to transport material to and from the Tern Island docking area, must be reinspected once a year.

No discharge of ballast water will be allowed by any vessel within Refuge boundaries.

2.5 Ships, Barges, and Pilots

2.5.1 The Permittee must mark a shipping channel from outside the lagoon at French Frigate Shoals to Tern Island. The Service will provide small boat support for the channel marking procedure if this task is accomplished prior the arrival of the Permittee's small boats. The Permittee must provide all necessary buoys and associated hardware. Buoys must be of sufficient size and bright color to be clearly seen by the Permittee's pilot/captain while transiting the channel. Buoys must be sufficiently weighted or anchored so they will remain stationary. Buoy anchors must only be placed on sandy substrate and not on live coral. All buoys and associated hardware must be periodically inspected to ensure mechanical integrity and continued proper placement away from live coral.

2.5.2 All vessels and barges must only dock at the west end of Tern Island. There will be no beaching of any water craft within the Refuge. Two "Dead Man" anchors are in place at the west end of Tern island. The Permittee will be allowed to use these anchors, but the Service in no way takes responsibility for their integrity or suitability for the Permittee's use. The Permittee may modify, with Service approval, the two anchors to meet their mooring requirements.

2.5.3 When anchoring any ship/tug/barge at Tern Island or in the lagoon, care must be taken to avoid any coral reefs. Anchors may only be set in sandy substrate. Anchors and chains used for anchoring must not drag the sea floor causing damage to the coral reef.

2.5.4 When a barge is anchored within the Refuge, it must be attended at all times by a tugboat. If a barge must be left without a tugboat during an emergency situation, the barge must then be adequately secured, anchored and manned with a minimum of 3 persons who can work winches and anchoring equipment.

2.5.5 Tugboat, barge and small boat traffic within the Refuge is only permitted between 30 minutes after sunrise and one hour before sunset.

2.5.6 All tug boats must at all times be commanded by an individual on board the tug who has either:

A. Previously been the captain or pilot while transiting a marked channel from outside the atoll to the west end of Tern Island on two full round-trips with an accompanying barge without incident.

OR

B. Studied and marked the channel thoroughly following, at a minimum, the requirements listed below. The Service will provide the Permittee's captain/pilot with small boat support to mark the shipping channel with buoys and to become familiar with the water and channel hazards within the atoll if the captain arrives at Tern Island before the arrival of the Permittee's small boats. The Permittee must provide all buoys for marking the channel, GPS units, charts and any other appropriate navigational aids for their captain/pilot to adequately prepare for barge traffic within the atoll. On-site training for a captain/pilot who has not qualified under the qualifications listed in "A" above, will take one full day at a minimum with good weather. Rough weather which limits small boat operations may require additional days of training before any tugboats and barges would be allowed to enter the Refuge. See section 2.6.1 for small boat restrictions relating to weather and daylight hours.

Additional captains can be authorized to access Tern Island by accompanying boat captains, who have qualified under the Service conditions A or B above, on two round-trip transits with tug and barge to Tern Island without incident.

2.5.7 The Service will have total access to board and inspect all ships, barges and boats involved under this SUP.

2.5.8 The Permittee will provide the Service Honolulu POC with a complete shipping manifest for every vessel intending to enter the Refuge. The manifest must be delivered to the Service Honolulu POC 1 full working day prior to departure from the Main Hawaiian Islands.

2.5.9 No discharge of sewage, gray water, bilge water, trash or waste of any kind will be allowed by any vessel within Refuge boundaries.

2.6 Small Boat Operations

2.6.1 The Permittee must provide his/her own small boats for all boat operation unless otherwise specifically stated within this SUP. Small boat operations within the Refuge are limited to work boating only. Small boat operations within the Refuge will be limited to travel from a ship directly to and from

Tern Island, and work in waters immediately surrounding Tern Island. There will be no recreational boating allowed within the Refuge. There will be no small boat operations permitted when the winds are over 20 knots. Boat traffic within the Refuge is only permitted between 30 minutes after sunrise and one hour before sunset. The Service Tern POC has the right to further restrict all boating for safety or logistical reasons.

2.6.2 Each small boat must contain, at a minimum, the following safety equipment:
1 VHF marine radio (base station or hand held)
1 First Aid Kit
1 Water maker
1 EPIRB
1 Flare kit with 3 red flares for night and 3 orange flares for day use
1 Air horn
1 Compass
1 Bailer
2 Paddles or oars
1 Extra drain plug
1 Anchor, with sufficient chain and line for work within the Refuge
1 5 pound/ABC rated dry chemical fire extinguisher
2 Full fuel tanks (at the beginning of any operation)
1 Extra propeller and all associated parts
1 Extra set of spark plugs for the engine
1 Tool kit with equipment needed to change props and spark plugs at a minimum

2.6.3 All personnel must wear a Type I Personal Floatation Device at all times when in small boats.

2.6.4 During small boat operations, the small boat must check in with the ship or a Permittee staff member on island at least one time per hour. All radio checks must be written in a log.

2.6.5 If boating near shore or any emergent land, small boats must be kept a minimum distances of 150 feet from all monk seals and sea turtles, and 300 feet from female seals with pups that may be on shore. If a small boat is anchored in the water and a seal or turtle approaches the boat, passengers in the boat must remain in the boat, and the boat must remain anchored with its engine turned off until the animal leaves the area.

2.6.6 The Service boat davit has a 2000 pound lifting capacity. No boats or equipment may be lifted with the davit which exceeds this weight. Boats must be emptied of all personnel and equipment before being lifted by the davit. All Permittee boats and equipment will be lifted at the Permittees own risk to personnel and equipment. Boats being lifted out of the water with the Service davit must be equipped with lifting chains and shackles rated to lift at least the weight of the boat and engines.

2.6.7 Permittee shall launch and retrieve Service and Service cooperators' small boats (17' boston whaler with outboard engines) during the construction period when the existing hoist is not functional and before completion of the new hoist/ramp.

Average number of launch/retrievals per month during April through September: 50
Average number of launch/retrievals per month during October through March: 6

Because Pile Driving operations will not be permitted from April though August when the majority of the small boat use is taking place, required boat launch/retrieval should be minimal.

2.7 Construction

2.7.1 All machinery must remain on the runway or pre-designated construction easement areas of the island. If it is necessary for the Permittee to move heavy machinery off of the runway into any of the vegetated areas of the island, a driving route must be planned with the Service Tern POC, and Refuge staff must be present during the movement of machinery through the vegetation. Care must be taken at all times to avoid destruction of habitat and avoid disturbance to wildlife.

2.7.2 No work will be conducted between sunset and sunrise. No outdoor floodlights will be permitted after sunset and before sunrise. Each night all equipment and the work area must be secured to prevent entrapment of wildlife as described in Section 2.1.

2.7.3 The use of portable generators will only be permitted during work hours for construction purposes. Generator locations must be approved by the Service Tern POC prior to their use.

2.8 Health and Safety

2.8.1 The Permittee must write and provide to Service a Site Safety and Health Plan. This plan should include but is not limited to:
Medical Treatment Plan
Medical Evacuation Plan
Natural Disaster Plan
Natural Disaster Evacuation Plan

2.8.2 The Permittee is responsible for providing all medical service and support for their staff, and is not the responsibility of the Service.

2.8.3 All firearms maintained by vessels for their operations at sea shall, while within the Refuge, be secured with access restricted to the Captain. Firearms shall not be used or displayed within the Refuge without prior written permission from the Refuge Complex Manager. This does not apply to emergency signaling devices (such as flare guns), which may be stored in their usual location on the vessel.

2.8.4 The Service is committed to a policy that ensures that any type of discrimination or harassment based on race, religion, age, national origin, color, sex, sexual orientation, or disability will not be tolerated. All persons who enter the Refuge have a responsibility to help maintain work and living environments that are free from discrimination of any kind. (see Appendix C for Department of the Interior policies on Equal Opportunity and Zero Tolerance of Discrimination, and Sexual Harassment).

2.9 Fuel

2.9.1 The Permittee will provide all fuel required for any machinery, equipment, generators, and small boat use for the seawall construction project. The Permittee will also provide all propane used for household appliances during the project (oven (1), chest freezer(1), refrigerator (2) and any other propane powered appliances the Permittee chooses to bring on island. The Service will provide all household electricity with an existing photovoltaic power system, and fuel for the existing backup generator system.

2.9.2 Propane must be in 24 gallon/100 pound containers. Propane brought to the island by the Permittee must be secured in an upright position during use and when being stored. Covers for stored cylinders must also be provided to protect them from the elements and prevent bird nesting. Storage and use locations and securing devices must be coordinated with Service Tern POC.

2.9.3 All gasoline and diesel must be stored in Department of Transportation approved double walled and vented containers. Sufficient spill kits and fire suppression equipment must be located within a safe distance of each fuel container in case of emergencies according to OSHA regulations. Placement of the fuel containers and safety equipment must be coordinated with the Service Tern POC.

2.9.4 There will be no ship to ship, ship to barge, ship to shore, or barge to shore pumping of fuel permitted within the Refuge during this project. Fuel must be pumped into tanks and the tanks then moved from ship to ship, ship to barge, ship to shore, or barge to shore.

2.10 Solid Waste Disposal

2.10.1. All materials that are brought to the Refuge by the Permittee that become waste must be removed by the Permittee.

2.10.2 All solid waste on the island at the time of each Permittee barge departure must be removed from the island, including household waste.

2.10.3 The Permittee must provide enclosed storage containers in which all household and construction waste will be kept between barge departures from the island. It is the Permittee's responsibility to

dispose of all waste properly when the barge reaches Honolulu. The Service encourages the Permittee to recycle all materials when possible.

2.11 Household

The Permittee shall protect, maintain and keep in good order the facilities and equipment occupied or used under this SUP. The Permittee will integrate into the station's existing living facilities as outlined below. All authorized modifications to Service facilities or equipment must be returned to their original or better state prior to departure from Tern Island at the end of the project.

The Service will have full access to all parts of the Refuge at all times, including but not limited to, rooms, trailers, work sites, and all vessels.

2.11.1. Meals and Food Storage

2.11.1.1. The Permittee must provide food, drinks (hot and cold), snacks, condiments, and spices for all persons on Tern Island throughout the construction project.

2.11.1.2 The Permittee must provide a cooking staff to provide meals for all persons on the island, including Permittee staff, Service Staff, and Service cooperator staff. The cook must provide 3 balanced meals each day, including a fully balanced vegetarian component when necessary. The cook must also provide snack food and cold drinks throughout the day. Meals will be provided on a schedule determined by the Permittee and agreed to by the Service Tern POC.

2.11.1.3 Estimates of the number of Service and Service Cooperator staff on Tern Island by month throughout the year are found in Appendix F. Additionally, on the 15th day of each month the Service will provide to the Permittee Tern POC, a schedule of Service staff and Service cooperator staff who will attend meals each day for the following month, including numbers of persons requiring vegetarian meals. Dining space exists for 26 persons at one sitting.

Permittee will provide an average per meal cost to the Service. This cost estimate is for Service and Service Cooperator use only and not for reimbursement.

2.11.1.4 A large room near the kitchen with ample shelving for dry and canned goods will be available for the Permittee. Any additional storage for dry and canned goods will need to be containerized and located within the construction easement.

2.11.1.5. The Service has the following refrigerator and freezer appliances available for Permittee use:

7 each 8 cubic foot DC power refrigerators with 2 cubic foot freezers attached

2 each 5 cubic foot propane power refrigerators with 2 cubic foot freezers attached
1 each 8 cubic foot propane power chest freezer
1 each 22 cubic foot AC power chest freezer

The Permittee is responsible for providing any additional refrigerator or freezer storage that is necessary. Any additional appliances brought to the island by the Permittee must be propane powered. Refrigerator or freezer transport containers will not be permitted for use on the island.
If the Permittee determines additional propane powered appliances are needed they must contact the Service Honolulu POC prior to arrival at Tern Island to allow for planning for appliance location and fuel location and connection requirements. The Permittee is responsible for providing all additional lines, regulators, and fuel required to operate additional appliances.
The Permittee is also responsible for providing propane for the existing propane powered appliances described above.

2.11.1.6 Because the household electrical system at Tern Island is solar powered, energy use is limited for appliances which use large amounts of electricity such as coffee makers, toasters, rice cookers, and microwave ovens. The Permittee must ask the Service Honolulu POC about power availability well before arrival at Tern Island to ensure that the Permittee is fully aware of restrictions for electrical kitchen appliances.

2.11.2 Household Cleaning

The Permittee must maintain clean, neat, and sanitary food preparation, serving, and eating areas. The Permittee is also responsible for cleaning all cooking and eating ware. The Permittee is responsible for properly cleaning and sorting all rubbish associated with food preparation and cleanup.

The Permittee is responsible for providing rubbish management and cleaning services for the common room, the south hallway, the two bathrooms in the south wing and one common bathroom in the north wing (this includes toilets, showers, sinks, and floors), the dry and canned food storage room, entryways and decks of the barracks.

The Service will be responsible for cleaning all other facilities in the north wing of the barracks.

All individuals are responsible for maintaining cleanliness and neatness in their own sleeping rooms.

The Permittee will provide all cleaning tools (mops, brooms, scrub brushes, sponges etc)

The Permittee will provide all household plastic and paper products (trash bags, ziplock bags, toilet paper, paper towels etc)

The Service will provide all household cleansers, laundry soap, and dish soap.

2.11.3 Laundry

Each individual is responsible for doing his/her own laundry. Each individual is allowed to wash 1 load of laundry in each 7 day period with Service provided water, washing machine, and soap. Each individual must wash his/her own linens (i.e. blanket, sheets, pillow case, towel, wash cloth). All clothes are line dried

outside in the barracks courtyard. Each person must remove his/her laundry from the line immediately when it is dry to allow others access to the line.

Because of the high energy demand of the washing machine on the photovoltaic power system, loads of laundry may only be washed in the washing machine between approximately 1000 and 1500 hours daily. A sign-up sheet will be posted for laundry room use. It is the responsibility of each individual on island to use the laundry facilities only during their allotted time period.

Permittee staff may use a bucket of water to hand wash and hand rinse clothing if necessary.

2.11.4 Septic System Restrictions

Only toilet paper may be flushed down the toilets. No feminine products may be flushed down the toilet at any time. Trash receptacles will be available in all bathrooms.

When washing dishes only 2 tablespoons of dish soap may be used in each sink of wash water. When doing laundry, use product recommended amounts of laundry soap and only 1 teaspoon of bleach per load if needed. When maximum water conservation measures are in place and laundry rinse water must be reused for the next loads wash cycle, only 1 tablespoon of bleach may be added to the water.

2.11.5 Sleeping Rooms

Double occupancy rooms will be available to the Permittee personnel in the south wing of the barracks. These rooms may have one or two beds. Each room is assigned on a first come first serve basis. Each person will be issued one bed, pillow, pillow case, flat sheet, fitted sheet, blanket, towel and wash cloth. The rooms are 11 feet by 11 feet. Not all rooms have functioning hinges on the windows and can be warm during much of the year.

Each room will have one 24 inch flourescent wall mounted lamp. When any light is in use the blinds must be drawn on the windows to prevent disorienting wildlife. All lights must be turned off when no one is in the room.

Candles and oil lamps will not be permitted for use in the sleeping rooms at any time.

It is the responsibility of the person(s) occupying the rooms to keep them neat and clean.

No food will be permitted in the sleeping rooms.

2.11.6 Common Areas

The two bathrooms in the south wing and the bathroom at the east end of the north wing of the barracks are common bathrooms for all island residents (male and female) and include 4 showers, 6 toilets, and 5 sinks. No one will be permitted to leave their personal items in the bathrooms or showers.

The common room in the barracks is available for use by all Tern Island residents. The Permittee's personnel may use the pool table, ping-pong table, dining table, television and VCR, and sitting area. The Tern Island Manager's office adjacent to the common room of the barracks is not to be used by the Permittee.

The north wing of the barracks is off limits to the Permittee with the exception of the laundry room and the bathroom, both of which are at the east end of the hallway.

Shoes worn outdoors must be removed before entering the barracks. The Service requires that each person bring a pair of shoes that are kept for use only inside the barracks.

2.11.7 Office and Working Space

The Permittee is responsible for providing all communications and office equipment for Permittee's personnel. The Service has a radio patch phone, a satellite phone, an HF radio, and a VHF radio for emergency use only.

The Permittee will be allowed to use a designated section of the common room as an office/work space. This space is set up with 2 desk areas and a large counter top. Both desk areas have one pair of 110 volt AC outlets for the use of office electrical equipment.

If an office/work trailer is brought to the island, it may only be placed in the designated equipment storage areas. If a trailer is put in place, the Permittee must ensure that precautions are taken so that no birds nest on or under the trailer. Generators may not be run between sunset and sunrise.

2.11.8 Water and Electricity Conservation Measures

The Permittee must provide all fresh water needs for construction purposes.

Household water and electricity use will be limited at all times and must be conserved as much as possible.

All Tern Island residents including Permittee staff must take ship showers. A ship shower is defined as such: 1.) Turn on the water and get under it immediately to get wet, 2.) Turn off the water and soap up, 3.) Turn on the water and get under it immediately to rinse off, 4.) Turn off the water immediately. The same water use principles must be used when brushing teeth, washing face and hands, and doing dishes etc. at the sink. No running water will be permitted. Hot water is produced by solar water heaters. Therefore hot showers are not guaranteed. Running water until it flows hot will not be permitted.

Most rooms in the barracks will have electric lighting. When any light is in use between sunset and sunrise the blinds must be drawn on the windows to prevent disorienting wildlife. All lights must be turned off when no one is in the room to conserve electricity.

Refuge staff have the right to initiate stricter conservation measures in times of low abundance of water and electricity.

If periods of strict water conservation are needed, laundry rinse water will be saved and reused as the wash water for the next load of laundry. Additionally use of electric lights may be temporarily curtailed in sleeping rooms if power conservation is required.

In the case of a major breakdown of the water and/or power systems, more severe conservation measures may be instituted. These may include salt water baths, hand washing laundry, and boiling drinking and cooking water.

2.12 Recreation

There are many recreational activities on Tern:

Ping Pong Table	Library (500-600 assorted books)
Pool Table	Snorkeling (BYO gear)
VCR and Movies (~ 600)	Misc. Board Games/puzzles
Runway for walking/jogging	Tape/CD Player (BYO Music)
Bicycles	

Opportunities for wildlife photography are exceptional. See sections 1.11 and 2.1 for regulations regarding disposition of photographs taken within the Refuge, and wildlife disturbance, respectively.

Permittee staff will have access to Service bicycles if they are not needed by Service staff for work purposes. Bicycles must always be put away by the last person to use them at the end of the day.

Snorkeling and swimming opportunities will be available when weather permits and no wildlife conflicts exist. The Permittee will have access to 3 beaches on Tern Island. Diesel Beach will be available to anyone wishing to go in the water as long as a minimum of two persons are at the beach. Shell and Crab Beaches may only be visited when a Service representative is present due to the frequent presence of monk seals and sea turtles. See Appendix G for the Tern Island Swimming and Snorkeling Policy.

There will be no recreational SCUBA diving permitted in the Refuge.

There is absolutely no fishing within the Refuge.

There is absolutely no gambling within the Refuge.

The Service will designate one area as a weight lifting/exercise equipment room. The Permittee is responsible for supplying all exercise equipment to his/her personnel. Personnel will use equipment at his/her own risk of injury.

Alcoholic beverage consumption or illegal drug use is not permitted or tolerated within the Refuge boundaries. This applies to all personnel on ships, barges, boats and on Tern Island.

The Service will provide a list of house rules for all personnel going to the Refuge to read before arrival explaining all recreational policies. All personnel must sign a statement to the effect that they have read and understand the policies and will abide by them. Any questions about the policies should be addressed to the Service Honolulu POC prior to arrival at the Refuge, or the Service Tern POC once within the Refuge.

Appendix A

PERMITTEE PERSONNEL LIST
Special Use Permit No. 12526-02006

NAME First, Last, M.I.	**CITIZENSHIP**	**EMPLOYER**	**JOB TITLE**	**LODGING** Ship/Island	**PROJECTED DATES IN REFUGE**

Appendix B

Pacific Remote Islands NWR Complex Administrative Boundaries

The U.S. Fish and Wildlife Service considers the boundary of the Hawaiian Islands National Wildlife Refuge to be as described below

1. Pearl and Hermes Reef - The atoll and reef as defined by the 10 fathom isobath.
2. Lisianski Island - The island and shoal (Neva) as defined by the 10 fathom isobath.
3. Laysan Island - The island and reef as defined by the 10 fathom isobath.
4. Maro Reef - The reef as defined by the 10 Fathom isobath.
5. Gardner Pinnacles - The island and appurtenant (contingent) reefs as defined by the 10 fathom isobath.
6. French Frigate Shoals - The atoll and reef as defined by the 10 fathom isobath, except that a strait line shall be drawn from the western most portions of the 10 fathom isobathes around Disappearing Island, La Perouse Pinnacle, and Shark Island.
7. Necker Island - the island ans shoal as defined by the 20 fathom isobath.
8. Nihoa Island - The island and reef as defined by the 10 fathom isobath.
9. Howland NWR - The island and the submerged lands from the high tide mark on the island out 3 miles.
10. Baker NWR - The island and the submerged lands from the high tide mark on the island out 3 miles.
11. Jarvis NWR - The island and the submerged lands from the high tide mark on the island out 3 miles.
12. Rose Atoll NWR - The island and the submerged lands from the high tide mark on the island out 3 miles.
13. Palmyra Atoll NWR - The submerged lands from the high tide mark on the islands out 12 miles.
14. Kingman Reef NWR - The islands and the submerged lands from the high tide mark on the island out 12 miles.

Permission must be secured from the Refuge Manager prior to entering any portion of the Refuge Complex. Recreational and commercial activities are not allowed. The area has been set aside by the director of the U.S. Fish and Wildlife Service as a Research Natural Area.

Authority for promulgation of Refuge Regulations is found in 16 U.S.C. 668dd, 50CFR Parts 25-28

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THE SECRETARY OF THE INTERIOR
WASHINGTON

MEMORANDUM

To: All Employees

From: Secretary Gale A. Norton AUG 24 2001

Subject: Policy on Equal Opportunity and Zero Tolerance of Discrimination

I want to emphasize to all employees of the Department that I am firmly committed to a policy that ensures that any type of discrimination or harassment based on race, religion, age, national origin, color, sex, sexual orientation, or disability will not be tolerated in the Department.

If we are going to have a productive and satisfied workforce, we must not tolerate these forms of discrimination. All employees in the Department have a responsibility to carry out the Department's policy on equal opportunity and to promote it through exemplary conduct and sensitivity for the rights of fellow employees and the public that we serve. Executives, managers and supervisors particularly will be held responsible and accountable for promoting and ensuring equal opportunity in the Department's policies, programs and practices. I charge them with the responsibility to respond to complaints swiftly and to take appropriate steps to address improper and illegal behavior through appropriate disciplinary or administrative action.

America is a stronger nation because of the diversity of its people. It is the many different views and perspectives held by these diverse groups that bring creativity and innovation to our nation and our Department. Although we have a wonderfully diverse workforce, I am personally committed to see that diversity continues—and increases. I want the Department to have the most highly qualified and diverse workforce in Government. If we are to achieve diversity at all levels, managers and supervisors must ensure equal opportunity to all people when making decisions in the areas of outreach, recruitment, hiring, promotions, training and awards.

I know I can count on each of you to adhere to this policy and to assist me in expanding opportunities for all employees of the Department and ensuring that we work in a discrimination-free environment.

RECEIVED-REG 1-DCR
AUG 27 2001
FWS. PORTLAND, OR

Sexual Harassment Policy of the Department of the Interior

General Statement

The Department of the Interior (DOI or Department) will not tolerate sexual harassment. All persons who work at the DOI have a responsibility to help maintain a work environment that is free from sexual harassment. Sexual Harassment is prohibited in any location that can be reasonably regarded as an extension of the workplace, such as any customer location, an off-site social business function, or any other non-DOI facility where DOI business is being conducted and discussed. This policy applies equally to harassment of and by gay and lesbian employees.

Definition of Sexual Harassment

The Equal Employment Opportunity Commission defines "sexual harassment" as unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, or sexually offensive work environment.

(Title 29, Code of Federal Regulations Part 1604.11 (a).

Determining what constitutes sexual harassment depends upon the specific facts and the context in which the conduct occurs. Sexual harassment may take many forms - subtle and indirect, or blatant and overt.

For example,

> It may be conduct toward an individual of the opposite sex or the same sex.
>
> It may occur between peers or between individuals in a hierarchical relationship.
>
> It may be aimed at coercing an individual to participate in an unwanted sexual relationship or it may have the effect of causing an individual to change behavior or work performance.
>
> It may consist of repeating actions or may even arise from a single incident if sufficiently egregious.

Sanctions for Policy Violations

All employees are subject to this policy. Individuals who violate this policy maybe subject to discipline ranging from a written warning up to and including discharge or other appropriate sanction.

Prompt Attention

Reports of sexual harassment are taken seriously and will be dealt with promptly. The specific action taken in any particular case depends on the nature and gravity of the conduct reported, and may include intervention, mediation, investigation, and the initiation of disciplinary processes as discussed more fully below. Where sexual harassment is found to have occurred, Bureau Managers will act to stop the harassment, act to prevent it's recurrence, and discipline where appropriate, those responsible.

Confidentiality

We recognize that confidentiality is important. The Bureau Equal Opportunity Officer and others responsible to implement this policy will respect the confidentiality and privacy of individuals reporting or accused of sexual harassment to the extent reasonably possible. Examples of situations where confidentiality cannot be maintained include circumstances when the complaint is filed formally, when we are required by law to disclose information (such as in response to legal process), and when disclosure is required by the Department's outweighing interest in protecting the rights of others.

Protection Against Reprisals

It is unlawful to retaliate against an employee for filing a compliant of sexual harassment or for cooperating in an investigation of a complaint for sexual harassment. The Department will not tolerate reprisal against an individual who in good faith reports or provides information in an investigation about behavior that may violate this policy. Intentionally providing false information, however, maybe grounds for discipline.

Every employee has a right to report sexual harassment without fear of reprisal. Acts of reprisal against an individual should be reported immediately. Reprisal occurs if someone threatens an employee or his or her career because the employee filed a complaint or discussed an issue with a supervisor, the EEO Official, or other officials in the agency.

Expedited Process

Employees may bring allegations of sexual harassment immediately to the attention of the local, regional or Bureau EEO Officer and/or full-time EEO counselor for priority consideration, The EEO professional must immediately meet/discuss the alleged incident with the employee and then bring the matter to the immediate attention of the highest appropriate management official at the site where the incident arose. The manager will order an immediate, expedited inquiry

into the facts of the incident. Upon receipt of the inquiry report, if warranted, the senior manager shall take immediate corrective action, including appropriate disciplinary action.

EEO Counseling and Alternate Dispute Resolution

The Expedited Process described above may take the place of the informal counseling period required by 29 CFR 1614.106. If the matter is not addressed through the expedited process, the employee must bring the alleged sexual harassment to the

attention of the EEO Counselor within 45 days of the matter, prior to filing a formal complaint of discrimination against the agency. During the expedited process or EEO Counseling, the Bureau may use their alternate dispute resolution process to facilitate early resolution. To locate an EEO Counselor, check your employee Bulletin Boards, the local area network, or contact your Bureau EEO Officer for assistance.

Specific Examples

Any of these elements may constitute sexual harassment or discrimination. These examples are not meant to be all inclusive.

- Physical Contact
- Squeezing a worker's shoulders or putting a hand around his or her waist
- Gestures, such as puckering one's lips suggestively or making obscene signs with one's fingers or hands.
- Telling off-color jokes.
- Pictures of a sexual nature
- Pin-ups, particularly those of scantily-clad individuals
- Comments of a sexual nature
- Terms of Endearment, such as calling a co-worker "honey," "dear," "sweetheart," or some similar expression. (The effect is the primary issue rather that intent. Even if the person "means nothing to you" or you have "used the term for years" you should be aware that such expressions are inappropriate.)
- Questionable Compliments, such as "Nice legs!" "You look hot in that outfit!" (Compliments like these can make individuals feel uncomfortable or worse. Even if the person who received the "compliment" is not disturbed by it others may be.

Employee Responsibility

The Recipient

- Consider using an informal method of resolution if the behavior was minor. Only use this method if you feel it will permanently stop the offensive behavior without reprisal and you feel the offender should be given a chance to change.
- Consider filing a formal complaint with the Bureau EEO Officer if the incident and behavior is serious, unacceptable, or repeated (especially after telling the offender to stop). Serious behaviors may include asking for sexual favors in return for a good performance appraisal.

The Offending Person

- Stop the behavior immediately!
- If you feel you may have sexually harassed someone, take immeidate action to rectify the situation.
- Apologize. Ask another person or supervisor for advice and accompany you to the recipient, or intervene on your behalf.
- Talk to the recipient and discuss how you can communicate more effectively.
- If a formal complaint has been filed, seek legal counsel or assistance to understand your rights.
- Avoid any appearance of reprisal whether direct or indirect.
- Seek help from someone that can assist you in getting on track, such as clergy or

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family.
- Take responsibility to see that sexual harassment is stopped and that there is no reprisal.

The Friend or Co-Worker

- If you are approached by a friend or co-worker who feels he or she has been discriminated against or sexually harassed, take action.
- Encourage the recipient to approach the offending person directly or use other informal resolution.
- Offer to accompany the recipient to the offending person, the Bureau EO Officer or senior manager to file a formal complaint.
- Take responsibility to see that sexual harassment is stopped and there is no reprisal.

The Supervisor

- If you observe or are approached about discrimination or sexual harassment, take action.
- Advise the person who was offended of his or her right to seek help through the Bureau EO Officer.
- Advise the offending person to stop immediately.
- Act promptly and take corrective action if you supervise the offending individual.
- Warn all parties immediately against behavior which may look like direct or indirect reprisal.
- Take responsibility to see that sexual harassment is stopped and that there is no reprisal.

Where to File A Complaint

You may file a formal complaint concerning sexual harassment or discrimination at any of the following offices:

- Secretary of the Interior
- Director, Office for Equal Opportunity, Office of the Secretary
- Bureau Director
- Bureau Equal Opportunity Officer

Appendix D

Flight Report

Information needed in each Flight Report must be presented as follows:
A. Date of flight
B. Leg of flight(to/from Tern Island)
C. Passenger full name, body weight
D. Passenger full name, body weight
E. Passenger full name, body weight
F. Passenger full name, body weight
G. Cargo weight (This must include all cargo and baggage. These items must have been actually weighed, not estimated.)
H. A separate list of any hazardous materials (If applicable).

A.	Date	
B.	Leg	To Tern _____ To Honolulu_____
C.	Name/Weight	/ #
D.	Name/Weight	/ #
E.	Name/Weight	/ #
F.	Name/Weight	/ #
G.	Cargo Weight	#
H.	HazMats requested	

Appendix E

FLIGHT MANIFEST

DESTINATION:

AGENCY: DEPARTURE DATE: DEPART FROM:

BILLIE CODE: ORG & CHARGE CODE:

AIRCRAFT APPROVED GROSS WEIGHT	5200
MINUS BASIC OPERATING WEIGHT	3953
EQUALS TOTAL PAYLOAD AVAILABLE	1247

		PAYLOAD WEIGHT	PAYLOAD AVAILABLE (1247)
FLIGHT CREW:			
1. _____ PIC NAME	+	_____ WEIGHT	_____
2. _____ SIC NAME	+	_____ WEIGHT	_____
OPTIONS:			
Double Bench Seat (27 lbs.)	+	_____	_____
Single Seat (23 lbs.) +	+	_____	_____
Single Seat (23 lbs.)	+	_____	_____
Additional Liferaft if over 4 persons (33 lbs)	+	_____	_____
Reduced fuel from Tern only (5.75 lbs./gal)	-	_____	_____
Refueling of Aircraft on Tern Island (5.75 lbs./gal)	+	_____	_____
PASSENGERS:			
1. _____	+	_____ WEIGHT	_____
2. _____	+	_____ WEIGHT	_____
3. _____	+	_____ WEIGHT	_____
4. _____	+	_____ WEIGHT	_____
CARGO:			
1. _____		_____	_____
2. _____		_____	_____
3. _____		_____	_____
4. _____		_____	_____
5. _____		_____	_____

TOTAL PAYLOAD WEIGHT	_____	
PLUS BASIC WEIGHT	3953	
EQUALS AIRCRAFT TAKEOFF WEIGHT (MAX 5200 lbs)	_____	
AIRCRAFT CENTER OF GRAVITY	_____	%MAC

PROJECT INSPECTOR (signature)

PILOT IN COMMAND (signature)

Appendix F. Estimated Service and Service Cooperator Meal Calendar for 2003

Month	Days	FWS Team 6 persons	Turtle Team 2 persons	Seals Team 3 persons	Shark Team 3 persons	Person Days (Totals)
January	31	186	-	-	-	186
February	28	168	-	-	-	168
March	31	186	-	-	-	186
April	30	180	-	-	33	213
May	31	186	8	93	93	380
June	30	180	60	90	90	420
July	31	186	22	93	93	394
August	31	186	-	93	93	372
September	30	180	-	90	42	312
October	31	186	-	21	-	207
November	30	180	-	-	-	180
December	31	186	-	-	-	186
Totals	365	**2,190**	**90**	**480**	**444**	**3,204**

Appendix 6

Tern Island Swimming and Snorkeling Policy

Recreational swimming and snorkeling are allowed at French Frigate Shoals under specific refuge policies. Safety is of foremost concern due to the remote and isolated nature of the field station. All swimming and snorkeling are undertaken at one's own risk.

Snorkeling around Tern Island is restricted to along the sea wall between Crab and East Beach as well as from the Coast Guard Dump to Crab Beach. No snorkeling is allowed from Diesel Beach around to west end of the island, including the channel and the reef beyond. Also, no snorkeling is permitted immediately south of Tern Island.

Any recreational beach which has seals or turtles present is closed. Disturbance to monk seals, sea turtles, and seabirds is not allowed during the course of any swimming or snorkeling activities. This includes actions while in the water, or at access locations.

No one shall swim or snorkel alone and the buddy system will be in effect at all times. Bathing alone at the shoreline is allowed. Entering waters alone which are over a persons head is not allowed, including during baths. If an individual is not a strong swimmer, he/she should notify someone else of their intentions to enter the water and expected time of return.

If any shark over two meters in length is seen in the area, swimming and snorkeling activities must be ended immediately, or if not begun, postponed.

Please complete and return this form to:

Office of Solid Waste Management
Environmental Management Division
Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

STATE OF HAWAII
DEPARTMENT OF HEALTH
OFFICE OF SOLID WASTE MANAGEMENT

Solid Waste Disclosure Form for Construction Sites

The following form shall be filled out for construction projects either identified as under 40 CFR 122.26(b)(14)(x) or produces (or will produce) dredged spoils. A response must be provided for each item. If an item is not relevant to the activity, indicate by "Not Applicable" (N/A), with a short comment.

This form will help the Department of Health, Office of Solid Waste Management (OSWM), to identify sources of construction/demolition and site clearing debris. The Department is responsible for the proper disposal of such solid waste. Violators of the regulations Title 11, Chapter 58, "Solid Waste Management Control," are subject to enforcement, corrective actions, and fines.

Completed forms shall be mailed to the Department of Health, Environmental Management Division, OSWM, P.O. Box 3378, Honolulu, Hawaii 96801-3378. Questions regarding this form should be directed to OSWM at 586-4240.

I. Site Information

A. Address of site: _____

B. Owner of site: _____

Address of owner: _____
_____

Phone Number: _____

C. Tax map key: _____
Size of site: (in acres) _____

D. Department of Public Work's grading permit no.: _____
_____

II. Site Activity Information

A. State the kinds of site clearing activities to be completed. State final use of site. Describe the general topography of site, i.e., whether level or sloped. _____
_____
_____
_____

B. Describe structure on site (if none, indicate n/a)._____

If structures exist, are they to be demolished or removed? ___yes ___no

C. Describe vegetation on site:_____

III. Contractor Information

A. General Contractor:_____

Contact person:_____Phone:_____

B. Site clearing contractor:_____

Contact person:_____Phone:_____

C. Hauling contractor:_____

Contact person:_____Phone:_____

D. State destination of:

1. Building demolition materials:_____

2. Clear and grub materials:_____

3. Dredged spoils:_____

Name of person completing form:_____

Company:_____
Phone Number:_____

SHORELINE INVESTIGATIONS,
TERN ISLAND NATIONAL WILDLIFE REFUGE,
STATE OF HAWAII

SUMMARY

1. Sea Engineering, Inc., assisted by Towill, Shigeoka & Associates, Inc., conducted topographic, hydrographic, and jet probe surveys at Tern Island, Northwest Hawaiian Islands, during the week of October 18 through October 24, 1999. Positioning was conducted by recovery of the following previously established survey controls (see attached survey control map):

   - USCG Brass Cap Monument "BM 2",
   - "1/2-inch Pipe",
   - USC&GS "RM 2" (damaged)
   - "+ on slab"

   The U.S. Department of the Interior Fish and Wildlife Service, Pacific Region Division of Realty, Portland, Oregon, previously located these controls in September 1990. Small discrepancies in control point positions were noted during the field investigations. The most stable control points appeared to be "BM 2" (N 30,143.7 / E 61,155.5) and the "1/2in pipe".

2. Topographic, hydrographic, and jet probe surveys were conducted along range lines at 50-ft intervals and offset perpendicular to the following reference lines:

Reference Line "A":	Origin	N30,000.0 / E60,000.0,	Azimuth: 161.36°,	Dist: 257.0 ft
Reference Line "B":	Origin	N29,791.6 / E60,070.4,	Azimuth: 71.36°,	Dist: 556.0 ft
Reference Line "C":	Origin	N30,000.0 / E60,000.0,	Azimuth: 71.36°,	Dist: 3030.0 ft
Reference Line "C":	Origin	N30,968.3 / E62,871.1,	Azimuth: 161.36°,	Dist: 275.0 ft

3. Jet probes were positioned approximately 1 to 2 ft offshore of the sheet pile bulkhead. Several probes were taken at each position and the maximum probe depth noted. Jet probe refusals (stopping of downward progress) were classified as:

   "H" Hard refusal: probe depth limited by encounter with hard bottom conditions
   "S" Soft refusal: probe depth limited by seizing of probe barrel or other equipment restrictions
   "G" Gravel refusal: probe depth limited by jet dispersal in high porosity layer.

   The bottom conditions seaward of the sheetpile bulkhead are variable and consist of coral reef rock, coral cobbles, sand, or rip-rap. In many cases a seemingly impermeable covering

of coral cobbles was penetrated by vigorously probing at the surface until a sand layer was encountered underneath. The deepest probe was 5 ft, however most probe refusals were gravel refusals, caused by dispersal of the water jet in high porosity layers, and thicker sediment layers may exist as sequences of sand and gravel. Probes in the sand beach areas, where sand was typically piled against the sheetpile bulkhead to a depth of 5 ft or more, penetrated approximately 3.5 ft before dispersal of the jet and seizing of the pipe occurred. These were noted as "Soft" refusals due to seizing of the pipe. Photographs were taken at minimum at each 100 ft station to record the site conditions. Photographs of the recovered survey controls were also taken in order to help future recovery.

Jet probe results are contained in the following Tables 1 through 4, and a log of the photographs is contained in Table 5.

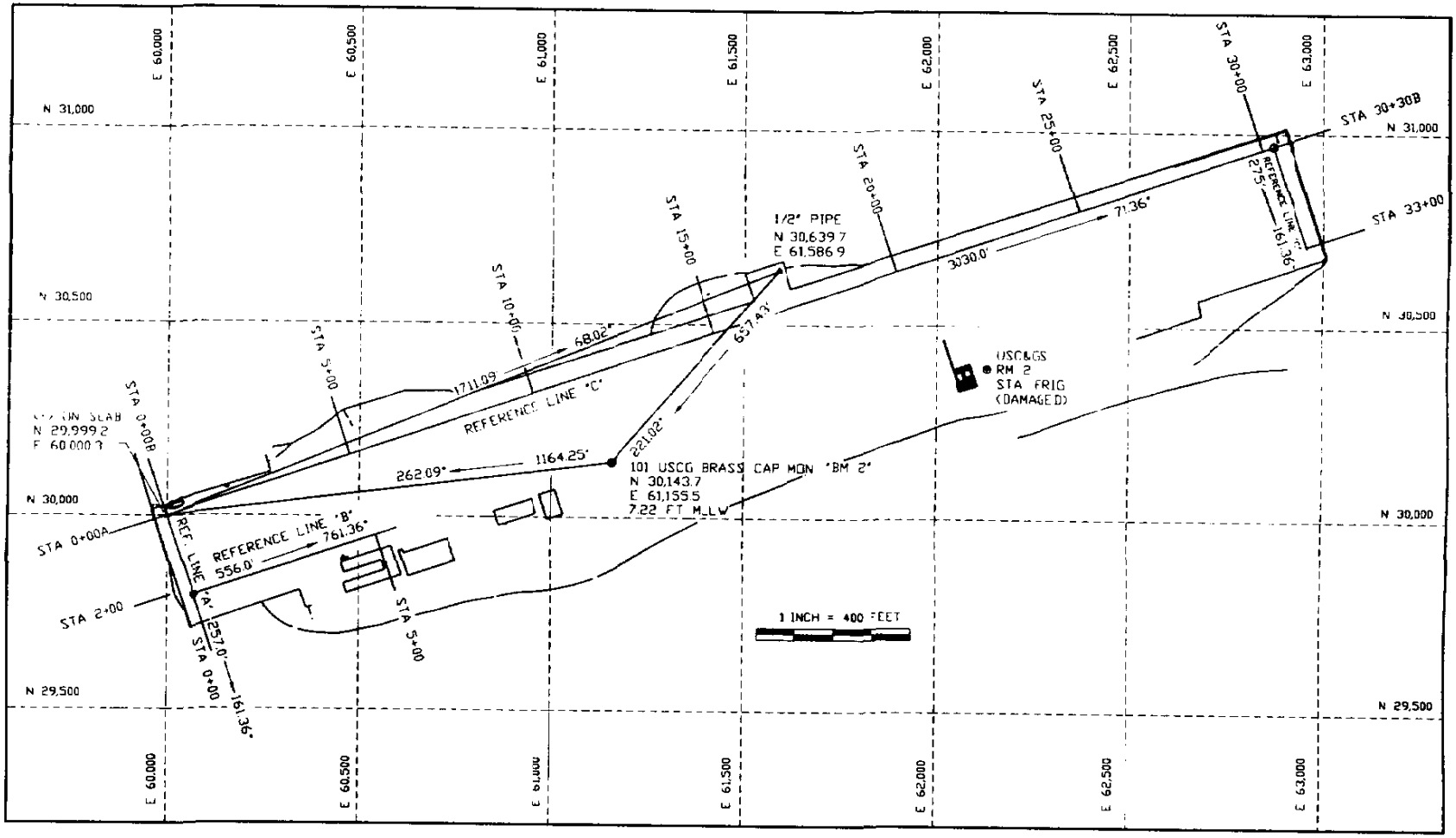


Figure 1. Survey Controls and Stationing, Tern Island

TABLE 1. Jet Probe Results. Northwest Side
Reference Line "C": Origin N30,000 / E60,000, Azimuth 71.36°

Location (Station)	Water Depth (Ft)	Probe Depth (Ft)	Refusal Type	Photo #	Notes
0+00		0		7,8	Rock bottom, no probe
0+50		0		9	Rock bottom, no probe
1+00		2			Sand pocket in visible hard bottom
1+50		1	H		Coral cobble bottom
2+00		2	G	10	Coral cobble bottom
2+50		1	G		Coral cobble bottom
3+00		0		11	Rip rap, no probe
3+50		0			Rip rap, no probe
4+00	7	4	H	12,13	Coral cobble bottom
4+50	7	4	G		Coral cobble bottom
5+00	6.5	4	G	14	Coral cobble bottom
5+50	6	3		15	Coral cobble bottom
6+00	5.5	4	G	16	Coral cobble bottom
6+50	7	2	H		Coral cobble bottom
7+00	7	4	G	17	Coral cobble bottom
7+50	8.5	3	G		Coral cobble bottom
8+00	6	1	H	18	Coral cobble bottom
8+50	5	0.5	H		Coral cobble bottom
9+00	6	5	G	19	Coral cobble bottom
9+50	3	0.5	H		Coral cobble bottom
10+00	3	0	H	20	Coral cobble bottom
10+50	3	0.5	H		Coral cobble bottom
11+00	2.5	4	G	21	Coral cobble bottom
11+50	3	0.5	H		Coral cobble bottom
12+00	3	0.5	H	22	Coral cobble bottom
12+50	3	0.5	H		Coral cobble bottom
13+00	3	0	H	23	Coral cobble bottom
13+50	0.5	1	H		Cobble beach
14+00		-		24, 25	Cobble beach no probe
14+50		-			Sand/cobble beach; seal habitat, no probe
15+00		-		25A, 26	Sand/cobble beach; seal habitat, no probe
15+50		-			Sand/cobble beach; seal habitat, no probe
16+00		-			Sand/cobble beach; seal habitat, no probe
16+50	2	2.5	H	26A	Coral cobble bottom
17+00	2.5	0.5	H	27	Coral cobble bottom
17+50		-			Cobble beach, no probe
18+00		2	H	28, 29	Coral cobble bottom
18+50		2.5	G		Coral cobble bottom
19+00	2			30	Coral cobble bottom
19+50	4	1	H		Coral cobble bottom
20+00	4.5	0.5	H	31, 32	Coral cobble bottom
20+50	4	2	G		Coral cobble bottom
21+00	4.5	0.5	G	33	Coral cobble bottom

TABLE 1. (cont.) Jet Probe Results, Northwest Side
Reference Line "C": Origin N30,000 / E60,000, Azimuth 71.36°

Location (Station)	Water Depth (Ft)	Probe Depth (Ft)	Refusal Type	Photo #	Notes
					Coral cobble bottom
21+50	3				Coral cobble bottom
22+00	4			34	Coral cobble bottom
22+50	3	0.5	H		Coral cobble bottom
23+00	4	4	G	35, 36	Coral cobble bottom
23+50	5	1	G		Coral cobble bottom
24+00	3	3.5	C	37	Coral cobble bottom
24+50	3	2	G		Coral cobble bottom
25+00	1			38,39	Sand pocket in rocky bottom
25+50	1				Coral cobble bottom
26+00	1		H	40	Coral cobble bottom
26+50					Rock
27+00		0.5		41	Coral cobble bottom
27+50		0.2			Coral cobble bottom
28+00		0.2		42, 43, 44	Coral cobble bottom
28+50	6	1	H		Coral rock bottom
29+00	1	5	S	45	Begin sand beach; coarse sand
29+50		3.5	S	46	Sand beach
30+00		3.5	S	47, 48	Coarse sand beach
30+30A		3.5	S	49	Coarse sand beach

TABLE 2. Jet Probe Results, East Side
Reference Line "C": Origin N30,968.3 / E62,871.1, Azimuth 161.36°

Location (Station)	Water Depth (Ft)	Probe Depth (Ft)	Refusal Type	Photo #	Notes
30+30B		3.5	S	50, 51	Coarse sand beach
30+50		4	H	51	Coarse sand beach
31+00		1.5	H		Sand bottom
31+50		1.5	H		Sand bottom
32+00		1.5	H		Sand bottom
32+50		1.5	H		Sand bottom
33+00		3	H	52	Sand bottom
Corner of seawall		3	G	53	Sand bottom
33+05B		3.5	G	54, 55	Sand beach

TABLE 3. Jet Probe Results, West Side
Reference Line "A": Origin N30,000 / E60,000, Azimuth 161.36°

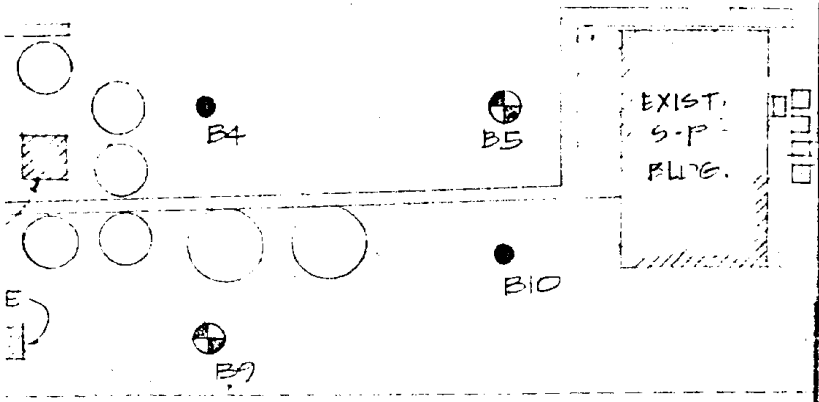
Location (Station)	Water Depth (Ft)	Probe Depth (Ft)	Refusal Type	Photo #	Notes
0+0					Rock bottom, no probe
0+50	8	2	G		Coral cobble bottom
1+00	10	2	G	58, 59	Coral cobble bottom
1+50	7.5	1.5	G		Coral cobble bottom
2+00	7.5	2.5	G	60, 61	Coral cobble bottom
2+50	7	2.5	G	62, 63	Coral cobble bottom
2+75	8	0.5	G		Coral cobble bottom

TABLE 4. Jet Probe Results, South Side
Reference Line "B": Origin N29,791.6 / E60,070.4 Azimuth: 71.36°

Location (Station)	Water Depth (Ft)	Probe Depth (Ft)	Refusal Type	Photo #	Notes
					Coral cobble bottom
0+00	6.5	3.5	G	64	Coral cobble bottom
0+50	6	0.5	G	65	Coral cobble bottom
1+00	6			65	Coral cobble bottom
1+50	5	2	G	66, 67	Coral cobble bottom
2+00				68,69	No probe: Steel sheet pile panel extends 5' out into sand area
2+50		3	G	70	Coral cobble bottom
3+00					Start of rip-rap shoreline, no probe
3+50					Rip-rap shoreline, no probe
4+00					Rip-rap shoreline, no probe

Notes:

1. Jet probing conducted by Sea Engineering, Inc. on October 21, 1999
2. Positions surveyed by Towill, Shigeoka & Associates, Inc. on October 18-20, 1999
3. Jet probe refusals are indicative of sub-bottom conditions as follows:
   - "H" Hard refusal: probe depth limited by encounter with hard bottom conditions
   - "S" Soft refusal: probe depth limited by seizing of probe barrel or other equipment restrictions
   - "G" Gravel refusal: probe depth limited by dispersal of jet in high porosity layer



BURIED SHT. PILING

REV.	DATE	APPR	DESCRIPTION	BY

DESIGNED.
DRAWN. JS
TRACED. JS
CHECKED.
REVIEWED BY
REVIEWED BY
REVIEWED BY
CHIEF OF BRANCH

U.S. COAST GUARD 14TH DISTRICT HONOLULU, HAWAII

CIVIL ENGINEERING

LORSTA FRENCH FRIGATE SHOALS
TERN ISLAND

STATION REHAB
BORING LOG, BORING LOCATION PLAN
BORING NOTES

APPROVED
CAPTAIN, CHIEF OF DIVISION

DATE 12/30/71

REF. SHT. NO.	DRAWING NUMBER	REV. NO.
C2	14-053-062	0
	AS NOTED	= 0.00

FERIOD

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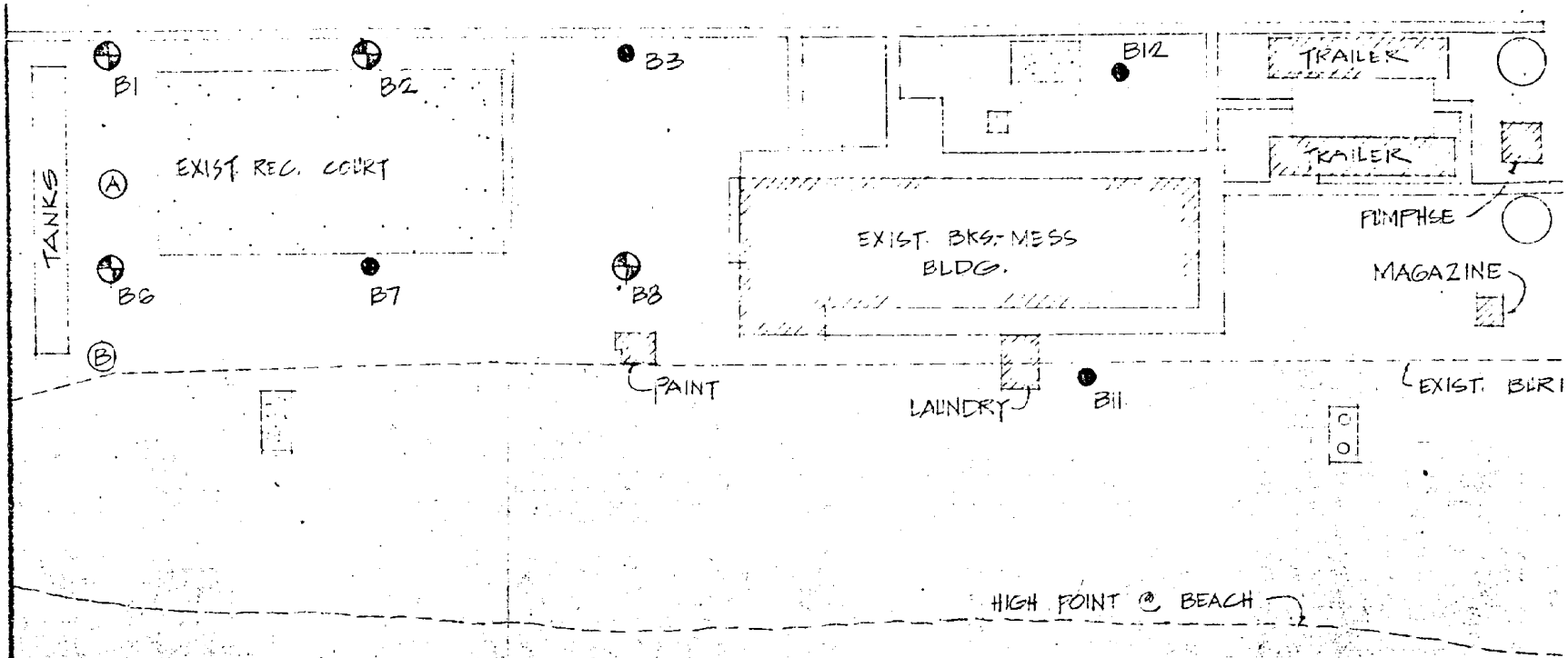


LEGEND

B1 BORING

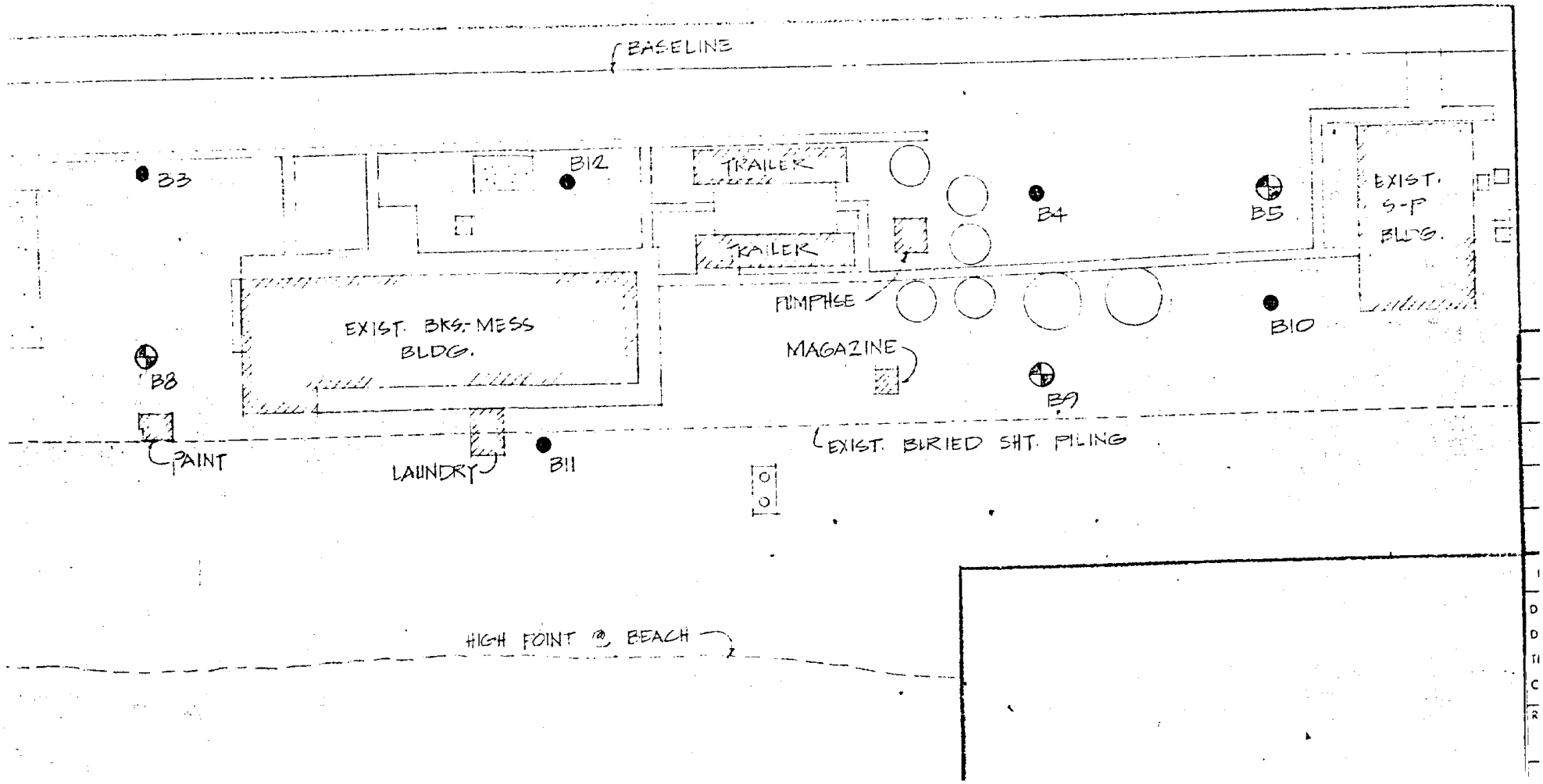
B7 CONTINUOUS PENETRATION TEST

(A) SURFACE SAMPLE

6.5'± WATER LEVEL (AT A SPECIFIED DATE AND TIME)

BORING LOCATION PLAN

SCALE : 1" = 40'


BASELINE
B3
B12
TRAILER
TRAILER
B4
B5
EXIST. S-P BLDG.
EXIST. BKS.-MESS BLDG.
PUMPHSE
B10
MAGAZINE
B8
B9
PAINT
LAUNDRY
B11
EXIST. BURIED SHT. PILING
HIGH POINT @ BEACH

ELEV. -35.0

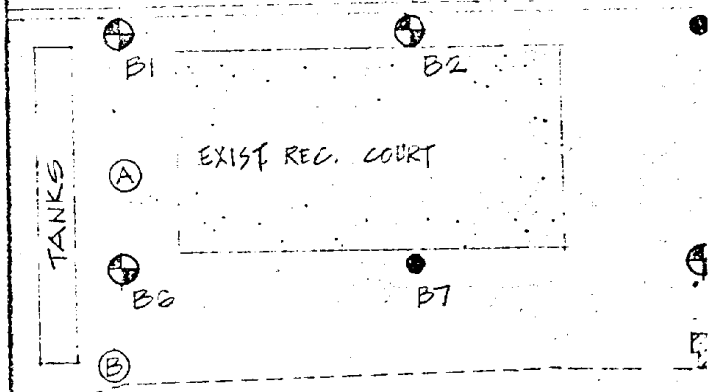
B1 B2 B3 B4 B5

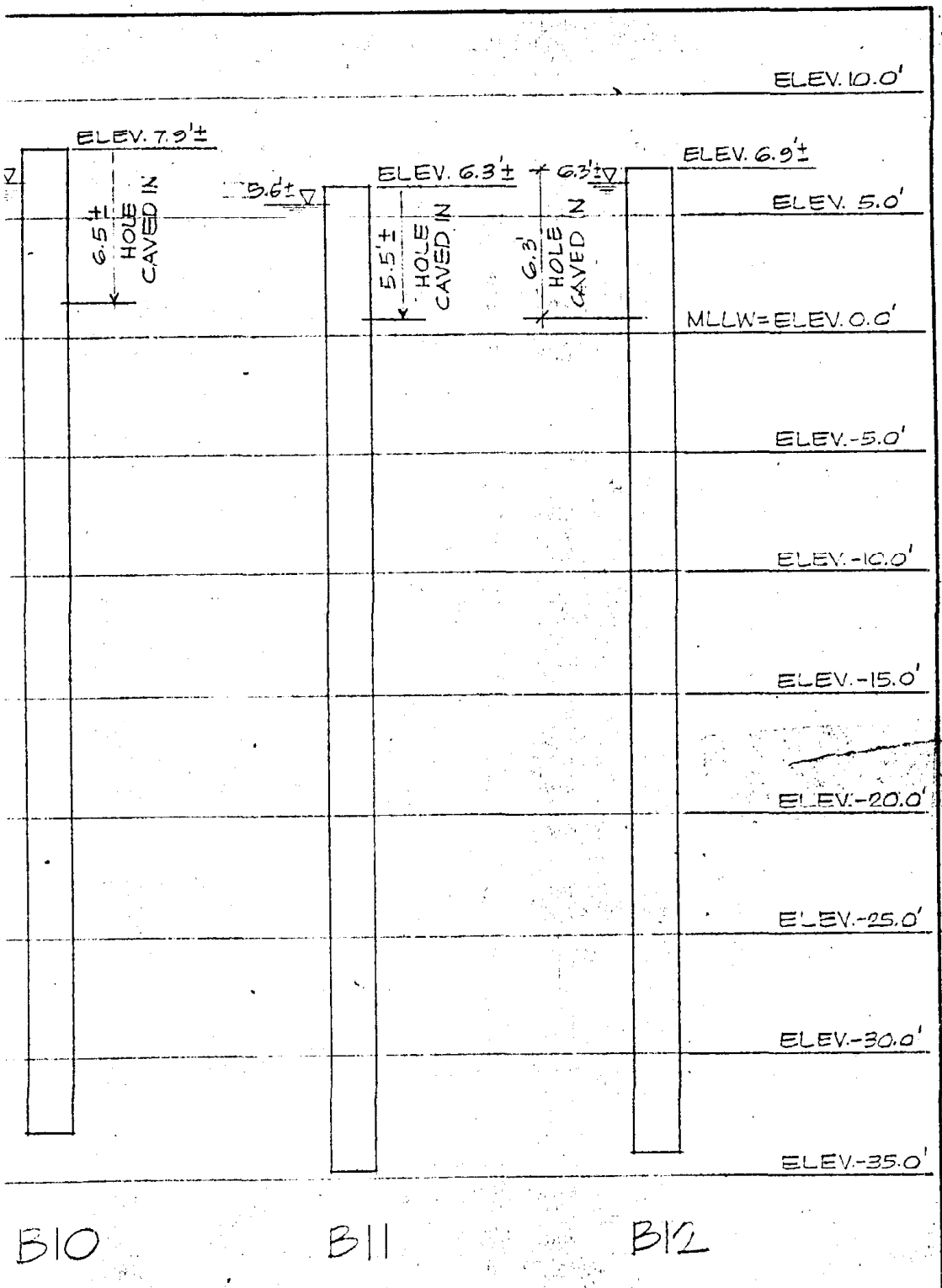
A C1 C2 BORING LOG

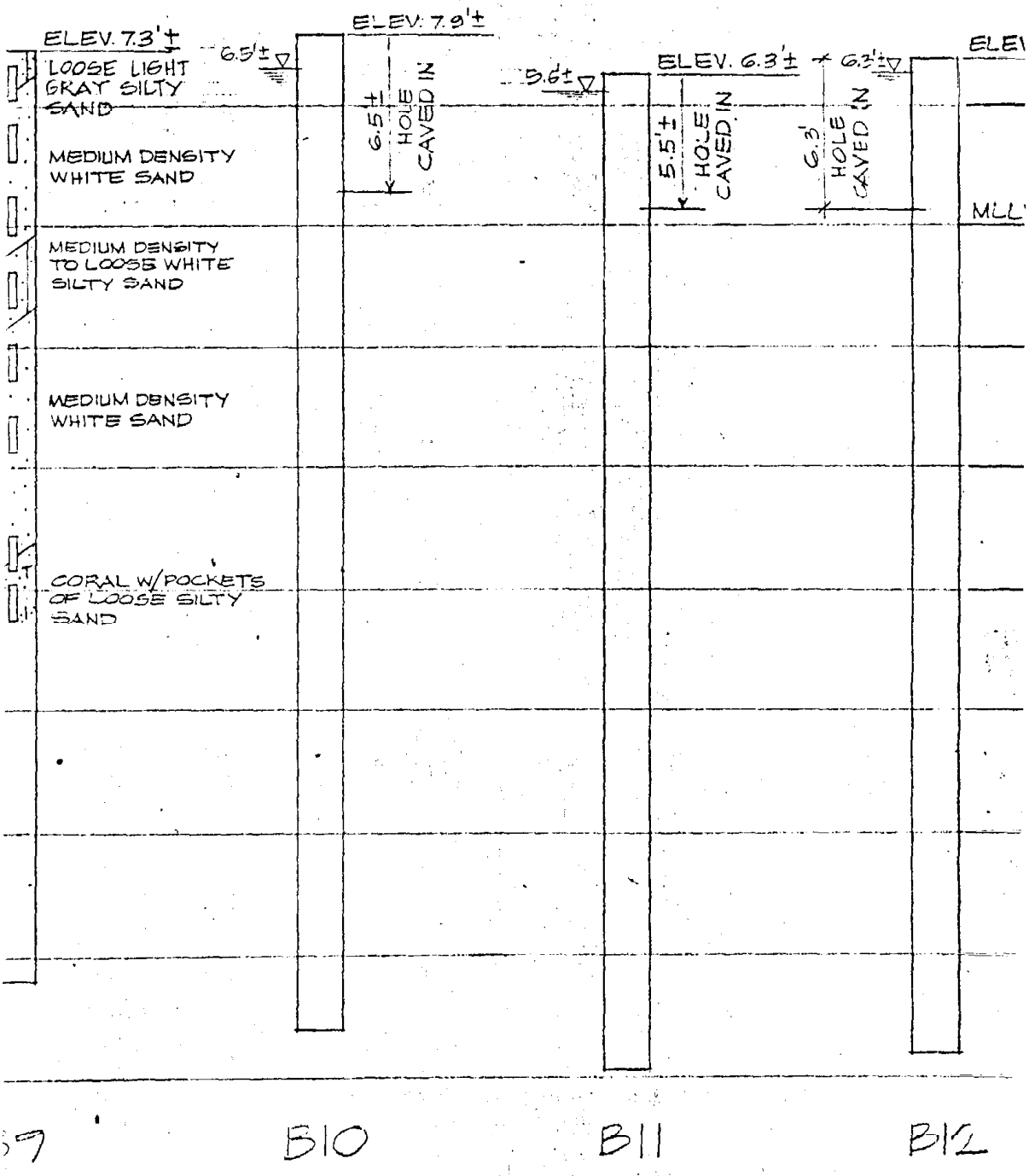
NO SCALE

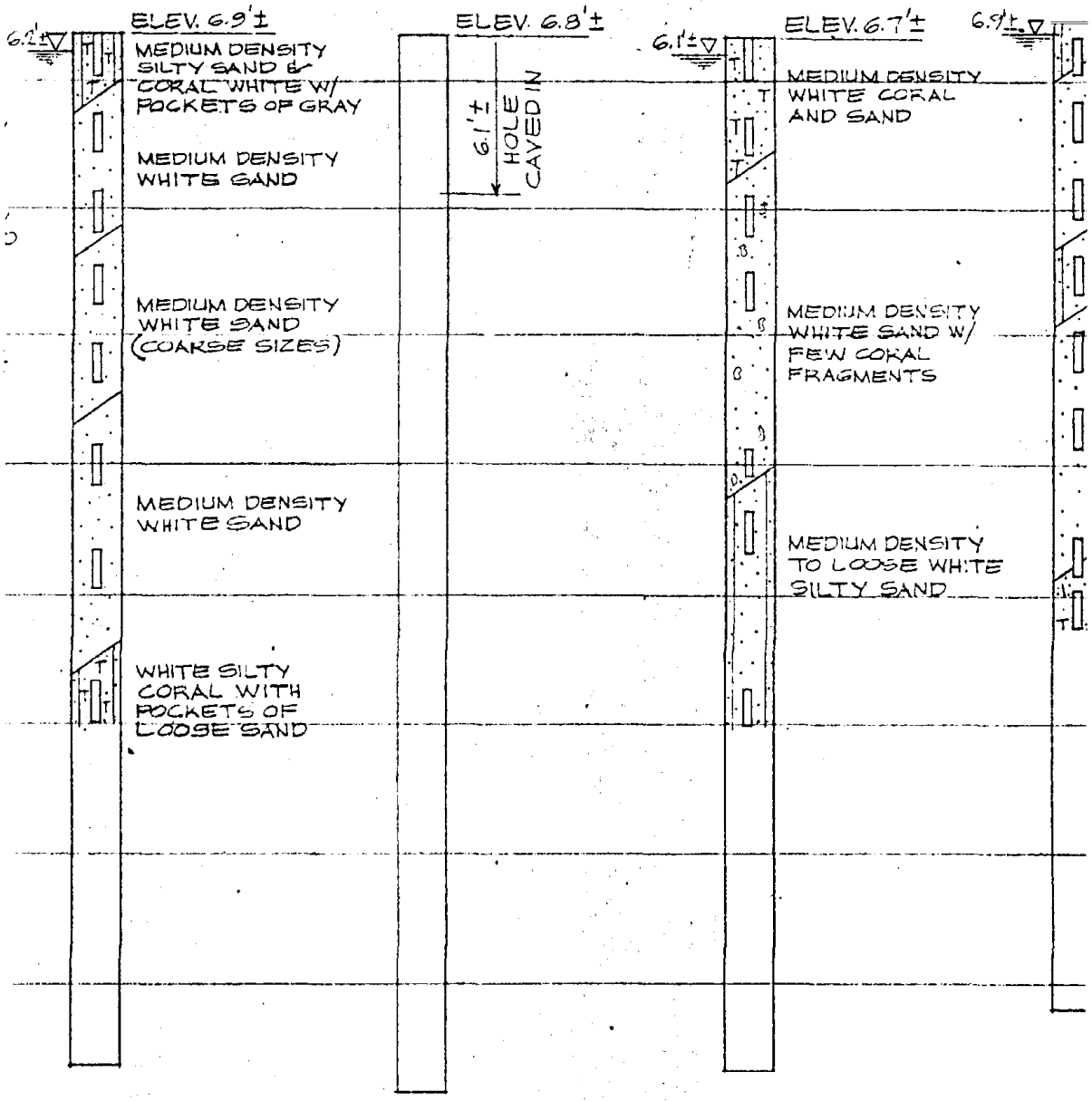
BORING NOTES

1. BORING TESTS CONDUCTED DURING THE PERIOD 13 APRIL THRU 16 APRIL 1971
2. THE BORING LOG INDICATES THE APPROXIMATE SUBSURFACE SOIL CONDITIONS ENCOUNTERED ONLY AT THE DRILL HOLES AND MAY NOT REPRESENT CONDITIONS AT OTHER LOCATIONS OR AT OTHER DATES.
3. FOR LOCATION OF DRILL HOLES SEE BORING LOCATION PLAN THIS SHEET.
4. ELEVATIONS INDICATED ARE REFERRED TO DATUM MLLW.
5. SYMBOLS USED ARE IN ACCORDANCE WITH THE UNIFIED SOIL CLASSIFICATION SYSTEM.
6. FOR ADDITIONAL INFORMATION REFER TO USCG LORAN STATION FRENCH FRIGATE SHOALS SOIL EXPLORATION REPORT DTD. 5 MAY 1971



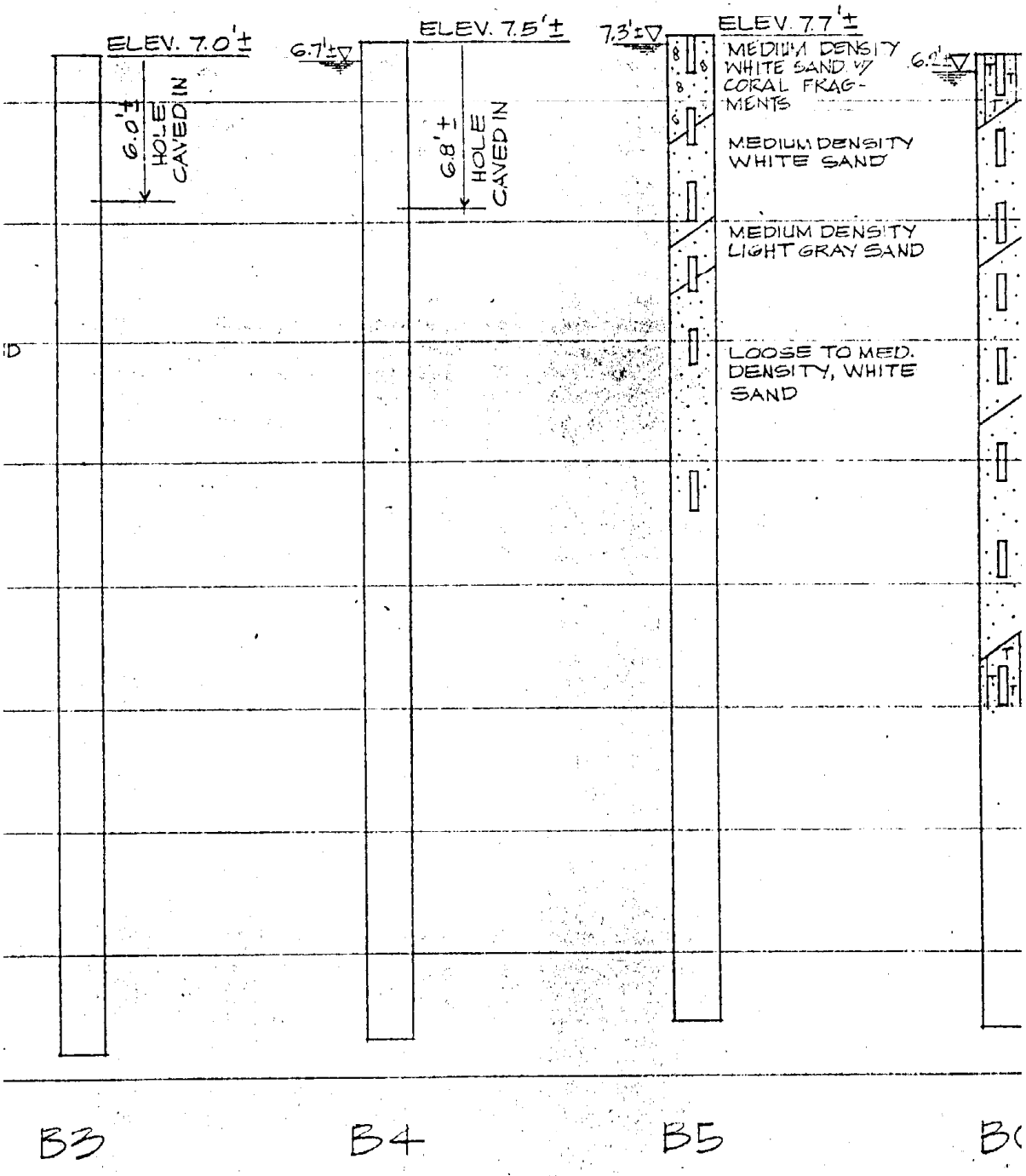

ELEV. 10.0'
ELEV. 7.9'±
ELEV. 6.3'±
6.3'±
ELEV. 6.9'±
5.6'±
ELEV. 5.0'
6.5'±
HOLE CAVED IN
5.5'±
HOLE CAVED IN
6.3'
HOLE CAVED
MLLW=ELEV. 0.0'
ELEV.-5.0'
ELEV.-10.0'
ELEV.-15.0'
ELEV.-20.0'
ELEV.-25.0'
ELEV.-30.0'
ELEV.-35.0'
B10
B11
B12

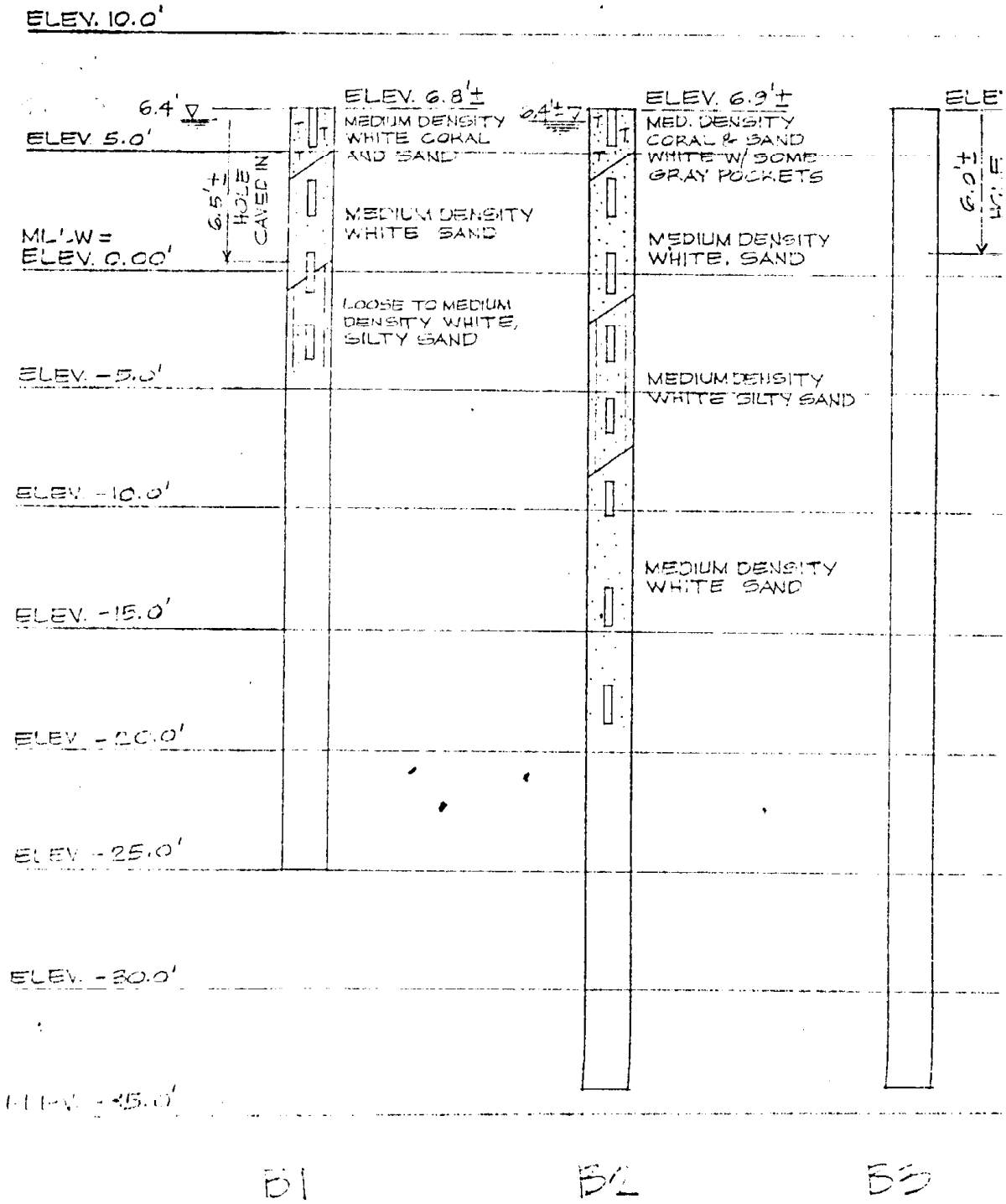

ELEV. 7.3'±
6.5'±
LOOSE LIGHT GRAY SILTY SAND
MEDIUM DENSITY WHITE SAND
MEDIUM DENSITY TO LOOSE WHITE SILTY SAND
MEDIUM DENSITY WHITE SAND
CORAL W/POCKETS OF LOOSE SILTY SAND
ELEV. 7.9'±
6.5'±
HOLE CAVED IN
5.6'±
ELEV. 6.3'±
5.5'±
HOLE CAVED IN
6.3'±
6.3'
HOLE CAVED IN
ELEV
MLL
B10
B11
B12



B6 B7 B8 B

BASELINE


ELEV. 7.0'±
6.7'±
6.0'±
HOLE CAVED IN
ELEV. 7.5'±
6.8'±
HOLE CAVED IN
7.3'±
ELEV. 7.7'±
MEDIUM DENSITY WHITE SAND W/ CORAL FRAGMENTS
MEDIUM DENSITY WHITE SAND
MEDIUM DENSITY LIGHT GRAY SAND
LOOSE TO MED. DENSITY, WHITE SAND
B3
B4
B5



A BORING LOG

NO SCALE

BORING NOTES

Appendix A

Best Management Practices
Tern Island Shoreline Protection Reconstruction

In accordance with requirements to provide for Best Management Practices to be applied before, during and after potential pollution-producing activities, the following methods, measures and practices shall be applied during all phases of the Tern Island shoreline protection reconstruction. During construction, the contractor shall take all necessary precautions and follow all measures to minimize pollution to the project location and surrounding waters:

1. Suspension of solids and turbidity will be mitigated through the use of silt screens/curtains, sand bags and other appropriate measures. These measures will be erected prior to the start of construction and will be regularly inspected to ensure optimal operating performance.

2. The contractor's water quality monitoring plan will include monitoring of all water areas affected by construction activities in accordance with the Scope of Work Marine Water Quality Monitoring Services for the project. In the event the water quality baseline and State standards are exceeded, the contractor will be required to suspend the operation or operations causing water quality to degrade below the standards until the condition is corrected.

3. The contractor will be required to manage work and storage areas to reduce sediment from entering nearby waters, to minimize pollution of surface and ground waters, and to properly dispose of wastes.

4. Soil conditions adjacent to the work sites will be inspected for stability. The contractor and construction crew will not use unstable or highly erodible areas for staging of construction equipment, materials, and wastes. No erodible materials will be stockpiled adjacent to the shoreline.

5. All construction materials used (e.g., fill, under-layer stones, armor stones and other materials) shall be consistent with the requirements of Hawaii Administrative rules, Title 11 Chapter 54, Water Quality Standards. No contaminated or otherwise unsuitable construction materials shall be used to construct the revetment.

6. The Contractor shall ensure that all gasoline and /or diesel equipment, accessory fuel storage tanks, and other sources of petroleum, oils and lubricants are properly stored in leak-proof storage tanks or containers. All construction equipment will be inspected prior to mobilization to ensure against leakage of oil, fuel, coolant or hydraulic fluid into the receiving waters.

Similarly, storage containers of oil, fuel, coolant, or hydraulic fluid will be inspected and properly stored to ensure against leakage. Any equipment or containers found to be leaking will be immediately replaced or repaired.

7. The contractor shall prevent oil or other hazardous substances from entering the ground, drainage area, or local bodies of water:

   a. Surround all temporary fuel oil or petroleum storage tanks with a temporary earth berm of sufficient size and strength to contain the contents of the tanks in the event of leakage or spillage.

   b. The contractor shall have a spill kit on site which includes absorbents, 55 gallon drums, pump, oil solvents, personal protection equipment, etc. The contractor shall provide training to his personnel regarding oil/hazardous materials spills.

8. The contractor shall conduct the fueling and lubricating of equipment, vessels, and motor vehicles with practices which protect against spills and evaporation. Disposal of lubricants and excess oils will be in accordance with applicable Federal, State, and Refuge regulations.

9. Hazardous wastes will be stored in approved containers labeled to identify the type of waste and the date the container was filled. Containers containing hazardous waste will be stored and disposed of in accordance with all applicable environmental regulations.

10. Solid wastes shall be placed in suitable containers which are regularly emptied, consolidated, and removed from the island. Contamination of the construction site will be prevented by proper handling of all solid waste.

11. Construction activities will be suspended during storm conditions or conditions of heavy tidal surges which could contribute to increased turbidity of near shore waters.

12. Dust will be kept down at all times, including during non-working periods. Soil at the construction site, temporary roads, and other areas disturbed by operations will be treated with appropriate dust suppressants.

13. Stockpiling of excavated material below the high water mark shall not be allowed.

14. The contractor shall instruct all construction personnel on these Best Management Practices and all other site specific practices listed in the contractor's Environmental Protection Plan For Tern Island.

401 Hawaii State Water Quality Certification Application
Tern Island Shore Protection

1. Owner Information:

United States Fish and Wildlife Service
300 Ala Moana Blvd., Room 5-231
Honolulu, Hawaii 96850-5000

Jerry Leinecke
Project Leader, Hawaiian/Pacific Islands National Wildlife Refuge Complex
Phone: (808) 541-1201
Fax: (808) 541-1216

2. General Contractor Information:

To be determined

3. Emergency Contact Information:

United States Fish and Wildlife Service
Jerry Leinecke
Project Leader, Hawaiian/Pacific Islands National Wildlife Refuge Complex
Phone: (808) 541-1201
Fax: (808) 541-1216

United States Fish and Wildlife Service
Rob Shallenberger
Deputy Project Leader, Hawaiian/Pacific Islands National Wildlife Refuge Complex
Phone: (808) 541-1201
Fax: (808) 541-1216

4. Project Site Information:

Project Name and Location:
Tern Island Shore Protection Project
Tern Island, French Frigate Shoals, Hawaiian Islands NWR

Lat 23 degree, 52', 7' North; Long 166 degree, 17', 22" West

Contact Person/Title/Phone numbers:
Steve Barclay
Refuge Operations Specialist, Hawaiian/Pacific Remote Islands National Wildlife Refuge Complex
Phone: (808) 541-1201
Fax: (808) 541-1216

5. Associated Permits or Licenses:

The following permits, approvals, and compliance will be secured or completed prior to any construction work on Tern Island:

- U.S. Department of the Army Section 404 permit. Application number **200100305**.

- Endangered Species Act Formal Section 7 Consultation with the National Marine Fisheries Service.

- Endangered Species Act Formal Section 7 Consultation with the U.S. Fish and Wildlife Service, Division of Ecological Services.

- State of Hawaii Coastal Zone Management Consistency Determination

- State of Hawaii Historic Preservation Office Review

- Federal Cultural Resource Compliance Review

6. Receiving State Water Information:

Classification: Marine Class AA

Describe the associated existing uses at the "discharge" location:

The present and projected use of Tern Island and associated waters is that of a National Wildlife Refuge. Direction for land and resource use is provided in the Hawaiian Islands National Wildlife Refuge Master Plan/EIS of 1986.

The National Wildlife Refuge System gives high priority to the educational and recreational use of refuge lands. However, because of the paramount importance placed upon protecting these

unique atoll ecosystems from direct and indirect human impact, access to the Hawaiian Islands National Wildlife Refuge (Refuge) has been far more restricted than is typical of most National Wildlife Refuges. French Frigate Shoals (the Shoals) are considered especially sensitive, in part, due to the presence of large populations of the endangered Hawaiian monk seal and threatened Hawaiian green sea turtle. Although the general public is not allowed to visit the Refuge, whenever possible the U.S. Fish and Wildlife Service (Service) has permitted selected media and scientific use of the Shoals. Research on seals, turtles, sharks, a number of seabird species, and even astronomical observations have been conducted within the Shoals. The access afforded by the landing strip has allowed the Service to fly in journalists and film crews in order to educate a broader audience about the beauty and fragility of this unique Refuge.

7. Project Description

7a Project Site Coordinates:

The following coordinates define the four corners of Tern Island, FFS.

Northwest: 23° 52' 7" North, 166° 17' 22" West
Northeast: 23° 52' 17" North, 166° 16' 50" West
Southwest: 23° 52' 4" North, 166° 17' 21" West
Southeast: 23° 52' 14" North, 166° 16' 50" West

7b Describe the overall project scope and activities:

The Service, with technical guidance from the U. S. Army Corps of Engineers (Corps), is proposing the reconstruction of shore protection structures at Tern Island, French Frigate Shoals. The existing sheet pile bulkhead was built by the U.S. Navy (Navy) during WWII, and has been severely compromised by wave action and corrosion.

The Service proposes to replace the bulkhead on the southwestern, west, and northwestern portions of the island with a concrete-capped steel sheet pile bulkhead with docking facilities for barges and small work boats. Sloping rock revetment shore protection would abut the terminus of the new sheet pile at the northwestern portion of the island, and continue along the remainder of the north, east, and southeast portions of the island. These shore protection

measures would protect important terrestrial wildlife habitat, the existing sandy beach along the southern shore, and the field station facilities.

The proposed sheet pile bulkhead would be driven just seaward of the existing bulkhead to depths ranging from -27.5 to -37 feet MLLW, with the top at +6.5 feet MLLW. The total linear dimension of the new sheet pile would be 820 feet. The rock revetment would consist of a 2.5 foot layer of 2,000 to 3,000 pound armor stones in water depths of 5 feet or less for 3,127 linear feet, and a 4.3 foot thick portion consisting of two layers of 1,200 to 2,000 pound armor stones in water depths greater than 5 feet for 727 linear feet. Total length of rock revetment would be 3,854 linear feet. The slope of the revetment would be 1.5 horizontal to 1 vertical in both cases.

The proposal also includes replacing the existing wooden small boat dock located at the southwest portion of the island, with a concrete launch ramp and dock platform, both of which would be incorporated into the new sheet pile bulkhead. The launch ramp would be 81 feet long by 15 feet wide and inset approximately 75 feet in-land of the shore protection bulkhead. The toe of the ramp would be at -6.5 feet MLLW. The dock platform would be 40 feet long in the direction parallel to the shore and 36 feet deep. A boat hoist would be used to launch boats from the platform area, or the boat ramp could be utilized when sea conditions required more protection.

7c. Describe the "discharge" activity and the purpose of the proposed discharge activity:

Discharges will primarily result from near shore excavation and grading necessary to prepare the rock revetment foundation, and installation of revetment structural elements including geotextile fabric, bedding stones, armor stones and fill. Discharge will result from the placement and driving of the new sheet pile bulkhead on the seaward side of the existing bulkhead, and backfilling behind the new sheet piles. Discharge will also result from the installation of the pre-cast concrete planks for the boat ramp and associated grading, and from silt curtains or other in-water siltation control devices.

Potential for discharge will also result from near shore excavation and grading necessary to prepare the small boat ramp foundation. Cast-in-place concrete will be poured above the high tide line while building the ramp. Cast in place concrete will also be used for the dock platform on the inland side of the sheet pile bulkhead as well as a reinforced concrete cap for the entire length of the bulkhead.

7d List all “discharge” activities that the owner is seeking coverage for under the WQC application:

The material to be discharged will be clean basalt stone quarried in Hawaii, coral rubble and sand excavated from the near shore construction site, coral rubble excavated from the inland side of the existing sheet pile bulkhead, geotextile fabric, new sheet piling, pre-cast concrete planks, and silt curtains. Potential discharge may result from cast-in-place concrete to be used as the cap for the sheet pile bulkhead and from cast-in-place concrete for the boat ramp and boat platform.

7e Specify physical, chemical, biological, thermal, and any other pertinent characteristic of the “discharge” activity:

Some silt and sand are likely to be discharged during the course of the reconstruction activity. However, all of the material will be from clean sources. The fill material will be excavated on-site, and all basalt for the revetment will come from a commercial quarry in Hawaii. Although the discharge could cause a degradation of water quality if no mitigation actions were taken, careful management practices will reduce the risk of impacts from discharge during construction. The fill material and basaltic rock will cover and kill benthic organisms within the footprint of the structure.

8 Description of the Existing Environment and Potential Environmental Effects from the Construction Activities

8a Describe the Existing Physical Environmental and Potential Physical Environmental Effects:

Existing Physical Environment:

French Frigate Shoals is a low coral atoll located almost at the midpoint of the Hawaiian Archipelago. It is 556 statute miles (895 km) north-northwest of Honolulu, Hawaii, between 23°37' and 23°52' North latitudes and 166°03' and 166°20' West longitudes. The atoll comprises 12 small sand islands, many of which are awash at high tide and during storms, and La Perouse Pinnacle, a small basaltic pillar. The 140 square-mile (104,866 acre) lagoon is on a 20-fathom deep oval platform, which rises 15,000 feet above the floor of the Pacific Ocean. A double

crescent reef with an almost continuous outer arc 32 miles long and a broken inner arc 18.5 miles long partially encloses the lagoon on its north, east and south sides.

Tern Island, located at the northwest tip of the outer crescent, is the largest (approximately 3100 ft. by 500 ft., or 34 acres) of the sand islands. It presently comprises about half of the emergent land mass in the atoll. A 3100 ft. long by 250 ft. wide compacted coralline runway is the island's predominant feature. The Service utilizes the barracks, boathouse, and generator building that were built by the U.S. Coast Guard (USCG) in 1973, as well as a tractor shed, fuel shed, two pumphouses, and five redwood water tanks.

Tern Island is exposed to storm waves which break on the atolls northern fringing reef margin and reform across the reef flat, the average elevation of which is -2 feet MLLW. The island receives direct attack from these reformed storm waves along the north, east and western faces. The southern, or leeward, shoreline of Tern Island is sheltered by the interior expanse of the shoals, where predominantly calm conditions have allowed the development of the more stable accreted beach.

Tern Island soils are sparse and have formed above the corraline material excavated from the reef flat to build the island. Bird guano comprises a major portion of the soil and has contributed to the formation of some humus in vegetated areas.

Physical Environmental Effects - Terrestrial:

The rock revetment and small boat facilities will be new physical features but are compatible with the current character of Tern Island. The existing configuration of the island would be preserved, with the exception of the groin on the north side. The rock revetment would cut through the groin, which would be allowed to erode naturally. The groin is composed of extremely hard concrete-like material, so it would be fairly resistant. The two beaches on either side of the groin, Crab and Shell, would be temporarily destroyed during construction, but could re-accrete onto the rock revetment. The reduced scouring effect of waves on the uneven surface of the rock revetment compared to the vertical bulkhead is predicted to contribute to the accretion of sand along portions of the revetment. The Corps Study did not find that appreciable losses of sand from the south beach area would occur. Areas of the shoreline that are presently dangerous for humans and wildlife due to exposed concrete rubble, metal debris, and the jagged remnants of the sheet pile will be removed or buried by the new structures. All sheet piling that is removed will be transported to the main Hawaiian Islands for disposal or reprocessing.

Temporary physical alteration of the environment would occur due to the presence of the construction crew and actual construction. Surface disruption of soil and coralline fill would be necessary during the construction activities, resulting from the excavation for the bulkhead anchorwall and revetment grade.

Current estimates indicate that the volume of material which would be excavated for the revetment toe stone would approximately equal the volume required to create proper grade for the revetment and backfill for the new sheet pile wall. Should there be any excess fill, it would be used to build a low, gently sloping berm along the north side of the island, further protecting the island from wave overwash.

Physical Environmental Effects - Marine:

The proposed structures would closely adhere to the alignment of the existing steel sheet pile to minimize changes in existing circulation patterns. Some short-term degradation of water quality, with increased turbidity and suspended solids, would occur due to near shore excavation. This would have some effect on the immediate benthic community but is not foreseen to be long-lasting or significant. These impacts would be localized at the point of active construction, and further minimized with the use of approved Best Management Practices (BMP) designed to protect the marine environment.

Physical Environmental Effects - Air:

Some short-term degradation of air quality would occur during construction due to construction equipment exhaust and airborne dust generated by vehicles and manipulation of cement and rocks. BMP relating to air quality such as appropriate dust control measures would be followed.

8b Describe the Existing Chemical Environment and Potential Chemical Environmental Effects:

Existing Chemical Environment:

Although Tern Island does not have any of the common sources of water pollution, such as urban or agricultural run-off, the water quality around the island is being degraded as contaminants present within the island's fill wash into the lagoon through deteriorated sections of the bulkhead. This provides the pathway by which Polychlorinated biphenyls (PCBs) and lead enter the atoll's food web. Marine organisms absorb the extremely low concentration of PCBs and lead

that are dissolved in the water and then these concentrations are biomagnified through the food web. Also, as these compounds settle into the offshore sediments, they adhere to the sediment particles and become concentrated there. The island's fill itself causes turbid conditions as it washes into the lagoon, in what would otherwise be pristine, clear waters.

Chemical Environmental Effects:

By replacing the deteriorated steel sheet pile with a combination of new, concrete-capped sheet piles and rock revetment, the residual chemical pollutants present within the island's fill would be well contained. These measures would provide long lasting, effective and environmentally sound shore protection measures, protecting the marine environment from toxic chemicals and hazardous debris.

8c Describe the Existing Biological Environment and Potential Environmental Effects:

Existing Biological Environment - Marine Community:

Overview

The marine community of the Shoals reflect the characteristics of a tropical atoll with coral reefs, sandy expanses, and shallow lagoons. Seabirds, endangered Hawaiian monk seals and threatened Hawaiian green sea turtles depend upon this environment for food resources and habitat. The Shoals marine community appears to be more diverse than other islands and atolls within the northwestern Hawaiian islands (NWHI), perhaps due to greater rates of recruitment of species associated with the Subtropical Countercurrent or from eddies moving north from Johnston Atoll, only 400 miles to the south-southwest. There are at least 44 species of coral and at least 133 species of fish present within the Shoals.

However, recent surveys (1999-2000) by Refuge marine biologists and teams of scientists from the NWHI Rapid Reef Assessment and Monitoring Program (NOW-RAMP) expedition have revealed that the reef environment surrounding Tern Island is degraded, with little, if any, living corals. The area's history of excavating, filling, and contamination are likely factors. The nearest reef area with healthy live corals surrounds Shark Island, 3 km to the west of Tern.

Marine Reptiles

Although other species of sea turtles are found in the waters of the NWHI, the Hawaiian green sea turtle (*Chelonia mydas*) is the most widely distributed throughout the archipelago and is the only species known to nest in the NWHI. The Hawaiian population is genetically distinct from green sea turtles found elsewhere, and was listed as threatened in 1978.

Hawaiian green sea turtles spend most of their life in near shore benthic habitat, resting and foraging on algae and macro plankton. Adult females undertake reproductive migrations at intervals of two or more years. Adult males migrate annually to mate near the nesting beaches. Over 90% of the Hawaiian green sea turtle population nests at the Shoals. Although exact numbers are not available, East Island appears to be the primary nesting location within the Shoals, with Tern Island providing an important secondary location. The vast majority of nesting on Tern Island occurs along the south beach. Nesting at Tern has generally increased, from 23 nests found in 1986 to 839 found in 1997.

At times, animals crawl onto the runway, become disoriented, and are unable to find their own way back to the water. Personnel regularly patrol the island looking for such animals and direct them back to the beach before they can become trapped behind the exposed sheet pile wall. Once trapped, turtles can become mortally overheated and dehydrated within a matter of hours.

Marine Mammals

Although nineteen species of cetaceans have been observed in Hawaiian waters, Tern Island personnel regularly see only humpback whales (*Megaptera novaeangliae*), bottlenose dolphins (*Tursiops truncatus*), and spinner dolphins (*Stenella longirostris*). Of these, humpback whales are the only endangered species. They are regularly seen in the deeper waters around the Shoals and occasionally within the shallower lagoon. No births of whales have been observed within the Shoals, but calves have been sighted near the atoll. Bottlenose and spinner dolphins are pan-tropical and are the most typically inshore cetacean species found in Hawaiian waters. They are regularly observed within the shallower lagoon at the Shoals, with bottlenose dolphins seen as close to Tern Island as the entrance to the boat channel. Spinner dolphins have been observed swimming into the north and west channels adjacent to the island on at least one occasion.

In 1976, the Hawaiian monk seal (*Monachus schauinslandi*) was designated as an endangered species under provisions of the Endangered Species Act of 1973, and as a depleted species under

the Marine Mammal Protection Act in 1976. Since 1975, an intensive program to recover the monk seal has taken place at the Shoals.

Coral beaches are the preferred habitat for monk seal pupping, hauling out, and nursing. Monk seals primarily use Tern Island for resting, rather than pupping. They move toward the beach crest in the later afternoon and evening hours, spending the night within vegetation or even under buildings. From early to mid-morning they begin to move back down toward the water's edge. At times, animals crawl onto the runway, become disoriented, and are unable to find their own way back to the water. Personnel regularly patrol the island looking for such animals and direct them back to the beach before they can become trapped behind the exposed sheet pile wall. Once trapped, seals can become mortally overheated and dehydrated within a matter of hours. An average of about three seals get trapped per year, with numbers ranging from zero to seven. Two subadult male monk seals have died after becoming trapped behind the sheet pile bulkhead. One in 1982 and the second in 1991.

Existing Biological Environment - Terrestrial:
Vegetation

The Navy's reconstruction of Tern Island in 1942 completely obliterated the original vegetation when the island was covered with coral and sand excavated from the lagoon. A surf event in 1969 completely washed over the island destroying much of the vegetation that had developed following the Navy's occupation. The island's plant community is now composed of common native strand species and the numerous alien species that have been intentionally and accidently introduced. The runway and facilities cover more than half of the island, leaving approximately 16 acres available for vegetation. The island's vegetation is dominated by 18 species, none of which are endemic or endangered.

Birds

Approximately 80-90,000 pairs of eighteen seabird species nest on the limited land area of the Shoals, the majority of which utilize Tern Island. No endemic land birds evolved on the islands within the Shoals. Tern Island provides overwintering habitat for small numbers of migratory shorebirds, including the bristle-thighed curlew (*Numenius tahitiensis*). The bristle-thighed curlew is one of the world's rarest shorebirds and is a designated migratory bird Species of Concern. The endangered short-tailed albatross *(Phoebastria albatrus*) has been sighted at Tern Island on four occasions in the past twenty-five years. Most recently, an immature individual was observed on the

island for several hours on February 13,1994 . No successful breeding has ever been confirmed in the NWHI.

Terrestrial Invertebrates

Of the terrestrial biota in the NWHI, arthropods represent the largest and most ecologically diverse group, and at least twenty-six arthropods including endemic and indigenous species have been recorded from the Shoals. The Tanager Expedition of 1923, the first systematic biological survey of the NWHI, found 26 species on the Shoals of which most were believed to be native. In a 1994 survey, Service biologists observed and documented several indigenous arthropods including the French Frigate Shoals seed bug (*Nysius frigatensis),* a species of concern.

Effects on the Biological Environment - Overview:

In-depth consideration of the effects on the biological environment have resulted in the determination that the least long-term impact to the wildlife of Tern Island would occur if the contractor mobilized once and continued work until completed. Disruption of one to two breeding cycles for long-lived seabirds would be less of an impact than disrupting the animals at a lesser level over several seasons. Disruptive impacts to monk seals and green turtles spread over a several year period would have a greater probability of inducing long-term behavioral shifts in patterns of use.

The potential for temporary disturbance of wildlife during the construction period is seen as the most adverse consequence of implementing the project. As construction activity progresses, measures would be taken to prepare successive construction areas to reduce impacts on wildlife. Project activities would be broken into segments based upon construction type, location, and wildlife species sensitivity timing. Project segments would be completed, when feasible, before construction is allowed on the next segment. This procedure would eliminate recurring wildlife disturbance and allow vegetation reclamation efforts and wildlife use to begin on completed segments.

As a result of this project, terrestrial habitat would be preserved, the marine environment would be protected, and research and recovery efforts could continue, contributing to the survival of threatened and endangered species.

Effects on the Biological Environment - Marine Community:

Overview

Near-shore excavation for the placement of the rock revetment would destroy some existing marine habitat. However, the existing area that would be covered by the revetment was significantly impacted by the original excavating and bulkhead construction and possibly by exposure to contaminants leaching out of the island. Most of the coral in these areas is dead and the substrate along the perimeter of the existing bulkhead is either sand or coral rubble. The total area of habitat below the high tide line covered by all sections of the new shoreline protection and small boat ramp is approximately 1.8 acres. Removing the existing highly reflective vertical bulkhead along the north and east sides and building a rock revetment would create an artificial reef, replacing the sand and coral rubble habitat that will be destroyed. It is also possible that some lower energy areas of revetment may accrete sand, forming new beaches.

Long-term positive effects to the marine environment may result with the implementation of this project. The productivity of the reef flat is not expected to be compromised by placement of shoreline armoring and would possibly be enhanced. The rock used in the sloping revetment would provide a site conducive to colonization by corals and other invertebrates, and spaces created by the basalt rocks would create an artificial reef that may attract large numbers of fish which would find the vertical relief appealing. Any increase in reef fish populations would contribute positively to available food sources for monk seals and seabirds.

Marine Reptiles

The project would have some temporary negative impacts for the threatened Hawaiian green sea turtle. Loss of some available nesting and basking habitat would result with the expected alteration of Crab and Shell Beaches. However, the artificial reef created by the rock wall may potentially provide suitable grazing habitat as algae begins to grow on the rock revetment. The long-term protection of important resting and breeding habitat for turtles along South Beach would more than offset any of these minor losses.

Marine Mammals

No significant impacts to cetaceans are anticipated. Some minor disturbance to these marine mammals may result as a consequence of the increased tug and barge traffic, to and from the Shoals. However, suitable ocean habitat exists, for these animals to displace to. The Shoals are not known to provide any significant habitat component for any of these species and any physical habitat changes, as a result of this alternative, will be relatively insignificant.

The project would have some temporary negative impacts for the endangered Hawaiian monk seal. Although some available haul-out habitat would be lost to the seals with the alteration to Crab and Shell beaches, a net gain may result as sand accumulates on the rock revetment and new beaches develop. Additionally, the artificial reef created by the rock wall may potentially increase food fish availability for seals. The long-term protection of important resting and breeding habitat for seals along South Beach would more than offset any of these minor losses.

Effects on the Biological Environment - Terrestrial:

Vegetation

A primary result of this alternative would be the preservation and enhancement of the available terrestrial habitat on Tern Island. Some loss of island vegetation during construction is expected. Vegetation along the existing bulkhead, inland to the extent of backfilling, and along construction equipment access ways, would be impacted. This vegetation would either be buried by backfill material or removed in attempts to discourage seabird nesting prior to construction activities along that segment. In much of the north shore area this would be approximately 30 feet inland from the existing sheet pile. Few large shrubs would be affected by this clearing as most of the area to be disturbed has been recently eroded by wave overwash, or subjected to salt spray, which has hindered the formation of a shrub component.

Following the construction work, vegetation would be able to more successfully survive on the newly elevated land due to reduced wave overtopping and exposure to sea spray. Shrub communities take several years to return to mature conditions whereas open habitat plants grow back more quickly. Restoration of any impacted shrub habitat can be expedited by transplanting plants from other locations on the island and establishing a nursery to grow selected species to be out-planted once construction is completed in a particular segment.

Birds

By discouraging seabirds from nesting in the construction zone, many individuals may relocate to other sites on the island where they would have some chance of successfully breeding. It is anticipated that there would be some loss of production for some species of birds during the construction due to these actions. However, no seabird species depends on Tern Island to provide critical worldwide nesting habitat. Given the fact that these are long-lived species, the local

populations would be able to withstand the lowered reproductive output for the construction period.

Bristle-thighed Curlews should benefit from the protection of terrestrial habitat afforded by the shore protection. Important vegetated habitat would only be disturbed in the immediate construction areas. The minor disruption created by construction activities is seen to have minimal impacts upon the Curlews. As work progresses in segments, sufficient habitat and seclusion opportunities should exist at all times to meet foreseen habitat requirements of the few birds present on Tern Island.

Short-tailed Albatrosses could potentially benefit from the Tern Island shore protection provided by the shore protection. Should the world-wide population continue to grow, the species could recolonize its postulated prehistorical range throughout the Pacific, in which case Tern Island may become a breeding colony in the future.

Terrestrial Invertebrates

It is unlikely that the temporary disturbance of habitat during construction would adversely impact the viability of the native and endemic terrestrial invertebrate community, including the French Frigate Shoals seed bug. The greatest threat under this alternative would likely be the accidental introduction of exotic organisms. To protect this community, all construction materials, rock, and equipment will be free of organic material and soil to prevent the accidental introduction of exotic organisms. Efforts would be made to ensure that ships and barges transported to Tern Island are free of rats, insects, plant seeds and sprouts, and other vermin. This would be accomplished by thorough cleaning of equipment, fumigation of structures, the placement of rodenticides on ships and barges, and inspections, prior to landing at Tern Island.

8d Describe the Existing Uses and its Potential Effects:

The present and projected use of Tern Island and associated waters throughout the Shoals is that of a National Wildlife Refuge. Direction for land and resource use is provided in the Hawaiian Islands National Wildlife Refuge Master Plan/EIS of 1986.

The National Wildlife Refuge System gives high priority to the educational and recreational use of refuge lands. However, because of the paramount importance placed upon protecting these unique atoll ecosystems from direct and indirect human impact, access to the Refuge has been far more restricted than is typical of most National Wildlife Refuges. The Shoals are considered

especially sensitive due to the large populations of the endangered Hawaiian monk seal and Hawaiian green sea turtle. Although the general public is not allowed to visit the Refuge, whenever possible the Service has permitted selected media and scientific use of the Shoals. Research on seals, turtles, sharks, a number of seabird species, and even astronomical observations have been conducted within the Shoals. The access afforded by the landing strip has allowed the Service to fly in journalists and film crews in order to educate a broader audience about the beauty and fragility of this unique refuge.

Direction for land use is not expected to change with the implementation of this project. Activities would continue to include monitoring and recovery of endangered species, performing long-tern biological research studies, public outreach projects, monitoring for, and deterring, illegal incursions into Refuge waters by fishing and pleasure vessels, providing support for medical evacuations from vessels, search and rescue missions, and research expeditions.

9. Project Schedule

9a Provide the estimated date or dates on which the activity will begin and end:

Estimated start of construction activity is May 2002, with a construction period of approximately 24 months. Project completion is estimated to be May 2004

9b Provide the date or dates that the discharge will take place:

Dates of discharge will coincide with dates of construction activity.

10. Site-Specific Best Management Practices (BMP) Plan

10a Maps are attached - Yes/No:

Yes. Maps are located within the Preliminary Draft Environmental Assessment. Complete blueprints for both the steel sheet pile and rock revetment accompanies this application.

10b Site Characterization:

Tern Island, located at the northwest tip of the outer crescent, is the largest (approximately 3100 ft. by 500 ft., or 34 acres) of the sand islands. It presently comprises about half of the emergent land mass in the atoll. A 3100 ft. long by 250 ft. wide compacted coralline runway is the island's predominant feature. The Service utilizes the barracks, boathouse, and generator building that were built by the USCG in 1973, as well as a tractor shed, fuel shed, two pump-houses, and five redwood water tanks.

The northern shoreline of Tern Island is exposed to storm waves from the northeast through northwest directions. Storm waves break on the fringing reef margin and reform across the reef flat, the average elevation of which is at -2 feet MLLW. Tern Island receives direct attack from reformed storm waves along the northern, eastern and western faces. The southern or leeward shoreline of Tern Island is sheltered by the interior expanse of the shoals, where the consistently calm conditions have allowed the development of the more stable accreted beach.

Tern Island soils are sparse and have formed above the corraline material excavated from the reef flat to build the island. Bird guano comprises a major portion of the soil and has contributed to the formation of some humus in vegetated areas.

10c Construction Sequence and Duration:

Sequence will be determined by the contractor, although it is expected that the sheet pile bulkhead on the west side will be constructed first to allow the new docking facilities to be utilized. The sheet pile work will be followed by the construction of the revetment, and small boat ramp and dock. The entire construction period is estimated to be approximately 24 months.

10d Construction Method:

The anticipated procedure for installing the new sheet pile bulkhead would be as follows:

1. Drive the new sheet pile wall to the proper depth on the seaward side of the existing sheet pile wall.

2. Excavate directly behind the existing sheet pile wall, down to approximately the seabed elevation, relieving the lateral earth pressure against the existing sheet pile wall.

3. Remove any existing elements such as the existing sheet pile, anchor sheet pile, tie rods, or wale that may be interfering with the new construction.

4. Drive new anchor sheet pile wall.

5. Install new ties rods and wale.

6. Backfill behind the new sheet pile wall up to a level slightly below the new concrete cap.

7. Install the reinforcing and formwork for the new pile cap.

8. Pour the concrete for the new pile cap.

9. Remove the formwork for the pile cap.

10. Continue backfilling behind the new sheet pile wall up to finish grade.

11. Sheet pile will be driven using: crane, vibratory hammer, lowboy, compressor and miscellaneous small tools.

The anticipated procedure for installing the rock revetment would be as follows:

1. Remove existing sheet pile to an elevation of -2.0 feet MLLW, or remove entirely.

2. Create proper grade for revetment.

3. Place geotextile fabric on grade.

4. Place underlayer stone.

5. Place basalt armor stone. Stone will be placed by a crane or backhoe with trucks and loaders supplying material to the revetment crew.

6. Back fill to specified grade.

The anticipated procedure for installing the small boat ramp would be as follows:

1. Excavate directly behind the existing sheet pile wall the width of the new boat ramp , down to approximately the seabed elevation, relieving the lateral earth pressure against the existing sheet pile wall.

2. Remove any existing elements such as the existing sheet pile, anchor sheet pile, tie rods, or wale that may be interfering with the new construction.

3. Drive new anchor sheet pile wall along the sides of the ramp site.

4. Install new ties rods and wale.

5. Backfill behind the new sheet pile wall up to a level slightly below the new concrete cap.

6. Install the reinforcing and formwork for the new pile cap.

7. Pour the concrete for the new pile cap.

8. Remove the formwork for the pile cap.

9. Continue backfilling behind the new sheet pile wall up to finish grade.

10. Create proper grade for ramp.

11. Place pre-formed concrete planks below water line.

12. Build forms for above waterline cast-in-place concrete ramp.

13. Remove forms.

14. Back fill to specified grade.

The anticipated procedure for installing the small boat dock would be as follows:

1. Drive the new sheet pile wall to the proper depth on the seaward side of the existing sheet pile wall.

2. Excavate directly behind the existing sheet pile wall, down to approximately the seabed elevation. This would relieve the lateral earth pressure against the existing sheet pile wall.

3. Remove any existing elements such as the existing sheet pile, anchor sheet pile, tie rods, or wale that may be interfering with the new construction.

4. Drive new anchor sheet pile wall.

5. Install new ties rods and wale.

6. Backfill behind the new sheet pile wall up to a level slightly below the new concrete cap.

7. Install the reinforcing and formwork for the new pile cap.

8. Pour the concrete for the new pile cap.

9. Remove the formwork for the pile cap.

10. Continue backfilling behind the new sheet pile wall and create proper grade for adjacent small boat platform.

11. Build forms for cast-in- place concrete boat platform.

12. Pour concrete.

13. Remove forms.

14. Back fill to specified grade.

10e Characteristics of the discharge and potential pollutants associated with the proposed construction activity:

Expected Discharge

The material to be discharged into the waters surrounding Tern Island will be clean basalt stone quarried on Oahu for the rock revetment, geotextile fabric under the stone, new sheet piling, pre-cast concrete planks for the boat ramp below water line, temporary installation of silt curtains to protect the marine environment, and coral rubble and sand from local excavation for backfilling the new sheet pile and creating proper grade for the rock revetment. Estimated quantities of construction materials to be placed below the Spring High Tide Line are found in Table 1 below.

Table 1. Expected Discharge

Source	Composition	Quantity	Duration
Armor Stone	Basalt	9,000 Cubic Yards	To Be Determined by contractor
Geotextile Fabric	Synthetic Fabric	7,560 Square Yards	To Be Determined by contractor
Sheet pile	Steel	500 Tons - including above waterline	To Be Determined by contractor
Pre-cast Concrete	Concrete	11 Cubic Yards	To Be Determined by

Planks			contractor
Silt Curtains	Synthetic	To Be Determined	To Be Determined by contractor
Fill Material behind new sheet pile	Coral Rubble and Sand	800 Cubic Yards	To Be Determined by contractor
Fill Material to create grade for rock revetment	Coral Rubble and Sand	1,175 Cubic Yards	To Be Determined by contractor

Potential Discharge

Potential for discharge (Table 2) will result from near shore excavation and grading necessary to prepare the small boat ramp foundation above the Spring High Tide Line. Cast-in-place concrete set in forms will be used following the grading. Cast-in-place concrete will also be used for the dock platform on the inland side of the sheet pile bulkhead as well as a three foot thick reinforced concrete cap for the entire length of the bulkhead. This cap would extend down from the top elevation of +6.5 feet MLLW to –2.5 feet below the MLLW. The concrete for the pilecap would be protected within forms until it had set. Potential discharge of fuel and lubrication oils also exists from the operation and maintenance of the equipment involved on the work site. Storage of fuel and lube oils could also be a source of potential discharge. However, these potential discharges will be minimized by storing these materials within lined containment berms, or other secondary containment devices, and requiring thorough preventative maintenance on all equipment throughout the project.

Table 2. Potential Discharge

Source	Composition	Quantity	Duration

Cast-in-place concrete for boat ramp above waterline	Concrete	21 Cubic Yards	To Be Determined by contractor
Cast-in-place concrete for dock platform	Concrete	54 Cubic Yards	To Be Determined by contractor
Cast-in-place Concrete for sheet pile cap below waterline	Concrete	280 Cubic Yards	To Be Determined by contractor
Diesel fuel	Petroleum product	Undetermined	Potential throughout project duration
Hydraulic oil	Petroleum product	Undetermined	Potential throughout project duration
Lubrication oil	Petroleum product	Undetermined	Potential throughout project duration

10f Characteristics of the excavated material:

Coral rubble and sand will be excavated from near-shore waters to create the proper grade and toe stone footing necessary to the rock revetment. Excavation will also be neccessary on the inland side of the existing bulkhead to create proper grade for the revetment and to remove the existing sheet pile bulkhead. These materials will be reused on-site as backfill for bedding material for the revetment and back fill for the new sheet pile bulkhead. Excavated fill material will be stockpiled within three distinct areas located along the existing runway on the island, documented on the construction blueprints. Materials to be excavated and quantities of fill are listed in Table 3 below for both above and below the Spring High Tide Line.

Table 3. Excavated Material

Source	Composition	Quantity	Duration
Excavation for rock revetment grade below waterline	Coral Rubble and Sand	13,300 Cubic Yards	To be determined by contractor
Excavation for rock revetment grade above waterline	Coral Rubble and Sand	5,700 Cubic Yards	To be determined by contractor
Total volume of fill below water line for rock revetment grade	Coral Rubble and Sand	1,175 Cubic Yards	To be determined by contractor
Total volume of fill above water line for rock revetment grade	Coral Rubble and Sand	3,525 Cubic Yards	To be determined by contractor
Total volume of fill below water line behind new sheet pile	Coral Rubble and Sand	800 Cubic Yards	To be determined by contractor
Total volume of fill above water line behind new sheet pile	Coral Rubble and Sand	2,200 Cubic Yards	To be determined by contractor

10g Proposed control measures and/or treatment:

During all phases of the Tern Island shoreline protection reconstruction, the contractor will be required to adhere to applicable Federal and State of Hawaii water quality standards, air quality and noise regulations. The contractor will be required to develop an Environmental Protection Plan (EPP) and a Best Management Practices (BMP) plan which will detail the measures to be used

to comply with applicable regulations and insure that secondary environmental effects of construction operations are minimized. The contractor's plan is a standard requirement in Corps construction contracts and must be approved by the Corps' Contracting Officer, who is responsible for assuring that the contractor's operations do not violate applicable laws and regulations.

The following methods, measures and practices shall be applied by the contractor before, during and after potential pollution-producing activities to minimize pollution to the project location and surrounding waters. As necessary, these will be supplemented by the contractor's site-specific BMP's, which would be prepared in accordance with the DOH's "Guidelines for Construction Best Management Practices (BMP) Plan".

1. Control of potential suspended solids and turbidity will be managed through the use of silt screens/curtains and sand bags. Dimensional requirements will be determined in the field. These measures will be erected prior to the start of construction and will be regularly inspected to ensure optimal operating performance.

2. The contractor's water quality monitoring plan will include monitoring of all water areas affected by construction activities in accordance with the Scope of Work Marine Water Quality Monitoring Services for the project. In the event the water quality baseline and State standards are exceeded, the contractor will be required to suspend the operation or operations causing water quality to degrade below the standards until the condition is corrected.

3. The contractor will be required to manage work and storage areas to prevent sediment from entering nearby waters, to avoid pollution of surface and ground waters, and to properly dispose of wastes.

4. Soil conditions adjacent to the work sites will be inspected for stability. The contractor and construction crew will be instructed to avoid use of unstable or highly erodible areas for staging of construction equipment, materials, and wastes. No erodible materials will be stockpiled adjacent to the shoreline.

5. All construction materials used (e.g., fill, underlayer stones, armor stones and other materials) shall be consistent with the requirements of Hawaii Administrative rules, Title 11 Chapter 54, Water Quality Standards. No contaminated or otherwise unsuitable construction materials shall be used to construct the revetment.

6. The Contractor shall ensure that all gasoline and /or diesel equipment, accessory fuel storage tanks, and other sources of petroleum, oils and lubricants are properly stored in leak-proof storage tanks or containers. All construction equipment will be inspected prior to mobilization to ensure against leakage of oil, fuel, coolant or hydraulic fluid into the receiving waters. Similarly, storage containers of oil, fuel, coolant, or hydraulic fluid will be inspected and properly stored to ensure against leakage. Any equipment or containers found to be leaking will be immediately replaced or repaired.

7. Prevent oil or other hazardous substances from entering the ground, drainage area, or local bodies of water.

a. Surround all temporary fuel oil or petroleum storage tanks with a temporary earth berm, lined with an impermeable membrane, of sufficient size and strength to contain the contents of the tanks in the event of a leak or spill.

b. The contractor shall have a spill kit on site which includes absorbents, 55 gallon drums, pump, oil solvents, personal protection equipment, etc. The contractor shall provide training to his personnel regarding oil/hazardous materials spills.

8. Conduct the fueling and lubricating of equipment, vessels, and motor vehicles to protect against spills and evaporation. Dispose of lubricants and excess oils in accordance with applicable Federal, State, and Refuge regulations.

9. Store hazardous wastes in approved containers labeled to identify the type of waste and the date the container was filled. Remove the containers from the project site, and store and dispose of hazardous wastes in accordance with applicable environmental regulations.

10. Pick up solid wastes and place in containers which are regularly emptied. Prevent contamination of the sites when handling and disposing of wastes.

11. As much as practicable, construction activities will be suspended during storm conditions or conditions of heavy tidal surges which could contribute to increased turbidity of near shore waters.

13. Keep dust down at all times, including during non-working periods.

14. Stockpiling of excavated material below the high water mark will not be allowed.

15. Quarried rock will have been steam-cleaned prior to being shipped up to Tern.

16. The contractor shall instruct construction personnel on these Best Management Practices and all other site specific practices listed in the contractor's Environmental Protection Plan For Tern Island.

11. Applicable Monitoring and Assessment Plan:

See accompanying document.

12. Mitigation/Compensation Plan

Long term coral reef monitoring transects shall be established and surveyed before during, and after the construction project both up-drift (east) and down-drift (west) of Tern Island at healthy coral reef sites closest to the construction area. Although adverse impacts to live coral reef areas is unlikely, the coral reef monitoring program will serve as an added precaution to evaluate potential impacts and mitigate them if the impacts are thought to be caused by construction activity and if the effects are determined to be significant. At a minimum, the reef life along the transects shall be observed in a regular basis and construction activity modified accordingly to eliminate or reduce impacts to acceptable levels that are caused by construction.

13. Supporting Documents

1. Preliminary Draft Environmental Assessment: Reconstruction of the Shore Protection for Tern Island.

2. Final Submittal Basis of Design Report (sheet pile) for Proposed Improvements to Tern Island, State of Hawaii in Conjunction with the U.S. Fish and Wildlife Service, Pacific/Remote Islands, National Wildlife Refuge Complex

3. Basis of Design Report (rock revetment), Shore Protection, Tern Island, French Frigate Shoals, Hawaii

4. Blueprint for steel sheet pile bulkhead.

5. Blueprint for rock revetment.

14. Additional Information

None

15. Statement of Choice of Publication

Public Notice of Proposed Action.

16. Authorization of Representative

United States Army Corps of Engineers
Building 230
Fort Shafter, Hawaii 96858-5440

District Engineer, Honolulu Engineering District

Phone: (808) 438-1069
Fax: (808) 438-8351

Authorization Statement - Option "C": This authorization begins upon receipt of the Section 401 WQC and ends upon termination of the discharge to State waters.

17. Certification

Certification page attached.

*** Application Checklist attached.**

Applicable Monitoring and Assessment Plan

Section 401 Hawaii State Water Quality Certification Application
Part 11
Tern Island Shore Protection

11. Applicable Monitoring and Assessment Plan

a. Description of Methods and Means

1. The Contractor shall monitor for the following parameters:

Table 1. Analytical Parameters Based on a Two Year Construction Period.

Parameter	Reporting Units	Suggested Analytical Method	Holding Times	Preservation
Photo Documentation	n/a	n/a	n/a	
pH	pH units	field portable	immediate	
Turbidity	NTU	field portable	48 hrs	
TSS	mg/L	EPA or Standard Methods	7 days	4 °C
TPH	mg/L	418.1	28 days	pH < 2 H_2SO_4
PCB	mg/L	EPA 8082	7d/40d	4 °C
Lead	mg/L	EPA 6010B or 6020	6 mos	pH < 2 HNO_3

2. The Contractor shall use these guidelines for sampling:

Table 2. Explanation of Sample Collection Guidelines.

Sample Location	Sample Type	Sample Depth	Sampling Devices	Container
Various, Specified on Maps	Discrete Grab	4 inches below surface	Thief Sampler Kemmerer/Van Dorn/Alpha	TSS - 1L HDPE PCB - 2-1L amber glass TPH - 2 1L glass Lead - 500 ml HDPE

3. The Contractor shall follow prescribed **Pre-Construction** sampling schedule:

Table 3. Pre-Construction Schedule.

Parameter	Number of Pre-Construction Sampling Events
Photo Documentation	1
pH	1
Turbidity	10 over two week period
TSS	10 over two week period*
TPH	1
PCB	1
Lead	1

*Since transportation to and from Tern Island is limited, the time required to obtain 10 samples may be extended to accommodate sample holding times.

4. The Contractor shall follow prescribed sampling schedule **during construction:**

Table 4. Sampling Schedule During Construction

Parameter	Number of Concurrent Construction Sampling Events
Photo Documentation	1 per month during in-water work
pH	1 per month during in-water work
Turbidity	Twice daily at 1 hour after start of in-water work and 1 hour before end of in water work
TSS	1 per month during in-water work
TPH	1 per month during in-water work
PCB	1 per month during in-water work
Lead	1 per month during in-water work

5. The Contractor shall follow prescribed special sampling schedule **during construction around Bulky Dump Area (Station 2+90 to Station 3+95):**

In order to prevent PCB contaminated material from entering the water, an impermeable barrier will be placed around the 105 ft. (est.) stretch of shore that may be affected by the Bulky Dump. The impermeable barrier must remain in place until all in-water construction activities within the bulky dump area have been completed. Once completed the barrier will be removed. Samples shall be taken 1 hour after start of in-water work and 1 hour before end of in-water work. If the "Determining" sample is 10 NTU greater than the "Reference" sample, the Contractor will be required to stop field work and investigate the source of the elevated reading. The Contractor will be required to employ corrective action if the elevated reading was a result of the construction activity. The sampling times for the two stations shall not differ by more than ten minutes in order to provide concurrent data.

6. The Contractor shall follow prescribed **Post-Construction** sampling schedule:

Table 6. Post Construction Schedule.

Parameter	Number of Post-Construction Sampling Events
Photo Documentation	1
pH	1
Turbidity	1
TSS	1
TPH	1
PCB	1
Lead	1

7. Sampling Method.

General and specific guidelines for sampling can be found in "Standard Methods, for the Examination of Water and Wastewater, Part 1060. Access to these monitoring/sampling sites (boat, kayak,etc.) will be decided either in the Government scope of work applicable to this project or proposed by the contractor in the Sampling and Analysis Plan.

8. Sampling Locations of Monitoring Points.

a. **Pre-construction** sampling. A total of 12 sampling points will be collected starting with sampling point PC-1 and ending with PC-12. The locations of samples PC-1 through PC-11 will be taken 25 feet offshore from existing sheet pile, unless otherwise noted, and four inches below the surface of the water.

PC-1 shall be located 100 ft. from the beginning of the southwestern portion of the existing sheet pile.

PC-2 shall be taken 150 ft from the southwestern corner of the island.

PC-3 shall be taken off the southwestern corner of the existing sheet pile.

PC-4 shall be taken off the northwestern corner of the island.

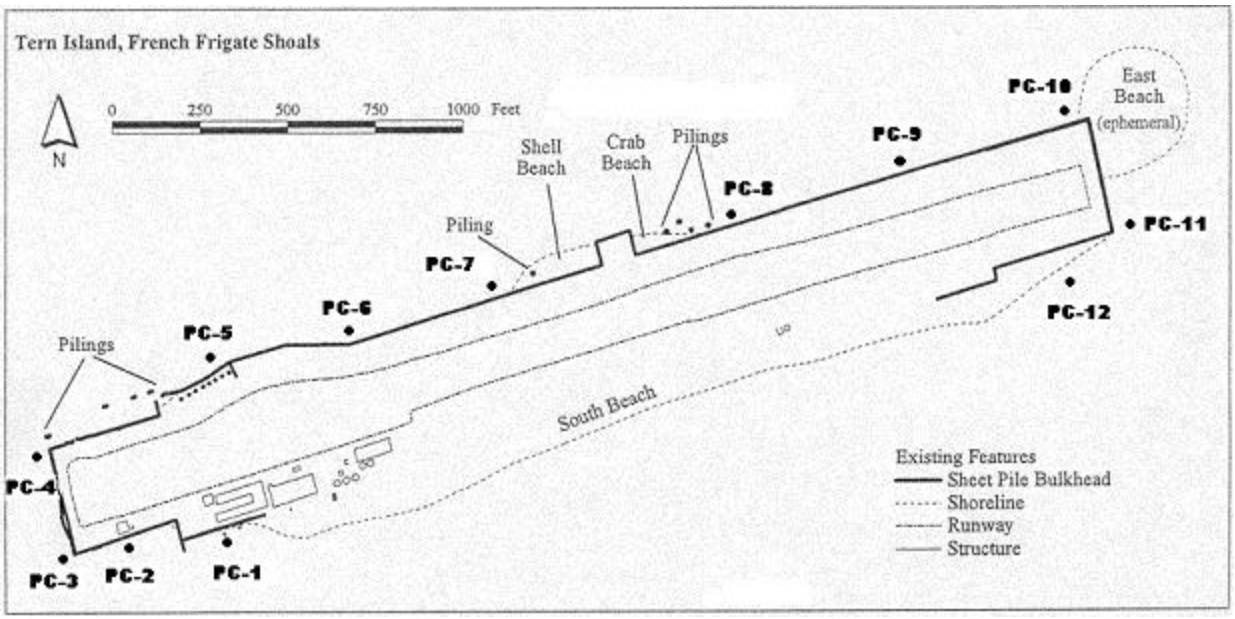
PC-5 through PC-10 shall be taken at 500 ft intervals measured from the northwestern corner of the island. If PC-7 or PC-8 happens to fall on Shell Beach or Crab Beach, then the samples shall be taken either 50 feet from the existing sheet pile or 10 feet offshore.

PC-11 shall be taken off the southeastern corner of the existing sheet pile.

PC-12 shall be taken 50 ft from the existing sheet pile at a midpoint between the southeastern corner and the terminus of the existing sheet pile.

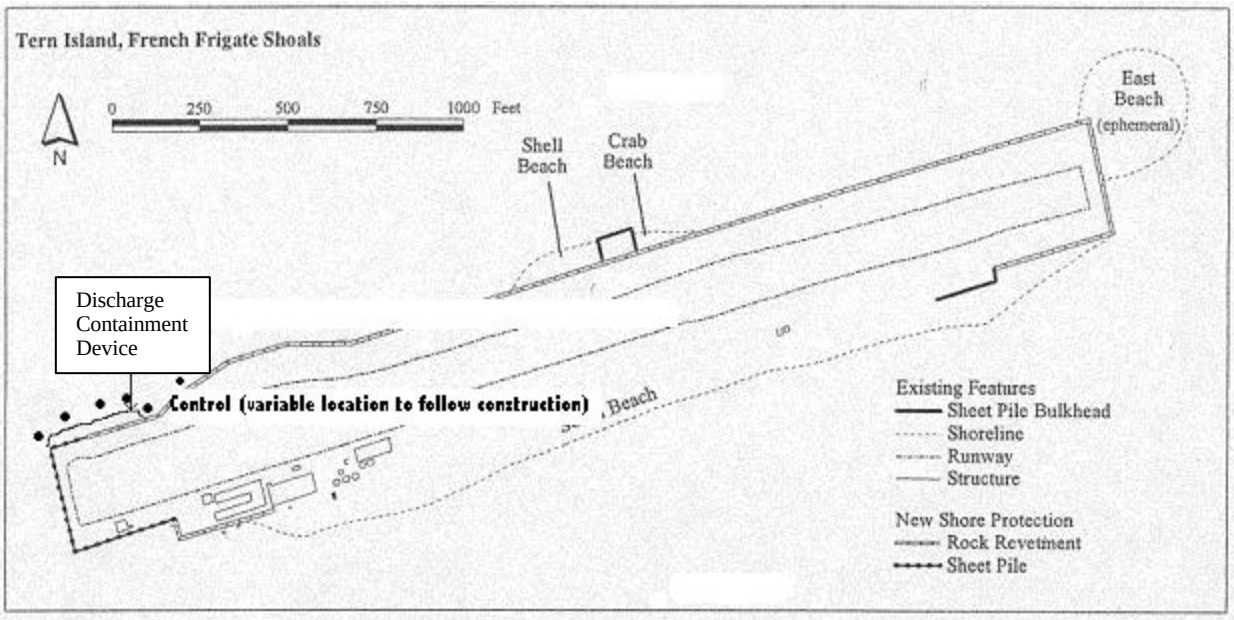
Approximate sampling locations for pre-construction are shown in Figure 1 below.

Figure 1. Designated Locations for Pre-Construction Activity



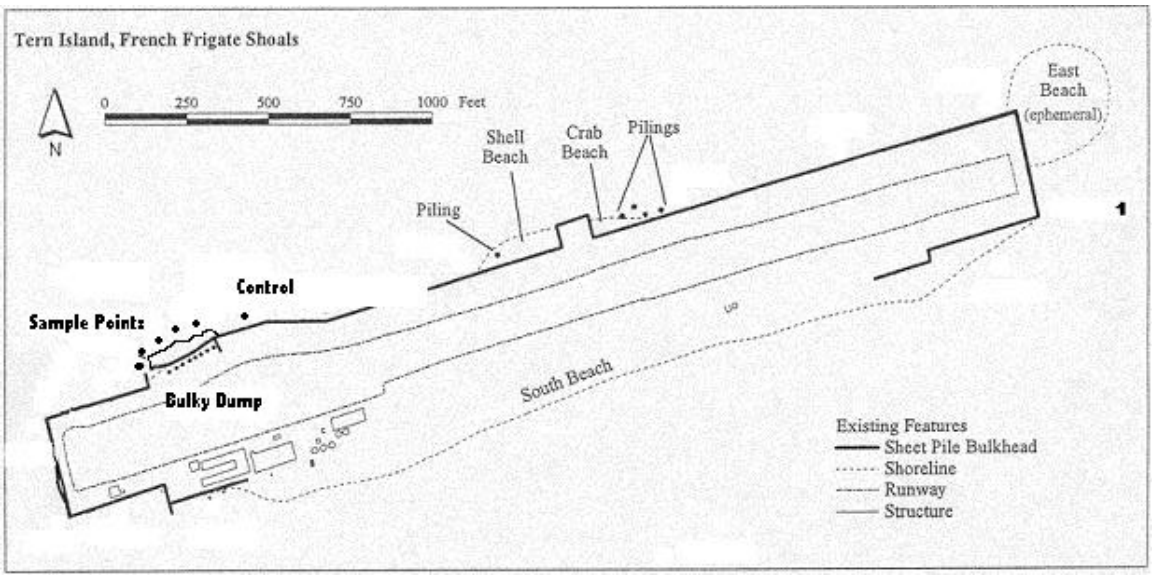
b. Sampling **during construction**. Five samples will be collected around the perimeter of the construction activity. These sampling points shall be located around the perimeter of the discharge containment device, equally spaced, 25 feet offshore from the device and 4 inches below the surface of the water. One control sample shall be collected 25 feet offshore, 100 feet up-current of the active construction area, at 4 inches below the surface of the water. Samples shall be taken 1 hour after start of in-water work and 1 hour before end of in-water work. If the "Determining" sample is 10 NTU greater than the "Control" sample, the Contractor will be required to stop field work and investigate the source of the elevated reading. The Contractor will be required to employ corrective action if the elevated reading was a result of the construction activity. The sampling times for the two stations shall not differ by more than ten minutes in order to provide concurrent data. Example sampling locations during construction are shown in Figure 2 below.

Figure 2. Example Locations around Discharge Containment Device during Active Construction



c. **Special Bulky Dump** sampling.

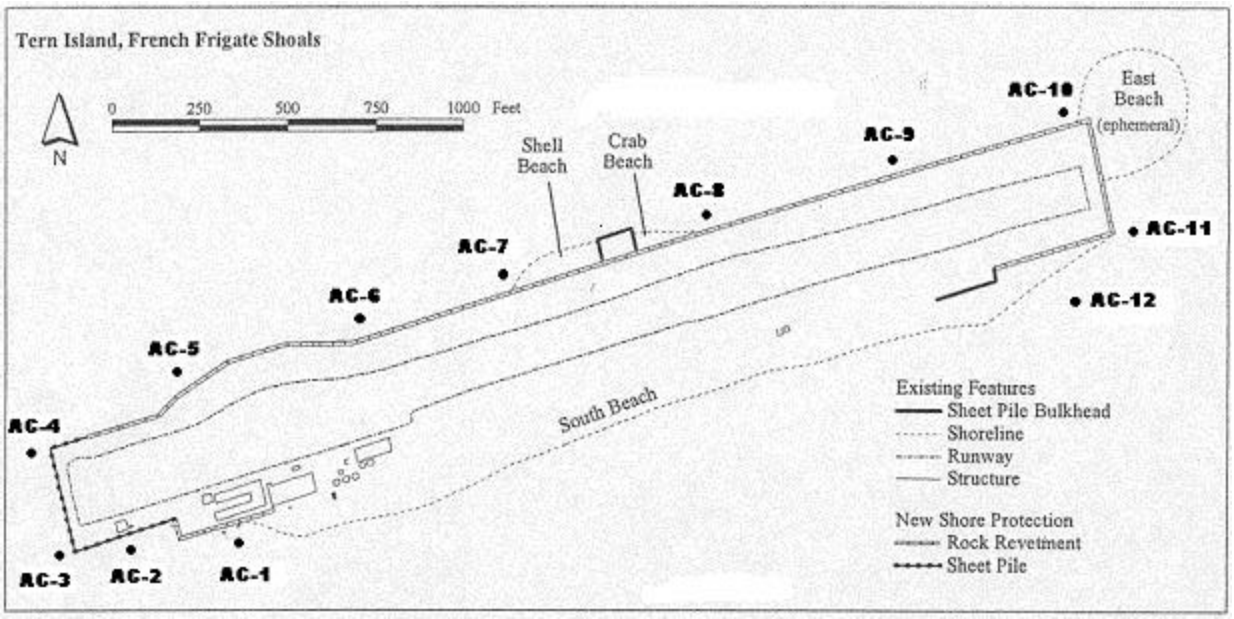
Figure 3. Sampling points for bulky dump.



d. Sampling for **post-construction** will be similar to pre-construction with sampling points taken 25 feet offshore measured from the new sheet pile and rock revetments versus old sheet pile at 4 inches below the surface of the water.

Approximate sampling locations for post-construction are shown in Figure 4 below.

Figure 4. Designated Locations for Post-Construction Activity



9. Quality Control and Quality Assurance

The contractor shall establish Quality Assurance/Quality Control procedures which serve to support the results of field and laboratory data through a Sampling and Analysis Plan. At a minimum, this shall include procedures for sampling equipment decontamination, field instrument calibration, sample duplicates, proper container use, preservation, holding times, chain of custodies, shipping arrangements, etc.

b. Monitoring of Pollution Control Measures

The use of field documentation and chemical/physical data shall be used to monitor the effectiveness of pollution control measures. The monitoring will focus on the ability of the discharge containment device(s) to contain any pollutants generated within the work area as a result of this project. If there are any deficiencies found in the pollution control measures, they must be corrected immediately.

c. Reporting Requirements

Pre-Construction monitoring data reports shall be received by the COR no later than one (1) calendar month after the sampling event which encompassed the entire list of parameters. The Corps will then forward this information to the HDOH. For the remaining nine (9) sampling events for TSS and Turbidity, these reports shall be received by the COR no later than fourteen (14) calendar days after each sampling event. The Corps will then forward this information to the HDOH.

During-Construction monitoring data reports shall be received by the COR no later than one (1) calendar month after the sampling event. The Corps will then forward this information to the HDOH. If the "Determining" sample is 10 NTU greater than the "Control" sample, the Contractor will be required to stop field work and investigate the source of the elevated reading. The Contractor will be required to employ corrective action if the elevated reading was a result of the construction activity.

Post-Construction monitoring data reports shall be received by the COR no later than one (1) calendar month after the sampling event. The Corps will then forward this information to the HDOH.

Submittal Address: State of Hawaii
Department of Health
Environmental Management Division
Clean Water Branch
P.O. Box 3378
Honolulu, Hawaii 96801-3378

d. Monitoring Results

The Contractor shall provide an assessment of the construction's impact on the aquatic environment. The resulting monitoring data will be used to assess any water quality degradation over baseline levels that may have resulted from this activity. The collection, analysis and evaluation of pre-construction and control sample data will help determine if the surrounding water had been impacted by this activity. Monitoring results will also be compared to applicable State water quality standards provided the baseline and/or control results were initially at or below these standards. Present available information indicate that there is minimal, if any, special aquatic sites that may be affected by this activity.

This report format was designed so that it can be quickly determined which labs are validated for a given list of parameters. The numbers in the first column of the following page tell which column a particular parameter is listed under. If more than one parameter is listed for a number, then if the lab is validated for any of the parameters a '+' will appear in that column. A '+' will appear only if the lab has received either a good or a pass rating for a parameter. Not all parameters are included on the report. If the parameter you need does not appear in the list on the following page please contact the person indicated at the end of this page.

A quick way to locate a lab which is validate for all the parameters you require would be to cut a strip of paper that is long enough to stretch across all columns and just wide enough to cover just one row. Then line up the paper with the report and use a hole punch to mark the parameters desired.

ex.

```
A ...     E                P        ... V
  O ...     P                B        ... A

  W ...     S                S        ... W
  ---------------------------------------------
 |O         O                O           O  |
  ---------------------------------------------
```

Here we find that if a '+' shows up in each hole then that lab is validated for AO W, EP S, PB S, VA W. By looking at the first page of the report we find that it looks like this

```
...
3  AVO W  AROMATIC VOLATILE ORGANICS   AVO  WATER EPA 8020
...
9  EXP S  EXPLOSIVES                   EXP  SOIL  EPA 8330
...
25 PCB S  POLYCHLORINATED BYPHENYLS    PCB  SOIL  EPA 8080
...
36 VOA W  VOLATILE ORGANICS            VOA  WATER EPA 8240A
          VOLATILE ORGANICS            VOA  WATER EPA 8260A
```

(Notice that if the lab is validated for VOA Water by either EPA method a '+' appears in that column.)

An alternative method is to simply take the edge of a sheet of paper and put a pen mark where each column you want appears. Then any lab which has a '+' where you have a mark is a lab you can use.

Once the labs have been narrowed down to only those pertinent labs. The address, phone, number and POC can be located by looking up the lab name or number on the following report. A semicolon in the first line of the address indicates that the following information should be placed on the next line of the address. A plus at the end of the address indicates that the address was more than three lines long if this is the case call to get the complete address.

LAB ADDRESS NOTES:

(1) Labs marked with "8(a)" are approved by Small Business Administration for Section 8(a) program.

(2) Labs marked with "UST" are validated only for fuel storage tank removal projects and shall not be used for HTRW projects without inspection by the USACE HTRW MCX.

WARNING: Although the parameters are listed in alphabetical order they can change columns from month to month. DO NOT!!! assume that if you use a piece of paper like described above that you will be able to use it again for next month.

WARNING: Lab numbers CHANGE FREQENTLY do not assume that if a lab is number 5 today that it will be number 5 next month. Always make sure that the date on your parameters chart and the date on your lab names list match up.

Any questions please contact: Laboratory Validation Coordinator Phone: (402) 697-2574 FAX: (402) 697-2595

Sample Name	Header	Column	Abbreviation	Matrix	Method
13 PP METALS AND Ba	MET2	18	METALS2	WATER	EPA 6010A/7000 SERIES
13 PP METALS AND Ba	MET2	19	METALS2	SOIL	EPA 6010A/7000 SERIES
13 PP Metals and Ba	MET2	18	METALS2	Water	EPA 6010B/7000 SERIES
13 PP Metals and Ba	MET2	19	METALS2	Soil	EPA 6010B/7000 SERIES
8 RCRA METALS	MET1	16	METALS1	WATER	EPA 6010A/7000 SERIES
8 RCRA METALS	MET1	17	METALS1	SOIL	EPA 6010A/7000 SERIES
8 RCRA Metals	MET1	16	METALS1	Water	EPA 6010B/7000 SERIES
8 RCRA Metals	MET1	17	METALS1	Soil	EPA 6010B/7000 SERIES
AIR	AIR	1	AIR	AIR	TO-4A/10A
AROMATIC VOLATILE ORGANICS	AVO	3	AVO	WATER	EPA 8020A
Aromatic Volatile Organic Compounds	AVO	3	AVO-N	WATER	EPA 8021B
Aromatic Volatile Organics	AVO	3	AVOs	WATER	EPA 8021
Aromatic Volatile Organics	AVO	3	AVOs	WATER	EPA 8021B
AromaticVolatile Organic Compounds	AVO	4	AVO-N	Soil	EPA 8021B
BENZENE, TOLUENE, ETHYLBENZENE, XYLENES	BTEX	7	BTEX	WATER	EPA 8020A
BENZENE, TOLUENE, ETHYLBENZENE, XYLENES	BTEX	7	BTEX	WATER	EPA 8240A
BENZENE, TOLUENE, ETHYLBENZENE, XYLENES	BTEX	7	BTEX	WATER	EPA 8260A
Benzene, Toluene, Ethylbenzene, Xylenes	BTEX	7	BTEX	WATER	EPA 8021
Benzene, Toluene, Ethylbenzene, Xylenes	BTEX	7	BTEX	WATER	EPA 8021B
Benzene, Toluene, Ethylbenzene, Xylenes	BTEX	7	BTEX-N	WATER	EPA 8021B
CHLORINATED HERBICIDES	HERB	13	HERB	WATER	EPA 8150A
COMMOM ANIONS	ANIO	2	ANIONS-N	Water	EPA 9056
COMMOM ANIONS	ANIO	2	ANIONS-N	Water	EPA 9056/300.0
COMMON ANIONS	ANIO	2	ANIONS	WATER	EPA 300 SERIES
COMMON ANIONS	ANIO	2	ANIONS	WATER	EPA 300.0
COMMON ANIONS	ANIO	2	ANIONS	WATER	EPA 300.0
COMMON ANIONS	ANIO	2	ANIONS-N	WATER	EPA 300 SERIES
COMMON ANIONS	ANIO	2	ANIONS-N	WATER	EPA 300.0
COMMON ANIONS	ANIO	2	ANIONS-N	WATER	EPA 300.0/300 series
CYANIDE	CN	8	CN	WATER	EPA 9010A/9012
Chlorinated Herbicides	HERB	13	HERB	WATER	EPA 8151A
Chlorinated Herbicides	HERB	13	HERB-N	WATER	EPA 8151A
Cyanide	CN	8	CN-N	WATER	EPA 9010B/9012A
Cyanide	CN	8	CN-N	WATER	EPA 9010B/9014
Cyanide	CN	8	CN-N	WATER	EPA 9012A
DIOXINS/FURANS	DIOX	10	DIOXINS	Soil	EPA 8280
DIOXINS/FURANS	DIOX	10	DIOXINS	Soil	EPA 8280A
DIOXINS/FURANS	DIOX	10	DIOXINS	Soil	EPA 8290
DIOXINS/FURANS	DIOX	10	DIOXINS-N	Soil	EPA 8280A
DIOXINS/FURANS	DIOX	10	DIOXINS-N	Soil	EPA 8290
Dioxins	AIR	1	DIOXINS	AIR	TO-9
Dioxins/Furans	AIR	1	AIR	Air	NSPS-23
Dioxins/Furans	DIOX	9	DIOXINS	Water	EPA 1613
Dioxins/Furans	DIOX	9	DIOXINS	Water	EPA 8280
Dioxins/Furans	DIOX	9	DIOXINS	Water	EPA 8280A
Dioxins/Furans	DIOX	9	DIOXINS	Water	EPA 8290
Dioxins/Furans	DIOX	9	DIOXINS-N	Water	EPA 8280A
Dioxins/Furans	DIOX	9	DIOXINS-N	Water	EPA 8290

Dioxins/Furans	DIOX	10	DIOXINS	Soil	EPA 1613

Sample Name	Header	Column	Abbreviation	Matrix	Method
EXPLOSIVES	EXP	11	EXP	WATER	EPA 8330
EXPLOSIVES	EXP	11	EXP-LC/MS	WATER	EPA 8321A
EXPLOSIVES	EXP	11	EXP-LCMS-N	WATER	EPA 8321A
EXPLOSIVES	EXP	11	EXP-N	WATER	EPA 8330
EXPLOSIVES	EXP	12	EXP	SOIL	EPA 8330
EXPLOSIVES	EXP	12	EXP-LC/MS	SOIL	EPA 8321A
EXPLOSIVES	EXP	12	EXP-LCMS-N	SOIL	EPA 8321A
EXPLOSIVES	EXP	12	EXP-N	SOIL	EPA 8330
Explosives	EXP	11	Expl (GC)	Water	EPA 8095
Explosives	EXP	12	Exp (GC)	Soil	EPA 8095
HALOGENATED VOLATILE ORGANICS	HVO	14	HVO	WATER	EPA 8010A
Halogenated Volatile Organics	HVO	14	HVOs	WATER	EPA 8021
Halogenated Volatile Organics	HVO	14	HVOs	WATER	EPA 8021B
Halogenated Volatile Organics	HVO	14	HVOs-N	WATER	EPA 8021B
Halogenated Volatile Organics	HVO	15	HVOs-N	SOIL	EPA 8021B
NELAC Polychorinated Biphenyls	PCB	24	N-PCBs	WATER	EPA 8082
Non-Methane Organic Compounds	AIR	1	NMOCs	AIR	TO-12
OIL AND GREASE	O&G	22	O&G	WATER	EPA 413.1
OIL AND GREASE	O&G	22	O&G	WATER	EPA 413.2
OIL AND GREASE	O&G	22	O&G - N	WATER	EPA 413.1
Oil and Grease	O&G	22	O&G	WATER	EPA 1664
Oil and Grease	O&G	22	O&G - N	WATER	EPA 1664
Oil and Grease	O&G	22	O&G - N	WATER	EPA 1664A
Organochlorine Pestcides	PEST	26	PEST	WATER	EPA 8081
Organochlorine Pestcides	PEST	26	PEST	WATER	EPA 8081A
Organochlorine Pestcides	PEST	26	PEST-N	WATER	EPA 8081A
Organochlorine Pesticides	AIR	1	PEST	AIR	TO-10A
Organochlorine Pesticides	PEST	26	PEST	WATER	EPA 8080
PHENOLICS	PHEN	28	PHENOLIC-N	WATER	EPA 9065/9066
PHENOLICS	PHEN	28	PHENOLICS	WATER	EPA 9065/9066
PHENOLS	PHEN	28	PHENOLS	WATER	EPA 8040A
POLYCHLORINATED BIPHENYLS	PCB	24	PCB	WATER	EPA 8080A
POLYCHLORINATED BIPHENYLS	PCB	25	PCB	SOIL	EPA 8080A
POLYCHLORINATED BIPHENYLS-Congeners	PCB	25	PCB	SOIL	EPA 1668
POLYNUCLEAR AROMATIC HYDROCARBONS	PAH	23	PAH	WATER	EPA 8100
POLYNUCLEAR AROMATIC HYDROCARBONS	PAH	23	PAH	WATER	EPA 8310
POLYNUCLEAR AROMATIC HYDROCARBONS	PAH	23	PAH-N	WATER	EPA 8310
Phenols	PHEN	28	PHENOLS	WATER	EPA 8041
Phenols	PHEN	28	PHENOLS-N	WATER	EPA 8041
Polychlorinated Biphenyls	PCB	25	PCBs	SOIL	EPA 8081
Polychorinated Biphenyls	PCB	24	PCBs	WATER	EPA 8081
Polychorinated Biphenyls	PCB	24	PCBs	WATER	EPA 8082
Polychorinated Biphenyls	PCB	24	PCBs-N	WATER	EPA 8082
Polychorinated Biphenyls	PCB	25	PCBs	SOIL	EPA 8082
Polychorinated Biphenyls	PEST	27	PCBs-N	SOIL	EPA 8082
Polynuclear Aromatic Hydrocarbons	AIR	1	PAHs	AIR	TO-13A
RADIOCHEMICAL	RAD	29	RAD	Water	
RADIOCHEMICAL	RAD	29	RAD-N	Water	

RADIOCHEMICAL	RAD	30	RAD	Soil

Sample Name	Header	Column	Abbreviation	Matrix	Method
RADIOCHEMICAL	RAD	30	RAD-N	Soil	
SEMIVOLATILE ORGANICS	BNA	5	BNA	WATER	EPA 8270A
SEMIVOLATILE ORGANICS	BNA	6	BNA	SOIL	EPA 8270A
Semivolatile Organics	BNA	5	BNA	WATER	EPA 8270B
Semivolatile Organics	BNA	5	BNA	WATER	EPA 8270C
Semivolatile Organics	BNA	5	BNA-N	WATER	EPA 8270C
Semivolatile Organics	BNA	6	BNA	SOIL	EPA 8270B
Semivolatile Organics	BNA	6	BNA	SOIL	EPA 8270C
Semivolatile Organics	BNA	6	BNA-N	SOIL	EPA 8270C
TAL METALS	MET3	20	METALS3	WATER	EPA 6010A/7000 SERIES
TAL METALS	MET3	21	METALS3	SOIL	EPA 6010A/7000 SERIES
TAL Metals	MET3	20	METALS3	Water	EPA 6010B/7000A SERIES
TAL Metals	MET3	20	METALS3-N	WATER	EPA 6010B/7000A SERIES
TAL Metals	MET3	21	METALS3	Soil	EPA 6010B/7000A SERIES
TAL Metals	MET3	21	METALS3-N	Soil	EPA 6010B/7000A SERIES
TOTAL ORGANIC CARBON	TOC	31	TOC	WATER	EPA 9060
TOTAL ORGANIC CARBON	TOC	31	TOC-N	WATER	EPA 9060
TOTAL PETROLEUM HYDROCARBONS	TPH	32	TPH	WATER	MOD EPA 8015
TOTAL PETROLEUM HYDROCARBONS	TPH	32	TPH	WATER	MOD EPA 8015
TOTAL PETROLEUM HYDROCARBONS	TPH	33	TPH	SOIL	MOD EPA 8015
TOTAL PETROLEUM HYDROCARBONS	TPH	33	TPH	SOIL	MOD EPA 8015
TOTAL RECOVERABLE PETROLEUM HYDROCARBONS	TRPH	34	TRPH	WATER	EPA 418.1
TOTAL RECOVERABLE PETROLEUM HYDROCARBONS	TRPH	34	TRPH-N	WATER	EPA 418.1
TOTAL RECOVERABLE PETROLEUM HYDROCARBONS	TRPH	35	TRPH	SOIL	EPA 9071A/418.1
TOTAL RECOVERABLE PETROLEUM HYDROCARBONS	TRPH	35	TRPH-N	SOIL	EPA 9071A/418.1
TPH - Diesel Range Organics	TPH	32	TPH-DRO	WATER	MOD EPA 8015
TPH - Diesel Range Organics	TPH	32	TPH-DRO-N	WATER	AK102
TPH - Diesel Range Organics	TPH	32	TPH-DRO-N	WATER	MOD EPA 8015
TPH - Diesel Range Organics	TPH	33	TPH-DRO	SOIL	MOD EPA 8015
TPH - Diesel Range Organics	TPH	33	TPH-DRO-N	SOIL	AK102
TPH - Diesel Range Organics	TPH	33	TPH-DRO-N	SOIL	MOD EPA 8015
TPH - Gasoline Range Organics	TPH	32	TPH-GRO	WATER	MOD EPA 8015
TPH - Gasoline Range Organics	TPH	32	TPH-GRO-N	WATER	AK101
TPH - Gasoline Range Organics	TPH	32	TPH-GRO-N	WATER	MOD EPA 8015
TPH - Gasoline Range Organics	TPH	33	TPH-GRO	SOIL	AK101
TPH - Gasoline Range Organics	TPH	33	TPH-GRO	SOIL	MOD EPA 8015
TPH - Gasoline Range Organics	TPH	33	TPH-GRO-N	SOIL	AK101
TPH - Gasoline Range Organics	TPH	33	TPH-GRO-N	SOIL	MOD EPA 8015
TPH - Residual Range Organics	TPH	32	TPH-RRO-N	Water	AK103
TPH - Residual Range Organics	TPH	33	TPH-RRO-N	SOIL	AK103
VOLATILE ORGANICS	VOA	36	VOA	WATER	EPA 524.1
VOLATILE ORGANICS	VOA	36	VOA	WATER	EPA 8240A
VOLATILE ORGANICS	VOA	36	VOA	WATER	EPA 8260A
Volatile Organic Compounds	AIR	1	VOCs	AIR	TO-1
Volatile Organic Compounds	AIR	1	VOCs	AIR	TO-14A/15
Volatile Organic Compounds	VOC	38	VOC	WATER	EPA 8021A
Volatile Organic Compounds	VOC	38	VOC	WATER	EPA 8021B
Volatile Organic Compounds	VOC	38	VOC-N	WATER	EPA 8021B

Volatile Organic Compounds	VOC	39	VOC-N	Soil	EPA 8021B

Sample Name	Header	Column	Abbreviation	Matrix	Method
Volatile Organics	VOA	36	VOA	WATER	EPA 8260B
Volatile Organics	VOA	36	VOA-N	WATER	EPA 8260B
Volatile Organics	VOA	37	VOA-N	Soil	EPA 8260B
Volatile Organics Compounds	AIR	1	VOCs	AIR	TO-2

			Abbreviation	AIR	ANIO	AVW	AVOS	BANW	BANS	BTEX	BCNW	DIOX	DIXW	EXPS	EXPW	HEBS	HVOW	HVOS	METW	METS	MET1W	MET2S	MET3S	METW	METS	MEGW	MEHW	MEWS	PACS	PBTW	PESS	PESW	PHEW	RADS	RADW	TOCS	TPHW	TPHS	TRPW	TRPS	VOAW	VOAS	VOCW	VOCS
			Matrix	A	W	W	S	W	S	W	W	W	S	W	S	W	W	S	W	S	W	S	W	S	W	W	W	S	W	S	W	S	W	W	S	W	W	S	W	S	W	S	W	S
1	Acculabs Inc. - CLOSED	Golden	CO																															+	+									
2	Accura Analytical	Norcross	GA		+		+	+	+	+	+				+					+		+	+		+	+			+	+						+	+	+			+			
3	Accutest Laboratories	Marlborough	MA				+	+	+	+	+		+	+						+		+	+		+	+	+		+	+		+				+	+	+	+		+			
4	Accutest Laboratories	Dayton	NJ				+	+	+	+	+				+					+		+	+		+				+		+	+	+			+	+	+	+		+	+		
5	Accutest Laboratories Gulf	Houston	TX		+		+		+	+										+		+	+		+				+		+	+					+	+	+					
6	Accutest Laboratories	Orlando	FL		+		+	+	+				+	+						+		+	+	+	+	+	+		+	+	+	+					+	+	+		+	+		
7	Air Toxics Limited	Folsom	CA	+																																								
8	Alpha Analytical, Inc.	Westborough	MA				+	+	+		+									+		+	+		+	+	+										+	+	+		+	+		
9	Alta Analytical Laboratory	El Dorado Hil	CA									+	+																															
10	AMRO Environmental	Merrimack	NH		+		+	+	+		+									+		+	+		+	+	+										+	+	+		+	+		
11	Analytica Alaska Inc.,	Juneau	AK		+																																							
12	Analytica Alaska, Inc.	Anchorage	AK						+																													+						
13	Analytica Environmental	Thornton	CO		+	+	+	+	+		+									+		+	+	+		+	+	+									+	+	+		+	+		
14	Analytical Laboratory	Middletown	PA		+	+	+	+	+		+		+	+	+					+		+	+		+	+	+	+								+	+	+	+	+	+	+		
15	Analytical Management	Olathe	KS				+	+	+				+	+	+					+		+	+		+	+	+									+	+	+		+	+		
16	Analytics Environmental	Portsmouth	NH				+	+	+						+										+	+	+									+	+	+		+	+		
17	APPL, Inc. (Agriculture &	Fresno	CA		+		+	+	+		+				+					+		+	+	+	+	+	+	+		+						+	+	+		+	+	+	
18	ARDL, Inc. (Applied	Mt. Vernon	IL				+	+	+				+	+	+					+		+	+		+	+	+													+	+		
19	Arthur D. Little, Inc.	Cambridge	MA																																									
20	Ceimic Corporation	Narragansett	RI				+	+	+		+		+	+	+					+		+	+	+	+	+	+		+	+	+	+				+	+	+	+	+	+		
21	Chemtech	Mountainside	NJ				+	+	+											+		+	+		+	+	+									+	+	+		+	+	+	
22	Columbia Analytical	Rochester	NY				+	+	+		+				+					+		+	+		+		+	+												+	+		
23	Columbia Analytical	Kelso	WA		+		+	+	+				+	+	+					+		+	+	+	+		+	+	+							+	+	+		+	+	+	+
24	Commonwealth Technology,	Baraboo	WI				+	+	+		+		+	+						+		+	+																	+	+		
25	CompuChem	Cary	NC		+		+			+			+	+	+							+	+	+	+	+	+	+		+			+			+	+	+	+	+	+	+		
26	CT&E Enviromental	Anchorage	AK		+		+	+	+											+		+	+		+		+	+									+	+			+	+		
27	CT&E Environmental	Ludington	MI				+	+	+				+	+	+										+		+	+									+	+			+	+		

	Abbreviation		AIR	AN IO	AVO	AVO	BNA	BNA	BTX	CN	DIO	DIX	EXP	EXP	HEB	HVO	HVO	MET1	MET1	MET2	MET2	MET3	MET3	MEG	PAH	PCB	PCB	PES	PES	PHE	RAD	RAD	TOC	TPH	TPH	TPR	TPH	VOA	VOC	VOC
	Matrix		A	W	W	S	W	S	W	W	W	S	W	S	W	W	S	W	S	W	S	W	S	W	W	W	S	W	S	W	W	S	W	W	S	W	S	W	S	W	S
28 Curtis & Tompkins, Ltd.	Berkeley	CA		+			+	+		+												+	+	+	+	+	+	+					+	+	+			+			
29 e-Lab, Inc.	Houston	TX					+	+	+																	+	+							+	+			+			
30 Eberline Services - Oak	Oak Ridge	TN																													+	+									
31 Ecology and Environment,	Lancaster	NY		+	+		+	+		+			+	+	+	+						+	+	+	+	+	+	+					+	+	+	+	+	+			
32 ELAB of Tennessee, LLC	Nashville	TN		+			+	+		+					+							+	+			+	+	+										+			
33 EMAX Laboratories, Inc.	Torrance	CA					+	+					+	+	+							+	+			+	+	+						+	+			+			
34 En Chem, Inc.	Madison	WI					+	+					+	+	+							+	+			+	+	+										+			
35 EnviroData Group, LLC	Lexington	KY		+			+	+	+				+		+							+	+			+	+	+										+			
36 Environmental Chemistry	Omaha	NE																																							
37 Environmental Science	Mt. Juliet	TN					+	+	+						+							+	+	+	+	+	+	+						+	+			+			
38 ESS Laboratory	Cranston	RI		+			+	+		+												+	+		+	+	+	+		+				+	+			+			
39 General Engineering	Charleston	SC		+			+	+					+	+	+							+	+		+	+		+	+		+	+	+	+	+			+		+	
40 GPL Laboratories, LLLP	Gaithersburg	MD		+	+		+	+		+			+	+	+							+	+	+	+	+	+	+		+			+	+	+	+	+	+			
41 Gulf Coast Analytical	Baton Rouge	LA		+			+	+		+												+	+			+	+	+						+	+			+			
42 Heritage Environmental	Indianapolis	IN		+			+	+		+			+	+	+							+	+		+	+		+	+	+			+	+	+	+	+	+	+		
43 HISS (Hazelwood Interim	Berkeley	MO																													+	+									
44 KAR Laboratories, Inc.	Kalamazoo	MI		+			+	+		+												+	+			+	+	+					+					+			
45 Katahdin Analytical	Westbrook	ME		+			+	+							+							+	+			+	+	+		+			+	+	+			+			
46 KEMRON Environmental	Marietta	OH		+			+	+	+	+			+	+	+							+	+		+	+	+	+					+	+	+	+	+	+			
47 Lancaster Laboratories	Lancaster	PA																								+	+														
48 Lionville Laboratory Inc.	Lionville	PA		+			+	+		+	+	+	+	+	+							+	+	+	+	+	+	+					+	+	+			+		+	
49 Maxxam Analytics, Inc.	Waterloo	ON										+															+														
50 Maywood Radiological	Maywood	NJ																														+									
51 MITKEM Corporation	Warwick	RI					+		+													+	+			+	+	+						+	+			+			
52 North Creek Analytical,	Bothell	WA		+			+	+	+	+					+											+		+	+				+	+	+			+		+	
53 Olin Corporation/BAAP	Baraboo	WI					+	+														+																+			
54 Paradigm Analytical	Wilmington	NC									+	+																													

			Abbreviation	AIR	ANIO	AVO	AVOS	BNA	BNAS	BTEX	BTEXW	CNW	DIOXW	DIOXS	EXPW	EXPS	HEROW	HEROS	HVOW	HVOS	METW	METS	MET1W	MET1S	MET2W	MET2S	METW	METS	MET3W	MET3S	OGHW	OGHS	PACW	PACS	PBBW	PBBS	PESW	PESS	PHEW	PHES	RADW	RADS	TOCW	TOCS	TPHW	TPHS	TRPW	TRPS	VOAW	VOAS	VOCW	VOCS
			Matrix	A	W	W	S	W	S	W	W	W	S	S	W	S	W	W	S	W	S	W	S	W	S	W	S	W	S	W	W	S	W	W	S	W	S	W	W	S	W	W	S	W	S	W	S	W	S	W	S	W	S
55	PDC Laboratories, Inc.	Peoria	IL		+	+		+	+		+			+	+							+	+	+	+	+	+	+	+	+	+	+	+	+		+						+	+	+				+			
56	PEL Laboratories, Inc.	Tampa	FL		+			+		+				+	+							+	+		+	+	+	+					+	+								+	+	+				+			
57	Prism Laboratories, Inc.	Charlotte	NC		+			+	+	+												+	+	+	+	+	+	+															+	+				+			
58	REI Consultants, Inc.	Beaver	WV		+			+	+		+			+	+	+						+	+		+	+	+	+		+			+	+							+	+	+	+	+	+	+		+	
59	Sequoia Analytical	Petaluma	CA		+			+	+					+	+	+						+	+		+	+	+	+						+	+								+	+				+		+	
60	Sequoia Analytical	San Carlos	CA																																														+			
61	SIMALABS International	Cincinnati	OH					+	+		+			+	+							+	+		+	+	+	+					+	+	+	+						+	+	+				+			
62	Southwest Laboratory of	Broken Arrow	OK					+	+		+		+	+	+	+						+	+		+	+	+	+					+	+	+	+						+	+	+				+		+	
63	SPL, Inc. (Southern	Houston	TX					+	+		+											+																				+								+			
64	STL Austin	Austin	TX		+			+	+		+					+						+	+				+	+	+													+	+	+				+			
65	STL Burlington	Colchester	VT		+			+	+		+			+	+	+						+	+		+		+	+	+								+					+	+	+				+		+	
66	STL Chicago	University Pa	IL		+	+		+	+		+			+	+	+						+	+		+	+	+	+	+								+					+	+	+				+			
67	STL Connecticut	Shelton	CT		+			+	+		+					+						+	+		+				+								+					+	+	+				+			
68	STL Denver	Arvada	CO					+	+		+			+	+	+						+	+		+	+	+	+						+	+							+	+	+				+			
69	STL Edison	Edison	NJ					+	+		+					+						+	+		+		+	+								+						+	+	+				+		+	
70	STL Houston	Houston	TX		+			+	+	+	+					+						+	+		+		+	+						+	+	+						+	+	+	+	+	+	+			
71	STL Knoxville	Knoxville	TN		+			+	+		+	+	+	+	+	+						+	+		+	+	+	+														+	+	+				+			
72	STL Los Angeles	Santa Ana	CA	+																																																
73	STL North Canton	North Canton	OH					+	+		+					+						+	+		+	+	+	+																				+		+	
74	STL Pensacola	Pensacola	FL		+			+			+					+						+	+		+	+	+	+					+	+	+	+						+	+	+	+	+	+	+			
75	STL Sacramento	West Sacramen	CA	+	+			+	+	+	+	+	+	+	+	+						+	+		+	+		+	+	+													+	+				+	+		
76	STL Savannah	Savannah	GA		+			+	+	+	+	+	+			+						+	+		+	+	+	+	+	+			+	+								+	+	+	+	+	+	+			
77	STL Seattle	Tacoma	WA		+			+	+	+	+			+	+	+						+	+				+	+	+													+	+	+				+			
78	STL Tallahassee	Tallahassee	FL		+			+	+	+	+			+	+	+						+	+		+	+	+	+															+	+				+			
79	STL Tampa East	Tampa	FL		+			+	+	+	+					+										+	+	+	+													+	+	+				+			
80	TestAmerica, Inc.	Nashville	TN		+			+	+		+			+	+	+						+	+	+	+	+		+	+	+												+	+	+	+	+	+	+	+	+	
81	The Institute of Envir &	Lubbock	TX																																																	

		Abbreviation	AIR	ANIO	AVO	AVOA	BNA	BNAS	BTEX	CNW	DIOX	DIOXS	EXP	EXPS	HERB	HVOW	HVOWS	MET1	MET1S	MET2	MET2S	MET3	MET3S	OGW	PAHW	PCBS	PCBSW	PESTS	PESTSW	PHENW	RADW	RADWS	TOCW	TPHW	TPHWS	TRPHW	TRPHS	VOAW	VOAWS	VOCW	VOCWS
		Matrix	A	W	W	S	W	S	W	W	W	S	W	S	W	W	S	W	S	W	S	W	S	W	W	W	S	W	S	W	W	S	W	W	S	W	S	W	S	W	S
82 Trace Analytical	Muskegon	MI					+	+		+					+							+	+	+	+	+	+					+						+			
83 Triangle Laboratories,	Durham	NC										+	+																												
84 TriMatrix Laboratories,	Grand Rapids	MI					+	+						+	+							+	+	+	+	+	+					+	+	+				+			
85 US Biosystems, Inc.	Boca Raton	FL		+			+		+	+												+	+			+	+						+	+				+			
86 Waste Stream Technology,	Buffalo	NY		+			+	+		+					+							+	+			+	+			+	+	+	+	+				+			
87 Wayne Interim Storage Site	Wayne	NJ																																							

		Abbreviation	AIR	AN IO	AVO	AVO	BNA	BNA	BTEX	CN	DIO	DIOX	EXP	EXP	HERB	HVO	HVO	MET1	MET1	MET2	MET2	MET3	MET3	OG	PAH	PCB	PBS	PEST	PEST	PHEN	RAD	RAD	TOC	TPH	TPH	TPH	TRP	TPH	VOA	VOA	VOC	VOC
		Matrix	A	W	W	S	W	S	W	W	W	S	W	S	W	W	S	W	S	W	S	W	S	W	W	W	S	W	S	W	W	S	W	W	S	W	S	W	S	W	S	W	S
AK	11	Analytica Alaska Inc.,	Juneau	+																																						
	12	Analytica Alaska, Inc.	Anchorage						+																										+							
	26	CT&E Enviromental Services,	Anchorage	+			+	+	+												+	+				+	+	+					+	+				+				
CA	7	Air Toxics Limited	Folsom	+																																						
	9	Alta Analytical Laboratory	El Dorado Hil									+	+																													
	17	APPL, Inc. (Agriculture &	Fresno	+			+	+		+					+						+	+	+	+	+	+	+		+				+	+				+		+		
	28	Curtis & Tompkins, Ltd.	Berkeley	+			+	+		+											+	+	+	+	+	+	+					+	+	+				+				
	33	EMAX Laboratories, Inc.	Torrance				+	+					+	+	+						+	+				+	+	+						+	+			+				
	59	Sequoia Analytical	Petaluma	+			+	+					+	+	+						+	+			+	+	+	+						+	+			+			+	
	60	Sequoia Analytical	San Carlos																																			+				
	72	STL Los Angeles	Santa Ana	+																																						
	75	STL Sacramento	West Sacramen	+	+		+	+	+	+	+	+	+	+	+						+	+		+	+	+	+	+					+	+	+			+		+		
CO	1	Acculabs Inc. - CLOSED	Golden																												+	+									
	13	Analytica Environmental	Thornton	+	+	+	+	+	+	+											+	+	+		+	+	+						+	+	+			+				
	68	STL Denver	Arvada				+	+	+	+			+	+	+						+	+	+	+	+	+	+						+	+	+			+				
CT	67	STL Connecticut	Shelton	+			+	+	+	+					+							+	+			+			+				+	+	+			+				
FL	6	Accutest Laboratories	Orlando	+			+	+	+				+	+								+	+	+	+	+	+	+	+					+	+			+				
	56	PEL Laboratories, Inc.	Tampa	+			+		+				+	+	+							+	+		+	+	+	+					+	+	+			+				
	74	STL Pensacola	Pensacola	+			+		+						+							+	+	+	+	+	+	+	+				+	+	+	+	+	+				
	78	STL Tallahassee	Tallahassee	+			+	+	+	+			+	+	+							+	+		+	+	+	+						+	+			+				
	79	STL Tampa East	Tampa	+			+	+	+	+					+										+	+	+	+					+	+	+			+				
	85	US Biosystems, Inc.	Boca Raton	+			+		+	+												+	+			+	+	+						+	+			+				
GA	2	Accura Analytical Laboratory,	Norcross	+			+	+	+	+					+							+		+		+	+	+						+	+			+				
	76	STL Savannah	Savannah	+			+	+	+	+	+	+			+							+	+	+	+	+	+	+	+				+	+	+	+	+	+				
IL	18	ARDL, Inc. (Applied Research	Mt. Vernon				+	+					+	+	+							+	+			+	+	+										+				
	55	PDC Laboratories, Inc.	Peoria	+	+	+	+	+		+			+	+	+							+	+	+	+	+	+	+		+			+	+	+			+				
	66	STL Chicago	University Pa	+	+	+	+	+		+			+	+	+							+	+	+	+	+	+	+		+			+	+	+			+				

			Abbreviation	AIRA	ANIO	AVOW	AVOS	BNAW	BNAS	BTEX W	CNW	DIOX W	DIXS	EXPS	EXPW	HEBS	HVOW	HVOS	METW	MET1S	MET2W	METS	METW	METS	MOGW	PAHW	PACBW	PBSW	PESTS	PESW	PHEW	RADW	RADS	TOCW	TPHW	TPHS	TRPW	TRPS	VOAW	VOAS	VOCW	VOCS
			Matrix	A	W	W	S	W	S	W	W	W	S	W	S	W	W	S	W	S	W	S	W	S	W	W	W	S	W	S	W	W	S	W	W	S	W	S	W	S	W	S
IN	42	Heritage Environmental	Indianapolis		+		+	+		+			+	+								+	+		+	+	+		+					+	+		+	+	+			
KS	15	Analytical Management	Olathe				+	+					+	+								+	+				+		+					+	+				+			
KY	35	EnviroData Group, LLC	Lexington		+		+	+		+			+									+	+				+		+										+			
LA	41	Gulf Coast Analytical	Baton Rouge		+		+	+		+												+	+				+		+					+	+				+			
MA	3	Accutest Laboratories	Marlborough				+	+	+	+			+	+								+	+		+	+	+		+		+			+	+				+			
	8	Alpha Analytical, Inc.	Westborough				+	+		+												+	+				+		+						+				+			
	19	Arthur D. Little, Inc.	Cambridge																																							
MD	40	GPL Laboratories, LLLP	Gaithersburg		+	+		+	+		+		+	+								+	+	+	+	+	+		+		+			+	+	+	+	+	+			
ME	45	Katahdin Analytical Services,	Westbrook		+			+	+						+							+	+				+		+		+			+	+	+			+			
MI	27	CT&E Environmental Services	Ludington				+	+	+				+	+													+		+	+					+	+			+	+		
	44	KAR Laboratories, Inc.	Kalamazoo		+		+	+	+		+											+	+				+		+	+				+					+			
	82	Trace Analytical	Muskegon				+	+	+		+				+							+	+	+			+		+	+				+					+			
	84	TriMatrix Laboratories, Inc.	Grand Rapids				+	+					+	+								+	+	+	+	+	+		+	+				+	+	+			+			
MO	43	HISS (Hazelwood Interim	Berkeley																													+	+									
NC	25	CompuChem	Cary		+		+		+		+		+	+								+	+	+	+	+	+		+	+				+	+	+	+	+	+		+	
	54	Paradigm Analytical	Wilmington								+	+																														
	57	Prism Laboratories, Inc.	Charlotte		+		+	+	+													+	+	+	+	+	+		+	+					+	+			+			
	83	Triangle Laboratories, Inc.	Durham								+	+																														
NE	36	Environmental Chemistry	Omaha																																							
NH	10	AMRO Environmental	Merrimack		+		+	+	+		+											+	+				+		+	+					+	+			+			
	16	Analytics Environmental	Portsmouth				+	+							+												+		+	+					+	+			+			
NJ	4	Accutest Laboratories	Dayton				+	+	+	+					+							+	+				+		+	+	+			+	+	+			+		+	
	21	Chemtech	Mountainside				+	+														+	+				+		+	+					+	+			+		+	
	50	Maywood Radiological	Maywood																													+										
	69	STL Edison	Edison				+	+		+					+							+	+	+			+	+	+		+			+	+	+			+		+	
	87	Wayne Interim Storage Site	Wayne																																							
NY	22	Columbia Analytical Services,	Rochester				+	+		+					+							+	+				+		+	+									+	+		

		Abbreviation	AIR	ANIO	AVO	AVO	BNA	BNA	BTEX	CNW	DIO	DIOX	EXP	EXP	HERB	HVO	HVOS	METW	METS	METW	METS	METW	METS	METW	METS	MEW	MEW	MEW	OG3	PAH	PCBW	PCBW	PESW	PESW	PHEW	RAD	RADS	TOCW	TPHW	TPHS	TRPW	TRPS	VOAW	VOAS	VOCW	VOCS
		Matrix	A	W	W	S	W	S	W	W	W	S	W	S	W	W	S	W	S	W	S	W	S	W	W	W	S	W	S	W	W	S	W	S	W	W	S	W	W	S	W	S	W	S	W	S
	31 Ecology and Environment, Inc.	Lancaster		+	+		+	+		+			+	+	+	+					+	+	+	+	+	+	+		+	+	+							+	+	+	+	+	+			
	86 Waste Stream Technology, Inc.	Buffalo		+			+	+		+					+						+	+				+	+				+	+				+	+	+	+			+			
OH	46 KEMRON Environmental Services	Marietta		+			+	+	+	+			+	+	+						+	+				+	+	+	+	+	+	+					+	+	+	+	+	+	+			
	61 SIMALABS International	Cincinnati					+	+	+				+	+							+	+				+	+				+	+						+	+				+			
	73 STL North Canton	North Canton					+	+		+					+						+	+				+	+	+	+		+	+											+		+	
OK	62 Southwest Laboratory of	Broken Arrow					+	+		+	+	+	+	+	+						+	+				+	+	+	+		+	+						+	+				+		+	
ON	49 Maxxam Analytics, Inc.	Waterloo										+																			+															
PA	14 Analytical Laboratory	Middletown		+	+		+	+		+			+	+	+						+	+				+	+	+	+		+	+						+	+	+	+	+	+			
	47 Lancaster Laboratories	Lancaster																													+	+														
	48 Lionville Laboratory Inc.	Lionville		+			+	+		+	+	+	+	+	+						+	+	+	+	+	+	+				+	+						+	+	+			+		+	
RI	20 Ceimic Corporation	Narragansett					+	+		+			+	+	+						+	+				+	+	+	+		+	+							+	+	+	+	+			
	38 ESS Laboratory (Environmental	Cranston		+			+	+		+											+	+				+	+	+	+		+	+			+				+	+			+			
	51 MITKEM Corporation	Warwick					+		+												+	+				+	+				+	+							+	+			+			
SC	39 General Engineering	Charleston		+			+	+					+	+	+						+	+				+	+	+	+		+	+		+		+	+	+	+	+			+		+	
TN	30 Eberline Services - Oak Ridge	Oak Ridge																																		+	+								
	32 ELAB of Tennessee, LLC	Nashville		+			+	+		+					+						+	+				+	+	+	+													+			
	37 Environmental Science	Mt. Juliet					+	+	+						+						+	+	+	+	+	+	+	+	+									+	+	+			+			
	71 STL Knoxville	Knoxville		+			+	+		+	+	+	+	+	+						+	+				+	+	+	+									+	+	+			+			
	80 TestAmerica, Inc.	Nashville		+			+	+		+			+	+	+						+	+	+	+	+	+		+	+	+	+	+			+			+	+	+	+	+	+	+	+	+
TX	5 Accutest Laboratories Gulf	Houston		+			+		+	+											+	+				+		+										+	+							
	29 e-Lab, Inc.	Houston					+	+	+																	+	+											+	+				+			
	63 SPL, Inc. (Southern Petroleum	Houston					+	+		+											+																	+					+			
	64 STL Austin	Austin		+			+	+		+					+						+	+				+	+	+	+									+	+	+			+			
	70 STL Houston	Houston		+			+	+	+	+					+						+	+	+			+	+	+	+						+			+	+	+	+	+	+			
	81 The Institute of Envir &	Lubbock																																											
VT	65 STL Burlington	Colchester		+			+	+		+			+	+	+						+	+	+			+	+	+	+						+			+	+	+			+		+	
WA	23 Columbia Analytical Services,	Kelso		+			+	+					+	+	+						+	+				+	+		+	+								+	+	+			+	+	+	+

		Abbreviation	ARI	ANIO	AVO	AOS	BNA	BNA	BTEX	CN	DIOX	DIOX	EXP	EXP	HERB	HVO	HVO	METT1	MET1	MET2	MET2	MET3	MET3	OGH	PAH	PCB	PCB	PEST	PEST	PEST	PHEN	RAD	RAD	TOC	TOC	TPH	TPH	TRP	TRP	VOA	VOA	VOC	VOC
		Matrix	A	W	W	S	W	S	W	W	W	S	W	S	W	W	S	W	S	W	S	W	S	W	W	W	S	W	S	W	W	W	S	W	W	S	W	S	W	S	W	S	W	S
	52	North Creek Analytical, Inc.	Bothell	+		+	+	+	+					+												+		+	+	+				+	+	+				+	+		
	77	STL Seattle	Tacoma	+		+	+	+	+		+	+		+							+	+				+	+	+						+	+	+				+			
WI	24	Commonwealth Technology, Inc.	Baraboo			+	+	+			+	+									+	+																		+			
	34	En Chem, Inc.	Madison			+	+	+			+	+		+							+	+				+	+	+												+			
	53	Olin Corporation/BAAP	Baraboo			+	+	+													+																			+			
WV	58	REI Consultants, Inc.	Beaver	+		+	+	+		+	+	+		+							+	+			+	+	+	+		+				+	+	+	+	+	+	+		+	

Validated Laboratories

Acculabs Inc. - CLOSED 1
Mark Mensik, Trudy Scott (303) 277-9514
4663 Table Mountain Drive expires: 06/18/2003
Golden, CO
804031650

Accura Analytical Laboratory, Inc. 2
Kelly Clemons (770) 449-8800
6017 Financial Drive expires: 05/10/2003
Norcross, GA
300715816

Accutest Laboratories 3
Mark Warren, Reza Tand (508) 481-6200
495 Technology Center West, Building One expires: 12/13/2003
Marlborough, MA
01752

Accutest Laboratories 4
David Speis, Ken Baker (732) 329-0200
2235 Route 130, Bldg B expires: 07/11/2004
Dayton, NJ
08810

Accutest Laboratories Gulf Coast, Inc. 5
Ericka Jackson, Reza Karimi (713) 271-4700
10165 Harwin Drive, Suite 150 expires: 01/30/2004
Houston, TX
77036

Accutest Laboratories Southeast, Inc. 6
Svetlana Izosimova, Harry Behzadi (407) 425-6700
4405 Vineland Road; Suite C-15 expires: 11/21/2003
Orlando, FL
32811

Air Toxics Limited 7
James Parker (916) 985-1000
180 Blue Ravine Road; Suite B expires: 09/03/2004
Folsom, CA
956304719

Alpha Analytical, Inc. 8
Ellen Collins (Baily), Scott McLean (508) 898-9220
Eight Walkup Drive expires: 11/21/2003
Westborough, MA
015811019

AMRO Environmental Laboratories Corporation 10
Samir Naguib (603) 424-2022
111 Herrick Street expires: 08/02/2003
Merrimack, NH
03054

Analytica Alaska Inc., Southeast Division 11
David Wetzel (907) 780-6668
5438 Shaune Dr. expires: 03/21/2004
Juneau, AK
99801

Analytica Alaska, Inc. 12
Jason Gray, Elizabeth Rensch (907) 258-2155
811 W. 8th Avenue expires: 08/20/2003
Anchorage, AK
99501

Analytica Environmental Laboratories, Inc. 13
Steve Merritt (303) 469-8868
12189 Pennsylvania Street expires: 01/25/2004
Thornton, CO
80241

Analytical Laboratory Services, Inc. 14
Helen McMinn (717) 944-5541
34 Dogwood Lane expires: 10/31/2003
Middletown, PA
17057

Analytical Management Laboratories, Inc. 15
Tenkasi Viswanathan, Bill Said (913) 829-0101
15130 South Keeler Suite B expires: 12/14/2003
Olathe, KS
660622716

Analytics Environmental Laboratory, Inc. 16
Melissa Gulli, Stephen Knollmeyer (603) 436-5111
195 Commerce Way expires: 12/22/2002
Portsmouth, NH
03801

APPL, Inc. (Agriculture & Priority Pollutants 17
Francis Lediaev, Dianne Anderson (559) 275-2175
4203 West Swift Avenue expires: 12/31/2002
Fresno, CA
93722

Validated Laboratories

Alta Analytical Laboratory Inc. 9
Delia Rangel (916) 933-1640
5070 Robert J. Mathews Parkway expires: 05/02/2004
El Dorado Hills, CA
95672

Arthur D. Little, Inc. 19
Henry Camp, John Olsson (617) 498-5339
15 Acorn Park expires: 11/07/2002
Cambridge, MA
021403290

Ceimic Corporation 20
Jim Badger, Neil Pothier (401) 782-8900
10 Dean Knauss Drive expires: 09/18/2003
Narragansett, RI
02882

Chemtech 21
Divya Mehta, Thomas Mancuso (908) 789-8900
284 Sheffield Street expires: 01/08/2003
Mountainside, NJ
07092

Columbia Analytical Services, Inc. 22
Lisa Reyes, Mark Wilson (585) 288-5380
1 Mustard Street, Suite 250 expires: 05/30/2004
Rochester, NY
146090859

Columbia Analytical Services, Inc. 23
Lee E. Wolf (360) 577-7222
1317 South 13th Avenue expires: 03/21/2004
Kelso, WA
98626

Commonwealth Technology, Inc. (CTI) 24
Dan Elwood (608) 356-2760
1230 Lange Court expires: 12/08/2002
Baraboo, WI
539133109

ARDL, Inc. (Applied Research & Development 18
Richard Curtin (618) 244-3235
PO Box 1566; 400 Aviation Drive expires: 07/29/2004
Mt. Vernon, IL
62864

Curtis & Tompkins, Ltd. 28
Teresa Morrison (510) 486-0900
2323 Fifth Street expires: 03/13/2003
Berkeley, CA
94710

e-Lab, Inc. 29
David Pangrazio (281) 530-5656
10450 Stancliff Road, Suite 210 expires: 08/06/2003
Houston, TX
77099

Eberline Services - Oak Ridge Laboratory 30
Ahmed Halouma (865) 481-0683
601 Scarboro Road expires: 11/22/2002
Oak Ridge, TN
378307371

Ecology and Environment, Inc. 31
Ray Piccione, Marcia Meredith Galloway (716) 685-8080
4493 Walden Avenue expires: 11/02/2002
Lancaster, NY
14086

ELAB of Tennessee, LLC 32
Doris Curry (615) 345-1119
227 French Landing Drive expires: 11/21/2003
Nashville, TN
37228

EMAX Laboratories, Inc. 33
Kenette Pimentel, Kevin Hoang (310) 618-8889
1835 205th Street expires: 11/29/2003
Torrance, CA
90501

Validated Laboratories

CompuChem 25
Linda Carter (919) 379-4100
501 Madison Avenue expires: 12/31/2002
Cary, NC
27513

CT&E Enviromental Services, Inc. 26
Steve Crupi, Stephen Ede (907) 562-2343
200 West Potter Drive expires: 02/08/2004
Anchorage, AK
995181605

CT&E Environmental Services Inc. 27
Pete Priniski, Kelly Wilson (231) 843-1877
1200 Conrad Industrial Drive expires: 04/03/2004
Ludington, MI
494312681

Environmental Science Corporation 37
Judy Morgan (615) 758-5858
12065 Lebanon Road expires: 10/31/2003
Mt. Juliet, TN
37207

ESS Laboratory (Environmental Science Services) 38
Kelly DeSousa (401) 461-7181
185 Frances Avenue expires: 11/06/2002
Cranston, RI
029102211

General Engineering Laboratories, Inc. 39
Robert Pullano, Edith Kent (843) 556-8171
2040 Savage Road expires: 02/08/2004
Charleston, SC
29407

GPL Laboratories, LLLP 40
Elsa Tai (301) 926-6802
202 Perry Parkway expires: 09/08/2002
Gaithersburg, MD
20877

Gulf Coast Analytical Laboratories, Inc. 41
Robin Migues, Ed Gallagher (225) 769-4900
7979 GSRI Avenue expires: 10/19/2002
Baton Rouge, LA
708207402

En Chem, Inc. 34
Julie Triveti (608) 232-3300
525 Science Drive expires: 08/21/2003
Madison, WI
537111060

EnviroData Group, LLC 35
Show-Jon Hseih (800) 489-3506
2520 Regency Road expires: 10/19/2002
Lexington, KY
405032921

Environmental Chemistry Branch Laboratory 36
Doug Taggart (402) 444-4300
420 South 18th Street expires: 07/29/2004
Omaha, NE
68102

KEMRON Environmental Services 46
David Bumgarner (740) 373-4071
109 Starlite Park expires: 03/31/2003
Marietta, OH
45750

Lancaster Laboratories 47
Amy Doupe, Susan Shorter (717) 656-2300
2425 New Holland Pike; PO Box 12425 expires: 03/21/2004
Lancaster, PA
176052425

Lionville Laboratory Inc. 48
Carol Schrenkel (610) 280-3000
208 Welsh Pool Road expires: 02/14/2004
Lionville, PA
193411333

Maxxam Analytics, Inc. 49
Ann Marie Wright, Sue Bigg (519) 747-2575
50 Bathurst Drive, Unit 12 expires: 01/02/2003
Waterloo, Ontario, Canada N2V 2C5
Waterloo, ON

Maywood Radiological Laboratory 50
Todd Willis (201) 368-0426
100 West Hunter Avenue expires: 09/28/2002
Maywood, NJ
07607

Validated Laboratories

Heritage Environmental Services, LLC 42
Greg Busch, Polly Spence (317) 390-3182
7901 West Morris Street expires: 07/29/2004
Indianapolis, IN
46231

HISS (Hazelwood Interim Storage Site) On-Site 43
Brian Sparks (314) 260-3902
8945 Latty Avenue expires: 09/28/2002
Berkeley, MO
63134

KAR Laboratories, Inc. 44
Bill Rauch (616) 381-9666
4425 Manchester Road expires: 01/11/2003
Kalamazoo, MI
49001

Katahdin Analytical Services, Inc. 45
Deborah Nadeau, John Burton (207) 874-2400
340 County Road No. 5 expires: 11/01/2003
Westbrook, ME
04098

PDC Laboratories, Inc. 55
Michael Travis (309) 692-9688
2231 West Altorfer Drive expires: 10/16/2002
Peoria, IL
61615

PEL Laboratories, Inc. 56
Jodi Hutchins (813) 247-2805
4420 Pendola Point Road expires: 10/11/2003
Tampa, FL
33619

Prism Laboratories, Inc. 57
Helmuth Janssen (704) 529-6364
449 Springbrook Road expires: 10/01/2003
Charlotte, NC
28217

MITKEM Corporation 51
Thomas McConnell, Agnes Ng (401) 732-3400
175 Metro Center Blvd expires: 04/03/2004
Warwick, RI
028861755

North Creek Analytical, Inc. 52
Dave Wunderlich, Laura Dutton (425) 420-9200
11720 North Creek Parkway N., Suite 400 expires: 07/03/2004
Bothell, WA
980118223

Olin Corporation/BAAP Environmental Laboratory 53
Carolyn Dallmann, Dennis Thurow (608) 643-3361
1 Badger Road; Highway 12 expires: 07/05/2003
Baraboo, WI
539135000

Paradigm Analytical Laboratories, Inc. 54
Greg Dickinson, Matt Burns (910) 350-1903
2627 Northchase Parkway SE expires: 04/03/2004
Wilmington, NC
28405

STL Austin 64
Alice Colt, Jane Schur (512) 244-0855
14046 Summit Drive; Suite 111 expires: 01/11/2003
Austin, TX
78728

STL Burlington 65
Kirstin McCracken, Lori Arnold (802) 655-1203
208 South Park Drive, Suite 1 expires: 08/02/2003
Colchester, VT
05446

STL Chicago 66
Donna McCarthy, Raymond Frederici (708) 534-5200
2417 Bond Street expires: 06/18/2003
University Park, IL
604663182

Validated Laboratories

REI Consultants, Inc. 58
Angie Leef, James Hearn (304) 255-2500
225 Industrial Park Road expires: 04/03/2004
Beaver, WV
25813

Sequoia Analytical 59
Gary Costley, Peggy Penner (707) 792-1865
1455 McDowell Blvd North; Suite D expires: 06/14/2003
Petaluma, CA
94954

Sequoia Analytical 60
Noelle Lane, Gary Costly (650) 232-9600
1551 Industrial Blvd expires: 05/17/2004
San Carlos, CA
94070

SIMALABS International 61
Linda Ludmann, Mona Risk (513) 489-2001
6954 Cornell Road; Suite 300 expires: 10/19/2003
Cincinnati, OH
45242

Southwest Laboratory of Oklahoma, Inc. 62
Chuck Hoover, Robert Harris (918) 251-2858
1700 West Albany Street; Suite C expires: 03/21/2004
Broken Arrow, OK
740121421

SPL, Inc. (Southern Petroleum Laboratory) 63
Ted Yen (713) 660-0901
8880 Interchange Drive expires: 12/08/2002
Houston, TX
77054

STL North Canton 73
Beth Lambert, Mark Loeb (330) 497-9396
4101 Shuffel Drive, NW expires: 12/22/2002
North Canton, OH
44720

STL Pensacola 74
Kelly Hered, Stephanie Akers (850) 474-1001
3355 McLemore Drive expires: 01/05/2003
Pensacola, FL
32514

STL Connecticut 67
Marsha Culik (203) 929-8140
128 Long Hill Cross Road expires: 04/16/2004
Shelton, CT
06468

STL Denver 68
Larry Penfold, Thom Schumann (303) 736-0100
4955 Yarrow Street expires: 12/13/2003
Arvada, CO
80002

STL Edison 69
Madhuri Dave (732) 549-3900
777 New Durham Road expires: 11/21/2003
Edison, NJ
08817

STL Houston 70
James Ross, Lora Dunlap (713) 690-4444
6310 Rothway expires: 03/31/2003
Houston, TX
77040

STL Knoxville 71
Chris Rigell, Mary Tyler (865) 291-3000
5815 Middlebrook Pike expires: 11/21/2003
Knoxville, TN
37921

STL Los Angeles 72
Linda Sharpenberg, Lisa McMeans (714) 258-8610
1721 South Grand Avenue expires: 12/13/2003
Santa Ana, CA
92705

Trace Analytical Laboratories, Inc. 82
Greg Hayes (231) 773-5998
2241 Black Creek Road expires: 01/03/2003
Muskegon, MI
494442673

Triangle Laboratories, Inc. 83
Helen Sampardos, Valerie Evans (919) 544-5729
2445 S. Alston Avenue expires: 05/02/2004
Durham, NC
277134411

STL Sacramento 75
Pamela Schemmer, Rose M. Harrelson (916) 373-5600
880 Riverside Parkway expires: 06/05/2004
West Sacramento, CA
95605

STL Savannah 76
Andrea Teal, Jack Tuschall (912) 354-7858
5102 LaRoche Avenue expires: 10/15/2002
Savannah, GA
31404

STL Seattle 77
Terri Howard (253) 922-2310
5755 8th Street East expires: 12/13/2003
Tacoma, WA
98424

STL Tallahassee 78
Steve Worrell (850) 878-3994
2846 Industrial Plaza Drive; P.O. Box 13056 expires: 09/05/2004
Tallahassee, FL
32301

STL Tampa East 79
Shibu Paul, Jeff Graham (813) 885-7427
6712 Benjamin Road, Suite 200 expires: 11/15/2002
Tampa, FL
33634

TestAmerica, Inc. 80
Mary Louise Linn, Theodore J. Duello (615) 726-0177
2960 Foster Creighton Drive; P.O. Box 40566 expires: 04/03/2004
Nashville, TN
372040566

The Institute of Envir & Human Health Groundwater 81
Dr. Todd Anderson (806) 885-4567
Box 41163 expires: 07/09/2004
Lubbock, TX
794091163

TriMatrix Laboratories, Inc. 84
Rick Wilburn, Phil Komar (616) 975-4500
5560 Corporate Exchange Court, SE expires: 03/31/2003
Grand Rapids, MI
49512

US Biosystems, Inc. 85
Catherine Katsikis, Derek Simons (888) 862-5227
3231 NW 7th Ave expires: 02/08/2004
Boca Raton, FL
33431

Waste Stream Technology, Inc. 86
Dan Vollmer, Paul Morrow (716) 876-5290
302 Grote Street expires: 10/12/2003
Buffalo, NY
142072442

Wayne Interim Storage Site (WISS) On-Site Lab 87
(973) 835-1666
868 Black Oak Ridge Road expires: 03/12/2003
Wayne, NJ
07470