

2. AMENDMENT/MODIFICATION NO. 0003	3. EFFECTIVE DATE 06/10/04	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. <i>(If applicable)</i>
6. ISSUED BY CODE		7. ADMINISTERED BY <i>(If other than Item 6)</i> CODE	
US ARMY ENGINEER DISTRICT, HONOLULU CORPS OF ENGINEERS, BUILDING S-200 FORT SHAFTER, HAWAII 96858-5440 CONTRACT SPECIALIST: JODY MURAOKA			

8. NAME AND ADDRESS OF CONTRACTOR <i>(No., street, county, State and ZIP Code)</i>	(X)	9A. AMENDMENT OF SOLICITATION NO.
	X	W9128A-04-R-0009
		9B. DATED <i>(SEE ITEM 11)</i> 05/12/04
		10A. MODIFICATION OF CONTRACT/ORDER NO.
		10B. DATED <i>(SEE ITEM 13)</i>
CODE		FACILITY CODE

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended, is not extended.

Offer must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. Accounting and Appropriation Data *(If required)*

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

(X)	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: <i>(Specify authority)</i> THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES <i>(such as changes in paying office, appropriation date, etc.)</i> SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
	D. OTHER <i>(Specify type of modification and authority)</i>

E. IMPORTANT: Contractor is not, is required to sign this document and return _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION *(Organized by UCF section headings, including solicitation/contract subject matter where feasible.)*

FY03 MCA PN 48783, Whole Barracks Renewal Phase 2C2 and FY04 MCA PN 48784, Whole Barracks Renewal Phase 2D, Schofield Barracks, Oahu, Hawaii

See Page 2 of 2 Pages

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER <i>(Type or print)</i>	16A. NAME AND TITLE OF SIGNER <i>(Type or print)</i>
15B. CONTRACTOR/OFFEROR	16B. UNITED STATES OF AMERICA
15C. DATE SIGNED	BY _____
_____ <i>(Signature of person authorized to sign)</i>	_____ <i>(Signature of Contracting Officer)</i>
16C. DATE SIGNED	

1. **CHANGES TO THE SOLICITATION.** Attached hereto are new and revised pages to the solicitation. The revision mark "(Am-0003)" is shown on each page.

a. **REVISED PROVISIONS/CLAUSES/PAGES.** Following are revised pages to the solicitation. Changes are indicated in **bold** print. Although the entire sections are being re-issued under Am-0003, only the following pages/paragraphs/provisions/clauses changed in these sections.

Section 00010

Page 00010-1 (SF 1442), Item 13A

Section 00700

52.211-10, Commencement, Prosecution, and Completion of Work (Apr 1984)
52.211-12, Liquidated Damages—Construction (Sep 2000)

Section 01000

Section 13280A, paragraph 3.9.1

b. **DELETED PROVISIONS/CLAUSES/PAGES.** The following items are deleted from the solicitation.

Section 00700

252.236-7008, Contract Prices – Bidding Schedules (Dec 1991)
S-28.10, Offer Guarantee (Sep 1996)

c. **NEW PAGES/PROVISIONS/CLAUSES.** The following page is added to the solicitation.

Section 00900

Page A.4

2. The proposal due date of June 18, 2004, is hereby extended to June 28, 2004, 2:00 P.M., Hawaiian Standard Time.

SOLICITATION, OFFER, AND AWARD <i>(Construction, Alteration, or Repair)</i>	1. SOLICITATION NUMBER W9128A-04-R-0009	2. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED 05/12/04	PAGE OF PAGES 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
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7. ISSUED BY Contracting Division (CEPOH-CT-C) U.S. Army Engineer District, Honolulu Building 230 Fort Shafter, Hawaii 96858-5440	CODE	8. ADDRESS OFFER TO Contracting Division (CEPOH-CT-C) U.S. Army Engineer District, Honolulu Building 200 Fort Shafter, Hawaii 96858-5440 (Deliver hand-carried proposals to Room 115, Building 200, Fort Shafter, Hawaii 96858-5440)
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9. FOR INFORMATION CALL	A. NAME Jody Muraoka	B. TELEPHONE NUMBER (Include area code) (NO COLLECT CALLS) (808)438-8575
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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):
Request for Proposals No. W9128A-04-R-0009, FY03 MCA PN 48783, Whole Barracks Renewal Phase 2C2 and FY04 MCA PN 48784, Whole Barracks Renewal Phase 2D, Schofield Barracks, Oahu, Hawaii

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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 Far Clause 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.) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	12B. CALENDAR DAYS 14
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13. ADDITIONAL SOLICITATION REQUIREMENTS:
- A. Sealed offers in original and 3 copies to perform the work required are due at the place specified in Item 8 by 2:00 P.M. (hour, local time 06/28/04 (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 90 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)

DUNS No. _____
CAGE No. _____

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 "PROPOSAL SCHEDULE", Section 00010)

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.) You 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

31C. AWARD DATE

BY

Section 00700 - Contract Clauses

CLAUSES INCORPORATED BY FULL TEXT

52.202-1 DEFINITIONS (MAY 2001) --ALTERNATE I (MAR 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) 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).

(d) 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.

(e) Nondevelopmental item means--

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

(2) Any item described in paragraph (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.

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

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

(End of clause)

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.

(End of clause)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 2003)

(a) Definitions.

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

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

(1) The awarding of any Federal contract.

(2) The making of any Federal grant.

(3) The making of any Federal loan.

(4) The entering into of any cooperative agreement.

(5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibitions.

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

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

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

(i) Agency and legislative liaison by own employees.

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

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

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

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

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

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

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

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

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

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

(ii) Professional and technical services.

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

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

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

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

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

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

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

(c) Disclosure.

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

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

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

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

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

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

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

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

(e) Penalties.

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

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

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

(End of clause)

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

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

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

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

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

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

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

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

(1) Postconsumer fiber; and

(2) Manufacturing wastes such as--

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

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

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

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

(End of clause)

52.204-7 CENTRAL CONTRACTOR REGISTRATION (OCT 2003)

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

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

Data Universal Numbering System (DUNS) number means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

Data Universal Numbering System +4 (DUNS+4) number means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same parent concern.

Registered in the CCR database means that--

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Government has validated all mandatory data fields and has marked the record “Active”.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number--

(i) If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company Physical Street Address, City, State, and Zip Code.

(iv) Company Mailing Address, City, State and Zip Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not

alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g)(1)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

(End of clause)

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

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

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principles, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

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

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

(End of clause)

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

The Contractor shall be required to (a) commence work under this contract, (b) prosecute the work diligently, and (c) complete the entire work ready for use as set forth below.

Proposal Items Nos. 1, 2, 3 and 4 - Work other than site work/physical construction shall commence within seven (7) calendar days after the date the Contractor receives the contract notice to proceed.

Proposal Item Nos. 1 and 2 - Site work/physical construction shall commence no earlier than May 1, 2005 and be completed not later than January 1, 2006.

Proposal Item Nos. 3 and 4 - Site work/physical construction shall commence no earlier than May 1, 2005 and be completed not later than nine hundred seventeen (917) calendar days after the Contractor receives the contract notice to proceed.

Proposal Item No. 5 - Work shall commence within seven (7) calendar days after the Contractor receives the contract notice to proceed and be completed no later than nine hundred seventeen (917) calendar days after the Contractor receives the contract notice to proceed.

Proposal Item No. 6 (Option) - The work shall commence within seven (7) calendar days after the Contractor receives the notice that the option has been exercised and be completed with the remaining contract work.

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 under Proposal Items 1 and 2 by the interim completion date of January 1, 2006, the Contractor shall pay liquidated damages to the Government in the amount of \$3,800.00 for each calendar day of delay until the work for both Proposal Items 1 and 2 are completed and accepted.

(b) If the Contractor fails to complete the remaining contract work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of \$1,843.00 for each calendar day of delay until the work is completed or accepted.

(c) 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)

52.211-15 DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS (SEP 1990)

This is a rated order certified for national defense use, and the Contractor shall follow all the requirements of the Defense Priorities and Allocations System regulation (15 CFR 700).

(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 judgement of the Contracting Officer, is justified.

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.

(End of clause)

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.

(End of clause)

52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS (JAN 2004)

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

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

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

(2) For contracts and subcontracts that are not subject to full coverage under the CAS, the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12), except the numerator of the fraction at 48 CFR 904.413-50(c)(12)(vi) shall be the sum of the pension plan costs allocated to all non-CAS covered contracts and subcontracts that are subject to Federal Acquisition Regulation (FAR) Subpart 31.2 or for which cost or pricing data were submitted.

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

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

(End of clause)

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

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

(End of clause)

52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)

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

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

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

(b) The Contractor shall--

(1) Maintain current, accurate, and complete inventory records of assets and their costs;

(2) Provide the ACO or designated representative ready access to the records upon request;

(3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's

ownership changes; and

(4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.

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

(End of clause)

52.215-21 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.

(End of clause)

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

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

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

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

(ii) Otherwise successful offers from small business concerns;

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

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

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

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

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

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

___ Offeror elects to waive the evaluation preference.

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

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

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

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

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

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

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

(End of clause)

52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (MAY 2004)

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

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

Definitions. As used in this contract--

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

Service-disabled veteran-owned small business concern--

(1) Means a small business concern--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2002)--ALTERNATE II (OCT 2001).

(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) Proposals submitted in response to this solicitation shall include a subcontracting plan that separately addresses subcontracting with small business, veteran-owner small business, HUBZone small business, 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-owner 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 a 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, 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 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, 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, 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, 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, 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, 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, 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, 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, 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)

52.222-3 CONVICT LABOR (JUN 2003)

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

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

(1) On parole or probation to work at paid employment during the term of their sentence;

(2) Who have been pardoned or who have served their terms; or

(3) Confined for violation of the laws of any of the States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if--

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

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

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

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

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

(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.

(1) 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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(ii) 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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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).

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

(End of clause)

52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

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

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

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

(End of clause)

52.222-26 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).

(End of clause)

52.222-30 DAVIS-BACON ACT--PRICE ADJUSTMENT (NONE OR SEPARATELY SPECIFIED METHOD) (DEC 2001)

(a) The wage determination issued under the Davis-Bacon Act by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, that is effective for an option to extend the term of the contract, will apply to that option period.

(b) The Contracting Officer will make no adjustment in contract price, other than provided for elsewhere in this contract, to cover any increases or decreases in wages and benefits as a result of-- (1) Incorporation of the Department of Labor's wage determination applicable at the exercise of the option to extend the term of the contract;

(2) Incorporation of a wage determination otherwise applied to the contract by operation of law; or

(3) An increase in wages and benefits resulting from any other requirement applicable to workers subject to the Davis-Bacon Act.

(End of clause)

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

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

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

Executive and top management means any employee--

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

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

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

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

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

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

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

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

Special disabled veteran means--

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

(i) Rated at 30 percent or more; or

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

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

Veteran of the Vietnam era means a person who--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Applicability. This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of

the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands of the United States, and Wake Island.

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

(2) The employment notices shall--

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

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

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

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

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

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

(End of clause)

52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)

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

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

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

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

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

- (v) Leaves of absence, sick leave, or any other leave;
- (vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
- (vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- (viii) Activities sponsored by the Contractor, including social or recreational programs; and
- (ix) Any other term, condition, or privilege of employment.

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

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

(i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and

(ii) The rights of applicants and employees.

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

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

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

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

(End of clause)

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

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

(1) The number of disabled veterans and the number of veterans of the Vietnam era in the workforce of the contractor by job category and hiring location; and

(2) The total number of new employees hired during the period covered by the report, and of that total, the number of disabled veterans, and the number of veterans of the Vietnam era.

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

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

(d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date: (1) As of the end of any pay period during the period January through March 1st of the year the report is due, or (2) as of December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

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

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

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

_____	_____
_____	_____
_____	_____

(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 (AUG 2003)

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

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

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

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

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

(1) The emergency planning reporting requirements of section 302 of EPCRA.

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

(End of clause)

52.223-6 DRUG-FREE WORKPLACE (MAY 2001)

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

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

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

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

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

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

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

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

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

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

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

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

- (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;
- (4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will--
- (i) Abide by the terms of the statement; and
 - (ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction.
- (5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
- (6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
- (i) Taking appropriate personnel action against such employee, up to and including termination; or
 - (ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
- (7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.
- (c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.
 - (d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.
- (End of clause)

52.223-9 ESTIMATE OF PERCENTAGE OF RECOVERED MATERIAL CONTENT FOR EPA-DESIGNATED PRODUCTS (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."

Recovered material means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(b) The Contractor, on completion of this contract, shall--

(1) Estimate the percentage of the total recovered material used in contract performance, including, if applicable, the percentage of postconsumer material content; and

(2) Submit this estimate to the Contracting Officer.

(End of clause)

52.223-14 TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

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

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

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

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

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

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

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

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

(iii) Major group codes 20 through 39.

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

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

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

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

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

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

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

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

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

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

(End of clause)

52.225-11 BUY AMERICAN ACT--CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (JAN 2004)

(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, 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.

Free Trade Agreement country means Canada, Chile, Mexico, or Singapore.

Free Trade Agreement country construction material means a construction material that--

- (1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) 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 FTA country into a new and different construction material distinct from the materials from which it was transformed.

United States means the 50 States, the District of Columbia, and outlying areas.

(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 Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American Act restrictions are waived for designated country and FTA 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: See FAR 25.104 and DFARS 225.104, Non-Available Articles.

(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.

(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)(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) \1\
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Item 1:

Foreign construction material....
 Domestic construction material...

Item 2:

Foreign construction material....
 Domestic construction material...

\1\ Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).

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

Include other applicable supporting information.

(e) United States law will apply to resolve any claim of breach of this contract.

(End of clause)

52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JAN 2004)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, Libya, and Sudan are prohibited, as are most imports from North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at TerList1.html. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR chapter V and/or on OFAC's Web site at <http://www.treas.gov/ofac>.

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

(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.)

(End of clause)

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.

(3) 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.

(End of clause)

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.

(End of clause)

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 (JUL 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--

"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.

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

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

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

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)

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 subparagraph (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.

(End of clause)

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.

(End of clause)

52.232-27 PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (OCT 2003)

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 Disputes Act 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 contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(End of clause)

52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER—CENTRAL CONTRACTOR
REGISTRATION (OCT 2003)

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

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

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

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

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

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

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

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

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

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

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

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

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

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register separately in the CCR database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

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

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

(End of Clause)

52.233-1 DISPUTES. (JUL 2002)

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) Claim, as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d)(1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2)(i) The contractors shall provide the certification specified in subparagraph (d)(2)(iii) of this clause

when submitting any claim -

(A) Exceeding \$100,000; or

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

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

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

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

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

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

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

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

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

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in (FAR) 48 CFR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

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

(End of clause)

52.233-3 PROTEST AFTER AWARD (AUG. 1996)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor

to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

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

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

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

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

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

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

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

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

(End of clause)

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 twenty percent (20%) 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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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 topographical surveys and as-built drawings.

(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.

(insert a summary of transportation facilities providing access from the site, including information about their availability and limitations.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(4) 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.

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

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

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

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

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

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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.

(End of clause)

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 (JUN 2003)

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

International air transportation means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

United States means the 50 States, the District of Columbia, and outlying areas.

U.S.-flag air carrier means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

(b) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

(c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

(d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

STATEMENT OF UNAVAILABILITY OF U.S.-FLAG AIR CARRIERS

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see section 47.403 of the Federal Acquisition Regulation): [State reasons]: _____

(End of statement)

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

(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) VECF preparation. As a minimum, the Contractor shall include in each VECF 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 VECF preparation. The VECF 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 VECF 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 VECF. The cost reduction associated with the VECF 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 VECF, 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 VECF 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 VECF, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.

(d) Submission. The Contractor shall submit VECF'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 VECF 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 VECF's expeditiously; however, it shall not be liable for any delay in acting upon a VECF.

(2) If the VECF is not accepted, the Contracting Officer shall notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECF, 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 VECF effort.

(3) Any VECF 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 VECF, 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 VECF to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECF 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.

(End of clause)

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.

(End of clause)

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.

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

(End of clause)

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)

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 serving--

(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.

(6) 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)

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 ALTERNATE A (NOV 2003)

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

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

"Commercial and Government Entity (CAGE) code" means--

(1) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(2) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an "NCAGE code."

"Data Universal Numbering System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

"Data Universal Numbering System +4 (DUNS+4) number" means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to

establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11 of the Federal Acquisition Regulation) for the same parent concern.

“Registered in the CCR database” means that--

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database;

(2) The Contractor's CAGE code is in the CCR database; and

(3) The Government has validated all mandatory data fields and has marked the records “Active.”

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “DUNS” or “DUNS +4” followed by the DUNS or DUNS +4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number--

(i) If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company Physical Street Address, City, State, and Zip Code.

(iv) Company Mailing Address, City, State and Zip Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g)(1)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

(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)

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.

(End of clause)

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.

(End of clause)

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.

(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)

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 the State of 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)

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)

252.223-7006 PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS (APR 1993)

(a) "Definitions".

As used in this clause --

(1) "Storage" means a non-transitory, semi-permanent or permanent holding, placement, or leaving of material. It does not include a temporary accumulation of a limited quantity of a material used in or a waste generated or resulting from authorized activities, such as servicing, maintenance, or repair of Department of Defense (DoD) items, equipment, or facilities.

(2) "Toxic or hazardous materials" means:

(i) Materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of CERCLA (42 U.S.C. 9602) (40 CFR part 302);

(ii) Materials that are of an explosive, flammable, or pyrotechnic nature; or

(iii) Materials otherwise identified by the Secretary of Defense as specified in DoD regulations.

(b) In accordance with 10 U.S.C. 2692, the Contractor is prohibited from storing or disposing of non-DoD-owned toxic or hazardous materials on a DoD installation, except to the extent authorized by a statutory exception to 10 U.S.C. 2692 or as authorized by the Secretary of Defense or his designee.

(End of clause)

252.226-7001 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES, AND HAWAIIAN SMALL BUSINESS CONCERNS (OCT 2003)

(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.

Native Hawaiian small business concern means an entity that is--

(1) A small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632) and relevant implementing regulations; and

(2) Owned and controlled by a Native Hawaiian as defined in 25 U.S.C. 4221(9).

(b) The Contractor shall use its best efforts to give Indian organizations, Indian-owned economic enterprises, and Native Hawaiian small business concerns 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, Indian-owned economic enterprise, or Native Hawaiian small business concern as to its eligibility, unless an 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--

(1) For matters relating to Indian organizations or Indian-owned economic enterprises: 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.

(2) For matters relating to Native Hawaiian small business concerns: Department of Hawaiian Home Lands, PO Box 1879, Honolulu, HI 96805. The Department of Hawaiian Home Lands will determine the eligibility and will notify the Contracting Officer.

(e) No incentive payment will be made--

(1) While a challenge is pending; or

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

(f)(1) The Contractor, on its own behalf or on behalf of a subcontractor at any tier, may request an incentive payment in accordance with this clause.

(2) The incentive amount that may be requested is 5 percent of the estimated cost, target cost, or fixed price included in the subcontract at the time of award to the Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern.

(3) In the case of a subcontract for commercial items, the Contractor may receive an incentive payment only if the subcontracted items are produced or manufactured in whole or in part by an Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern.

(4) The Contractor has the burden of proving the amount claimed and shall assert its request for an incentive payment prior to completion of contract performance.

(5) 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 estimated cost, target cost, or fixed price included in the subcontract awarded to the Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern.

(6) If the Contractor requests and receives an incentive payment on behalf of a subcontractor, the Contractor is obligated to pay the subcontractor the incentive amount.

(g) The Contractor shall insert the substance of this clause, including this paragraph (g), in all subcontracts exceeding \$500,000 for which further subcontracting opportunities may exist.

(End of clause)

252.227-7033 RIGHTS IN SHOP DRAWINGS (APR 1966)

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

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

252.231-7000 SUPPLEMENTAL COST PRINCIPLES (DEC 1991)

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

(End of clause)

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, MAPS, 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 Section 00800.

(End of clause)

~~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.~~

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.

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 contracts 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 the 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)

~~S-28.10 OFFER GUARANTEE (SEP 1996)~~

~~(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, e.g., bid bond supported by good and sufficient surety or sureties acceptable to the Government, 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 as soon as practicable after contract award; and~~

~~_____ (2) To the successful 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 furnish executed bond(s) as required by the solicitation within the time specified, the Contracting Officer may terminate the contract for default.~~

~~(d) In the event 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)

Q16. On the Solicitation, Offer and Award Standard Form 1442 it notes the due date as June 11 at 2:00 P.M. But the issued amendment # 1 states "The proposal due date of June 10, 2004, 2:00 P.M., remains unchanged". Also, in your website advertised solicitation shows a closing date of June 10, 2004. Is the bid due date June 11, 2004 or June 10, 2004?

A16. Am-0002 extended the proposal due date to June 18, 2004, 2:00 P.M., Hawaiian Standard Time.

Q17. Proposal Item No. 2 indicates demolition/site/utilities work for WBR Phase 2D Barracks Site Only. Should pricing for demolition/site/utilities work at WBR Phase 2D Company Operations Facilities on sheet CS-5 belong in Proposal Item No. 5? Also, is Building 855 considered a part of the Barracks Site?

A17. Yes, pricing for demolition/site/utilities work at WBR Phase 2D Company Operations Facilities on sheet CS-5 belongs to Item No. 5.

Yes, Building 855 is considered a part of the Barracks Site.

Q18. Per Amendment 0002, section 00700 – Contract Clauses, para 52.211-12, what is the amount of Liquidated Damages?

A18. See Am-0003, Section 00700, Clause 52.211-12.

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SECTION 13280A

ASBESTOS ABATEMENT

PART 1 GENERAL

1.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by basic designation only.

AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)

- | | |
|------------|---|
| ANSI Z87.1 | (1989; Errata; Z87.1a) Occupational and Educational Eye and Face Protection |
| ANSI Z88.2 | (1992) Respiratory Protection |
| ANSI Z9.2 | (1979; R 1991) Fundamentals Governing the Design and Operation of Local Exhaust Systems |

AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM)

- | | |
|-------------|--|
| ASTM D 1331 | (1989; R 1995) Surface and Interfacial Tension of Solutions of Surface-Active Agents |
| ASTM D 4397 | (1996) Polyethylene Sheeting for Construction, Industrial, and Agricultural Applications |
| ASTM E 119 | (2000) Fire Tests of Building Construction and Materials |
| ASTM E 1368 | (2000) Visual Inspection of Asbestos Abatement Projects |
| ASTM E 736 | (1992) Cohesion/Adhesion of Sprayed Fire-Resistive Materials Applied to Structural Members |

COMPRESSED GAS ASSOCIATION (CGA)

- | | |
|-----------|---|
| CGA G-7 | (1990) Compressed Air for Human Respiration |
| CGA G-7.1 | (1997) Commodity Specification for Air |

HAWAII ADMINISTRATIVE RULES (HAR)

HAR Chapter 501	Asbestos Requirement
HAR Chapter 502	Asbestos Containing Materials in Schools
HAR Chapter 503	Fees for Asbestos Removal & Certification
HAR Chapter 504	Asbestos Abatement Certification Program

HAWAII STATE OCCUPATIONAL SAFETY AND HEALTH (HIOSH)

HIOSH 12-145	Asbestos
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NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH (NIOSH)

NIOSH Pub No. 84-100	(1984; Supple 1985, 1987, 1988 & 1990) NIOSH Manual of Analytical Methods
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U.S. ARMY CORPS OF ENGINEERS (USACE)

EM 385-1-1	(1996) U.S. Army Corps of Engineers Safety and Health Requirements Manual
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U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA)

EPA 340/1-90/018	(1990) Asbestos/NESHAP Regulated Asbestos Containing Materials Guidance
EPA 340/1-90/019	(1990) Asbestos/NESHAP Adequately Wet Guidance
EPA 560/5-85-024	(1985) Guidance for Controlling Asbestos-Containing Materials in Buildings

U.S. NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

29 CFR 1910	Occupational Safety and Health Standards
29 CFR 1926	Safety and Health Regulations for Construction
40 CFR 61	National Emission Standards for Hazardous Air Pollutants
40 CFR 763	Asbestos
42 CFR 84	Approval of Respiratory Protective Devices
49 CFR 107	Hazardous Materials Program Procedures
49 CFR 171	General Information, Regulations, and Definitions

- 49 CFR 172 Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements
- 49 CFR 173 Shippers - General Requirements for Shipments and Packagings

UNDERWRITERS LABORATORIES (UL)

- UL 586 (1996; Rev thru Aug 1999) High-Efficiency, Particulate, Air Filter Units

1.2 DEFINITIONS

- a. Adequately Wet: A term defined in 40 CFR 61, Subpart M, and EPA 340/1-90/019 meaning to sufficiently mix or penetrate with liquid to prevent the release of particulate. If visible emissions are observed coming from asbestos-containing material (ACM), then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wetted.
- b. Aggressive Method: Removal or disturbance of building material by sanding, abrading, grinding, or other method that breaks, crumbles, or disintegrates intact asbestos-containing material (ACM).
- c. Amended Water: Water containing a wetting agent or surfactant with a surface tension of at least 29 dynes per square centimeter when tested in accordance with ASTM D 1331.
- d. Asbestos: Asbestos includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated and/or altered.
- e. Asbestos-Containing Material (ACM): Any materials containing more than one percent asbestos.
- f. Asbestos Fiber: A particulate form of asbestos, 5 micrometers or longer, with a length-to-width ratio of at least 3 to 1.
- g. Authorized Person: Any person authorized by the Contractor and required by work duties to be present in the regulated areas.
- h. Building Inspector: Individual who inspects buildings for asbestos and has EPA Model Accreditation Plan (MAP) "Building Inspector" training; accreditation required by 40 CFR 763, Subpart E, Appendix C.
- i. Certified Industrial Hygienist (CIH): An Industrial Hygienist certified in the practice of industrial hygiene by the American Board of Industrial Hygiene.

- j. Class I Asbestos Work: Activities defined by OSHA involving the removal of thermal system insulation (TSI) and surfacing ACM.
- k. Class II Asbestos Work: Activities defined by OSHA involving the removal of ACM which is not thermal system insulation or surfacing material. This includes, but is not limited to, the removal of asbestos - containing wallboard, floor tile and sheeting, roofing and siding shingles, and construction mastic. Certain "incidental" roofing materials such as mastic, flashing and cements when they are still intact are excluded from Class II asbestos work. Removal of small amounts of these materials which would fit into a glovebag may be classified as a Class III job.
- l. Class III Asbestos Work: Activities defined by OSHA that involve repair and maintenance operations, where ACM, including TSI and surfacing ACM, is likely to be disturbed. Operations may include drilling, abrading, cutting a hole, cable pulling, crawling through tunnels or attics and spaces above the ceiling, where asbestos is actively disturbed or asbestos-containing debris is actively disturbed.
- m. Class IV Asbestos Work: Maintenance and custodial construction activities during which employees contact but do not disturb ACM and activities to clean-up dust, waste and debris resulting from Class I, II, and III activities. This may include dusting surfaces where ACM waste and debris and accompanying dust exists and cleaning up loose ACM debris from TSI or surfacing ACM following construction.
- n. Clean room: An uncontaminated room having facilities for the storage of employees' street clothing and uncontaminated materials and equipment.
- o. Competent Person: In addition to the definition in 29 CFR 1926, Section .32(f), a person who is capable of identifying existing asbestos hazards as defined in 29 CFR 1926, Section .1101, selecting the appropriate control strategy, has the authority to take prompt corrective measures to eliminate them and has EPA Model Accreditation Plan (MAP) "Contractor/Supervisor" training; accreditation required by 40 CFR 763, Subpart E, Appendix C.
- p. Contractor/Supervisor: Individual who supervises asbestos abatement work and has EPA Model Accreditation Plan "Contractor/Supervisor" training; accreditation required by 40 CFR 763, Subpart E, Appendix C.
- q. Critical Barrier: One or more layers of plastic sealed over all openings into a regulated area or any other similarly placed physical barrier sufficient to prevent airborne asbestos in a regulated area from migrating to an adjacent area.
- r. Decontamination Area: An enclosed area adjacent and connected to the regulated area and consisting of an equipment room, shower

area, and clean room, which is used for the decontamination of workers, materials, and equipment that are contaminated with asbestos.

- s. Demolition: The wrecking or taking out of any load-supporting structural member and any related razing, removing, or stripping of asbestos products.
- t. Disposal Bag: A 0.15 mm thick, leak-tight plastic bag, pre-labeled in accordance with 29 CFR 1926, Section .1101, used for transporting asbestos waste from containment to disposal site.
- u. Disturbance: Activities that disrupt the matrix of ACM, crumble or pulverize ACM, or generate visible debris from ACM. Disturbance includes cutting away small amounts of ACM, no greater than the amount which can be contained in 1 standard sized glovebag or waste bag, not larger than 1.5 m in length and width in order to access a building component.
- v. Equipment Room or Area: An area adjacent to the regulated area used for the decontamination of employees and their equipment.
- w. Employee Exposure: That exposure to airborne asbestos that would occur if the employee were not using respiratory protective equipment.
- x. Fiber: A fibrous particulate, 5 micrometers or longer, with a length to width ratio of at least 3 to 1.
- y. Friable ACM: A term defined in 40 CFR 61, Subpart M and EPA 340/1-90/018 meaning any material which contains more than 1 percent asbestos, as determined using the method specified in 40 CFR 763, Subpart E, Appendix A, Section 1, Polarized Light Microscopy (PLM), that when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent, as determined by a method other than point counting by PLM, the asbestos content is verified by point counting using PLM.
- z. Glovebag: Not more than a 1.5 by 1.5 m impervious plastic bag-like enclosure affixed around an asbestos-containing material, with glove-like appendages through which material and tools may be handled.
- aa. High-Efficiency Particulate Air (HEPA) Filter: A filter capable of trapping and retaining at least 99.97 percent of all mono-dispersed particles of 0.3 micrometers in diameter.
- bb. Homogeneous Area: An area of surfacing material or thermal system insulation that is uniform in color and texture.
- cc. Industrial Hygienist: A professional qualified by education, training, and experience to anticipate, recognize, evaluate, and develop controls for occupational health hazards.

- dd. Intact: ACM which has not crumbled, been pulverized, or otherwise deteriorated so that the asbestos is no longer likely to be bound with its matrix. Removal of "intact" asphaltic, resinous, cementitious products does not render the ACM non-intact simply by being separated into smaller pieces.
- ee. Model Accreditation Plan (MAP): USEPA training accreditation requirements for persons who work with asbestos as specified in 40 CFR 763, Subpart E, Appendix C.
- ff. Modification: A changed or altered procedure, material or component of a control system, which replaces a procedure, material or component of a required system.
- gg. Negative Exposure Assessment: A demonstration by the Contractor to show that employee exposure during an operation is expected to be consistently below the OSHA Permissible Exposure Limits (PELs).
- hh. NESHAP: National Emission Standards for Hazardous Air Pollutants. The USEPA NESHAP regulation for asbestos is at 40 CFR 61, Subpart M.
- ii. Nonfriable ACM: A NESHAP term defined in 40 CFR 61, Subpart M and EPA 340/1-90/018 meaning any material containing more than 1 percent asbestos, as determined using the method specified in 40 CFR 763, Subpart E, Appendix A, Section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized or reduced to powder by hand pressure.
- jj. Nonfriable ACM (Category I): A NESHAP term defined in 40 CFR 61, Subpart E and EPA 340/1-90/018 meaning asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in 40 CFR 763, Subpart F, Appendix A, Section 1, Polarized Light Microscopy.
- kk. Nonfriable ACM (Category II): A NESHAP term defined in 40 CFR 61, Subpart E and EPA 340/1-90/018 meaning any material, excluding Category I nonfriable ACM, containing more than 1 percent asbestos, as determined using the methods specified in 40 CFR 763, Subpart F, Appendix A, Section 1, Polarized Light Microscopy, that when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.
- ll. Permissible Exposure Limits (PELs):
- (1) PEL-Time weighted average(TWA): Concentration of asbestos not in excess of 0.1 fibers per cubic centimeter of air (f/cc) as an 8 hour time weighted average (TWA), as determined by the method prescribed in 29 CFR 1926, Section .1101, Appendix A, or the current version of NIOSH Pub No. 84-100 analytical method 7400.
- (2) PEL-Excursion Limit: An airborne concentration of asbestos

not in excess of 1.0 f/cc of air as averaged over a sampling period of 30 minutes as determined by the method prescribed in 29 CFR 1926, Section .1101, Appendix A, or the current version of NIOSH Pub No. 84-100 analytical method 7400.

- mm. Regulated Area: An OSHA term defined in 29 CFR 1926, Section .1101 meaning an area established by the Contractor to demarcate areas where Class I, II, and III asbestos work is conducted; also any adjoining area where debris and waste from such asbestos work accumulate; and an area within which airborne concentrations of asbestos exceed, or there is a reasonable possibility they may exceed, the permissible exposure limit.
- nn. Removal: All operations where ACM is taken out or stripped from structures or substrates, and includes demolition operations.
- oo. Spills/Emergency Cleanups: Cleanup of sizable amounts of asbestos waste and debris which has occurred, for example, when water damage occurs in a building, and sizable amounts of ACM are dislodged. A Competent Person evaluates the site and ACM to be handled, and based on the type, condition and extent of the dislodged material, classifies the cleanup as Class I, II, or III. Only if the material was intact and the cleanup involves mere contact of ACM, rather than disturbance, could there be a Class IV classification.
- pp. Surfacing ACM: Asbestos-containing material which contains more than 1% asbestos and is sprayed-on, troweled-on, or otherwise applied to surfaces, such as acoustical plaster on ceilings and fireproofing materials on structural members, or other materials on surfaces for acoustical, fireproofing, or other purposes.
- qq. Thermal system insulation (TSI) ACM: ACM which contains more than 1% asbestos and is applied to pipes, fittings, boilers, breeching, tanks, ducts, or other interior structural components to prevent heat loss or gain or water condensation.
- rr. Transite: A generic name for asbestos cement wallboard and pipe.
- ss. Worker: Individual (not designated as the Competent Person or a supervisor) who performs asbestos work and has completed asbestos worker training required by 29 CFR 1926, Section .1101, to include EPA Model Accreditation Plan (MAP) "Worker" training; accreditation required by 40 CFR 763, Subpart E, Appendix C, if required by the OSHA Class of work to be performed or by the state where the work is to be performed.

1.3 DESCRIPTION OF WORK

The work covered by this section includes the removal of asbestos-containing materials (ACM) which are encountered during demolition activities associated with this project and describes procedures and equipment required to protect workers and occupants of the regulated area from contact with airborne asbestos fibers and ACM dust and debris.

Activities include OSHA Class I and Class II work operations involving ACM.

The work also includes containment, storage, transportation and disposal of the generated ACM wastes. More specific operational procedures shall be detailed in the required Accident Prevention Plan and its subcomponents, the Asbestos Hazard Abatement Plan and Activity Hazard Analyses required in paragraph SAFETY AND HEALTH PROGRAM AND PLANS.

1.3.1 Abatement Work Tasks

The specific ACM to be abated is identified on the detailed plans and project drawings. A summary of work task data elements for each individual ACM abatement work task to include the appropriate RESPONSE ACTION DETAIL SHEET (item to be abated and methods to be used) and SET-UP DETAIL SHEETS (containment techniques to include safety precautions and methods) is included in Table 1, "Individual Work Task Data Elements" at the end of this section.

1.3.2 Unexpected Discovery of Asbestos

For any previously untested building components suspected to contain asbestos and located in areas impacted by the work, the Contractor shall notify the Contracting Officer (CO) who will have the option of ordering up to 10 bulk samples to be obtained at the Contractor's expense and delivered to a laboratory accredited under the National Institute of Standards and Technology (NIST) "National Voluntary Laboratory Accreditation Program (NVLAP)" and analyzed by PLM at no additional cost to the Government. Any additional components identified as ACM that have been approved by the Contracting Officer for removal shall be removed by the Contractor and will be paid for by an equitable adjustment to the contract price under the CONTRACT CLAUSE titled "changes". Sampling activities undertaken to determine the presence of additional ACM shall be conducted by personnel who have successfully completed the EPA Model Accreditation Plan (MAP) "Building Inspector" training course required by 40 CFR 763, Subpart E, Appendix C.

1.4 SUBMITTALS

Government approval is required for submittals with a "G" designation; submittals not having a "G" designation are for information only. When used, a designation following the "G" designation identifies the office that will review the submittal for the Government. The following shall be submitted in accordance with Section 01330 SUBMITTAL PROCEDURES:

SD-03 Product Data

Respiratory Protection Program; G

Records of the respirator program.

Cleanup and Disposal; G

Waste shipment records. Weigh bills and delivery tickets shall be furnished for information only.

Detailed Drawings; G

Descriptions, detail project drawings, and site layout to include worksite containment area techniques as prescribed on applicable SET-UP DETAIL SHEETS, local exhaust ventilation system locations, decontamination units and load-out units, other temporary waste storage facility, access tunnels, location of temporary utilities (electrical, water, sewer) and boundaries of each regulated area.

Materials and Equipment; G

Manufacturer's catalog data for all materials and equipment to be used in the work, including brand name, model, capacity, performance characteristics and any other pertinent information. Test results and certificates from the manufacturer of encapsulants substantiating compliance with performance requirements of this specification. Material Safety Data Sheets for all chemicals to be used onsite in the same format as implemented in the Contractor's HAZARD COMMUNICATION PROGRAM. Data shall include, but shall not be limited to, the following items:

- a. High Efficiency Filtered Air (HEPA) local exhaust equipment
- b. Vacuum cleaning equipment
- c. Pressure differential monitor for HEPA local exhaust equipment
- d. Air monitoring equipment
- e. Respirators
- f. Personal protective clothing and equipment
 - (1) Coveralls
 - (2) Other work clothing
 - (3) Foot coverings
 - (4) Hard hats
 - (5) Eye protection
 - (6) Other items required and approved by Contractors Designated IH and Competent Person
- g. Glovebag
- h. Duct Tape
- i. Disposal Containers
 - (1) Disposal bags
- j. Sheet Plastic

(1) Polyethylene Sheet - General

k. Wetting Agent

(1) Amended Water

(2) Removal encapsulant

l. Strippable Coating

m. Prefabricated Decontamination Unit

n. Other items

o. Chemical encapsulant

p. Material Safety Data Sheets (for all chemicals proposed)

Qualifications; G

A written report providing evidence of qualifications for personnel, facilities and equipment assigned to the work.

Training Program; G

A copy of the written project site-specific training material as indicated in 29 CFR 1926, Section .1101 that will be used to train onsite employees. The training document shall be signed by the Contractor's Designated IH and Competent Person.

Medical Requirements; G

Physician's written opinion.

Encapsulants; G

Certificates stating that encapsulants meet the applicable specified performance requirements.

SD-06 Test Reports

Exposure Assessment and Air Monitoring; G

Initial exposure assessments, negative exposure assessments, air-monitoring results and documentation.

Local Exhaust Ventilation

Pressure differential recordings.

Licenses, Permits and Notifications; G

Licenses, permits, and notifications.

SD-07 Certificates

Vacuum, Filtration and Ventilation Equipment; G

Manufacturer's certifications showing compliance with ANSI Z9.2 for:

- a. Vacuums.
- b. Water filtration equipment.
- c. Ventilation equipment.
- d. Other equipment required to contain airborne asbestos fibers.

1.5 QUALIFICATIONS

1.5.1 Written Qualifications and Organization Report

The Contractor shall furnish a written qualifications and organization report providing evidence of qualifications of the Contractor, Contractor's Project Supervisor, Designated Competent Person, supervisors and workers; Designated IH (person assigned to project and firm name); independent testing laboratory (including name of firm, principal, and analysts who will perform analyses); all subcontractors to be used including disposal transportation and disposal facility firms, subcontractor supervisors, subcontractor workers; and any others assigned to perform asbestos abatement and support activities. The report shall include an organization chart showing the Contractor's staff organization for this project by name and title, chain of command and reporting relationship with all subcontractors. The report shall be signed by the Contractor, the Contractor's onsite project manager, Designated Competent Person, Designated IH, designated testing laboratory and the principals of all subcontractors to be used. The Contractor shall include the following statement in the report: "By signing this report I certify that the personnel I am responsible for during the course of this project fully understand the contents of 29 CFR 1926, Section .1101, 40 CFR 61, Subpart M, and the federal, state and local requirements specified in paragraph SAFETY AND HEALTH PROGRAM AND PLANS for those asbestos abatement activities that they will be involved in."

1.5.2 Specific Requirements

The Contractor shall designate in writing, personnel meeting the following qualifications:

- a. Designated Competent Person: The name, address, telephone number, and resume of the Contractor's Designated Competent Person shall be provided. Evidence that the full-time Designated Competent Person is qualified in accordance with 29 CFR 1926, Sections .32 and .1101, has EPA Model Accreditation Plan (MAP) "Contractor/Supervisor" training accreditation required by 40 CFR 763, Subpart E, Appendix C, and is experienced in the administration and supervision of asbestos abatement projects, including exposure assessment and monitoring, work practices,

abatement methods, protective measures for personnel, setting up and inspecting asbestos abatement work areas, evaluating the integrity of containment barriers, placement and operation of local exhaust systems, ACM generated waste containment and disposal procedures, decontamination units installation and maintenance requirements, site safety and health requirements, notification of other employees onsite, etc. The duties of the Competent Person shall include the following: controlling entry to and exit from the regulated area; supervising any employee exposure monitoring required by 29 CFR 1926, Section .1101; ensuring that all employees working within a regulated area wear the appropriate personal protective equipment (PPE), are trained in the use of appropriate methods of exposure control, and use the hygiene facilities and decontamination procedures specified; and ensuring that engineering controls in use are in proper operating conditions and are functioning properly. The Designated Competent Person shall be responsible for compliance with applicable federal, state and local requirements, the Contractor's Accident Prevention Plan and Asbestos Hazard Abatement Plan. The Designated Competent Person shall provide, and the Contractor shall submit, the "Contractor/Supervisor" course completion certificate and the most recent certificate for required refresher training with the employee "Certificate of Worker Acknowledgment" required by this paragraph. The Contractor shall submit evidence that this person has a minimum of 2 years of on-the-job asbestos abatement experience relevant to OSHA competent person requirements. The Designated Competent Person shall be onsite at all times during the conduct of this project.

- b. Project and Other Supervisors: The Contractor shall provide the name, address, telephone number, and resume of the Project Supervisor and other supervisors who have responsibility to implement the Accident Prevention Plan, including the Asbestos Hazard Abatement Plan and Activity Hazard Analyses, the authority to direct work performed under this contract and verify compliance, and have EPA Model Accreditation Plan (MAP) "Contractor/Supervisor" training accreditation required by 40 CFR 763, Subpart E, Appendix C. The Project Supervisor and other supervisors shall provide, and the Contractor shall submit, the "Contractor/Supervisor" course completion certificate and the most recent certificate for required refresher training with the employee "Certificate of Worker Acknowledgment" required by this paragraph. The Contractor shall submit evidence that the Project Supervisor has a minimum of 2 years of on-the-job asbestos abatement experience relevant to project supervisor responsibilities and the other supervisors have a minimum of 2 years on-the-job asbestos abatement experience commensurate with the responsibilities they will have on this project.
- c. Designated Industrial Hygienist: The Contractor shall provide the name, address, telephone number, resume and other information specified below for the Industrial Hygienist (IH) selected to prepare the Contractor's Asbestos Hazard Abatement Plan, prepare and perform training, direct air monitoring and assist the

Contractor's Competent Person in implementing and ensuring that safety and health requirements are complied with during the performance of all required work. The Designated IH shall be a person who is board certified in the practice of industrial hygiene or board eligible (meets all education and experience requirements) as determined and documented by the American Board of Industrial Hygiene (ABIH), has EPA Model Accreditation Plan (MAP) "Contractor/Supervisor" training accreditation required by 40 CFR 763, Subpart E, Appendix C, and has a minimum of 2 years of comprehensive experience in planning and overseeing asbestos abatement activities. The Designated IH shall provide, and the Contractor shall submit, the "Contractor/Supervisor" course completion certificate and the most recent certificate for required refresher training with the employee "Certificate of Worker Acknowledgment" required by this paragraph. The Designated IH shall be completely independent from the Contractor according to federal, state, or local regulations; that is, shall not be a Contractor's employee or be an employee or principal of a firm in a business relationship with the Contractor negating such independent status. A copy of the Designated IH's current valid ABIH certification, confirmation of eligibility in writing from the ABIH shall be included. The Designated IH shall visit the site at least 1 per week for the duration of asbestos activities and shall be available for emergencies. In addition, the Designated IH shall prepare, and the Contractor shall submit, the name, address, telephone numbers and resumes of additional IH's and industrial hygiene technicians (IHT) who will be assisting the Designated IH in performing onsite tasks. IHs and IHTs supporting the Designated IH shall have a minimum of 2 years of practical onsite asbestos abatement experience. The formal reporting relationship between the Designated IH and the support IHs and IHTs, the Designated Competent Person, and the Contractor shall be indicated.

- d. Asbestos Abatement Workers: Asbestos abatement workers shall meet the requirements contained in 29 CFR 1926, Section .1101, 40 CFR 61, Subpart M, and other applicable federal, state and local requirements. Worker training documentation shall be provided as required on the "Certificate of Workers Acknowledgment" in this paragraph.
- e. Worker Training and Certification of Worker Acknowledgment: Training documentation will be required for each employee who will perform OSHA Class I, Class II, Class III, or Class IV asbestos abatement operations. Such documentation shall be submitted on a Contractor generated form titled "Certificate of Workers Acknowledgment", to be completed for each employee in the same format and containing the same information as the example certificate at the end of this section. Training course completion certificates (initial and most recent update refresher) required by the information checked on the form shall be attached.
- f. Physician: The Contractor shall provide the name, medical qualifications, address, telephone number and resume of the

physician who will or has performed the medical examinations and evaluations of the persons who will conduct the asbestos abatement work tasks. The physician shall be currently licensed by the state where the workers will be or have been examined, have expertise in pneumoconiosis and shall be responsible for the determination of medical surveillance protocols and for review of examination/test results performed in compliance with 29 CFR 1926, Section .1101 and paragraph MEDICAL REQUIREMENTS. The physician shall be familiar with the site's hazards and the scope of this project.

g. First Aid and CPR Trained Persons: The names of at least 2 persons who are currently trained in first aid and CPR by the American Red Cross or other approved agency shall be designated and shall be onsite at all times during site operations. They shall be trained in universal precautions and the use of PPE as described in the Bloodborne Pathogens Standard of 29 CFR 1910, Section .1030 and shall be included in the Contractor's Bloodborne Pathogen Program. These persons may perform other duties but shall be immediately available to render first aid when needed. A copy of each designated person's current valid First Aid and CPR certificate shall be provided.

h. Independent Testing Laboratory: The Contractor shall provide the name, address and telephone number of the independent testing laboratory selected to perform the sample analyses and report the results. The testing laboratory shall be completely independent from the Contractor as recognized by federal, state or local regulations. Written verification of the following criteria, signed by the testing laboratory principal and the Contractor, shall be submitted:

(1) Phase contrast microscopy (PCM): The laboratory is fully equipped and proficient in conducting PCM of airborne samples using the methods specified by 29 CFR 1926, Section .1101, OSHA method ID-160, the most current version of NIOSH Pub No. 84-100 Method 7400; the laboratory is currently judged proficient (classified as acceptable) in counting airborne asbestos samples by PCM by successful participation in each of the last 4 rounds in the American Industrial Hygiene Association (AIHA) Proficiency Analytical Testing (PAT) Program; the names of the selected microscopists who will analyze airborne samples by PCM with verified documentation of their proficiency to conduct PCM analyses by being judged proficient in counting samples as current participating analysts in the AIHA PAT Program, and having successfully completed the Asbestos Sampling and Analysis course (NIOSH 582 or equivalent) with a copy of course completion certificate provided; when the PCM analysis is to be conducted onsite, documentation shall be provided certifying that the onsite analyst meets the same requirements.

(2) Polarized light microscopy (PLM): The laboratory is fully equipped and proficient in conducting PLM analyses of suspect ACM bulk samples in accordance with 40 CFR 763, Subpart E, Appendix E;

the laboratory is currently accredited by NIST under the NVLAP for bulk asbestos analysis and will use analysts (names shall be provided) with demonstrated proficiency to conduct PLM to include its application to the identification and quantification of asbestos content.

(3) PCM: The laboratory is fully equipped and each analyst (name shall be provided) possesses demonstrated proficiency in conducting PCM analysis of airborne samples using NIOSH Pub No. 84-100Method 7400 PCM.

- i. Disposal Facility, Transporter: The Contractor shall provide written evidence that the landfill to be used is approved for asbestos disposal by the USEPA and state and local regulatory agencies. Copies of signed agreements between the Contractor (including subcontractors and transporters) and the asbestos waste disposal facility to accept and dispose of all asbestos containing waste generated during the performance of this contract shall be provided. Qualifications shall be provided for each subcontractor or transporter to be used, indicating previous experience in transport and disposal of asbestos waste to include all required state and local waste hauler requirements for asbestos. The Contractor and transporters shall meet the DOT requirements of 49 CFR 171, 49 CFR 172, and 49 CFR 173 as well as registration requirements of 49 CFR 107 and other applicable state or local requirements. The disposal facility shall meet the requirements of 40 CFR 61, Sections .154 or .155, as required in 40 CFR 61, Section .150(b), and other applicable state or local requirements.

1.5.3 Federal, State or Local Citations on Previous Projects

The Contractor and all subcontractors shall submit a statement, signed by an officer of the company, containing a record of any citations issued by Federal, State or local regulatory agencies relating to asbestos activities (including projects, dates, and resolutions); a list of penalties incurred through non-compliance with asbestos project specifications, including liquidated damages, overruns in scheduled time limitations and resolutions; and situations in which an asbestos-related contract has been terminated (including projects, dates, and reasons for terminations). If there are none, a negative declaration signed by an officer of the company shall be provided.

1.6 REGULATORY REQUIREMENTS

In addition to detailed requirements of this specification, work performed under this contract shall comply with EM 385-1-1, applicable federal, state, and local laws, ordinances, criteria, rules and regulations regarding handling, storing, transporting, and disposing of asbestos waste materials. This includes, but is not limited to, OSHA standards, 29 CFR 1926, especially Section .1101, 40 CFR 61, Subpart M and 40 CFR 763. Matters of interpretation of standards shall be submitted to the appropriate administrative agency for resolution before starting work. Where the requirements of this specification, applicable laws, criteria, ordinances, regulations, and referenced documents vary, the most stringent

requirements shall apply. The following state and local laws, rules and regulations regarding demolition, removal, encapsulation, construction alteration, repair, maintenance, renovation, spill/emergency cleanup, housekeeping, handling, storing, transporting and disposing of asbestos material apply: HIOSH 12-145 and HAR Chapter 501, HAR Chapter 502, HAR Chapter 503, HAR Chapter 504.

1.7 SAFETY AND HEALTH PROGRAM AND PLANS

The Contractor shall develop and submit a written comprehensive site-specific Accident Prevention Plan at least 30 days prior to the preconstruction conference. The Accident Prevention Plan shall address requirements of EM 385-1-1, Appendix A, covering onsite work to be performed by the Contractor and subcontractors. The Accident Prevention Plan shall incorporate an Asbestos Hazard Abatement Plan, and Activity Hazard Analyses as separate appendices into 1 site specific Accident Prevention Plan document. Any portions of the Contractor's overall Safety and Health Program that are referenced in the Accident Prevention Plan, e.g., respirator program, hazard communication program, confined space entry program, etc., shall be included as appendices to the Accident Prevention Plan. The plan shall take into consideration all the individual asbestos abatement work tasks identified in Table 1. The plan shall be prepared, signed (and sealed, including certification number if required), and dated by the Contractor's Designated IH, Competent Person, and Project Supervisor.

1.7.1 Asbestos Hazard Abatement Plan Appendix

The Asbestos Hazard Abatement Plan appendix to the Accident Prevention Plan shall include, but not be limited to, the following:

- a. The personal protective equipment to be used;
- b. The location and description of regulated areas including clean and dirty areas, access tunnels, and decontamination unit (clean room, shower room, equipment room, storage areas such as load-out unit);
- c. Initial exposure assessment in accordance with 29 CFR 1926, Section .1101;
- d. Level of supervision;
- e. Method of notification of other employers at the worksite;
- f. Abatement method to include containment and control procedures;
- g. Interface of trades involved in the construction;
- h. Sequencing of asbestos related work;
- i. Storage and disposal procedures and plan;
- j. Type of wetting agent and asbestos encapsulant to be used;

- k. Location of local exhaust equipment;
- l. Air monitoring methods (personal, environmental and clearance);
- m. Bulk sampling and analytical methods (if required);
- n. A detailed description of the method to be employed in order to control the spread of ACM wastes and airborne fiber concentrations;
- o. Fire and medical emergency response procedures;
- p. The security procedures to be used for all regulated areas.

1.7.2 Activity Hazard Analyses Appendix

Activity Hazard Analyses, for each major phase of work, shall be submitted and updated during the project. The Activity Hazard Analyses format shall be in accordance with EM 385-1-1 (Figure 1-1). The analysis shall define the activities to be performed for a major phase of work, identify the sequence of work, the specific hazards anticipated, and the control measures to be implemented to eliminate or reduce each hazard to an acceptable level. Work shall not proceed on that phase until the Activity Hazard Analyses has been accepted and a preparatory meeting has been conducted by the Contractor to discuss its contents with everyone engaged in the activities, including the onsite Government representatives. The Activity Hazard Analyses shall be continuously reviewed and, when appropriate, modified to address changing site conditions or operations.

1.8 PRECONSTRUCTION CONFERENCE AND ONSITE SAFETY

The Contractor and the Contractor's Designated Competent Person, Project Supervisor, and Designated IH shall meet with the Contracting Officer prior to beginning work at a safety preconstruction conference to discuss the details of the Contractor's submitted Accident Prevention Plan to include the Asbestos Hazard Abatement Plan and Activity Hazard Analyses appendices. Deficiencies in the Accident Prevention Plan will be discussed and the Accident Prevention Plan shall be revised to correct the deficiencies and resubmitted for acceptance. Any changes required in the specification as a result of the Accident Prevention Plan shall be identified specifically in the plan to allow for free discussion and acceptance by the Contracting Officer, prior to the start of work. Onsite work shall not begin until the Accident Prevention Plan has been accepted. A copy of the written Accident Prevention Plan shall be maintained onsite. Changes and modifications to the accepted Accident Prevention Plan shall be made with the knowledge and concurrence of the Designated IH, the Project Supervisor, Designated Competent Person, and the Contracting Officer. Should any unforeseen hazard become evident during the performance of the work, the Designated IH shall bring such hazard to the attention of the Project Supervisor, Designated Competent Person, and the Contracting Officer, both verbally and in writing, for resolution as soon as possible. In the interim, all necessary action shall be taken by the Contractor to restore and maintain safe working conditions in order to safeguard onsite personnel, visitors, the public, and the environment. Once accepted by the Contracting Officer,

the Accident Prevention Plan, including the Asbestos Hazard Abatement Plan and Activity Hazard Analyses will be enforced as if an addition to the contract. Disregarding the provisions of this contract or the accepted Accident Prevention Plan will be cause for stopping of work, at the discretion of the Contracting Officer, until the matter has been rectified.

1.9 SECURITY

The Contractor is responsible for control of anyone entering a existing project site. The area shall be demarcated. A log book shall be kept documenting entry into and out of the regulated area. Entry into regulated areas shall only be by personnel authorized by the Contractor and the Contracting Officer. Personnel authorized to enter regulated areas shall be trained, be medically evaluated, and wear the required personal protective equipment for the specific regulated area to be entered.

1.10 MEDICAL REQUIREMENTS

Medical requirements shall conform to 29 CFR 1926, Section .1101.

1.10.1 Medical Examinations

Before being exposed to airborne asbestos fibers, workers shall be provided with a medical examination as required by 29 CFR 1926, Section .1101 and other pertinent state or local requirements. This requirement shall have been satisfied within the last 12 months. The same medical examination shall be given on an annual basis to employees engaged in an occupation involving asbestos and within 30 calendar days before or after the termination of employment in such occupation. X-ray films of asbestos workers shall be identified to the consulting radiologist and medical record jackets shall be marked with the word "asbestos."

1.10.1.1 Information Provided to the Physician

The Contractor shall provide the following information in writing to the examining physician:

- a. A copy of 29 CFR 1926, Section .1101 and Appendices D, E, G, and I;
- b. A description of the affected employee's duties as they relate to the employee's exposure;
- c. The employee's representative exposure level or anticipated exposure level;
- d. A description of any personal protective and respiratory equipment used or to be used;
- e. Information from previous medical examinations of the affected employee that is not otherwise available to the examining physician.

1.10.1.2 Written Medical Opinion

For each worker, a written medical opinion prepared and signed by a licensed physician indicating the following:

- a. Summary of the results of the examination.
- b. The potential for an existing physiological condition that would place the employee at an increased risk of health impairment from exposure to asbestos.
- c. The ability of the individual to wear personal protective equipment, including respirators, while performing strenuous work tasks under cold and/or heat stress conditions.
- d. A statement that the employee has been informed of the results of the examination, provided with a copy of the results, informed of the increased risk of lung cancer attributable to the combined effect of smoking and asbestos exposure, and informed of any medical condition that may result from asbestos exposure.

1.10.2 Medical and Exposure Records

Complete and accurate records shall be maintained of each employee's medical examinations, medical records, and exposure data, as required by 29 CFR 1910, Section .1910.20 and 29 CFR 1926, Section .1101 for a period of 50 years after termination of employment. Records of the required medical examinations and exposure data shall be made available, for inspection and copying, to the Assistant Secretary of Labor for Occupational Safety and Health (OSHA) or authorized representatives of the employee and an employee's physician upon request of the employee or former employee. A copy of the required medical certification for each employee shall be maintained on file at the worksite for review, as requested by the Contracting Officer or the representatives.

1.11 TRAINING PROGRAM

1.11.1 General Training Requirements

The Contractor shall establish a training program as specified by EPA Model Accreditation Plan (MAP), training requirements at 40 CFR 763, Subpart E, Appendix C, the State of HI HAR Chapter 501, HAR Chapter 502, HAR Chapter 503, HAR Chapter 504, OSHA requirements at 29 CFR 1926, Section .1101(k)(9), and this specification. Contractor employees shall complete the required training for the type of work they are to perform and such training shall be documented and provided to the Contracting Officer as specified in paragraph QUALIFICATIONS.

1.11.2 Project Specific Training

Prior to commencement of work, each worker shall be instructed by the Contractor's Designated IH and Competent Person in the following project specific training:

- a. The hazards and health effects of the specific types of ACM to be abated;
- b. The content and requirements of the Contractor's Accident Prevention Plan to include the Asbestos Hazard Abatement Plan and Activity Hazard Analyses and site-specific safety and health precautions;
- c. Hazard Communication Program;
- d. Hands-on training for each asbestos abatement technique to be employed;
- e. Heat and/or cold stress monitoring specific to this project;
- f. Air monitoring program and procedures;
- g. Medical surveillance to include medical and exposure record-keeping procedures;
- h. The association of cigarette smoke and asbestos-related disease;
- i. Security procedures;
- j. Specific work practice controls and engineering controls required for each Class of work in accordance with 29 CFR 1926, Section .1101.

1.12 RESPIRATORY PROTECTION PROGRAM

The Contractor's Designated IH shall establish in writing, and implement a respiratory protection program in accordance with 29 CFR 1926, Section .1101, 29 CFR 1910, Section .134, ANSI Z88.2, CGA G-7, CGA G-7.1 and DETAIL SHEET 12. The Contractor's Designated IH shall establish minimum respiratory protection requirements based on measured or anticipated levels of airborne asbestos fiber concentrations encountered during the performance of the asbestos abatement work. The Contractor's respiratory protection program shall include, but not be limited to, the following elements:

- a. The company policy, used for the assignment of individual responsibility, accountability, and implementation of the respiratory protection program.
- b. The standard operating procedures covering the selection and use of respirators. Respiratory selection shall be determined by the hazard to which the worker is exposed.
- c. Medical evaluation of each user to verify that the worker may be assigned to an activity where respiratory protection is required.
- d. Training in the proper use and limitations of respirators.
- e. Respirator fit-testing, i.e., quantitative, qualitative and individual functional fit checks.

- f. Regular cleaning and disinfection of respirators.
- g. Routine inspection of respirators during cleaning and after each use when designated for emergency use.
- h. Storage of respirators in convenient, clean, and sanitary locations.
- i. Surveillance of regulated area conditions and degree of employee exposure (e.g., through air monitoring).
- j. Regular evaluation of the continued effectiveness of the respiratory protection program.
- k. Recognition and procedures for the resolution of special problems as they affect respirator use (e.g., no facial hair that comes between the respirator face piece and face or interferes with valve function; prescription eye wear usage; contact lenses usage; etc.).
- l. Proper training in putting on and removing respirators.

1.12.1 Respiratory Fit Testing

A qualitative or quantitative fit test conforming to 29 CFR 1926, Section 1101, Appendix C shall be conducted by the Contractor's Designated IH for each Contractor worker required to wear a respirator, and for the Contracting Officer and authorized visitors who enter a regulated area where respirators are required to be worn. A respirator fit test shall be performed for each worker wearing a negative-pressure respirator prior to initially wearing a respirator on this project and every 6 months thereafter. The qualitative fit tests may be used only for testing the fit of half-mask respirators where they are permitted to be worn, or of full-facepiece air purifying respirators where they are worn at levels at which half-facepiece air purifying respirators are permitted. If physical changes develop that will affect the fit, a new fit test for the worker shall be performed. Functional fit checks shall be performed by employees each time a respirator is put on and in accordance with the manufacturer's recommendation.

1.12.2 Respirator Selection and Use Requirements

The Contractor shall provide respirators, and ensure that they are used as required by 29 CFR 1926, Section .1101 and in accordance with the manufacturer's recommendations. Respirators shall be jointly approved by the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health (MSHA/NIOSH), or by NIOSH, under the provisions of 42 CFR 84, for use in environments containing airborne asbestos fibers. Personnel who handle ACM, enter regulated areas that require the wearing of a respirator, or who are otherwise carrying out abatement activities that require the wearing of a respirator, shall be provided with approved respirators that are fully protective of the worker at the measured or anticipated airborne asbestos concentration level to be encountered. For air-purifying respirators, the particulate filter portion

of the cartridges or canister approved for use in airborne asbestos environments shall be high-efficiency particulate air (HEPA). The initial respirator selection and the decisions regarding the upgrading or downgrading of respirator type shall be made by the Contractor's Designated IH based on the measured or anticipated airborne asbestos fiber concentrations to be encountered. Recommendations made by the Contractor's Designated IH to downgrade respirator type shall be submitted in writing to the Contracting Officer. The Contractor's Designated Competent Person in consultation with the Designated IH, shall have the authority to take immediate action to upgrade or downgrade respiratory type when there is an immediate danger to the health and safety of the wearer. Respirators shall be used in the following circumstances:

- a. During all Class I asbestos jobs.
- b. During all Class II work where the ACM is not removed in a substantially intact state.
- c. During all Class II and III work which is not performed using wet methods. Respirators need not be worn during removal of ACM from sloped roofs when a negative exposure assessment has been made and ACM is removed in an intact state.
- d. During all Class II and III asbestos jobs where the Contractor does not produce a negative exposure assessment.
- e. During all Class III jobs where TSI or surfacing ACM is being disturbed.
- f. During all Class IV work performed within regulated areas where employees performing other work are required to wear respirators.
- g. During all work where employees are exposed above the PEL-TWA or PEL-Excursion Limit.
- h. In emergencies

1.12.3 Class I Work

The Contractor shall provide: (1) a tight-fitting, powered air purifying respirator equipped with high efficiency filters, or (2) a full-facepiece supplied air respirator operated in the pressure demand mode, equipped with HEPA egress cartridges, or (3) an auxiliary positive pressure self-contained breathing apparatus, for all employees within the regulated area where Class I work is being performed; provided that a negative exposure assessment has not been produced, and that the exposure level will not exceed 1 f/cc as an 8-hour time weighted average. A full-facepiece supplied air respirator, operated in the pressure demand mode, equipped with an auxiliary positive pressure self-contained breathing apparatus shall be provided under such conditions, if the exposure assessment indicates exposure levels above 1 f/cc as an 8-hour time weighted average.

1.12.4 Class II and III Work

The Contractor shall provide an air purifying respirator, other than a disposable respirator, equipped with high-efficiency filters whenever the employee performs Class II and III asbestos jobs where the Contractor does not produce a negative exposure assessment ; and Class III jobs where TSI or surfacing ACM is being disturbed.

1.12.5 Sanitation

Employees who wear respirators shall be permitted to leave work areas to wash their faces and respirator facepieces whenever necessary to prevent skin irritation associated with respirator use.

1.13 HAZARD COMMUNICATION PROGRAM

A hazard communication program shall be established and implemented in accordance with 29 CFR 1926, Section .59. Material safety data sheets (MSDSs) shall be provided for all hazardous materials brought onto the worksite. One copy shall be provided to the Contracting Officer and 1 copy shall be included in the Contractor's Hazard Communication Program.

1.14 LICENSES, PERMITS AND NOTIFICATIONS

1.14.1 General Legal Requirements

Necessary licenses, permits and notifications shall be obtained in conjunction with the project's asbestos abatement, transportation and disposal actions and timely notification furnished of such actions as required by federal, state, regional, and local authorities. The Contractor shall notify the Regional Office of the USEPA, state's environmental protection agency responsible for asbestos air emissions and the Contracting Officer in writing, at least 10 days prior to the commencement of work, in accordance with 40 CFR 61, Subpart M, and state and local requirements to include the mandatory "Notification of Demolition and Renovation Record" form and other required notification documents. Notification shall be by Certified Mail, Return Receipt Requested. The Contractor shall furnish copies of the receipts to the Contracting Officer, in writing, prior to the commencement of work. A copy of the rental company's written acknowledgment and agreement shall be provided as required by paragraph RENTAL EQUIPMENT. For licenses, permits, and notifications that the Contractor is responsible for obtaining, the Contractor shall pay any associated fees or other costs incurred.

1.14.2 Litigation and Notification

The Contractor shall notify the Contracting Officer if any of the following occur:

- a. The Contractor or any of the subcontractors are served with notice of violation of any law, regulation, permit or license which relates to this contract;
- b. Proceedings are commenced which could lead to revocation of

related permits or licenses; permits, licenses or other Government authorizations relating to this contract are revoked;

- c. Litigation is commenced which would affect this contract;
- d. The Contractor or any of the subcontractors become aware that their equipment or facilities are not in compliance or may fail to comply in the future with applicable laws or regulations.

1.15 PERSONAL PROTECTIVE EQUIPMENT

Three complete sets of personal protective equipment shall be made available to the Contracting Officer and authorized visitors for entry to the regulated area. Contracting Officer and authorized visitors shall be provided with training equivalent to that provided to Contractor employees in the selection, fitting, and use of the required personal protective equipment and the site safety and health requirements. Contractor workers shall be provided with personal protective clothing and equipment and the Contractor shall ensure that it is worn properly. The Contractor's Designated IH and Designated Competent Person shall select and approve all the required personal protective clothing and equipment to be used.

1.15.1 Respirators

Respirators shall be in accordance with paragraph RESPIRATORY PROTECTION PROGRAM.

1.15.2 Whole Body Protection

Personnel exposed to airborne concentrations of asbestos that exceed the PELs, or for all OSHA Classes of work for which a required negative exposure assessment is not produced, shall be provided with whole body protection and such protection shall be worn properly. The Contractor's Designated IH and Competent Person shall select and approve the whole body protection to be used. The Competent Person shall examine work suits worn by employees at least once per work shift for rips or tears that may occur during performance of work. When rips or tears are detected while an employee is working, rips and tears shall be immediately mended, or the work suit shall be immediately replaced. Disposable whole body protection shall be disposed of as asbestos contaminated waste upon exiting from the regulated area. Reusable whole body protection worn shall be either disposed of as asbestos contaminated waste upon exiting from the regulated area or be properly laundered in accordance with 29 CFR 1926, Section .1101.

Whole body protection used for asbestos abatement shall not be removed from the worksite by a worker to be cleaned. Recommendations made by the Contractor's Designated IH to downgrade whole body protection shall be submitted in writing to the Contracting Officer. The Contractor's Designated Competent Person, in consultation with the Designated IH, has the authority to take immediate action to upgrade or downgrade whole body protection when there is an immediate danger to the health and safety of the wearer.

1.15.2.1 Coveralls

Disposable-breathable coveralls with a zipper front shall be provided. Sleeves shall be secured at the wrists, and foot coverings secured at the ankles. See DETAIL SHEET 13.

1.15.2.2 Gloves

Gloves shall be provided to protect the hands. Where there is the potential for hand injuries (i.e., scrapes, punctures, cuts, etc.) a suitable glove shall be provided and used.

1.15.2.3 Foot Coverings

Cloth socks shall be provided and worn next to the skin. Footwear, as required by OSHA and EM 385-1-1, that is appropriate for safety and health hazards in the area shall be worn. Rubber boots shall be used in moist or wet areas. Reusable footwear removed from the regulated area shall be thoroughly decontaminated or disposed of as ACM waste. Disposable protective foot covering shall be disposed of as ACM waste. If rubber boots are not used, disposable foot covering shall be provided.

1.15.2.4 Head Covering

Hood type disposable head covering shall be provided. In addition, protective head gear (hard hats) shall be provided as required. Hard hats shall only be removed from the regulated area after being thoroughly decontaminated.

1.15.2.5 Protective Eye Wear

Eye protection provided shall be in accordance with ANSI Z87.1.

1.16 HYGIENE FACILITIES AND PRACTICES

The Contractor shall establish a decontamination area for the decontamination of employees, material and equipment. The Contractor shall ensure that employees enter and exit the regulated area through the decontamination area.

1.16.1 Shower Facilities

Shower facilities, when provided, shall comply with 29 CFR 1910, Section .141(d)(3).

1.16.2 3-Stage Decontamination Area

A temporary negative pressure decontamination unit that is adjacent and attached in a leak-tight manner to the regulated area shall be provided as described in SET-UP DETAIL SHEET Numbers 22. The decontamination unit shall have an equipment room and a clean room separated by a shower that complies with 29 CFR 1910, Section .141 (unless the Contractor can demonstrate that such facilities are not feasible). Equipment and surfaces of containers filled with ACM shall be cleaned prior to removing them from the equipment room or area. Surfaces of the equipment room shall be wet

wiped 2 times after each shift. Materials used for wet wiping shall be disposed of as asbestos contaminated waste. Two separate lockers shall be provided for each asbestos worker, one in the equipment room and one in the clean room. The Contractor shall provide a minimum of 2 showers. The wastewater pump shall be sized for 1.25 times the showerhead flow-rate at a pressure head sufficient to satisfy the filter head loss and discharge line losses. The pump shall supply a minimum 1.6 L/s flow with 10.7 m of pressure head. Used shower water shall be collected and filtered to remove asbestos contamination. Filters and residue shall be disposed of as asbestos contaminated material, per DETAIL SHEETS 9 and 14. Filtered water shall be discharged to the sanitary system. Wastewater filters shall be installed in series with the first stage pore size of 20 microns and the second stage pore size of 5 microns. The floor of the decontamination unit's clean room shall be kept dry and clean at all times. Water from the shower shall not be allowed to wet the floor in the clean room. Surfaces of the clean room and shower shall be wet-wiped 2 times after each shift change with a disinfectant solution. Proper housekeeping and hygiene requirements shall be maintained. Soap and towels shall be provided for showering, washing and drying. Any cloth towels provided shall be disposed of as ACM waste or shall be laundered in accordance with 29 CFR 1926, Section .1101.

1.16.3 Decontamination Area Entry Procedures

The Contractor shall ensure that employees entering the decontamination area through the clean room or clean area:

- a. Remove street clothing in the clean room or clean area and deposit it in lockers.
- b. Put on protective clothing and respiratory protection before leaving the clean room or clean area.
- c. Pass through the equipment room to enter the regulated area.

1.16.4 Decontamination Area Exit Procedures

The Contractor shall ensure that the following procedures are followed:

- a. Before leaving the regulated area, respirators shall be worn while employees remove all gross contamination and debris from their work clothing using a HEPA vacuum.
- b. Employees shall remove their protective clothing in the equipment room and deposit the clothing in labeled impermeable bags or containers (see Detail Sheets 9 and 14) for disposal and/or laundering.
- c. Employees shall not remove their respirators in the equipment room.
- d. Employees shall shower prior to entering the clean room. If a shower has not been located between the equipment room and the clean room or the work is performed outdoors, the Contractor shall ensure that employees engaged in Class I asbestos jobs: a) Remove

asbestos contamination from their work suits in the equipment room or decontamination area using a HEPA vacuum before proceeding to a shower that is not adjacent to the work area; or b) Remove their contaminated work suits in the equipment room, without cleaning worksuits, and proceed to a shower that is not adjacent to the work area.

- e. After showering, employees shall enter the clean room before changing into street clothes.

1.16.5 Lunch Areas

The Contractor shall provide lunch areas in which the airborne concentrations of asbestos are below 0.01 f/cc.

1.16.6 Smoking

Smoking, if allowed by the Contractor, shall only be permitted in designated areas approved by the Contracting Officer.

1.17 REGULATED AREAS

All Class I, II, and III asbestos work shall be conducted within regulated areas. The regulated area shall be demarcated to minimize the number of persons within the area and to protect persons outside the area from exposure to airborne asbestos. Where critical barriers or negative pressure enclosures are used, they shall demarcate the regulated area. Access to regulated areas shall be limited to authorized persons. The Contractor shall control access to regulated areas, ensure that only authorized personnel enter, and verify that Contractor required medical surveillance, training and respiratory protection program requirements are met prior to allowing entrance.

1.18 WARNING SIGNS AND TAPE

Warning signs and tape printed in English shall be provided at the regulated boundaries and entrances to regulated areas. The Contractor shall ensure that all personnel working in areas contiguous to regulated areas comprehend the warning signs. Signs shall be located to allow personnel to read the signs and take the necessary protective steps required before entering the area. Warning signs, as shown and described in DETAIL SHEET 11, shall be in vertical format conforming to 29 CFR 1910 and 29 CFR 1926, Section .1101, a minimum of 500 by 350 mm , and displaying the following legend in the lower panel:

DANGER
ASBESTOS
CANCER AND LUNG DISEASE HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECTIVE CLOTHING ARE REQUIRED IN THIS AREA

Spacing between lines shall be at least equal to the height of the upper of any two lines. Warning tape shall be provided as shown and described on DETAIL SHEET 11. Decontamination unit signage shall be as shown and

described on DETAIL SHEET 15.

1.19 WARNING LABELS

Warning labels shall be affixed to all asbestos disposal containers used to contain asbestos materials, scrap, waste debris, and other products contaminated with asbestos. Containers with preprinted warning labels conforming to requirements are acceptable. Warning labels shall be as described in DETAIL SHEET 14, shall conform to 29 CFR 1926, Section .1101 and shall be of sufficient size to be clearly legible displaying the following legend:

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD

1.20 LOCAL EXHAUST VENTILATION

Local exhaust ventilation units shall conform to ANSI Z9.2 and 29 CFR 1926, Section .1101. Filters on local exhaust system equipment shall conform to ANSI Z9.2 and UL 586. Filter shall be UL labeled.

1.21 TOOLS

Vacuums shall be leak proof to the filter, equipped with HEPA filters, of sufficient capacity and necessary capture velocity at the nozzle or nozzle attachment to efficiently collect, transport and retain the ACM waste material. Power tools shall not be used to remove ACM unless the tool is equipped with effective, integral HEPA filtered exhaust ventilation capture and collection system, or has otherwise been approved for use by the Contracting Officer. Residual asbestos shall be removed from reusable tools prior to storage and reuse. Reusable tools shall be thoroughly decontaminated prior to being removed from regulated areas.

1.22 RENTAL EQUIPMENT

If rental equipment is to be used, written notification shall be provided to the rental agency, concerning the intended use of the equipment, the possibility of asbestos contamination of the equipment and the steps that will be taken to decontaminate such equipment. A written acceptance of the terms of the Contractor's notification shall be obtained from the rental agency.

1.23 AIR MONITORING EQUIPMENT

The Contractor's Designated IH shall approve air monitoring equipment to be used to collect samples. The equipment shall include, but shall not be limited to:

- a. High-volume sampling pumps that can be calibrated and operated at a constant airflow up to 16 liters per minute when equipped with a sampling train of tubing and filter cassette.

- b. Low-volume, battery powered, body-attachable, portable personal pumps that can be calibrated to a constant airflow up to approximately 3.5 liters per minute when equipped with a sampling train of tubing and filter cassette, and a self-contained rechargeable power pack capable of sustaining the calibrated flow rate for a minimum of 10 hours. The pumps shall also be equipped with an automatic flow control unit which shall maintain a constant flow, even as filter resistance increases due to accumulation of fiber and debris on the filter surface.
- c. Single use standard 25 mm diameter cassette, open face, 0.8 micron pore size, mixed cellulose ester membrane filters and cassettes with 50 mm electrically conductive extension cowl, and shrink bands, to be used with low flow pumps in accordance with 29 CFR 1926, Section .1101 for personal air sampling.
- d. Single use standard 25 mm diameter cassette, open face, 0.45 micron pore size, mixed cellulose ester membrane filters and cassettes with 50 mm electrically conductive cowl, and shrink bands, to be used with high flow pumps when conducting environmental area sampling using NIOSH Pub No. 84-100 Methods 7400.
- e. Appropriate plastic tubing to connect the air sampling pump to the selected filter cassette.
- f. A flow calibrator capable of calibration to within plus or minus 2 percent of reading over a temperature range of minus 20 to plus 60 degrees C and traceable to a NIST primary standard.

1.24 EXPENDABLE SUPPLIES

1.24.1 Glovebag

Glovebags shall be provided as described in 29 CFR 1926, Section .1101 and SET-UP DETAIL SHEET 10. The glovebag assembly shall be 0.15 mm thick plastic, prefabricated and seamless at the bottom with preprinted OSHA warning label.

1.24.2 Duct Tape

Industrial grade duct tape of appropriate widths suitable for bonding sheet plastic and disposal container shall be provided.

1.24.3 Disposal Containers

Leak-tight (defined as solids, liquids, or dust that cannot escape or spill out) disposal containers shall be provided for ACM wastes as required by 29 CFR 1926 Section .1101 and DETAIL SHEETS 9A, 9B, 9C and 14.

1.24.4 Disposal Bags

Leak-tight bags, 0.15 mm thick, shall be provided for placement of asbestos generated waste as described in DETAIL SHEET 9A.

1.24.5 Sheet Plastic

Sheet plastic shall be polyethylene of 0.15 mm minimum thickness and shall be provided in the largest sheet size necessary to minimize seams ,as indicated on the project drawings. Film shall be clear and conform to ASTM D 4397, except as specified below:

1.24.6 Amended Water

Amended water shall meet the requirements of ASTM D 1331.

1.24.7 Mastic Removing Solvent

Mastic removing solvent shall be nonflammable and shall not contain methylene chloride, glycol ether, or halogenated hydrocarbons. Solvents used onsite shall have a flash point greater than 60 degrees C.

1.24.8 Leak-tight Wrapping

Two layers of 0.15 mm minimum thick polyethylene sheet stock shall be used for the containment of removed asbestos-containing components or materials such as reactor vessels, large tanks, boilers, insulated pipe segments and other materials too large to be placed in disposal bags as described in DETAIL SHEET 9B. Upon placement of the ACM component or material, each layer shall be individually leak-tight sealed with duct tape.

1.24.9 Wetting Agents

Removal encapsulant (a penetrating encapsulant) shall be provided when conducting removal abatement activities that require a longer removal time or are subject to rapid evaporation of amended water. The removal encapsulant shall be capable of wetting the ACM and retarding fiber release during disturbance of the ACM greater than or equal to that provided by amended water. Performance requirements for penetrating encapsulants are specified in paragraph ENCAPSULANTS.

1.24.10 Strippable Coating

Strippable coating in aerosol cans shall be used to adhere to surfaces and to be removed cleanly by stripping, at the completion of work. This work shall only be done in well ventilated areas.

1.25 MISCELLANEOUS ITEMS

A sufficient quantity of other items, such as, but not limited to: scrapers, brushes, brooms, staple guns, tarpaulins, shovels, rubber squeegees, dust pans, other tools, scaffolding, staging, enclosed chutes, wooden ladders, lumber necessary for the construction of containments, UL approved temporary electrical equipment, material and cords, ground fault circuit interrupters, water hoses of sufficient length, fire extinguishers, first aid kits, portable toilets, logbooks, log forms, markers with indelible ink, spray paint in bright color to mark areas, project boundary fencing, etc., shall be provided.

PART 2 PRODUCTS

2.1 ENCAPSULANTS

Encapsulants shall conform to USEPA requirements, shall contain no toxic or hazardous substances and no solvent and shall meet the following requirements:

Additional Requirements for Lockdown Encapsulant

Requirement	Test Standard
Fire Resistance, Negligible affect on fire resistance rating over 3 hour test (Tested with fireproofing over encapsulant applied directly to steel member)	ASTM E 119
Bond Strength, 1.5 kN/m (Tests compatibility with cementitious and fibrous fireproofing)	ASTM E 736

2.2 RECYCLABLE MATERIALS

The Contractor shall comply with EPA requirements in accordance with Section 01670 RECYCLED / RECOVERED MATERIALS.

PART 3 EXECUTION

3.1 GENERAL REQUIREMENTS

Asbestos abatement work tasks shall be performed as shown on the detailed plans and drawings, as summarized in paragraph DESCRIPTION OF WORK and including Table 1 and the Contractor's Accident Prevention Plan, Asbestos Hazard Abatement Plan, and the Activity Hazard Analyses. The Contractor shall use the engineering controls and work practices required in 29 CFR 1926, Section .1101(g) in all operations regardless of the levels of exposure. Personnel shall wear and utilize protective clothing and equipment as specified. The Contractor shall not permit eating, smoking, drinking, chewing or applying cosmetics in the regulated area. All hot work (burning, cutting, welding, etc.) shall be conducted under controlled conditions in conformance with 29 CFR 1926, Section .352, Fire Prevention. Personnel of other trades, not engaged in asbestos abatement activities, shall not be exposed at any time to airborne concentrations of asbestos unless all the administrative and personal protective provisions of the Contractor's Accident Prevention Plan are complied with. Power to the regulated area shall be locked-out and tagged in accordance with 29 CFR 1910, and temporary electrical service with ground fault circuit interrupters shall be provided as needed. Temporary electrical service shall be disconnected when necessary for wet removal. The Contractor shall stop abatement work in the regulated area immediately when the airborne total fiber concentration: (1) equals or exceeds 0.01 f/cc, or the pre-abatement

concentration, whichever is greater, outside the regulated area; or (2) equals or exceeds 1.0 f/cc inside the regulated area. The Contractor shall correct the condition to the satisfaction of the Contracting Officer, including visual inspection and air sampling. Work shall resume only upon notification by the Contracting Officer. Corrective actions shall be documented.

3.2 PROTECTION OF ADJACENT WORK OR AREAS TO REMAIN

Asbestos abatement shall be performed without damage to or contamination of adjacent work or area. Where such work or area is damaged or contaminated, as verified by the Contracting Officer using visual inspection or sample analysis, it shall be restored to its original condition or decontaminated by the Contractor at no expense to the Government, as deemed appropriate by the Contracting Officer. This includes inadvertent spill of dirt, dust or debris in which it is reasonable to conclude that asbestos may exist. When these spills occur, work shall stop in all effected areas immediately and the spill shall be cleaned. When satisfactory visual inspection and air sampling analysis results are obtained and have been evaluated by the Contractor's Designated IH and the Contracting Officer, work shall proceed.

3.3 OBJECTS

3.3.1 Removal of Mobile Objects

Mobile objects, furniture and equipment will be removed from the area of work by the Government before asbestos abatement work begins.

3.4 METHODS OF COMPLIANCE

3.4.1 Mandated Practices

The Contractor shall employ proper handling procedures in accordance with 29 CFR 1926 and 40 CFR 61, Subpart M, and the specified requirements. The specific abatement techniques and items identified shall be detailed in the Contractor's Asbestos Hazard Abatement Plan including, but not limited to, details of construction materials, equipment, and handling procedures. The Contractor shall use the following engineering controls and work practices in all operations, regardless of the levels of exposure:

- a. Vacuum cleaners equipped with HEPA filters to collect debris and dust containing ACM.
- b. Wet methods or wetting agents to control employee exposures during asbestos handling, mixing, removal, cutting, application, and cleanup; except where it can be demonstrated that the use of wet methods is unfeasible due to, for example, the creation of electrical hazards, equipment malfunction, and in roofing.
- c. Prompt clean-up and disposal in leak-tight containers of wastes and debris contaminated with asbestos.
- d. Inspection and repair of polyethylene in work and high traffic areas.

- e. Cleaning of equipment and surfaces of containers filled with ACM prior to removing them from the equipment room or area.

3.4.2 Control Methods

The Contractor shall use the following control methods to comply with the PELs:

- a. Local exhaust ventilation equipped with HEPA filter dust collection systems;
- b. Enclosure or isolation of processes producing asbestos dust;
- c. Ventilation of the regulated area to move contaminated air away from the breathing zone of employees and toward a filtration or collection device equipped with a HEPA filter;
- d. Use of other work practices and engineering controls;
- e. Where the feasible engineering and work practice controls described above are not sufficient to reduce employee exposure to or below the PELs, the Contractor shall use them to reduce employee exposure to the lowest levels attainable by these controls and shall supplement them by the use of respiratory protection that complies with paragraph, RESPIRATORY PROTECTION PROGRAM.

3.4.3 Unacceptable Practices

The following work practices and engineering controls shall not be used for work related to asbestos or for work which disturbs ACM, regardless of measured levels of asbestos exposure or the results of initial exposure assessments:

- a. High-speed abrasive disc saws that are not equipped with point of cut ventilator or enclosures with HEPA filtered exhaust air.
- b. Compressed air used to remove asbestos, or materials containing asbestos, unless the compressed air is used in conjunction with an enclosed ventilation system designed to capture the dust cloud created by the compressed air.
- c. Dry sweeping, shoveling, or other dry clean-up of dust and debris containing ACM.
- d. Employee rotation as a means of reducing employee exposure to asbestos.

3.4.4 Class I Work Procedures

In addition to requirements of paragraphs Mandated Practices and Control Methods, the following engineering controls and work practices shall be used:

- a. A Competent Person shall supervise the installation and operation of the control system.
- b. For jobs involving the removal of more than 7.5 m² or 0.9 square meters of TSI or surfacing material, the Contractor shall place critical barriers over all openings to the regulated area.
- c. HVAC systems shall be isolated in the regulated area by sealing with a double layer of plastic or air-tight rigid covers.
- d. Impermeable dropcloths (0.15 mm or greater thickness) shall be placed on surfaces beneath all removal activity.
- e. Objects within the regulated area shall be handled as specified in paragraph OBJECTS.
- f. Where a negative exposure assessment has not been provided or where exposure monitoring shows the PEL was exceeded, the regulated area shall be ventilated to move contaminated air away from the employee's breathing zone toward a HEPA unit or collection device.

3.4.5 Specific Control Methods for Class I Work

In addition to requirements of paragraph Class I Work Procedures, Class I asbestos work shall be performed using the control methods identified in the subparagraphs below.

3.4.5.1 Negative Pressure Enclosure (NPE) System

The NPE system shall be as shown in SETUP DETAIL SHEET 4. The system shall provide at least 4 air changes per hour inside the containment. The local exhaust unit equipment shall be operated 24 hours per day until the containment is removed, and shall be leak-proof to the filter and equipped with HEPA filters. Air movement shall be directed away from the employees and toward a HEPA filtration device. The NPE shall be smoke tested for leaks at the beginning of each shift. Local exhaust equipment shall be sufficient to maintain a minimum pressure differential of minus 0.5 mm of water column relative to adjacent, unsealed areas. Pressure differential shall be monitored continuously, 24 hours per day, with an automatic manometric recording instrument. Pressure differential recordings shall be provided daily on the same day collected. Readings shall be reviewed by the Contractor's Designated Competent Person and IH prior to submittal. The Contracting Officer shall be notified immediately if the pressure differential falls below the prescribed minimum. The building ventilation system shall not be used as the local exhaust system for the regulated area. The local exhaust system shall terminate outdoors unless an alternate arrangement is allowed by the Contract Officer. All filters used shall be new at the beginning of the project and shall be periodically changed as necessary and disposed of as ACM waste.

3.4.5.2 Glovebag Systems

Glovebag systems shall be as shown in SETUP DETAIL SHEET 10. The glovebag system shall be used to remove ACM from straight runs of piping and elbows and other connections. Glovebags shall be used without modification and shall be smoke-tested for leaks and any leaks sealed prior to use. Glovebags shall be installed to completely cover the circumference of pipe or other structures where the work is to be done. Glovebags shall be used only once and shall not be moved. Glovebags shall not be used on surfaces that have temperatures exceeding 66 degrees C. Prior to disposal, glovebags shall be collapsed by removing air within them using a HEPA vacuum. Before beginning the operation, loose and friable material adjacent to the glovebag operation shall be wrapped and sealed in 2 layers of plastic or otherwise rendered intact. At least 2 persons shall perform Class I glovebag removal. Asbestos regulated work areas shall be established as specified and shown on detailed drawings and plans for glovebag abatement. Designated boundary limits for the asbestos work shall be established with rope or other continuous barriers and all other requirements for asbestos control areas shall be maintained, including area signage and boundary warning tape as specified in SET-UP DETAIL SHEET 11.

- a. In addition to requirements for negative pressure glovebag systems above, the Contractor shall attach HEPA vacuum systems or other devices to the bag to prevent collapse during removal of ACM from straight runs of piping and elbows and other connections.
- b. The negative pressure glove boxes used to remove ACM from pipe runs shall be fitted with gloved apertures and a bagging outlet and constructed with rigid sides from metal or other material which can withstand the weight of the ACM and water used during removal. A negative pressure shall be created in the system using a HEPA filtration system. The box shall be smoke tested for leaks prior to each use.

3.4.5.3 Wrap and Cut Operation

Wrap and cut operations shall be as shown in SETUP DETAIL SHEET 9B, 10. Prior to cutting pipe, or ventilation ducts with asbestos flex connectors, the asbestos-containing insulation or duct shall be wrapped with polyethylene and securely sealed with duct tape to prevent asbestos becoming airborne as a result of the cutting process. The following steps shall be taken: install glovebag, strip back sections to be cut 150 mm from point of cut, and cut pipe into manageable sections.

3.4.6 Class II Work

In addition to the requirements of paragraphs Mandated Practices and Control Methods, the following engineering controls and work practices shall be used:

- a. A Competent Person shall supervise the work.
- b. For indoor work, critical barriers shall be placed over all openings to the regulated area.

- c. Impermeable dropcloths shall be placed on surfaces beneath all removal activity.

3.4.7 Specific Control Methods for Class II Work

In addition to requirements of paragraph Class II Work, Class II work shall be performed using the following methods:

3.4.7.1 Vinyl and Asphalt Flooring Materials

When removing vinyl and asphalt flooring materials which contain ACM, the Contractor shall use the following practices as shown in RESPONSE ACTION DETAIL SHEET 57. Resilient sheeting shall be removed by adequately wet methods. Tiles shall be removed intact (if possible); wetting is not required when tiles are heated and removed intact. Flooring or its backing shall not be sanded. Scraping of residual adhesive and/or backing shall be performed using wet methods. Mechanical chipping is prohibited unless performed in a negative pressure enclosure. Dry sweeping is prohibited. The Contractor shall use vacuums equipped with HEPA filter, disposable dust bag, and metal floor tool (no brush) to clean floors.

3.4.7.2 Roofing Material

When removing roofing materials which contain ACM as described in 29 CFR 1926, Section .1101(g)(8)(ii), the Contractor shall use the following practices as shown in RESPONSE ACTION DETAIL SHEET 74. Roofing material shall be removed in an intact state. Wet methods shall be used to remove roofing materials that are not intact, or that will be rendered not intact during removal, unless such wet methods are not feasible or will create safety hazards. When removing built-up roofs, with asbestos-containing roofing felts and an aggregate surface, using a power roof cutter, all dust resulting from the cutting operations shall be collected by a HEPA dust collector, or shall be HEPA vacuumed by vacuuming along the cut line. Asbestos-containing roofing material shall not be dropped or thrown to the ground, but shall be lowered to the ground via covered, dust-tight chute, crane, hoist or other method approved by the Contracting Officer. Any ACM that is not intact shall be lowered to the ground as soon as practicable, but not later than the end of the work shift. While the material remains on the roof it shall be kept wet or placed in an impermeable waste bag or wrapped in plastic sheeting. Intact ACM shall be lowered to the ground as soon as practicable, but not later than the end of the work shift. Unwrapped material shall be transferred to a closed receptacle precluding the dispersion of dust. Critical barriers shall be placed over roof level heating and ventilation air intakes.

3.4.7.3 Cementitious Siding and Shingles or Transite Panels

When removing cementitious asbestos-containing transite panels the Contractor shall use the following practices shown in RESPONSE ACTION DETAIL SHEET 81. Intentionally cutting, abrading or breaking transite panels is prohibited. Each panel shall be sprayed with amended water prior to removal. Nails shall be cut with flat, sharp instruments. Unwrapped or unbagged panels or shingles shall be immediately lowered to the ground via

covered dust-tight chute, crane or hoist, or placed in an impervious waste bag or wrapped in plastic sheeting and lowered to the ground no later than the end of the work shift.

3.4.7.4 HVAC Flex Connector

HVAC Flex Connector shall be thoroughly wetted with amended water prior to removal and immediately placed in a disposal container. If a HVAC Flex Connector gasket is visibly deteriorated and unlikely to be removed intact, removal shall be undertaken within a glovebag. Any scraping to remove residue shall be performed wet.

3.4.7.5 Other Class II Jobs

The Contractor shall use the following work practices when performing Class II removal of pipe sealant and ACM: The material shall be thoroughly wetted with amended water prior and during its removal. The material shall be removed in an intact state. Cutting, abrading or breaking the material is prohibited. The ACM removed shall be immediately bagged or wrapped.

3.4.8 Alternative Methods for Roofing Materials and Asphaltic Wrap

The Contractor shall use the following engineering controls and work practices when removing, roof cements, mastics, coatings, or flashings which contain asbestos fibers encapsulated or coated by bituminous or resinous compounds. If during the course of the job the material does not remain intact, the Contractor shall use the procedures described in paragraph Roofing Material. Before work begins, and as needed during the job, the Designated Competent Person shall conduct an inspection and determine that the roofing material is intact and will likely remain intact. The material shall not be sanded, abraded, or ground. Manual methods which would render the material non-intact shall not be used. Roofing material shall not be dropped or thrown to the ground but shall be lowered via covered, dust-tight chute, crane, hoist or other method approved by the Contracting Officer. All such material shall be removed from the roof as soon as practicable, but not later than the end of the work shift. Removal or disturbance of pipeline asphaltic wrap shall be performed using wet methods.

3.4.9 Cleaning After Asbestos Removal

After completion of all asbestos removal work, surfaces from which ACM has been removed shall be wet wiped or sponged clean, or cleaned by some equivalent method to remove all visible residue. Run-off water shall be collected and filtered through a dual filtration system. A first filter shall be provided to remove fibers 20 micrometers and larger, and a final filter provided that removes fibers 5 micrometers and larger. After the gross amounts of asbestos have been removed from every surface, remaining visible accumulations of asbestos on floors shall be collected using plastic shovels, rubber squeegees, rubber dustpans, and HEPA vacuum cleaners as appropriate to maintain the integrity of the regulated area. When TSI and surfacing material has been removed, workmen shall use HEPA vacuum cleaners to vacuum every surface. Surfaces or locations which could harbor accumulations or residual asbestos dust shall be checked after

vacuuming to verify that no asbestos-containing material remains; and shall be re-vacuumed as necessary to remove the ACM.

3.4.10 Class I Asbestos Work Response Action Detail Sheets

The following Class I Asbestos Work Response Action Detail Sheet is specified on Table 1 for each individual work task to be performed:

- a. Pipe and Fitting Insulation (using Glovebag): See Sheet 87
- b. Removal of asbestos Flex Connector: See sheet 104 sheet 102
- c. Removal of asbestos cement pipe

3.4.11 Class II Asbestos Work Response Action Detail Sheets

The following Class II Asbestos Work Response Action Detail Sheet is specified on Table 1 for each individual work task to be performed:

- a. Vinyl Asbestos Tile Adhered to Concrete Floor System by Asbestos Containing Adhesive: See Sheet 57
- b. Built-Up Roofing and Flashing: See Sheet 74

3.4.12 Sealing Contaminated Items Designated for Disposal

Contaminated architectural, mechanical, and electrical appurtenances such as Venetian blinds, full height partitions, carpeting, duct work, pipes and fittings, radiators, light fixtures, conduit panels, and other contaminated items designated for removal shall be coated with an asbestos lockdown encapsulant at the demolition site before being removed from the asbestos control area. These items shall be vacuumed prior to application of the lockdown encapsulant. The asbestos lockdown encapsulant shall be tinted a contrasting color and shall be spray applied by airless method. Thoroughness of sealing operation shall be visually gauged by the extent of colored coating on exposed surfaces.

3.5 FINAL CLEANING AND VISUAL INSPECTION

Upon completion of abatement, the regulated area shall be cleaned by collecting, packing, and storing all gross contamination; see SET-UP DETAIL SHEETS 9, 14 and 20. A final cleaning shall be performed using HEPA vacuum and wet cleaning of all exposed surfaces and objects in the regulated area. Upon completion of the cleaning, the Contractor shall conduct a visual pre-inspection of the cleaned area in preparation for a final inspection before final air clearance monitoring and recleaning, as necessary. Upon completion of the final cleaning, the Contractor and the Contracting Officer shall conduct a final visual inspection of the cleaned regulated area in accordance with ASTM E 1368 and document the results on the Final Cleaning and Visual Inspection as specified on the SET-UP DETAIL SHEET 19. If the Contracting Officer rejects the clean regulated area as not meeting final cleaning requirements, the Contractor shall reclean as necessary and have a follow-on inspection conducted with the Contracting Officer. Recleaning and follow-up reinspection shall be at the Contractor's expense.

3.6 LOCKDOWN

Prior to removal of plastic barriers and after clean-up of gross contamination and final visual inspection, a post removal (lockdown) encapsulant shall be spray applied to ceiling, walls, floors, and other surfaces in the regulated area.

3.7 EXPOSURE ASSESSMENT AND AIR MONITORING

3.7.1 General Requirements For Exposure

Exposure assessment, air monitoring and analysis of airborne concentration of asbestos fibers shall be performed in accordance with 29 CFR 1926, Section .1101, the Contractor's air monitoring plan, and as specified. Personal exposure air monitoring (collected at the breathing zone) that is representative of the exposure of each employee who is assigned to work within a regulated area shall be performed by the Contractor's Designated IH.

Breathing zone samples shall be taken for at least 25 percent of the workers in each shift, or a minimum of 2, whichever is greater. Air monitoring results at the 95 percent confidence level shall be calculated as shown in Table 2 at the end of this section. The Contractor shall provide an onsite independent testing laboratory with qualified analysts and appropriate equipment to conduct sample analyses of air samples using the methods prescribed in 29 CFR 1926, Section .1101, to include NIOSH Pub No. 84-100 Method 7400. Preabatement and abatement environmental air monitoring shall be performed by the Contractor's Designated IH. Final clearance environmental air monitoring, shall be performed by the Contractor's Designated IH. Environmental and final clearance air monitoring shall be performed using NIOSH Pub No. 84-100 Method 7400 (PCM).

For environmental and final clearance, air monitoring shall be conducted at a sufficient velocity and duration to establish the limit of detection of the method used at 0.005 f/cc. Confirmation of asbestos fiber concentrations (asbestos f/cc) from environmental and final clearance samples collected and analyzed by NIOSH Pub No. 84-100 Method 7400 (total f/cc) may be conducted using TEM in accordance with NIOSH Pub No. 84-100 Method 7402. When such confirmation is conducted, it shall be from the same sample filter used for the NIOSH Pub No. 84-100 Method 7400 PCM analysis. For all Contractor required environmental or final clearance air monitoring, confirmation of asbestos fiber concentrations, using NIOSH Pub No. 84-100 Method 7402, shall be at the Contractor's expense. Monitoring may be duplicated by the Government at the discretion of the Contracting Officer. Results of breathing zone samples shall be posted at the job site and made available to the Contracting Officer. The Contractor shall maintain a fiber concentration inside a regulated area less than or equal to 0.1 f/cc expressed as an 8 hour, time-weighted average (TWA) during the conduct of the asbestos abatement. If fiber concentration rises above 0.1 f/cc, work procedures shall be investigated with the Contracting Officer to determine the cause. At the discretion of the Contracting Officer, fiber concentration may exceed 0.1 f/cc but shall not exceed 1.0 f/cc expressed as an 8-hour TWA. The Contractor's workers shall not be exposed to an airborne fiber concentration in excess of 1.0 f/cc, as averaged over a sampling period of 30 minutes. Should either an environmental concentration of 1.0 f/cc expressed as an 8-hour TWA or a personal

excursion concentration of 1.0 f/cc expressed as a 30-minute sample occur inside a regulated work area, the Contractor shall stop work immediately, notify the Contracting Officer, and implement additional engineering controls and work practice controls to reduce airborne fiber levels below prescribed limits in the work area. Work shall not restart until authorized by the Contracting Officer.

3.7.2 Initial Exposure Assessment

The Contractor's Designated IH shall conduct an exposure assessment immediately before or at the initiation of an asbestos abatement operation to ascertain expected exposures during that operation. The assessment shall be completed in time to comply with the requirements which are triggered by exposure data or the lack of a negative exposure assessment, and to provide information necessary to assure that all control systems planned are appropriate for that operation. The assessment shall take into consideration both the monitoring results and all observations, information or calculations which indicate employee exposure to asbestos, including any previous monitoring conducted in the workplace, or of the operations of the Contractor which indicate the levels of airborne asbestos likely to be encountered on the job. For Class I asbestos work, until the employer conducts exposure monitoring and documents that employees on that job will not be exposed in excess of PELs, or otherwise makes a negative exposure assessment, the Contractor shall presume that employees are exposed in excess of the PEL-TWA and PEL-Excursion Limit.

3.7.3 Negative Exposure Assessment

The Contractor shall provide a negative exposure assessment for the specific asbestos job which will be performed. The negative exposure assessment shall be provided within 3 days of the initiation of the project and conform to the following criteria:

- a. Objective Data: Objective data demonstrating that the product or material containing asbestos minerals or the activity involving such product or material cannot release airborne fibers in concentrations exceeding the PEL-TWA and PEL-Excursion Limit under those work conditions having the greatest potential for releasing asbestos.
- b. Prior Asbestos Jobs: Where the Contractor has monitored prior asbestos jobs for the PEL and the PEL-Excursion Limit within 12 months of the current job, the monitoring and analysis were performed in compliance with asbestos standard in effect; the data were obtained during work operations conducted under workplace conditions closely resembling the processes, type of material, control methods, work practices, and environmental conditions used and prevailing in the Contractor's current operations; the operations were conducted by employees whose training and experience are no more extensive than that of employees performing the current job; and these data show that under the conditions prevailing and which will prevail in the current workplace, there is a high degree of certainty that the monitoring covered exposure from employee exposures will not exceed the PEL-TWA and

PEL-Excursion Limit.

- c. Initial Exposure Monitoring: The results of initial exposure monitoring of the current job, made from breathing zone air samples that are representative of the 8-hour PEL-TWA and 30-minute short-term exposures of each employee. The monitoring covered exposure from operations which are most likely during the performance of the entire asbestos job to result in exposures over the PELs.

3.7.4 Preabatement Environmental Air Monitoring

Preabatement environmental air monitoring shall be established 1 day prior to the masking and sealing operations for each regulated area to determine background concentrations before abatement work begins. As a minimum, preabatement air samples shall be collected using NIOSH Pub No. 84-100 Method 7400, PCM at these locations: outside the building; inside the building, but outside the regulated area perimeter; and inside each regulated work area. One sample shall be collected for every 185 square meters of floor space. At least 2 samples shall be collected outside the building: at the exhaust of the HEPA unit; and downwind from the abatement site. The PCM samples shall be analyzed within 24 hours.

3.7.5 Environmental Air Monitoring During Abatement

Until an exposure assessment is provided to the Contracting Officer, environmental air monitoring shall be conducted at locations and frequencies that will accurately characterize any evolving airborne asbestos fiber concentrations. The assessment shall demonstrate that the product or material containing asbestos minerals, or the abatement involving such product or material, cannot release airborne asbestos fibers in concentrations exceeding 0.01 f/cc as a TWA under those work conditions having the greatest potential for releasing asbestos. The monitoring shall be at least once per shift at locations including, but not limited to, close to the work inside a regulated area; preabatement sampling locations; outside entrances to a regulated area; close to glovebag operations; representative locations outside of the perimeter of a regulated area; inside clean room; and at the exhaust discharge point of local exhaust system ducted to the outside of a containment (if used). If the sampling outside regulated area shows airborne fiber levels have exceeded background or 0.01 f/cc, whichever is greater, work shall be stopped immediately, and the Contracting Officer notified. The condition causing the increase shall be corrected. Work shall not restart until authorized by the Contracting Officer.

3.7.6 Final Clearance Air Monitoring

Prior to conducting final clearance air monitoring, the Contractor and the Contracting Officer shall conduct a final visual inspection of the regulated area where asbestos abatement has been completed. The final visual inspection shall be as specified in SET-UP DETAIL SHEET 19. Final clearance air monitoring shall not begin until acceptance of the Contractor's final cleaning by the Contracting Officer. The Contractor's Designated IH shall conduct final clearance air monitoring using aggressive

air sampling techniques as defined in EPA 560/5-85-024 or as otherwise required by federal or state requirements. The sampling and analytical method used will be NIOSH Pub No. 84-100 Method 7400 (PCM).

3.7.6.1 Final Clearance Requirements, NIOSH PCM Method

For PCM sampling and analysis using NIOSH Pub No. 84-100 Method 7400, the fiber concentration inside the abated regulated area, for each airborne sample, shall be less than 0.01 f/cc. The abatement inside the regulated area is considered complete when every PCM final clearance sample is below the clearance limit. If any confirmation sample result is greater than 0.01 asbestos f/cc, abatement is incomplete and cleaning shall be repeated.

Upon completion of any required recleaning, resampling with results to meet the above clearance criteria shall be done.

3.7.6.2 Air Clearance Failure

If clearance sampling results fail to meet the final clearance requirements, the Contractor shall pay all costs associated with the required recleaning, resampling, and analysis, until final clearance requirements are met.

3.7.7 Air-Monitoring Results and Documentation

Air sample fiber counting shall be completed and results provided within 24 hours (breathing zone samples), and 24 hours (environmental/clearance monitoring) after completion of a sampling period. The Contracting Officer shall be notified immediately of any airborne levels of asbestos fibers in excess of established requirements. Written sampling results shall be provided within 5 working days of the date of collection. The written results shall be signed by testing laboratory analyst, testing laboratory principal and the Contractor's Designated IH. The air sampling results shall be documented on a Contractor's daily air monitoring log. The daily air monitoring log shall contain the following information for each sample:

- a. Sampling and analytical method used;
- b. Date sample collected;
- c. Sample number;
- d. Sample type: BZ = Breathing Zone (Personal), P = Preabatement, E = Environmental, C = Abatement Clearance;
- e. Location/activity/name where sample collected;
- f. Sampling pump manufacturer, model and serial number, beginning flow rate, end flow rate, average flow rate (L/min);
- g. Calibration date, time, method, location, name of calibrator, signature;
- h. Sample period (start time, stop time, elapsed time (minutes));

- i. Total air volume sampled (liters);
- j. Sample results (f/cc and S/mm square) if EPA methods are required for final clearance;
- k. Laboratory name, location, analytical method, analyst, confidence level. In addition, the printed name and a signature and date block for the Industrial Hygienist who conducted the sampling and for the Industrial Hygienist who reviewed the daily air monitoring log verifying the accuracy of the information.

3.8 CLEARANCE CERTIFICATION

When asbestos abatement is complete, ACM waste is removed from the regulated areas, and final clean-up is completed, the Contracting Officer will certify the areas as safe before allowing the warning signs and boundary warning tape to be removed. The Contractor and the Contracting Officer shall visually inspect all surfaces within the containment for residual material or accumulated debris. The Contractor shall reclean all areas showing dust or residual materials. The Contracting Officer will certify in writing that the area is safe before unrestricted entry is permitted. The Government will have the option to perform monitoring to certify the areas are safe before entry is permitted.

3.9 CLEANUP AND DISPOSAL

3.9.1 Title to ACM Materials

ACM material resulting from abatement work, shall be disposed of as specified and in accordance with applicable federal, state and local regulations.

3.9.2 Collection and Disposal of Asbestos

All ACM waste shall be collected and including contaminated wastewater filters, scrap, debris, bags, containers, equipment, and asbestos contaminated clothing, shall be collected and placed in leak-tight containers such as double plastic bags (see DETAIL SHEET 9A); sealed double wrapped polyethylene sheet (see DETAIL 9B); or other approved containers. Waste within the containers shall be wetted in case the container is breached. Asbestos-containing waste shall be disposed of at an EPA, state and local approved asbestos landfill off Government property. For temporary storage, sealed impermeable containers shall be stored in an asbestos waste load-out unit or in a storage/transportation conveyance (i.e., dumpster, roll-off waste boxes, etc.) in a manner acceptable to and in an area assigned by the Contracting Officer. Procedure for hauling and disposal shall comply with 40 CFR 61, Subpart M, state, regional, and local standards.

3.9.3 Scale Weight Measurement

Scales used for measurement shall be public scales. Weighing shall be at a point nearest the work at which a public scale is available. Scales shall be standard truck scales of the beam type; scales shall be equipped with

the type registering beam and an "over and under" indicator; and shall be capable of accommodating the entire vehicle. Scales shall be tested, approved and sealed by an inspector of the State of HI. Scales shall be calibrated and resealed as often as necessary and at least once every three months to ensure continuous accuracy. Vehicles used for hauling ACM shall be weighed empty daily at such time as directed and each vehicle shall bear a plainly legible identification mark.

3.9.4 Weigh Bill and Delivery Tickets

Copies of weigh bills and delivery tickets shall be submitted to the Contracting Officer during the progress of the work. The Contractor shall furnish the Contracting Officer scale tickets for each load of ACM weighed and certified. These tickets shall include tare weight; identification mark for each vehicle weighed; and date, time and location of loading and unloading. Tickets shall be furnished at the point and time individual trucks arrive at the worksite. A master log of all vehicle loading shall be furnished for each day of loading operations. Before the final statement is allowed, the Contractor shall file with the Contracting Officer certified weigh bills and/or certified tickets and manifests of all ACM actually disposed by the Contractor for this contract.

3.9.5 Asbestos Waste Shipment Record

The Contractor shall complete and provide the Contracting Officer final completed copies of the Waste Shipment Record for all shipments of waste material as specified in 40 CFR 61, Subpart M and other required state waste manifest shipment records, within 3 days of delivery to the landfill.

Each Waste Shipment Record shall be signed and dated by the Contractor, the waste transporter and disposal facility operator.

TABLE 1

INDIVIDUAL WORK TASK DATA ELEMENTS

Sheet 1 of 1

There is a separate data sheet for each individual work task.

1. WORK TASK DESIGNATION NUMBER : 01_____
2. LOCATION OF WORK TASK: Bldgs 845, 846, 847, 855, 876, and 876A,
SB Hawaii
3. BRIEF DESCRIPTION OF MATERIAL TO BE ABATED: 12 x 12 x 9 x 9
vinyl tile with asbestos mastic
 - a. Type of Asbestos: Chrysotile
 - b. Percent asbestos content: 2 - 5%
4. ABATEMENT TECHNIQUE TO BE USED: wet scrapping
5. OSHA ASBESTOS CLASS DESIGNATION FOR WORK TASK: II
6. EPA NESHAP FRIABILITY DESIGNATION FOR WORK TASK
Friable _____ Non-friable Category I _____
Non-friable Category II x
7. FORM _____ and CONDITION OF ACM: GOOD _____ FAIR _____ POOR _____
8. QUANTITY: METERS _____, SQUARE METERS _____
- 8a. QUANTITY: LINEAR FT. _____, SQUARE FT. _____
9. RESPONSE ACTION DETAIL SHEET NUMBER FOR WORK TASK _____
10. SET-UP DETAIL SHEET NUMBERS
FOR WORK TASK 4, 9a 11, 12, 13, 14, 15, 57, 19.

NOTES:

- (1) Numeric sequence of individual work tasks (1,2,3,4, etc.) for each regulated area. Each category of EPA friability/OSHA class has a separate task.
- (2) Specific location of work (building, floor, area, e.g., Building 1421, 2nd Floor, Rm 201)
- (3) A description of material to be abated (example: horizontal pipe, cement wall panels, tile, stucco, etc.) type of asbestos (chrysotile, amosite, crocidolite, etc.); and % asbestos content.
- (4) Technique to be used: Removal = REM; Encapsulation = ENCAP; Encasement = ENCAS; Enclosure = ENCL; Repair = REP.
- (5) Class designation: Class I, II, III, or IV (OSHA designation).
- (6) Friability of materials: Check the applicable EPA NESHAP friability designation.
- (7) Form: Interior or Exterior Architectural = IA or EA; Mechanical/Electrical = ME.
Condition: Good = G; Fair = F; Poor = P.
- (8) Quantity of ACM for each work task in meters or square meters.
- (8a) Quantity of ACM for each work task in linear feet or square feet.
- (9) Response Action Detail Sheet specifies the material to be abated and the methods to be used. There is only one Response Action Detail Sheet for each abatement task.
- (10) Set-up Detail Sheets indicate containment and control methods used in support of the response action (referenced in the selected

TABLE 1

INDIVIDUAL WORK TASK DATA ELEMENTS
Response Action Detail Sheet).

TABLE 1

INDIVIDUAL WORK TASK DATA ELEMENTS

Sheet 1 of 2

There is a separate data sheet for each individual work task.

1. WORK TASK DESIGNATION NUMBER : 02_____
2. LOCATION OF WORK TASK: Bldgs 845, 846, 847, 855, 876, and 876A,
SB Hawaii_____
3. BRIEF DESCRIPTION OF MATERIAL TO BE ABATED: Transite panels

 - a. Type of Asbestos: Chrysotile_____
 - b. Percent asbestos content: 35%_____
4. ABATEMENT TECHNIQUE TO BE USED: wet method & remove intact_____
5. OSHA ASBESTOS CLASS DESIGNATION FOR WORK TASK: I_____
6. EPA NESHAP FRIABILITY DESIGNATION FOR WORK TASK
Friable _____ Non-friable Category I _____
Non-friable Category II x_____
7. FORM _____ and CONDITION OF ACM: GOOD _____ FAIR _____ POOR _____
8. QUANTITY: METERS _____, SQUARE METERS _____
- 8a. QUANTITY: LINEAR FT. _____, SQUARE FT. _____
9. RESPONSE ACTION DETAIL SHEET NUMBER FOR WORK TASK _____
10. SET-UP DETAIL SHEET NUMBERS
FOR WORK TASK 9a, 9b, 11, 12, 13, 14, 15, 19, 81._____

NOTES:

- (1) Numeric sequence of individual work tasks (1,2,3,4, etc.) for each regulated area. Each category of EPA friability/OSHA class has a separate task.
- (2) Specific location of work (building, floor, area, e.g., Building 1421, 2nd Floor, Rm 201)
- (3) A description of material to be abated (example: horizontal pipe, cement wall panels, tile, stucco, etc.) type of asbestos (chrysotile, amosite, crocidolite, etc.); and % asbestos content.
- (4) Technique to be used: Removal = REM; Encapsulation = ENCAP; Encasement = ENCAS; Enclosure = ENCL; Repair = REP.
- (5) Class designation: Class I, II, III, or IV (OSHA designation).
- (6) Friability of materials: Check the applicable EPA NESHAP friability designation.
- (7) Form: Interior or Exterior Architectural = IA or EA; Mechanical/Electrical = ME.
Condition: Good = G; Fair = F; Poor = P.

TABLE 1

INDIVIDUAL WORK TASK DATA ELEMENTS

- (8) Quantity of ACM for each work task in meters or square meters.
- (8a) Quantity of ACM for each work task in linear feet or square feet.
- (9) Response Action Detail Sheet specifies the material to be abated and the methods to be used. There is only one Response Action Detail Sheet for each abatement task.
- (10) Set-up Detail Sheets indicate containment and control methods used in support of the response action (referenced in the selected Response Action Detail Sheet).

TABLE 1

INDIVIDUAL WORK TASK DATA ELEMENTS

Sheet 1 of 3

There is a separate data sheet for each individual work task.

1. WORK TASK DESIGNATION NUMBER : 03
2. LOCATION OF WORK TASK: Bldgs 845, 846, 847, 855, 876, and 876A, SB Hawaii
3. BRIEF DESCRIPTION OF MATERIAL TO BE ABATED: Pipe insulation wrap, joint sealant, pipe hanger insulation
 - a. Type of Asbestos: Chrysotile
 - b. Percent asbestos content: 2 - 5%
4. ABATEMENT TECHNIQUE TO BE USED: Glove bag - wet method
5. OSHA ASBESTOS CLASS DESIGNATION FOR WORK TASK: I
6. EPA NESHAP FRIABILITY DESIGNATION FOR WORK TASK
 Friable x Non-friable Category I _____
 Non-friable Category II _____
7. FORM _____ and CONDITION OF ACM: GOOD _____ FAIR _____ POOR _____
8. QUANTITY: METERS _____, SQUARE METERS _____
- 8a. QUANTITY: LINEAR FT. _____, SQUARE FT. _____
9. RESPONSE ACTION DETAIL SHEET NUMBER FOR WORK TASK _____
10. SET-UP DETAIL SHEET NUMBERS
 FOR WORK TASK 9a, 10, 11, 12, 13, 14, 15, 19, 87.

NOTES:

- (1) Numeric sequence of individual work tasks (1,2,3,4, etc.) for each regulated area. Each category of EPA friability/OSHA class has a separate task.
- (2) Specific location of work (building, floor, area, e.g., Building 1421, 2nd Floor, Rm 201)
- (3) A description of material to be abated (example: horizontal pipe, cement wall panels, tile, stucco, etc.) type of asbestos (chrysotile, amosite, crocidolite, etc.); and % asbestos content.
- (4) Technique to be used: Removal = REM; Encapsulation = ENCAP; Encasement = ENCAS; Enclosure = ENCL; Repair = REP.
- (5) Class designation: Class I, II, III, or IV (OSHA designation).
- (6) Friability of materials: Check the applicable EPA NESHAP friability designation.
- (7) Form: Interior or Exterior Architectural = IA or EA; Mechanical/Electrical = ME.
 Condition: Good = G; Fair = F; Poor = P.
- (8) Quantity of ACM for each work task in meters or square meters.
- (8a) Quantity of ACM for each work task in linear feet or square feet.
- (9) Response Action Detail Sheet specifies the material to be abated and the methods to be used. There is only one Response Action Detail Sheet for each abatement task.
- (10) Set-up Detail Sheets indicate containment and control methods used in support of the response action (referenced in the selected

TABLE 1

INDIVIDUAL WORK TASK DATA ELEMENTS
Response Action Detail Sheet).

TABLE 1

INDIVIDUAL WORK TASK DATA ELEMENTS

Sheet 1 of 4

There is a separate data sheet for each individual work task.

1. WORK TASK DESIGNATION NUMBER : 04
2. LOCATION OF WORK TASK: Bldgs 845, 846, 847, 876A and 876, SB Hawaii
3. BRIEF DESCRIPTION OF MATERIAL TO BE ABATED: roofing mater, pipe sealant, flashing with silver paint
 - a. Type of Asbestos: Chrysotile
 - b. Percent asbestos content: 2 - 4%
4. ABATEMENT TECHNIQUE TO BE USED: wet method
5. OSHA ASBESTOS CLASS DESIGNATION FOR WORK TASK: II
6. EPA NESHAP FRIABILITY DESIGNATION FOR WORK TASK
 Friable Non-friable Category I
 Non-friable Category II
7. FORM and CONDITION OF ACM: GOOD FAIR POOR
8. QUANTITY: METERS _____, SQUARE METERS _____
- 8a. QUANTITY: LINEAR FT. _____, SQUARE FT. _____
9. RESPONSE ACTION DETAIL SHEET NUMBER FOR WORK TASK _____
10. SET-UP DETAIL SHEET NUMBERS
 FOR WORK TASK 9a, 11, 12, 13, 14, 15, 19, 74.

NOTES:

- (1) Numeric sequence of individual work tasks (1,2,3,4, etc.) for each regulated area. Each category of EPA friability/OSHA class has a separate task.
- (2) Specific location of work (building, floor, area, e.g., Building 1421, 2nd Floor, Rm 201)
- (3) A description of material to be abated (example: horizontal pipe, cement wall panels, tile, stucco, etc.) type of asbestos (chrysotile, amosite, crocidolite, etc.); and % asbestos content.
- (4) Technique to be used: Removal = REM; Encapsulation = ENCAP; Encasement = ENCAS; Enclosure = ENCL; Repair = REP.
- (5) Class designation: Class I, II, III, or IV (OSHA designation).
- (6) Friability of materials: Check the applicable EPA NESHAP friability designation.
- (7) Form: Interior or Exterior Architectural = IA or EA; Mechanical/Electrical = ME.
 Condition: Good = G; Fair = F; Poor = P.
- (8) Quantity of ACM for each work task in meters or square meters.
- (8a) Quantity of ACM for each work task in linear feet or square feet.
- (9) Response Action Detail Sheet specifies the material to be abated and the methods to be used. There is only one Response Action Detail Sheet for each abatement task.
- (10) Set-up Detail Sheets indicate containment and control methods used in support of the response action (referenced in the selected

TABLE 1

INDIVIDUAL WORK TASK DATA ELEMENTS
Response Action Detail Sheet).

TABLE 1

INDIVIDUAL WORK TASK DATA ELEMENTS

Sheet 1 of 5

There is a separate data sheet for each individual work task.

1. WORK TASK DESIGNATION NUMBER : 05
2. LOCATION OF WORK TASK: Bldgs 845 SB Hawaii
3. BRIEF DESCRIPTION OF MATERIAL TO BE ABATED: Asbestos Flex
Connectors
 - a. Type of Asbestos: Chrysotile
 - b. Percent asbestos content: 35%
4. ABATEMENT TECHNIQUE TO BE USED: wet method
5. OSHA ASBESTOS CLASS DESIGNATION FOR WORK TASK: I
6. EPA NESHAP FRIABILITY DESIGNATION FOR WORK TASK
Friable x Non-friable Category I _____
Non-friable Category II _____
7. FORM _____ and CONDITION OF ACM: GOOD _____ FAIR _____ POOR _____
8. QUANTITY: METERS _____, SQUARE METERS _____
- 8a. QUANTITY: LINEAR FT. _____, SQUARE FT. _____
9. RESPONSE ACTION DETAIL SHEET NUMBER FOR WORK TASK _____
10. SET-UP DETAIL SHEET NUMBERS
FOR WORK TASK 9a, 9b, 11, 12, 13, 14, 15, 19, 21, 104.

NOTES:

- (1) Numeric sequence of individual work tasks (1,2,3,4, etc.) for each regulated area. Each category of EPA friability/OSHA class has a separate task.
- (2) Specific location of work (building, floor, area, e.g., Building 1421, 2nd Floor, Rm 201)
- (3) A description of material to be abated (example: horizontal pipe, cement wall panels, tile, stucco, etc.) type of asbestos (chrysotile, amosite, crocidolite, etc.); and % asbestos content.
- (4) Technique to be used: Removal = REM; Encapsulation = ENCAP; Encasement = ENCAS; Enclosure = ENCL; Repair = REP.
- (5) Class designation: Class I, II, III, or IV (OSHA designation).
- (6) Friability of materials: Check the applicable EPA NESHAP friability designation.
- (7) Form: Interior or Exterior Architectural = IA or EA; Mechanical/Electrical = ME.
Condition: Good = G; Fair = F; Poor = P.
- (8) Quantity of ACM for each work task in meters or square meters.
- (8a) Quantity of ACM for each work task in linear feet or square feet.
- (9) Response Action Detail Sheet specifies the material to be abated and the methods to be used. There is only one Response Action Detail Sheet for each abatement task.
- (10) Set-up Detail Sheets indicate containment and control methods used

TABLE 1

INDIVIDUAL WORK TASK DATA ELEMENTS
in support of the response action (referenced in the selected
Response Action Detail Sheet).

TABLE 1

INDIVIDUAL WORK TASK DATA ELEMENTS

Sheet 1 of 6

There is a separate data sheet for each individual work task.

1. WORK TASK DESIGNATION NUMBER : 06
2. LOCATION OF WORK TASK: Bldgs 845, 846, 847 & 855 SB, Hawaii

3. BRIEF DESCRIPTION OF MATERIAL TO BE ABATED: Cement pipe
exterior of Bldg
 - a. Type of Asbestos: Chrysotile
 - b. Percent asbestos content:
4. ABATEMENT TECHNIQUE TO BE USED: wet method
5. OSHA ASBESTOS CLASS DESIGNATION FOR WORK TASK: I
6. EPA NESHAP FRIABILITY DESIGNATION FOR WORK TASK
 Friable x Non-friable Category I
 Non-friable Category II
7. FORM and CONDITION OF ACM: GOOD FAIR POOR
8. QUANTITY: METERS , SQUARE METERS
- 8a. QUANTITY: LINEAR FT. , SQUARE FT.
9. RESPONSE ACTION DETAIL SHEET NUMBER FOR WORK TASK
10. SET-UP DETAIL SHEET NUMBERS
 FOR WORK TASK 9a, 9b, 11, 12, 13, 14, 15, 19, 102.

NOTES:

- (1) Numeric sequence of individual work tasks (1,2,3,4, etc.) for each regulated area. Each category of EPA friability/OSHA class has a separate task.
- (2) Specific location of work (building, floor, area, e.g., Building 1421, 2nd Floor, Rm 201)
- (3) A description of material to be abated (example: horizontal pipe, cement wall panels, tile, stucco, etc.) type of asbestos (chrysotile, amosite, crocidolite, etc.); and % asbestos content.
- (4) Technique to be used: Removal = REM; Encapsulation = ENCAP; Encasement = ENCAS; Enclosure = ENCL; Repair = REP.
- (5) Class designation: Class I, II, III, or IV (OSHA designation).
- (6) Friability of materials: Check the applicable EPA NESHAP friability designation.
- (7) Form: Interior or Exterior Architectural = IA or EA; Mechanical/Electrical = ME.
 Condition: Good = G; Fair = F; Poor = P.
- (8) Quantity of ACM for each work task in meters or square meters.
- (8a) Quantity of ACM for each work task in linear feet or square feet.
- (9) Response Action Detail Sheet specifies the material to be abated and the methods to be used. There is only one Response Action Detail Sheet for each abatement task.
- (10) Set-up Detail Sheets indicate containment and control methods used

TABLE 1

INDIVIDUAL WORK TASK DATA ELEMENTS
in support of the response action (referenced in the selected
Response Action Detail Sheet).

TABLE 2

FORMULA FOR CALCULATION OF THE 95 PERCENT CONFIDENCE LEVEL
(Reference: NIOSH 7400)

$$\text{Fibers/cc(01.95 percent CL)} = X + [(X) * (1.645) * (CV)]$$

Where: $X = ((E)(AC))/((V)(1000))$

$$E = ((F/Nf) - (B/Nb))/Af$$

CV = The precision value; 0.45 shall be used unless the analytical laboratory provides the Contracting Officer with documentation (Round Robin Program participation and results) that the laboratory's precision is better.

AC = Effective collection area of the filter in square millimeters

V = Air volume sampled in liters

E = Fiber density on the filter in fibers per square millimeter

F/Nf = Total fiber count per graticule field

B/Nb = Mean field blank count per graticule field

Af = Graticule field area in square millimeters

$$\text{TWA} = C1/T1 + C2/T2 = Cn/Tn$$

Where: C = Concentration of contaminant

T = Time sampled.

TABLE 3
 NIOSH METHOD 7400
 PCM ENVIRONMENTAL AIR SAMPLING PROTOCOL (NON-PERSONAL)

Sample Location	Minimum No. of Samples	Filter Pore Size (Note 1)	Min. Vol. (Note 2) (Liters)	Sampling Rate (liters/min.)
Inside Abatement Area	0.5/140 Square Meters (Notes 3 & 4)	0.45 microns	3850	2-16
Each Room in 1 Abatement Area Less than 140 Square meters		0.45 microns	3850	2-16
Field Blank	2	0.45 microns	0	0
Laboratory Blank	1	0.45 microns	0	0

Notes:

1. Type of filter is Mixed Cellulose Ester.
2. Ensure detection limit for PCM analysis is established at 0.005 fibers/cc.
3. One sample shall be added for each additional 140 square meters. (The corresponding I-P units are 5/1500 square feet).
4. A minimum of 5 samples are to be taken per abatement area, plus 2 field blanks.

TABLE 4

EPA AHERA METHOD: TEM AIR SAMPLING PROTOCOL

Location Sampled	Minimum No. of Samples	Filter Pore Size	Min. Vol. (Liters)	Sampling Rate (liters/min.)
Inside Abatement Area	5	0.45 microns	1500	2-16
Outside Abatement Area	5	0.45 microns	1500	2-16
Field Blank	2	0.45 microns	0	0
Laboratory Blank	1	0.45 microns	0	0

Notes:

1. Type of filter is Mixed Cellulose Ester.
2. The detection limit for TEM analysis is 70 structures/square mm.

CERTIFICATE OF WORKER'S ACKNOWLEDGMENT

PROJECT NAME _____ CONTRACT NO. _____
 PROJECT ADDRESS _____
 CONTRACTOR FIRM NAME _____
 EMPLOYEE'S NAME _____, _____, _____,
 (Print) (Last) (First) (MI)

Social Security Number: _____-_____-_____,

WORKING WITH ASBESTOS CAN BE DANGEROUS. INHALING ASBESTOS FIBERS HAS BEEN LINKED WITH TYPES OF LUNG DISEASE AND CANCER. IF YOU SMOKE AND INHALE ASBESTOS FIBERS, THE CHANCE THAT YOU WILL DEVELOP LUNG CANCER IS GREATER THAN THAT OF THE NONSMOKING PUBLIC.

Your employer's contract for the above project requires that you be provided and you complete formal asbestos training specific to the type of work you will perform and project specific training; that you be supplied with proper personal protective equipment including a respirator, that you be trained in its use; and that you receive a medical examination to evaluate your physical capacity to perform your assigned work tasks, under the environmental conditions expected, while wearing the required personal protective equipment. These things are to be done at no cost to you. By signing this certification, you are acknowledging that your employer has met these obligations to you. The Contractor's Designated Industrial Hygienist will check the block(s) for the type of formal training you have completed. Review the checked blocks prior to signing this certification.

FORMAL TRAINING:

_____ a. For Competent Persons and Supervisors: I have completed EPA's Model Accreditation Program (MAP) training course, "Contractor/Supervisor", that meets this State's requirements.

b. For Workers:

_____ (1) For OSHA Class I work: I have completed EPA's MAP training course, "Worker", that meets this State's requirements.

_____ (2) For OSHA Class II work (where there will be abatement of more than one type of Class II materials, i.e., roofing, siding, floor tile, etc.): I have completed EPA's MAP training course, "Worker", that meets this State's requirements.

(3) For OSHA Class II work (there will only be abatement of one type of Class II material):

_____ (a) I have completed an 8-hour training class on the elements of 29 CFR 1926, Section .1101(k)(9)(viii), in addition to the specific work practices and engineering controls of 29 CFR 1926, Section .1101(g) and hands-on training.

_____ (b) I have completed EPA's MAP training course, "Worker", that meets this State's requirements.

_____ (4) For OSHA Class III work: I have completed at least a 16-hour course consistent with EPA requirements for training of local education agency maintenance and custodial staff at 40 CFR 763, Section .92(a)(2) and

CERTIFICATE OF WORKER'S ACKNOWLEDGMENT

the elements of 29 CFR 1926, Section .1101(k)(9)(viii), in addition to the specific work practices and engineering controls at 29 CFR 1926, Section .1101, and hands-on training.

CERTIFICATE OF WORKER'S ACKNOWLEDGMENT

_____ (5) For OSHA Class IV work: I have completed at least a 2-hr course consistent with EPA requirements for training of local education agency maintenance and custodial staff at 40 CFR 763, (a)(1), and the elements of 29 CFR 1926, Section .1101(k)(9)(viii), in addition to the specific work practices and engineering controls at 29 CFR 1926, Section .1101(g) and hands-on training.

_____ c. Workers, Supervisors and the Designated Competent Person: I have completed annual refresher training as required by EPA's MAP that meets this State's requirements.

PROJECT SPECIFIC TRAINING:

_____ I have been provided and have completed the project specific training required by this Contract. My employer's Designated Industrial Hygienist and Designated Competent Person conducted the training.

RESPIRATORY PROTECTION:

_____ I have been trained in accordance with the criteria in the Contractor's Respiratory Protection program. I have been trained in the dangers of handling and breathing asbestos dust and in the proper work procedures and use and limitations of the respirator(s) I will wear. I have been trained in and will abide by the facial hair and contact lens use policy of my employer.

RESPIRATOR FIT-TEST TRAINING:

_____ I have been trained in the proper selection, fit, use, care, cleaning, maintenance, and storage of the respirator(s) that I will wear. I have been fit-tested in accordance with the criteria in the Contractor's Respiratory Program and have received a satisfactory fit. I have been assigned my individual respirator. I have been taught how to properly perform positive and negative pressure fit-check upon donning negative pressure respirators each time.

MEDICAL EXAMINATION:

_____ I have had a medical examination within the last twelve months which was paid for by my employer. The examination included: health history, pulmonary function tests, and may have included an evaluation of a chest x-ray. A physician made a determination regarding my physical capacity to perform work tasks on the project while wearing personal protective equipment including a respirator. I was personally provided a copy and informed of the results of that examination. My employer's Industrial Hygienist evaluated the medical certification provided by the physician and checked the appropriate blank below. The physician determined that there:

_____ were no limitations to performing the required work tasks.
_____ were identified physical limitations to performing the required work tasks.

Date of the medical examination _____

Employee Signature _____ date _____

CERTIFICATE OF WORKER'S ACKNOWLEDGMENT

Contractor's Industrial

Hygienist Signature _____ date _____

-- End of Section --