

2. AMENDMENT/MODIFICATION NO. <b>0002</b>	3. EFFECTIVE DATE <b>4 JUN 1999</b>	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)
6. ISSUED BY  <b>Department of the Army Corps of Engineers Fort Worth District</b>	CODE	7. ADMINISTERED BY (If other than Item 6)	CODE

8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)	(✓)	9A. AMENDMENT OF SOLICITATION NO. <b>DACA63-99-R-0008</b>
	(X)	9B. DATED (SEE ITEM 11) <b>14 May 1999</b>
		10A. MODIFICATION OF CONTRACTS/ORDER NO.
		10B. DATED (SEE ITEM 13)
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 tended.  is extended,  is not ex-

Offers 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 1 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 ACKNOWLEDGMENT 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.**

(✓)	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) 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 (such as changes in paying office, appropriation date, etc.) 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 (Specify type of modification and authority)

**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.)**

The Solicitation for RFP, DESIGN-BUILD CONTRACT FOR A STANDARD DINING FACILITY, FORT SAM HOUSTON, SAN ANTONIO, TEXAS, is amended as follows:

See Continuation Sheet.

**NOTE: The Proposal Receipt Date and Time remains 14 June 1999, 4:00 p.m. CDT, as previously announced.**

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

Item 14. Continued.

a. Project Table of Contents.

Replace the Project Table of Contents with the accompanying new Project Table of Contents bearing the notation "ACCOMPANYING AMENDMENT NO. 0002 TO SOLICITATION NO. DACA63-99-R-0008".

b. Price Proposal Schedule.

The Price Proposal Schedule shall be voided and the accompanying new Price Proposal Schedule, bearing the notation "ACCOMPANYING AMENDMENT NO. 0002 TO SOLICITATION NO. DACA63-99-R-0008", shall be substituted therefor.

c. Wage Rates.

Void pages 00710-1 through 00710-8, and substitute therefor the attached pages 00710-1 through 00710-8, each page bearing the notation "ACCOMPANYING AMENDMENT NO. 0002 TO SOLICITATION NO. DACA63-99-R-0008".

d. Proposal Requirements and Contract Forms.

The following listed sections shall be voided and the accompanying new sections of the same title and number, shall be substituted therefor:

SECTION 00700	CONTRACT CLAUSES
SECTION 00800	SPECIAL CONTRACT REQUIREMENTS

e. Specifications.

(1) The following listed sections shall be voided and the accompanying new sections of the same title and number, each bearing the notation "ACCOMPANYING AMENDMENT NO. 0002 TO SOLICITATION NO. DACA63-99-R-0008" shall be substituted therefor:

SECTION 00120	PROPOSAL SUBMISSION REQUIREMENTS
SECTION 00150	PROPOSAL EVALUATION AND CONTRACT AWARD
SECTION 01000	DESIGN AND CONSTRUCTION SCHEDULE
SECTION 01015	DESIGN REQUIREMENTS AFTER AWARD
SECTION 01200	PROJECT MEETINGS

(2) Division 3 - Attachments, Attachment H, Pages H-5 through H-8.-  
Replace these pages with the attached new pages Attachment H-5 through H-8, each page bearing the notation "ACCOMPANYING AMENDMENT NO. 0002 TO SOLICITATION NO. DACA63-99-R-0008".

f. Drawings.

The following attached drawings shall be added to the Architectural Attachment:

- K12 POINT OF SALES COUNTER PLAN AND SECTION
- K13 DETAILS AT WALK-IN FREEZER (Z) AND REFRIGERATOR (S)

00TOC

PROJECT TABLE OF CONTENTS  
**AMENDMENT NO. 0002**

BIDDING REQUIREMENTS, CONTRACT FORMS, AND CONDITIONS OF THE CONTRACT

DIVISION 0 - PROPOSAL REQUIREMENTS AND CONTRACT FORMS

00010 SOLICITATION, OFFER AND AWARD, SF-1442 AND PRICE PROPOSAL SCHEDULE  
00100 INSTRUCTIONS, CONDITIONS AND NOTICES TO BIDDERS  
00102 PRE-PROPOSAL CONFERENCE / SITE VISITATION  
00110 OFFEROR'S CHECKLIST  
00120 PROPOSAL SUBMISSION REQUIREMENTS  
00150 EVALUATION FACTORS FOR AWARD  
00500 FORMS  
00600 REPRESENTATIONS AND CERTIFICATIONS  
00700 CONTRACT CLAUSES  
00710 WAGE RATES  
00720 AFFIRMATIVE ACTION PLAN  
00800 SPECIAL CONTRACT REQUIREMENTS

SPECIFICATIONS

DIVISION 1 - GENERAL REQUIREMENTS

01000 DESIGN AND CONSTRUCTION SCHEDULE  
01010 SUMMARY OF WORK  
01015 DESIGN REQUIREMENTS AFTER AWARD  
01016 DESIGN DOCUMENT REQUIREMENTS  
01030 BID OPTION DESCRIPTIONS  
01090 SOURCES FOR REFERENCE PUBLICATIONS  
01129 SPECIAL PROJECT PROCEDURES FOR FORT SAM HOUSTON  
01200 PROJECT MEETINGS  
01320 PROJECT SCHEDULE  
01330 CONSTRUCTION SUBMITTAL PROCEDURES  
01360 SURVEY, LAYOUT, AND OTHER DATA  
01410 ENVIRONMENT PROTECTION  
01415 METRIC MEASUREMENTS  
01420 STORM WATER NPDES PERMIT REQUIREMENTS  
01421 OUTLINE OF A BASIC STORM WATER POLLUTION PREVENTION PLAN  
01430 DESIGN QUALITY CONTROL  
01451 CONTRACTOR QUALITY CONTROL  
01500 TEMPORARY CONSTRUCTION FACILITIES  
01550 ENVIRONMENTAL SURVEY REQUIREMENTS  
01560 TEMPORARY SAFETY CONTROLS  
01580 BULLETIN BOARD AND PROJECT SIGN  
01700 CONTRACT CLOSEOUT

DIVISION 2 - TECHNICAL DESIGN AND CONSTRUCTION CRITERIA

02100 SUBSTRUCTURE  
02200 SHELL  
02300 INTERIORS  
02400 SERVICES MECHANICAL SYSTEMS  
02410 SERVICES: ELECTRICAL SYSTEMS  
02500 EQUIPMENT AND FURNISHINGS  
02700 BUILDING SITEWORK  
02710 SITEWORK: SELECTIVE BUILDING DEMOLITION

DIVISION 3 - ATTACHMENTS

- A. FORT SAM HOUSTON INSTALLATION DESIGN GUIDE (SELECTED PORTIONS)
- B. MANDATORY GUIDES

DIVISION 02 - SITE WORK

02050 DEMOLITION  
02221 EXCAVATION, FILLING AND BACKFILLING FOR BUILDINGS  
02222 EXCAVATION, TRENCHING, AND BACKFILLING FOR UTILITIES SYSTEMS  
02225 EARTHWORK FOR ROADWAYS., RAILROADS, AND AIRFIELDS  
02511 CONCRETE SIDEWALKS AND CURBS AND GUTTERS  
02575 PAVEMENT REMOVAL  
02580 PAVEMENT MARKINGS  
02660 WATER DISTRIBUTION SYSTEM  
02685 GAS DISTRIBUTION SYSTEM  
02712 LIME-STABILIZED BASE COURSE, SUBBASE, OR SUBGRADE  
02720 STORM-DRAINAGE SYSTEM  
02722 AGGREGATE AND/OR GRADED-CRUSHED AGGREGATE BASE COURSE  
02730 SANITARY SEWERS  
02741 BITUMINOUS PAVING FOR ROADS, STREETS AND OPEN STORAGE AREAS  
02748 BITUMINOUS TACK AND PRIME COATS  
02841 TRAFFIC AND HANDICAP PARKING SIGNS

DIVISION 13 - SPECIAL CONSTRUCTION

13280 ASBESTOS ABATEMENT  
13281 LEAD HAZARD CONTROL ACTIVITIES

DIVISION 15 - MECHANICAL

15954 PROGRAMMABLE LOGIC CONTROL FOR HVAC (FORT SAM HOUSTON)

- C. FOUNDATION AND PAVEMENT DESIGN ANALYSIS
- D. LIMITED ENVIRONMENTAL SURVEY FOR BUILDING 2789
- E. SAMPLE OF AN ENVIRONMENTAL SURVEY
- F. CEGS FORMAT GUIDE SPECIFICATIONS
- G. RECOMMENDED PLANT LIST
- H. DD FORM 1354, SAMPLE, AND CATEGORY CODES
- I. SWD ARCHITECTURAL AND ENGINEERING INSTRUCTIONS MANUAL (AEIM)

J. MANDATORY SPECIFICATIONS

DIVISION 2 - SITEWORK

02051 REMOVAL, RECYCLING AND DISPOSAL OF REGULATED MATERIALS

DIVISION 11 - EQUIPMENT

11400 FOOD SERVICE EQUIPMENT

K. DRAWINGS

(1) ARCHITECTURAL ATTACHMENT 1

A1 FLOOR PLAN  
A2 FINISH SCHEDULE AND FINISH FLOOR PLAN  
K1 FOOD SERVICE (KITCHEN) EQUIPMENT LAYOUT  
K2 ENLARGED KITCHEN PLAN  
K3 ENLARGED SERVING AREA PLAN  
K4 ENLARGED CARRY-OUT AND DISHWASHING PLANS  
K5 FOOD SERVICE (KITCHEN) EQUIPMENT SCHEDULES  
K6 FOOD SERVICE (KITCHEN) EQUIPMENT SCHEDULES  
K7 CARRY-OUT (KITCHEN) EQUIPMENT SCHEDULES  
K8 FOOD SERVICE (KITCHEN) EQUIPMENT DETAILS  
K9 FOOD SERVICE (KITCHEN) EQUIPMENT DETAILS  
K10 FOOD SERVICE (KITCHEN) EQUIPMENT DETAILS  
K11 FOOD SERVICE (KITCHEN) EQUIPMENT DETAILS

[AM#2] DELETED

K12 [AM#2] POINT OF SALES COUNTER PLAN AND SECTION

K13 [AM#2] DETAILS AT WALK-IN FREEZER (Z) AND REFRIGERATOR (S)

(2) ARCHITECTURAL ATTACHMENT 2

EXISTING DINING B2789 DRAWINGS for DEMOLITION WORK  
FLOOR PLAN AND SCHEDULES  
ELEVATIONS AND DETAILS  
SECTION AND ROOM FINISH SCHEDULE  
ATTIC PLAN AND DETAILS

(3) ARCHITECTURAL ATTACHMENT 3

DEMOLITION PHOTOGRAPH  
ARCHITECTURAL COMPATIBILITY PHOTOGRAPH 2 (2 PHOTOS)  
ARCHITECTURAL COMPATIBILITY PHOTOGRAPH 4 (4 PHOTOS)

(4) SITE DRAWINGS

PROJECT LOCATION MAP, ATTACHMENT C-1  
NEW SITE PLAN, ATTACHMENT C-2  
SITE UTILITY PLAN, ATTACHMENT C-3  
FIRMS HYDRANT CARD (11 PAGES), ATTACHMENT C-4  
EXISTING SITE PLAN (TOPOGRAPHIC SURVEY, 2 SHEETS), ATTACHMENT C-5  
BORING LOCATIONS, SHEET LB1  
LOGS OF BORINGS, SHEET LB2

-- End of Project Table of Contents --

ACCOMPANYING AMENDMENT NO. 0002 TO SOLICITATION NO. DACA63-99-R-0008  
RFP, Design and Construction of Standard Dining Facility (Title)  
Fort Sam Houston, Texas (Location)

Solicitation No. DACA63-99-R-0008

PRICE PROPOSAL SCHEDULE  
 (To be attached to SF 1442)

Item No.	Description	Quantity	Unit	Unit Cost	Amount
BASE BID: All work required by the Contract documents for the design and construction of the Standard Dining Facility <u>excluding</u> Options.					
0001	All work to design the Standard Dining Facility, Complete, including design of the Option No. 1 POV Parking Area, and construct the Building, including utilities to the 1,525 mm (5 foot) line, exclusive of all work listed separately)				
		Job	Sum	***	\$ _____
0002	Construct all Exterior Work outside the building's 1,525 mm (5 foot) line (Including utilities to the San Antonio City Public Services (CPS) tie-in, earthwork, paving sidewalk, curb and gutter, turfing, landscaping and all other work not listed separately)				
		Job	Sum	***	\$ _____
0003	Cost for the design and construction of the gas line, from the city main up to and including the building meter, to be done by San Antonio City Public Services (CPS)				
		Job	Sum	***	\$ _____
TOTAL BASE BID					\$ _____
OPTIONS:					
0004	[AM #2] Option No. 1: All work to construct a new POV parking area to be located north of the new Dining Facility. See Section 01030 BID OPTION DESCRIPTIONS for additional description.				
		TOTAL OPTION NO. 1 \$ _____			
0005	[AM #2] Option No. 2: Abatement and disposal of hazardous materials during the demolition of the existing dining facility.				
		TOTAL OPTION NO. 2 \$ _____			
0006	[AM #2] Option No. 3: Demolition of the existing dining facility, excluding abatement and disposal of hazardous materials.				
		TOTAL OPTION NO. 3 \$ _____			
TOTAL BASE BID PLUS OPTIONS 1, 2 & 3					\$ _____

PRICE PROPOSAL SCHEDULE (cont)

PROJECT COMPLETION TIME:

0007 Completion Time for all Work except Bid Items 0005 (Hazardous Materials) and 0006 (Demolition)(not to exceed the maximum time stated in Section 01000 DESIGN AND CONSTRUCTION SCHEDULE)

PROJECT COMPLETION TIME: \_\_\_\_\_ Calendar Days

NOTES:

1. ARITHMETIC DISCREPANCIES (EFARS 14.407-2)

(a) For the purpose of initial evaluation of bids, the following will be utilized in resolving arithmetic discrepancies found on the face of the bidding schedule as submitted by bidders:

- (1) Obviously misplaced decimal points will be corrected;
- (2) In case of discrepancy between unit price and extended price, the unit price will govern;
- (3) Apparent errors in extension of unit prices will be corrected; and
- (4) Apparent errors in addition of lump-sum and extended prices will be corrected.

(b) For the purposes of bid evaluation, the Government will proceed on the assumption that the bidder intends his bid to be evaluated on the basis of the unit prices, extensions, and totals arrived at by resolution of arithmetic discrepancies as provided above and the bid will be so reflected on the abstract of bids.

(c) These correction procedures shall not be used to resolve any ambiguity concerning which bid is low.

2. If a modification to a bid based on unit prices is submitted, which provides for a lump sum adjustment to the total estimated cost, the application of the lump sum adjustment to each unit price in the bid schedule must be stated. If it is not stated, the bidder agrees that the lump sum adjustment shall be applied on a pro rata basis to every unit price in the bid schedule.

3. Bidders must bid on all items.

4. Costs attributable to Division 01 - General Requirements are assumed to be prorated among bid items listed.

5. Responders are advised that this requirement may be delayed, cancelled or revised at any time during the solicitation, selection, evaluation, negotiation and/or final award process based on decisions related to DOD changes in force structure and disposition of the Armed Forces.

6. For the purpose of this solicitation, the word "item" shall be considered to mean "schedule" as used in Provision 52.215-16 III, CONTRACT AWARD, in Section 00100 INSTRUCTIONS, CONDITIONS, AND NOTICES TO BIDDER, excluding additives, deductives, or optional items.

PRICE PROPOSAL SCHEDULE (cont)

NOTES (Cont)

7. The Army will procure this facility through a design and cost competition in accordance with the provisions set forth in this Request for Proposals (RFP). When a contract is awarded, it will be a "Firm Fixed Price Contract."

8. The Congress, in authorizing and funding this contract, has established certain cost limitations for the project. The current authorization for the complete design and construction of this project is \$5,400,000. Proposals that exceed this funding limit after exercising any options may be rejected. Submission of desirable alternative features exceeding minimum requirements may be considered as long as award can be made within the established funds.

9. Any proposal which is materially unbalanced as to prices for the Base Schedule may be rejected. An unbalanced proposal is one which is based on prices significantly less than the cost for some work and prices which are significantly overstated for other work and can also exist where only overpricing or underpricing exists.

10. BID ITEM 0003

The Contractor shall be responsible for reimbursing the San Antonio City Public Services (CPS) for their costs in constructing the city services tie-in. This figure will be adjusted up or down to match the actual costs prior to Government payment of this bid item.

11. EVALUATION OF OPTIONS (JUL 1990) (FAR 52.217-5)

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

12. OPTION FOR INCREASED QUANTITY - SEPARATELY PRICED LINE ITEM (MAR 1989)  
(FAR 52.217-7)

The Government may require the completion of the numbered line item, identified in the Bidding Schedule as an option item, in the quantity and at the price stated in the Bidding Schedule. The Contracting Officer may exercise the option by written notice to the Contractor within the period specified in the Bidding Schedule. Completion of added items shall continue at the same schedule as the Base Bid unless otherwise noted in the SPECIAL CONTRACT REQUIREMENTS, paragraph 1 entitled COMMENCEMENT, PROSECUTION AND COMPLETION OF WORK.

13. The Government reserves the right to exercise the option(s) either singularly or in any combination for up to 180 calendar days after award of the Base Bid without an increase in the Offeror's Bid Price.

PRICE PROPOSAL SCHEDULE (cont)

NOTES (Cont)

14. ABBREVIATIONS

For the purpose of this solicitation, the units of measure are represented as follows:

- a. mm (millimeters)
- b. M (length in linear meters)

END OF BIDDING SCHEDULE

## SECTION 00120

## PROPOSAL SUBMISSION REQUIREMENTS

6/99

## 1 GENERAL

## 1.1 INTRODUCTION

Through the use of a two-phase procurement process, the Department of the Army desires to obtain the Design and Construction of a Standard Dining Facility at Fort Sam Houston, TX. In this procurement procedure consideration will be given initially to the Project Organization and Personnel; Offeror's Experience and Past Performance; and Management Control Systems, Implementation, and Past Success proposal in Phase I. The offerors that scored the highest on the Phase I evaluation criteria, minimum of two (2) but no more than five (5), will be selected and given the opportunity to offer their preliminary design and cost proposals in Phase II. Final selection and basis for award of the Design/Build Contract will be on the basis of qualifications, technical quality, price, and other salient factors considered to be in the Government's best interests. This is not a low bid award project. If awarded the contract, the offeror shall complete the design and construction documents and construct the facility in compliance with these completed requirements.

## 1.2 WHERE AND WHEN TO SUBMIT PROPOSAL

Submit Phase I of the Proposal on the date indicated in Item 13.A of the Solicitation, Offer and Award form (Standard Form 1442) found in Section 00010, SOLICITATION, OFFER, AND AWARD.

## 1.3 INQUIRIES ABOUT THIS REQUEST FOR PROPOSALS (RFP)

Inquiries about this RFP shall be directed to the individuals listed in Section 00100 INSTRUCTIONS, CONDITIONS, AND NOTICES TO BIDDERS.

## 1.4 REQUIRED TECHNICAL DATA FOR PROPOSAL SUBMISSION

Offerors are advised that the required data will be utilized for review and evaluation and used for determination of a "Quality Rating" by a Technical Evaluation Team and that all data submitted for consideration under this proposal will be reviewed only for the purposes required for evaluation and award. The Government will not make assumptions concerning the offeror's intent, capabilities, facilities, or experiences. Clear identification is the sole responsibility of the offeror.

## 1.5 PROPOSAL PREPARATION

Instructions for the preparation and organization of each proposal are included herein. The proposal shall be submitted as summarized below and as required by the specifications.

- I. Phase I - Management/Technical Proposal
  - A. Project Organization and Personnel.
  - B. Offeror Experience and Past Performance.
  - C. Management Control Systems, Implementation and Past Success.
  - D. Management/Technical Compliance Certification
  - E. Financial Capacity

- II. Phase II - Design Proposal
  - A. Volume I - Preliminary Design Proposal

- 1. Design Proposal
- 2. Preliminary Project Schedule
- 3. Design Compliance Certification

- B. Volume II - Cost/Price Proposal

- 1. Standard Form 1442
- 2. Price Proposal Schedule, Section 00010
- 3. Proposal(Bid) bonds
- 4. Representation & Certifications, Section 00600
- 5. Subcontracting Plan
- 6. Small Disadvantage Business Utilization

Proposal submittal shall include original and the following copies:

Phase I - Management/Technical proposal - 10 copies

Phase II - Design Proposal

Volume I - 10 copies

Volume II - 2 copies

The Cost/Price proposal shall be sealed in a single package separate from the Preliminary Design proposal and clearly marked as indicated on Standard Form 1442.

#### 1.5.1 Format

##### 1.5.1.1 Written Material

a. All written material, including catalog cuts, shall be submitted in standard three ring loose-leaf binders. Proposals shall be tabbed and labeled in a manner to afford easy identification from a Table of Contents. Font size shall be not less than 10 point. Each page shall be identified with the appropriate page number centered at the bottom of the page. Sheet size of the proposal contents shall be 216 mm by 279 mm (8 ½ by 11 inches). Legibility, clarity, coherence, and the contents are important. The Phase I (Management/Technical) proposal length shall be limited to 50 single-sided or 25 double-sided pages. Any Standard Form 254s and Standard Form 255s submitted shall be included in the appendix and shall not count against the above-specified page limit. The offeror shall not submit verbatim sections

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or attachments of this solicitation as part of their proposal. Offers that do not meet these requirements may be subject to rejection.

b. A cover sheet identifying the offeror and the project shall be provided. The Second sheet(s) shall be a Table of Contents.

c. Table of Contents. The proposal shall contain a detailed table of contents. The complete table of contents shall be included in each binder used.

d. Materials submitted but not required by this solicitation (such as company brochures and equipment lists) shall be relegated to appendices.

e. Proposal revisions shall be submitted as page replacements with revised text readily identifiable, e.g. bold face print or underlined. Revised pages shall be numbered, dated, submitted in appropriate number of copies, and a different color page than the original.

#### 1.5.1.2 Drawings

Drawings shall be no larger than SI A1 841 mm X 594 mm (33.11 X 23.39 inches), sheet size with 13 mm borders, all four sides. Each drawing shall be identified with the appropriate Sequence and Sheet Numbers in the lower right hand corner. All alternate designs which may or may not be priced as additive or deductive items shall be graphically described on separate drawings from the base proposal design.

#### 1.6 REFERENCED PUBLICATIONS

Corps of Engineers'(COE) design criteria and manuals that are referenced in this solicitation, such as the COE SWD Architectural and Engineering Instruction Manual (COE SWD-AEIM), Technical Manuals (TM) and Instructions (TI), Military Handbooks, Engineering Regulations (ER), and Engineering Manuals (EM), will be made available to the successful offeror after award of the contract, free of charge. They also can be downloaded from the Internet at the following address: <http://w2.hnd.usace.army.mil/techinfo/> or obtained from the current National Institute of Building Science's (NIB) Construction Criteria Base (CCB) CD-ROM Disk. The COE SWD-AEIM is on the Solicitation CD-ROM Disk. These publications will be available to prospective offerors upon request. Obtaining other referenced publications such as Federal and Military Specifications, Military Standards, and industry standards (i.e., ASTM, ANSI, ACI, NFPA, Uniform Building Code) will be the responsibility of each offeror. See Section 00100, paragraph "52.211-2 AVAILABILITY OF SPECIFICATIONS LISTED IN THE DOD INDEX OF SPECIFICATIONS AND STANDARDS (DODISS) AND DESCRIPTIONS LISTED IN THE ACQUISITION MANAGEMENT SYSTEMS AND DATA REQUIREMENTS CONTROL LIST, DOD 5010.12-L (AUG 1998)," for information on obtaining these publications. Offerors are warned that due to the limited time for proposal preparation and submittal, there may not be enough time for ordering and receiving any of the above references. Failure to receive requested references will not be sufficient reason for extension of the proposal submission date.

#### 1.7 UNNECESSARILY ELABORATE PROPOSALS OR QUOTATIONS (APR 1984) (FAR 52.215-7)

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Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are not desired and may be construed as an indication of the offeror's or quoter's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor wanted.

1.8 REQUIREMENTS FOR SPECIAL MARKING OF PROPOSAL DATA

Envelopes or other cover for material submitted in response to RFP shall be opaque, and must be so presented that they may be easily identified. Outside of envelope or other cover for each phase must show:

- a. Destination of Proposal.
- b. Name and location of project as described in the RFP Documents.
- c. Solicitation Number.
- d. Name and Address of Offeror.
- e. Project Phase and Volume Number

Submit proposal in the format specified. Oral or telephonic proposals or modifications will not be considered. All required information in the form must be supplied. Signature must be in longhand, and be executed by a principal duly authorized to execute contract actions and bind the company. Offeror's legal name must be fully stated.

Mail or deliver the proposal to the address listed on Standard Form 1442, "Solicitation, Offer and Award Form."

1.9 DESCRIPTION OF EVALUATION CRITERIA

I. PHASE I MANAGEMENT/TECHNICAL PROPOSAL PREPARATION

The Management/Technical proposal shall include the information as described below and shall be presented in the sequence listed.

A. Project Organization and Personnel:

1. Personnel (Prime & Subcontractor): Provide professional resume data and letters of commitment on the individuals who will be key personnel on the project team. Key personnel identified in this Section should be senior working-level people who will be involved in design and construction on a day-to-day basis, as opposed to departmental level supervisors or executives. By identifying these personnel, the offeror is making a commitment that, barring unforeseen circumstances, they are the personnel who will be assigned to the project. See Sections 01015, 01430, and 01451 for minimum personnel qualifications. The following list shall be provided as a minimum.

- Project Manager (Design & Const)
- Project Architect
- Senior Structural Engineer
- Senior Mechanical Engineer
- Senior Electrical Engineer
- Senior Civil Engineer
- Fire Protection Engineer
- Construction Superintendent

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- Design and Construction Quality Control Managers

Information to be provided includes:

- Name and Title.
- Project Assignment.
- Name of Firm with which Associated.
- Years Experience: With This Firm, With Other Firms.
- Education: Degree(s)/Year/Specialization.
- Active Registration: State and Year First Registered.
- Other Experience and Qualifications Relevant to the Proposed Project.

Identify the design disciplines and the number of professionals and employees in the firm(s) and those who will be directly dedicated to this project. Identify the Designer-of-Record(s).

Resumes are required for the construction personnel. A Standard Form 255 is required for the architectural and engineering personnel involved in the project and shall be provided in the appendix.

2. Team Organization and Responsibilities: Provide an organizational chart which describes how the team will be structured, i.e., how many firms are involved and the responsibility of each firm for this project. Provide an authority-line diagram indicating the specific authorities for each firm in the organization and the individual(s) possessing these authorities.

3. Approach:

a. Describe interactions with the Corps of Engineers and the project owner and the roles that different team members will play when dealing with design or construction changes, resolving potential delays, reviewing and approving submittals, attending progress meetings and facilitating contract completion and closeout.

b. Discuss how the design and construction process will be managed, to include a discussion on authority levels. Demonstrate your understanding of the design/build process including your ability to effectively coordinate architectural and engineering professionals, trade subcontractors and construction personnel in a team effort. Indicate the level of detail you propose to employ for proper documentation of drawings and specifications.

c. Discuss your construction management philosophy (as it relates to the design/build process) and the benefits it will bring to the Government.

B. Offeror Experience, Capacity, and Past Performance.

1. Experience: Demonstrate the experience of the team (organizations and/or individual team members) to successfully complete this facility using a design/build process. This section may be in any format; however, as a minimum, provide the following:

a. A list of dining facilities, or other similar facility type projects, currently underway or completed within the last 5 years that best demonstrates your experience. List no more than 10 projects total. The list of projects shall include the following information:

- Project Name and Location.
- Type of Facility
- Nature of Firm's Responsibility (design, construction or both)
- Note if contracts are design, design/build, or construction and whether the Offeror was the prime contractor or a subcontractor.)
- Project Owner's Name and Address and Project Manager's (Point of Contact) Name and Telephone Number.
- If a Government contract, include the Contracting Agency and Contracting Officer's name and telephone number.
- Date started
- Original Scheduled Completion Date
- Actual Completion Date
- Overall Size of Facility (in square feet or square meters).
- Construction Cost (excluding design costs).
- Duration of Construction (excluding design time).
- Identify any of these projects delivered by Design-Build method.
- Problems encountered and corrective actions taken.

\*The architectural and engineering information shall be presented on a Standard Form 254 and made part of the appendix.

b. Joint Ventures: If offeror represents the combining of two or more companies for the purpose of this RFP, the proposal shall indicate whether the firms have experience working together in design/build ventures and for how long and how many projects. In addition, each company of this joint venture shall list their Government contract experiences.

2. Past Performance: Demonstrates how well the experience listed in response to the above was performed.

a. For each of the projects listed in response to the above requirement, provide a brief statement (not to exceed 150 words in length) as to how the project illustrates your performance capabilities.

b. Private Sector References: Offerors should send their private sector references specified in their past performance records a letter authorizing the references to provide past performance information to a Government representative who will be assigned the task of conducting the past performance evaluation.

c. New Companies: For new companies entering the marketplace (without relevant company experience) it will be the quality of the past performance of their key management personnel that will indicate the risk of good performance and become the basis of the

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past performance evaluation. Identifying how long key personnel stayed on the contract and how well they managed their portion of the contract will be of great importance in the evaluation process.

3. Resource Commitment: Demonstrate personnel and resources to be utilized for this project as well as additional resources available if necessary. Response to this section shall include the following:

a. A list of key professional job titles and the number of personnel in each category for each key firm on the design/build team to include a resource manning chart and an estimate of how many personnel will be working primarily on this project from month to month. Include, as a minimum, the project manager; the designer of record; design architects and engineers; quality control managers; and the full-time construction manager or site superintendent. If reassignment of personnel is considered possible, provide the names and resumes of the alternative professionals in each assignment. Do NOT provide biographical information in this Section.

b. A list of any other corporate resources, home office support, subsidiaries, manufacturing facilities, etc. which may be used to the benefit of this project to include batch plant and heavy equipment.

c. A description of the team's computer-aided (CADD) design capabilities.

d. Warranty support plan and organization.

e. Work to be self-performed (percentage and type).

f. Identify specific subcontractors for key work items.

4. Management Commitment/Involvement:

Discuss the role(s) that upper management will play in this project and the process by which management issues encountered at the working level may be expeditiously elevated to upper management for resolution. Limit discussion to one page or less.

C. Management Control Systems, Implementation, and Past Success:

1. Quality Control:

Provide preliminary Design Quality Control Plan and preliminary Construction Quality Control Plan in accordance with Sections 01430 DESIGN QUALITY CONTROL and 01451 CONTRACTOR QUALITY CONTROL.

2. Controlling Time:

Discuss management controls that will be utilized to monitor and control time during design and construction, to ensure that the project is completed within the prescribed contract time without compromising quality of the design or construction. As a minimum, address the following:

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Demonstrate team's ability to control the time during the design phase and during the construction phase of the project. Present the plan to control design time and construction time, to include internal procedures for handling changes, unforeseen circumstances, and delays to minimize time growth. Present the plan for maintaining the design and construction schedules. Describe the time control systems to be utilized.

### 3. Limiting Cost Growth:

Discuss management controls that will be utilized to monitor and control costs during design and construction to ensure that the project is completed within the budgeted contract amount without compromising quality of the design or construction. As a minimum, address the following:

Describe team's ability to maintain a project budget during both design and construction. Describe the cost control systems and procedures that will be utilized. Discuss internal procedures for handling changes, unforeseen circumstances, and delays to minimize cost growth.

### 4. Past Success:

Verify management control with examples of past successes.

### D. Management/Technical Compliance Certification:

Offerors shall certify that all items submitted in their proposals comply with the management and technical requirements specified in this Solicitation. The criteria specified in the Solicitation are binding contract criteria and in case of any conflict, after award, between the solicitation criteria and Contractor's submittals, the order of precedence listed in Section 00800 SPECIAL CONTRACT REQUIREMENTS, paragraph " 52.36-4004 DB DESIGN-BUILD CONTRACT ORDER OF PRECEDENCE," will apply. This certification shall be included with each proposal.

### E. Financial Capacity:

Bonding Capacity: Submit a letter of current bonding capacity from a Bonding Company.

## II. PHASE II DESIGN PROPOSAL

The purpose of the Preliminary Design Proposal is as follows:

- To provide sufficient design information for the Using Agency to determine the acceptability of the proposed design as meeting their functional requirements set forth herein for operational use and economical maintenance during the anticipated life of the facility.

- To provide data for a determination of the engineering sufficiency and soundness of the basic approach to the design for each technical discipline. Also, it will serve as a documentary check that the designer has been provided or has developed the essential engineering criteria necessary for all facets of final computations and detailed

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development of a thoroughly engineered, coordinated, economical, and functional design.

A. Volume I - Preliminary Design Proposal

1. The Design Proposal shall include, as a minimum, the following descriptive concept drawings, specifications, and data:

- a. General Description

Provide general description of the dining facility addressing the overall design, materials, components, and engineering. It shall describe the proposed exterior and interior building ;materials, floors, ceilings, walls, and structural systems, air conditioning and heating systems, plumbing system, lighting system, power distribution system and fire protection system, automated controls and communications equipment, and demolition of existing utility lines. The structural system shall include information on the superstructure framing, foundation and lateral load resisting system. The proposal shall address the compatibility of Design and Materials with Fort Sam Installation Design Guide and the historical zone where it will be located. Provide general description of demolition of the existing dining facility and repair where limit of demolition work ends and adjacent buildings remain.

- b. Outline Specifications

Outline specifications shall follow the Construction Specifications Institute's (C.S.I.) 16-Division, 3 Part format and cover all scopes of work. They shall indicate the quality of materials, construction, finishes, fixtures, and equipment to be provided, and may be in narrative CSI section format, manufacturers' catalog data, or both. Division 1 sections that are in the RFP need not be repeated in the offeror's proposal.

- c. Manufacturer Catalog Data

Manufacturer catalog data shall include industry standard quality indicators for the specific material or equipment and will be used to compare construction quality during proposal evaluation. Data may [AM#2] be in the form of CSI standard product information formats Manu-Spec and Spec-Data, and manufacturer's specifications and details. Furnish manufacturer catalog data on:

- (1) Windows
- (2) Doors
- (3) Hardware
- (4) Interior Finishes [AM#2], to include floors, base, walls, ceilings, toilet partitions, lavatory tops, toilet accessories.
- (5) Exterior Finishes [AM#2], to include walls, roof, and soffits
- (6) \* Mechanical Items
  - (a) Chiller: The proposal shall include the chiller type, manufacturer, and efficiency at full, 50% and 25% load.

(b) Air Handling Units: Proposal shall include manufacturer, cooling coil fin and tube materials, and construction and material used for the casing and drain pan. Also, provide the manufacturer, burner control (steps of modulation), heat exchanger material and full load efficiency of gas fired heating section.

(c) Kitchen Hoods: Proposal shall include the manufacturer, materials of construction, and method of sealing all seams (whether exposed or not) for each type of hood to be used in the facility.

(d) Chilled Water Piping: Proposed materials and joining methods to be used.

(e) Plumbing: Proposed piping materials for hot water, cold water, and DWV..

(f) Water Heaters: Manufacturer, type, efficiency and length of standard warranty.

(g) Insulation: Proposed type of insulation jacket to used on domestic hot and cold water piping and chilled water piping located in

- (1) Mechanical Rooms,
- (2) where exposed to personnel traffic,
- (3) crawl spaces.

(7) HVAC Control Systems

(a) The following paragraphs from Specification Section 15953, HVAC Control Systems shall be specifically addressed (including manufacturers name and supplier)

2.1	Material and Equipment
2.14.2	Basic Process PLC
2.14.2.1. a-f	Integral Functions
2.14.2.2	Communications Interface Data Transmission Systems (DTS)
2.14.3	Application PLC
2.14.3.1 a-e	Integral Features of Application PLC
2.14.4	Micro PLC
2.14.4.1 a-e	Integral Features of Micro PLC
2.14.5	Nano PLC
2.14.5.1	Integral Features of Nano PLC
2.14.7 a-j	Portable Tester/Workstation
2.15.2.1.8	Diagnostic Software

(b) Evaluation of the above HVAC Control Systems shall be based on the minimum specified requirements for each paragraph listed above. While all PLC's may not be used in the final control system architecture, all shall be included in this proposal. The

successful offeror shall be responsible for complying with the entire HVAC Controls specification.

- (8) Interior and Exterior Light Fixtures
- (9) Sound System
- (10) Any other catalog data deemed pertinent

\* GENERAL COMMENT ON MECHANICAL ITEMS: Where capacity or size is necessary to provide data on efficiency, etc., the offeror shall estimate the size based on sound engineering judgement. The final capacity and/or size of all equipment shall be based on actual load calculations performed during the design stage. Final installed equipment shall meet or exceed the proposed features.

d. Graphic Information

Furnish preliminary drawings and schematics to illustrate the Proposal.

(1) Site Plan

Site Plan, at a suitable scale (minimum 1:400) to fit on one standard size drawing sheet, 841 mm by 594 mm, and showing:

- (a) Building location.
- (b) Utilities
- (c) Service drives and parking.
- (d) Location of site features (i.e. landscaping, lighting, mechanical and electrical equipment)

(2) Architectural Floor Plan

Architectural floor plans, minimum scale 1:100, with all areas identified, showing:

- (a) Gross area of building; exterior and interior dimensions; size of areas; critical and basic dimensions.
- (b) Area calculations, "U" insulation values (floor, walls, ceilings) with calculations, and live loads.
- (c) Door and window openings, locations and dimensions, including door swings.
- (d) Special design features, such as security provisions, room fixtures, Kitchen equipment, tables and chairs.
- (e) Plumbing fixture locations, including drinking fountains.
- (f) Preliminary finishes

(3) Exterior Elevations

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Exterior elevations (all views), minimum scale 1:100, showing:

- (a) Fenestration's and material indications.
- (b) Critical and basic dimensions.
- (c) Exterior finish materials.
- (d) Historical Detailing for Colonial Revival Style to match Architectural Attachment Photographs and "Zone a" Fort Sam Houston Design Guide.

(4) Building Sections

Building sections (one transverse and one longitudinal) minimum scale 1:100, showing:

- (a) Space for structural and HVAC systems.
- (b) Clearances,
- (c) Materials.
- (d) Building and grade to the 1.5 meter line.
- (e) Sloped roof and flat roof intersections.
- (f) Crawl space.

(5) Typical Exterior Wall Sections

Typical exterior wall sections (one cut at sloped roof and one cut at flat roof) including foundations, minimum scale 1:20, indicating materials, key vertical dimensions, and clearances.

e. [AM#2] DELETED

2. Preliminary Project Schedule

A summary level time-scaled logic diagram and written narrative shall be submitted with the Preliminary Design proposal reflecting the detailed design phase activities and the construction completion period from Notice to Proceed through final completion. Project Schedule shall conform to Section 01320 PROJECT SCHEDULE.

The following shall be included as a minimum:

(1) The Summary diagram, to include:

Phasing  
Critical Path  
Project/Phase Start and Completion activities  
Milestones and Constraints  
Design Duration and Construction Duration  
Overall Proposed Duration  
"Project Must Finish By" Constraint

(2) Narrative to Identify:

Qualifications and Experience of Scheduler  
Scheduling Program to be used

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Activity, I.D., and Resource Coding to be used  
 Use of Schedule in Managing the Project  
 Means of Handling Out-of-Sequence Work  
 Method for Developing Pay Estimates  
 Schedule Updating Methods  
 Calendar(s) to be used (i.e., 5 day work week)

The contractor shall propose the contract duration for Work Item #1, Design and Construction of the new dining facility, to include the option to construct an additional parking lot, if awarded. The proposed duration shall not exceed the duration specified for Work Item #1 in Section 01000, Design and Construction Schedule. The summary diagram and narrative shall support the proposed duration. Upon contract award, the successful offeror's proposed duration shall become the contract duration for Work Item #1. It should be noted that the Government will include provisions in the contract for liquidated damages for each calendar day the Contractor exceeds the contract schedule.

### 3. Design Compliance Certification

Offerors shall certify that all items submitted in their proposals comply with the design requirements specified in this Solicitation. The criteria specified in the Solicitation are binding contract criteria and in case of any conflict, after award, between the solicitation criteria and Contractor's submittals, the order of precedence listed in Section 00800 SPECIAL CONTRACT REQUIREMENTS, paragraph " 52.36-4004 DB DESIGN-BUILD CONTRACT ORDER OF PRECEDENCE," will apply. This certification shall be included with each proposal.

### B. VOLUME II COST/PRICE PROPOSAL PREPARATION

Prices shall be firm. The offeror's price, to be considered in the Competitive Negotiation Evaluation, shall be the offeror's Total Base Bid, plus all options, as shown on the Price Proposal Schedule. The Cost/Price proposal will be evaluated separately, after evaluation of design proposal. The Cost/Price proposal shall consist of the following:

#### 1. Solicitation Offer and Award

Standard Form 1442 shall be filled out and signed by a principal of the firm authorized to bind the design/build team.

#### 2. Price Proposal Schedule

a. Offerors shall complete the Price Proposal Schedule by filling out the pricing data blanks. An executable Price Proposal Schedule is included in Section 00010 herein.

b. Overhead and profit shall be applied proportionally to each category and will not be required to be shown separately.

c. The Contractor shall include allowance in the Cost Proposal and shall schedule any contingency for weather delays for severe weather in accordance with weather requirements included in Section 00800, SPECIAL CONTRACT REQUIREMENTS.

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3. Proposal (Bid Bonds) Submitted in accordance with Section 00100.
4. REPRESENTATION AND CERTIFICATIONS

Representations and Certifications are local, state, and federal representative statements and certifications made by the Offeror concerning a variety of issues. Complete each item in Section 00600, REPRESENTATIONS AND CERTIFICATIONS and submit one original with the Phase II proposal.

5. SUBCONTRACTING PLAN (APPLIES TO LARGE BUSINESS ONLY)

All large businesses shall submit a subcontracting plan with their technical and price/cost proposals. The plan should be prepared in accordance with FAR 52.219-9. Failure to submit an acceptable subcontracting plan may make the offeror ineligible for award of the contract. The subcontracting plan submitted by a large business will be reviewed for compliance and will be scored in accordance with AFARS 19.7, Appendix CC. The submission of the subcontracting plan is in no way advantageous to large businesses over any small business in the evaluation process.

Fort Worth District's Goal of Total Subcontracted Dollars:

- Small Business Subcontracting Goals - 61.2%
- Small Disadvantaged Business Subcontracting Goals - 9.1%
- Woman Owned Small Business Subcontracting Goals - 4.5%
- University/Minority Institutions Subcontracting Goals - 5.5% (Where Applicable).

6. SMALL DISADVANTAGED BUSINESS UTILIZATION

The contractor must identify each SDB concern proposed and submit targets expressed in dollars and percentages representing each SDB concern's participation of the total contract value. The contractor is also required to submit a total target value of all SDB participation of the total contract value. The contractor is put on notice that that any targets represented in a submitted proposal will be incorporated into and become part of any resulting contract.

## 1.10 CLARIFICATIONS AND FINAL PROPOSAL REVISION

### 1.10.1 General

Any conflicting criteria which cannot be resolved by the Order of Precedence specified in Section 00800 SPECIAL CONTRACT REQUIREMENTS shall be brought to the attention of the Government by the Offeror as part of the written clarification requirement of the proposal. In the absence of such request for clarification, the Offeror shall perform to the most beneficial criteria as determined by the Government.

### 1.10.2 Clarifications Prior to Proposal Due Date

In the event that clarifications are required prior to submitting the Phase I or II proposal, contact the individuals listed in Section 00100 INSTRUCTIONS, CONDITIONS, AND NOTICES TO BIDDERS. All RFP holders will be advised of significant clarifications affecting the scope of the project.

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### 1.10.3 Clarifications Submitted with Proposals

Clarifications remaining at the time and date that proposals are due, written clarifications may be included in the proposal for consideration by the Government. Clarifications submitted with proposals shall clearly identify the understanding of the RFP documents and how this understanding is reflected in the cost proposal. Extensive qualifications, exclusions and exceptions in the form of clarifications may be considered by the Government to be non-responsive and may be grounds for rejection of the proposal.

### 1.10.4 Final Proposal Revision

a. The Government may select the Offerors for Phase II or award a contract on the basis of the initial offers received without further discussions or negotiations. Offers should contain the Offeror's best terms from a cost and management standpoint.

b. The Government may contact those firms whose Phase II proposals are within the competitive range and conduct discussions/negotiations concerning their proposal. Following resolution of the discussions/negotiations, offerors in the competitive range will be given the opportunity to submit their Final Proposal Revision.

### 1.11 PAYMENT FOR PROPOSALS

Offerors will not be reimbursed for the costs of their proposals.

### 1.12 NOTICE

NOTE: FAILURE TO SUBMIT ALL THE DATA INDICATED IN THIS SECTION MAY BE CAUSE FOR DETERMINING A PROPOSAL NON-RESPONSIVE AND, THEREFORE, NOT CONSIDERED FOR AWARD.

2 PRODUCTS (NOT USED)

3 EXECUTION (NOT USED)

END OF SECTION

SECTION 00150

PROPOSAL EVALUATION AND CONTRACT AWARD

6/99

AMENDMENT NO. 0002

1 GENERAL

1.1 PROPOSAL EVALUATION:

Phase I and Phase II proposals will be evaluated by a Source Evaluation Board (SEB). The SEB will be made up of Corps of Engineers and Fort Sam Houston personnel. Board members will not be available for contact or discussion prior to submission of proposals.

1.2 EVALUATION CRITERIA:

1.2.1 Phase I Criteria:

The Management/Technical Proposal categories below correspond to the outline specified in Section 00120 - PROPOSAL PREPARATION. They are listed in descending order of importance with Phase I the most important and Phase II being the least important. Sub-criteria within each category are listed in their descending order of importance. In addition, similar facilities will be given greater consideration than dissimilar ones. Those offerors with no relevant performance history will not be evaluated in the Past performance category. During evaluations, all factors shall be scored on the following basis: 70 percent of the total available points in each category shall be given if the offeror meets all of the minimum requirements for that category. If the offeror exceeds the minimum requirements as stated in the solicitation, a maximum of 30 percent of the total points available may be given as bonus points for each category.

Phase I - Management/Technical Proposal (Valued 1/3 more than the Phase II Design Proposal)

A. Project Organization and Personnel.

1. Personnel (Prime & Subcontractor)

The Government will evaluate the adequacy and strength of key personnel assignments to cover necessary design disciplines and construction staffing requirements, for compliance with registration or other specified minimum qualification requirements, degree of qualification and experience, familiarity with local conditions, and Corps of Engineers and standard building codes and standards.

2. Team Organization and Responsibilities

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The Government will evaluate the team structure, the strength of the team organization and the responsibilities and level of authority for each firm on the team. The Government will review the adequacy and strength of the offeror's distribution of authority within the organization.

### 3. Approach

The Government will evaluate the adequacy and strengths of the offeror's approach in the following areas:

- Team interactions and communications with the Corps of Engineers in the various aspects of contract administration (dealing with changes, delays, submittals, progress meetings, contract completion and closeout)
- Understanding of the design/build process and how the process will be managed, to include levels of authority within the team
- Offeror's ability to coordinate the entire design and construction team, including subcontractors, in a team effort
- Level of detail for proper documentation of drawings and specifications
- Offeror's construction management philosophy and the benefits it provides to the Government

## B. Offeror Experience and Past Performance.

### 1. Experience

Has this team worked together on previous projects.

Degree to which this team has design/build experience. No previous Design-Build team experience is necessary to qualify for award of this project, however, bonus scoring consideration will be given for recent, successful D-B team experience between the prime constructor and design firm(s). The amount of additional consideration will depend upon such factors as degree of success from the owner's perspective, degree of success from the D-B team's perspective (e.g. from an assessment of their willingness to continue their association for this project), extent of team experience, and degree of similarity between previous project scope of work and this project.

Degree of coverage by discipline of all aspects of design and construction required by this project.

Recent experience includes projects completed within approximately 5 years preceding the proposal due date and projects currently underway. Experience beyond 5 years ago for construction contractors will not be given consideration unless the key personnel proposed for this project played a significant role in the earlier project and the project can be shown to be similar to this

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project. An offeror submitting older project experience must make clear the extent of involvement in those projects by current key personnel and clearly describe how the older project is similar to this, considering changes in technology, materials, equipment, codes, etc. Experience beyond 5 years ago for design firms will not be given consideration.

If offeror represents the combining of two or more companies for the purpose of this RFP, have the firms worked together in design/build ventures and for how long and how many projects? Has each company of the joint venture listed their Government contract experiences?

Civilian and military projects completed successfully by the individuals and firms proposed for the design/build team (project, location, type of facility, dollar value, contracting agency, contracting officer, point of contact, date started, original scheduled completion date, actual completion date).

#### 2. Past Performance/ Customer Satisfaction

Past performance will be evaluated by contacting references for indications of customer satisfaction.

Of Individuals (number, type of projects, specific projects).

Of the individuals working as a team on previous projects (number, type of projects, specific projects).

#### 3. Resource Commitment

Resources available to take on this work with on-going and planned work  
Warranty support plan and organization  
Identify work to be self-performed (percentage and type)

#### 4. Management Commitment/Involvement

Upper management involvement/issue resolution.

### C. Management Control Systems, Implementation and Past Success.

#### 1. Quality Control

The preliminary quality control plans will be evaluated for such factors as adequacy and strength of the offeror's understanding of contract requirements for Contractor Quality Control, the offeror's degree of commitment and systematic approach to effectively monitor and ensure high levels of design and construction quality. There is no need to provide the final plans with details of each specification section for proposal submittal. The

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Selection Board will be more concerned with substance and capabilities than with "flowery" assurances or promises of quality. The CQC organization and personnel will be evaluated under the "Phase I: Project Organization and Personnel" factor, not this factor.

#### Design Plan

- Proposed plan for design quality control includes identification and qualifications of designers and design review personnel involved with QC, the degree of delegation of authorities and responsibilities, and design quality control procedures.

#### Construction Plan

- Proposed plan for quality control staffing levels and quality control responsibilities.
- Proposed plan for providing 3-phase inspection, testing, quality control reporting, and shop drawing and drafting support.
- Proposed testing methods and frequencies for soils, asphalt, concrete, and nondestructive tests.
- Proposed method of controlling quality of subcontracted work.

#### 2. Controlling Time

Evaluation will assess the offeror's approach to managing and controlling time during design and construction so that the project is completed with the prescribed contract time without compromising quality of the design or construction. Evaluation will consider the offeror's procedures for dealing with changes, unforeseen circumstances and delays with regards to time.

#### 3. Limiting Cost Growth

Evaluation will assess the offeror's approach to maintaining a project budget and controlling internal (project team) costs during design and construction so that the project is completed within the project budget without compromising quality of the design or construction. Evaluation will consider the offeror's procedures for minimizing cost impacts related to changes, unforeseen circumstances and delays.

#### 4. Past Success

The Government will evaluate the degree to which management has successfully controlled time, cost, and quality on previous projects.

#### D. Management/Technical Compliance Certification

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 E. Financial Capacity

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1.2.2 Phase II Criteria:

The Phase II categories below correspond to the outline specified in Section 00120 - PROPOSAL PREPARATION. They are listed in descending order of importance with Category 1 the most important and the remaining categories becoming increasingly less important. Unless noted otherwise, sub-criteria within each category are listed in their descending order of importance.

Phase II - Design Proposal

A. Volume I - Preliminary Design Proposal

1. Design Proposal

a. Soundness and quality of Design

- (1) Compatibility of Design and Materials with Fort Sam Houston Installation Design Guide.
- (2) Durability of Materials
- (3) Description of structural framing system to include; superstructure framing, foundation, and lateral load resisting system.
- (4) Demolition of Existing Utility Lines

b. Comfort, Convenience, and Amenities

- (1) Proposed Heating, Ventilating, and Air Conditioning (HVAC) Components (including control system).
- (2) Ease of access to building and parking.
- (3) Location and arrangement of other amenities.
- (4) Proposed site features (landscaping, site furnishings).

c. Energy Savings

Show calculations and data supporting special features that enhance energy conservation and reduce life cycle costs.

d. Service Related Aspects of Facility Maintenance

- (1) Ease of maintenance access to Kitchen Equipment.
- (2) Ease of maintenance access to Mechanical and Electrical Equipment.
- (3) Ease of service areas (Custodial Services).

2. Preliminary Project Schedule

The elements considered under this evaluation deal with the offeror's planning and scheduling of the work (design and construction). Consideration is given to the scheduler's qualifications and experience, the scheduling system to be used, and compatibility of the offeror's scheduling system with the Government's scheduling system.

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Evaluation will assess the offeror's capability to develop a logical, realistic project schedule and methods for updating the schedule. The offeror's use of the schedule in managing the project will be evaluated.

The schedule and narrative will be evaluated to assess the offeror's understanding of the design-build process, project scope, phasing requirements, milestones and constraints, and critical elements in design and construction. The design and construction periods offered, the overall proposed contract duration, and the overall project schedule will be evaluated for realism.

3. Design Compliance Certification

B. Volume II - Cost/Price Proposal

1. Standard Form 1442
2. Price Proposal Schedule, Section 00010
3. Proposal(Bid) bonds
4. Representation & Certifications, Section 00600
5. Subcontracting Plan
6. Small Disadvantaged Business Utilization
  - a. The extent to which SDB concerns are specifically identified.
  - b. The extent of commitment to use SDB concerns.
  - c. The complexity and variety of the work SDB concerns are to perform.
  - d. Show the extent of participation of SDB concerns in terms of the value of the total acquisition.

1.3 DESIGN FREEDOM

REQUIREMENTS STATED IN THIS RFP ARE MINIMUM REQUIREMENTS. Innovative, creative, or cost-saving proposals which meet or exceed these requirements are encouraged and will receive quality points accordingly. Deviations from space and adjacency requirements are discouraged unless the change results in a significant improvement to the facility. Deviations from any requirements should be clearly noted and justified in the proposal. Informative drawing notes are encouraged.

1.4 METHOD OF PROPOSAL EVALUATION:

1.4.1 Government's Rights and Goals

The Government reserves the right to reject any or all proposals at any time prior to award; to negotiate with any or all offerors; to award a contract to other than the offeror submitting the lowest price offer; and to award a contract to the offeror submitting the proposal determined to be most advantageous to the Government. It is the Government's goal to award the project within its programmed dollar amount. Significant variation from this programmed amount could result in the Government's inability to award based on lack of funding authority.

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### 1.4.2 Selection

Selection of a Contractor will be made by an integrated assessment of the proposals submitted in two phases. In essence, the integrated assessment will involve a determination by the Government of the overall merit of each Contractor's proposal, recognizing that subjective judgment on the part of the Government's evaluators is implicit in the entire process. This award will be made to the offeror whom the Government determines is able to accomplish the necessary work and provide the required service to satisfy the objectives and requirements set forth in the Request for Proposals in a manner most advantageous to the Government. The Government may reject any or all proposals and waive minor informalities or minor irregularities in proposals. This award will result in a firm fixed-price contract.

NOTE: ALL OFFERORS ARE ADVISED THAT THE GOVERNMENT INTENDS TO EVALUATE PROPOSALS AND SELECT THE QUALIFYING PROPOSALS FOR PHASE II, AND AFTER PHASE II AWARD A DESIGN/BUILD CONTRACT, WITHOUT DISCUSSIONS WITH OFFERORS (OTHER THAN DISCUSSIONS CONDUCTED FOR THE PURPOSE OF MINOR CLARIFICATION). HOWEVER, DURING PHASE II, THE GOVERNMENT RESERVES THE RIGHT TO CONDUCT DISCUSSIONS IF IT IS LATER DETERMINED BY THE CONTRACTING OFFICER TO BE NECESSARY, AT WHICH TIME DISCUSSIONS WILL BE CONDUCTED WITH ALL OFFERORS DETERMINED TO BE IN THE COMPETITIVE RANGE. THEREFORE, EACH INITIAL OFFER SHOULD CONTAIN THE OFFEROR'S BEST TERMS FROM A TECHNICAL AND COST OR PRICE (IF APPLICABLE) STANDPOINT. DO NOT ASSUME YOU WILL BE CONTACTED OR AFFORDED AN OPPORTUNITY TO CLARIFY, DISCUSS, OR REVISE YOUR PROPOSAL.

### 1.4.3 Evaluation Process

An Source Evaluation Board (SEB), comprised of qualified personnel, will be established to evaluate the proposals for both phases. The team will independently evaluate each proposal in response to this RFP and rate them in accordance with the provisions established in the RFP. The technical and non-technical aspects of each proposal will be evaluated. Weighing of evaluation factors takes into consideration not only how important a particular element is to the overall project, but also the innovative, creative, or cost-saving proposals which may be incorporated into the proposal (see paragraph "DESIGN FREEDOM") which are advantageous to the Government.

After the initial compliance review, the Source Evaluation Board (SEB) will begin the Phase I evaluation and score the categories described herein. Those firms considered to be the highest qualified and having the best chance of being awarded a resultant contract shall be invited to submit Preliminary Design Proposals in Phase II for evaluation of Phase II categories.

In both Phase I and Phase II, the Source Evaluation Board (SEB) will review each proposal to determine if they contain the required minimum procurement and technical data. Each proposal must contain all the information required by the RFP. A proposal may be determined to be unacceptable and eliminated if required information is missing or the proposal materially deviates from the requirements of the RFP. Only after it has been determined that all requirements have been met for an evaluation factor, bonus points may be given for that evaluation factor. Bonus points are available for all point-scored evaluation criteria.

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If discussions are not needed, the Government will award to the contractor submitting the best overall value. If it is determined that discussions must be held, a competitive range shall be established. The competitive range shall consist of those firms considered to be the highest qualified and having the best chance of being awarded a resultant contract. At that time, the entire proposal submitted by the contractor (Phase I and Phase II submissions) may be targeted by the Government for discussions. Once all discussions have been completed, a Final Proposal Revision will be requested. The contractor will then submit its final revised proposal to include all changes (if applicable) to the Management/Technical Proposal, the Preliminary Design Proposal, and the Cost/Price Proposal.

An award will be made to the offeror whose offer contains the combination of the criteria offering the best overall proposal to the Government based on consideration of technical merit, cost, and other pertinent factors as specified in the RFP. In determining the best overall proposal, the Government is more concerned with obtaining superior technical features than with making an award at the lowest overall cost to the Government. However the Government will not make an award at a significantly higher overall cost to the Government to achieve slightly superior technical features. Although cost will not be point scored, in the final evaluation, when technical scores approach equality, cost will be given more weight. The Government reserves the right to award to other than the lowest cost offer provided the superior offer provides a technical advantage which offsets the additional cost. Firms will be ranked from best value to the least value. Using the above basis for determination, the SEB will recommend to the contracting officer the firm submitting the overall best value for award. The Contracting Officer will then make the final decision of which firm will receive the contract awarded.

#### 1.4.4 Notification of Selection

The Contracting Officer will notify the selected offeror upon completion of the selection process.

#### 1.4.5 Notification of Non-Selection

At the end of each of the following stages: Phase I, the establishment of the competitive range, and Contract Award, the Contracting Officer will notify each offeror not selected, advising them of their right to request a debriefing.

2 PRODUCTS (NOT USED)

3 EXECUTION (NOT USED)

END OF SECTION

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SECTION 00700  
CONTRACT CLAUSES

1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

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

http://www.arnet.gov/far  
http://farsite.hill.af.mil  
http://www.dtic.mil/dfars  
(End of clause)

2 52.0-4000 CONTRACT CLAUSE AND SOLICITATION PROVISION NUMBERING (FEB 1996) (LOCAL)  
(52.0000-4000)

This document is computer generated by the Standard Army Automated Contracting System (SAACONS). The numbering system used by the computer for contract clauses and solicitation provisions differs slightly from the procurement regulations. It is similar and easily recognizable. The Federal Acquisition Regulation (FAR) numbering format for contract clauses and solicitation provisions is 52.2xx-x, with the specific FAR provision or clause number being a sequence assigned within each section or subpart 52.2. SAACONS always uses a 9 digit number (e.g. 52.2XX.XXXX). FAR contract clauses and solicitation provisions are recognized by a "0" in the 6th digit of the SAACONS number. Department of Defense Federal Acquisition Regulation Supplement (DFARS) contract clauses and solicitation provisions are recognized by a "7" in the 6th digit of the SAACONS number. Army Federal Acquisition Regulation Supplement (AFARS) contract clauses and solicitation provisions are recognized by a "9" in the 6th digit of the SAACONS number. Engineer Federal Acquisition Regulation Supplement (EFARS) contract clauses and solicitation provisions are recognized by a "5" in the 6th digit of the SAACONS number. Local instructions and provisions which were previously referred to by paragraph number only, now appear as "local clauses" with local clause numbers. They are recognizable by a "4" in the 6th digit of the SAACONS number. FAR, DFARS, AFARS, and EFARS clauses and provisions that have recently been modified or added may also be numbered as local clauses pending their integration into the SAACONS database. Until the integration is complete the title line will identify the regulatory source. Examples of the difference in the numbering are provided below:

STANDARD NUMBERING SYSTEM	SAACONS
FAR 52.227-1	52.227-0001
DFARS 252.243-7000	52.243-7000
AFARS 52.237-9030	52.237-9030
EFARS 52.202-10001	52.202.5001
LOCAL NONE	52.XXX.4XXX

Authorized alternate versions of the clauses are sometimes used, and are identified in the applicable regulation by sequential Roman numeral identifiers. When an alternate version is used the SAACONS clause number will be followed by the appropriate Roman numeral identified. For example, FAR Clause 52.202-1 in its Alternate I version is entitled "DEFINITIONS (APR 1984)--ALTERNATE I (APR 1984)". The clause number will appear as "52.202-1 I". An Alternate II version of a clause would appear as "52.xxx-xxxx II".

3 52.201-7000 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)

4 52.202-1 I DEFINITIONS (OCT 1995)--ALTERNATE I (APR 1984)

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

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

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

(d) Nondevelopmental item means--

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

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

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

(f) 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)

5 52.203-3 GRATUITIES (APR 1984)

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

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

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

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

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

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

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

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

(End of clause)

(R 7-104.16 1952 MAR)

6 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)  
(R 7-103.20 1958 JAN)  
(R 1-1.503)  
(R 1-7.102-18)

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

(a) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

(c)(1) The Contractor shall have in place and follow reasonable

procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

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

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

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

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

(End of clause)

8 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)

9 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997)

(a) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

"Regularly employed," as used in this clause, means, with respect to an officer or employee of a person requesting or receiving a Federal contract,

an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

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

(b) Prohibitions.

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

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

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

(i) Agency and legislative liaison by own employees.

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

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

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

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

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

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

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

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

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

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

(ii) Professional and technical services.

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

(1) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or

modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

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

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

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

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

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

(c) Disclosure.

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

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

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

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

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

action.

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

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

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

(e) Penalties.

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

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

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

(End of clause)

10 52.203-7001 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)

11 52.203-7002 DISPLAY OF DOD HOTLINE POSTER (DEC 1991)

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

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

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

(End of clause)

12 52.204-4 PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER (JUN 1996)

(a) In accordance with Executive Order 12873, dated October 20, 1993, as amended by Executive Order 12995, dated March 25, 1996, the Offeror/Contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed/copied double-sided on recycled paper that has at least 20 percent postconsumer material.

(b) The 20 percent standard applies to high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white woven envelopes, and other uncoated printed and writing paper, such as writing and office paper, book paper, cotton fiber paper, and cover stock. An alternative to meeting the 20 percent postconsumer material standard is 50 percent recovered material content of certain industrial by-products.

(End of clause)

13 52.205-7000 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)

14 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 interest. The Contractor shall not enter into any subcontract in excess of \$25,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

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

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

(1) The name of the subcontractor.

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

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

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

(End of clause)

15 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (JAN 1999)

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

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

(c) Definitions. As used in this contract

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

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

(3) Small business concern owned and controlled by socially and economically disadvantaged individuals means a small business concern that represents, as part of its offer, that it meets the definition of a small disadvantaged business concern in 13 CFR 124.1002.

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

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

(ii) Whose management and daily business operations are controlled by one or more women; and

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a HUBZone small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, or a small business concern owned and controlled by women.

(End of clause)

16 52.222-3 CONVICT LABOR (AUG 1996)

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

(a)(1) The worker is paid or is in an approved work training program on a voluntary basis;

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

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

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

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

(End of clause)

17 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT--OVERTIME COMPENSATION (JUL 1995)

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

(b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in paragraph (a) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and

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

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

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

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

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

(End of clause)

18 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.

(iv) With respect to helpers, such a classification prevails in the area in which the work is performed.

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

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

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

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

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

(End of clause)

19 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)

20 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 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)

21 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)

22 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)

23 52.222-11 SUBCONTRACTS (LABOR STANDARDS) (FEB 1988)

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

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

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

(End of clause)

24 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)

25 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)

26 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 of their representatives.

(End of clause)

27 52.222-15 CERTIFICATION OF ELIGIBILITY (FEB 1988)

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

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

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

(End of clause)

28 52.222-26 EQUAL OPPORTUNITY (APR 1984) (DEVIATION) (DEVIATION)

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

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

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Note: It shall not be a violation of E.O. 11246 for a 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. See 22.807(b)(4).

(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, within 30 days following the award, file Standard Form 100 (EEO-1), or any successor form, unless filed within 12 months preceding the date of award.

(8) The Contractor shall permit access to its premises by the contracting officer or the Office of Federal Contract Compliance Programs (OFCCP) for the purpose of conducting on-site compliance reviews and inspecting such books, records, accounts, and other materials as may be relevant to an investigation to ascertain the Contractor's compliance with the applicable rules, regulations, and orders.

(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 subparagraph (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)

29 52.222-29 D NOTIFICATION OF VISA DENIAL (APR 1984) (DEVIATION)

It is a violation of Executive Order 11246, as amended, for a Contractor to refuse to employ any applicant or not to assign any person hired in the United States, on the basis that the individual's race, color, religion, sex, or national origin is not compatible with the policies of the country where the work is to be performed or for whom the work will be performed (41 CFR 60-1.10). The Contractor agrees to notify the U.S. Department of State, Assistant Secretary, Bureau of Political-Military Affairs (PM), 2201 C Street NW, Room 7325, Washington, DC 20520, and the Deputy Assistant Secretary for Federal Contract Compliance Programs, when it has knowledge of any employee or potential employee being denied an entry visa to a country in which the Contractor is required to perform this contract, and it believes the denial is attributable to the race, color, religion, sex, or national origin of the employee or potential employee.

(End of clause)

30 52.222-27 AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (DEVIATION)  
(APR 1984) (DEVIATION)

(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 the

Deputy Assistant Secretary for Federal Contract Compliance Programs,  
United States 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) above.

(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 onsite 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). 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), 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) above, 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.

(o) 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)

31 52.222-35 AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (APR 1998)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Postings. (1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era, and (ii) the rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary), and provided by or through the Contracting Officer.

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

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

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

(End of clause)

32 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)

33 52.222-37 EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1999)

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

(1) The number of 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)

34 52.223-2 CLEAN AIR AND WATER (APR 1984)

(a) "Air Act", as used in this clause, means the Clean Air Act (42 U.S.C. 7401, et seq.).

"Clean air standards," as used in this clause, means--

(1) Any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, work practices, or other requirements contained in, issued under, or otherwise adopted under the Air Act or Executive Order 11738;

(2) An applicable implementation plan as described in section 110(d) of the Air Act (42 U.S.C. 7410(d));

(3) An approved implementation procedure or plan under section 111(c) or section 111(d) of the Air Act (42 U.S.C. 7411(c) or (d)); or

(4) An approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 7412(d)).

"Clean water standards," as used in this clause, means any enforceable limitation, control, condition, prohibition, standard, or other requirement promulgated under the Water Act or contained in a permit issued to a discharger by the EPA or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).

"Compliance," as used in this clause, means compliance with--

(1) Clean air or water standards; or

(2) A schedule or plan ordered or approved by a court of competent jurisdiction, the EPA, or an air or water pollution control agency under the requirements of the Air Act or Water Act and related regulations.

"Facility," as used in this clause, means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Contractor or subcontractor, used in the performance of a contract or subcontract. When a location or site of operations includes more than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee, of the EPA determines that independent facilities are collocated in one geographical area.

"Water Act," as used in this clause, means Clean Water Act (33 U.S.C. 1251, et seq.).

(b) The Contractor agrees--

(1) To comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C. 7414) and section 308 of the Clean Water Act (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, and all regulations and guidelines issued to implement those acts before the award of this contract;

(2) That no portion of the work required by this prime contract will be performed in a facility listed on the EPA List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of the facility from the listing;

(3) To use best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being

performed; and

(4) To insert the substance of this clause into any nonexempt subcontract, including this subparagraph (b)(4).

(End of clause)  
(R 7-103.29 1975 OCT)  
(R 1-1.2302)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

36 52.223-6 DRUG-FREE WORKPLACE (JAN 1997)

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

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

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

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

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

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

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

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

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

(2) Establish an 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)

37 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (OCT 1996)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

38 52.223-7006 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)

39 52.225-5 BUY AMERICAN ACT--CONSTRUCTION MATERIALS (JUN 1997)

(a) The Buy American Act (41 U.S.C. 10) provides that the Government give preference to domestic construction material.

"Components," means those articles, materials, and supplies incorporated directly into construction materials.

"Construction materials," means an article, material, or supply brought to the construction site for incorporation into the building or work. Construction material also includes an item brought to the site pre-assembled from articles, materials or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, which are discrete systems incorporated into a public building or work and which are produced as a complete system, shall be evaluated as a single and distinct construction material regardless of when or how the individual parts or components of such systems are delivered to the construction site.

"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 as the construction materials determined to be unavailable pursuant to subparagraph 25.202(a)(2) of the Federal Acquisition Regulation (FAR) shall be treated as domestic.

(b)(1) The Buy American Act (41 U.S.C. 10a-10d) requires that only domestic construction material be used in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

(2) This requirement does not apply to the excepted construction material or components listed by the Government as follows:

%%Insert list of applicable accepted materials or indicate "none"  
NONE

(3) Other foreign construction material may be added to the list in paragraph (b)(2) of this clause if the Government determines that--

(i) The cost would be unreasonable (the cost of a particular domestic construction material shall be determined to be unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent, unless the agency head determines a higher percentage to be appropriate);

(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.

(4) The Contractor agrees that only domestic construction material will be used by the Contractor, subcontractors, material men, and suppliers in the performance of this contract, except for foreign construction materials, if any, listed in paragraph (b)(2) of this clause.

(c) Request for determination. (1) Contractors requesting to use foreign construction material under paragraph (b)(3) of this clause shall provide adequate information for Government evaluation of the request for a determination regarding the inapplicability of the Buy American Act. Each submission shall include a description of the foreign and domestic construction materials, including unit of measure, quantity, price, time of

delivery or availability, location of the construction project, name and address of the proposed contractor, and a detailed justification of the reason for use of foreign materials cited in accordance with paragraph (b)(3) of this clause. A submission 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. 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).

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

(3) If the Government does not determine that an exception to the Buy American Act applies, the use of that particular foreign construction material will be a failure to comply with the Act.

(d) For evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the following information and any applicable supporting data based on the survey of suppliers shall be included in the request:

Foreign and Domestic Construction Materials Price Comparison

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

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

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

40 52.225-11 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (AUG 1998)

(a) Unless advance written approval of the Contracting Officer is obtained, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through, countries whose products are banned from importation into the United States by Executive order or regulations of the Office of Foreign Assets Control, Department of the Treasury. Those countries include Cuba, Iran, Iraq, Libya, North Korea, and Sudan.

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

(c) The Contractor agrees to insert the provisions of this clause, including this paragraph (c), in all subcontracts hereunder.  
(End of clause)

41 52.225-7017 PROHIBITION ON AWARD TO COMPANIES OWNED BY THE PEOPLE'S REPUBLIC OF CHINA (FEB 1999)

(a) Definition. "People's Republic of China," as used in this provision, means the government of the People's Republic of China, including its political subdivisions, agencies, and instrumentalities.

(b) Prohibition on award. Section 8120 of the Department of Defense Appropriations Act for fiscal year 1999 (Pub. L. 105-262) prohibits the award of a contract under this solicitation to any

company owned, or partially owned, by the People's Republic of China or the People's Liberation Army of the People's Republic of China.

(c) Representation. By submission of an offer, the offeror represents that it is not owned, or partially owned, by the People's Republic of China or the People's Liberation Army of the People's Republic of China.

(End of provision)

42 52.225-7031 SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 1992)  
(Reference 25.770-5)

43 52.226-1 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES  
(MAY 1999)

(a) For Department of Defense contracts, this clause applies only if the contract includes a subcontracting plan incorporated under the terms of the clause at 52.219-9, Small Business Subcontracting Plan. It does not apply to contracts awarded based on a subcontracting plan submitted and approved under paragraph (g) of the clause at 52.219.

(b) Definitions. As used in this clause:

"Indian" means any person who is a member of any Indian tribe, band, group, pueblo or community which 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 shall constitute 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, which is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1542(c).

"Interested party" means a prime 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.

(c) The Contractor agrees to use its best efforts to give Indian organizations and Indian-owned economic enterprises (25 U.S.C. 1544) the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of its contract.

(1) The Contracting Officer and the Contractor, acting in good faith, may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status. In the event of a challenge to the representation of a subcontractor, the Contracting Officer shall refer the matter to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), Attn: Chief, Division of Contracting and Grants Administration, 1849 C Street, NW, MS-334A-SIB, Washington, DC 20245. The BIA will determine the eligibility and notify the Contracting Officer. The 5 percent incentive payment will not be made within 50 working days of subcontract award or while a challenge is pending. If a subcontractor is determined to be an ineligible participant, no incentive payment will be made under the Indian Incentive Program.

(2) The Contractor may request an adjustment under the Indian Incentive Program to the following:

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

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

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

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

(3) The amount of the equitable adjustment to the prime contract shall be 5 percent of the estimated cost, target cost or firm-fixed-price

included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

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

(d) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, shall authorize an incentive payment of 5 percent of the amount paid to the subcontractor. Contracting Officers shall seek funding in accordance with agency procedures. The Contracting Officer's decision is final and not subject to the Disputes clause of this contract.

(End of clause)

44 52.227-1 AUTHORIZATION AND CONSENT (JUL 1995)

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

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

(End of clause)

45 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996)

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

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

(c) The Contractor agrees to include, and require inclusion of, this clause in all subcontracts at any tier for supplies or services (including construction and architect-engineer subcontracts and those for material, supplies, models, samples, or design or testing services) expected to exceed the simplified acquisition threshold at FAR 2.101.

(End of clause)

46 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)  
(R 7-602.16 1964 JUN)

47 52.227-23 RIGHTS TO PROPOSAL DATA (TECHNICAL) (JUN 1987)

Except for data contained on pages \_\_\_\_\_, it is agreed that as a condition of award of this contract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the "Rights in Data--General" clause contained in this contract) in and to the technical data contained in the proposal dated \_\_\_\_\_, upon which this contract is based.

(End of clause)

48 52.227-7033 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.

(End of clause)

49 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)

50 52.228-5 INSURANCE--WORK ON A GOVERNMENT INSTALLATION (JAN 1997)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective (1) for such period as the laws of the State in which this contract is to be performed prescribe, or (2) until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work

on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

(End of clause)

51 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 52.228-12 PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS (OCT 1995)

In accordance with Section 806(a)(3) of Pub. L. 102-190, as amended by Sections 2091 and 8105 of Pub. L. 103-355, upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of this contract for which a payment bond has been furnished to the Government pursuant to the Miller Act, the Contractor shall promptly provide a copy of such payment bond to the requester.

(End of clause)

53 52.228-14 IRREVOCABLE LETTER OF CREDIT (OCT 1997)

(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 at least \$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 at least \$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 \_\_\_\_\_ 19\_\_\_\_

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)

\_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
(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. \_\_\_\_\_

By: \_\_\_\_\_  
(Beneficiary Agency)  
(End of clause)

54 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (JAN 1991)

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

55 52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (MAY 1997)

(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) Payments to subcontractors and suppliers have been made from previous payments received under the contract, 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)

56 52.232-17 INTEREST (JUN 1996)

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

(b) Amounts shall be due at the earliest of the following dates:

(1) The date fixed under this contract.

(2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.

(3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.

(4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(End of clause)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

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

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

(End of clause)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(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 shall be 14 days after receipt of the payment request by the designated billing office. 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 shall be the 14th day after the date of the Contractor's payment request, provided a proper payment request is received 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, shall be as specified in the contract or, if not specified, 30 days after approval for release to the Contractor by the Contracting Officer.

(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 shall be either the 30th day after receipt by the designated billing office of a proper invoice from the Contractor, or the 30th day after Government acceptance of the work or services completed by the Contractor, whichever is later. 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 shall be the 30th day after the date of the Contractor's invoice, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) On a final invoice where the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(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)(ix) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice, with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(4) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of 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., prompt payment discount 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 be notified 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) Any other information or documentation required by the contract.

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

(3) Interest penalty. An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in 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 when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

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

(ii) A receiving report or other Government documentation authorizing payment was processed and there was no disagreement over quantity, quality, 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 interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and will be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(2) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might

be due the Contractor for payments described in paragraph (a)(1)(ii) of this clause, Government acceptance or approval shall be deemed to have occurred constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. In the event that actual acceptance or approval occurs within the constructive acceptance or approval period, the determination of an interest penalty shall be based 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 following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days.

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

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

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

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and 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. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(5) Prompt payment discounts. An interest penalty also shall be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(6) Additional interest penalty.

(i) A penalty amount, calculated in accordance with subdivision (a)(6)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor--

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

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

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

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

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

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

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

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

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

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

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

(1) The additional penalty shall not exceed \$5,000;

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

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

(B) If the interest penalty ceases to accrue in accordance with the limits stated in subdivision (a)(4)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in subdivision (a)(6)(iii)(A) of this clause.

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

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

(b) Contract financing payments--

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

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

(3) Interest penalty not applicable. Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) 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 include a payment clause and an interest penalty clause conforming to the standards set forth in subparagraphs (c)(1) and (c)(2) of this clause in each of its subcontracts, and to 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) A copy of any notice issued by a Contractor pursuant to subdivision (d)(3)(i) of this clause has been furnished to the Contracting Officer.

(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 subparagraph (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 subparagraph (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 subparagraph (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 subdivision (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 subparagraph (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. A written notice of any withholding shall be issued to a subcontractor (with a copy to the Contracting Officer of any such notice issued by the Contractor), 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 United States is a party. The United States 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 United States for such interest penalty. A cost-reimbursement claim may not include any amount for reimbursement of such interest penalty.

(End of clause)

59 52.233-1 DISPUTES (DEC 1998)

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

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

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract.

A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph (d)(2) of this clause. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

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

(2)(i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.

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

(iii) The certification shall state as follows:

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

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

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

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

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

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in (FAR) 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)

60 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)

**#2** 61 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 12 (including design) percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

(End of clause)

(R 7-603.15 1965 JAN)

(R 1-18.104)

62 52.236-2 DIFFERING SITE CONDITIONS (APR 1984)

(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)

63 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)

64 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)  
(R 7-602.9 1964 JUN)

65 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 work site a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

(End of clause)

66 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)

67 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)

68 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)

69 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)

70 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)

71 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)

72 52.236-13 ACCIDENT PREVENTION (NOV 1991)

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

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

- (1) Provide appropriate safety barricades, signs, and signal lights;
- (2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and

(3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the purposes are taken.

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

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

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

(End of clause)

73 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)

(R 7-604.3 1965 JAN)

74 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)

75 52.236-7000 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.

(End of clause)

76 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)

77 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)

78 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)

79 52.243-7001 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.

(End of clause)

80 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) below.

(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)

81 52.248-3 VALUE ENGINEERING--CONSTRUCTION (MAR 1989)

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

(b) Definitions. "Collateral costs," as used in this clause, means agency costs of operation, maintenance, logistic support, or Government-furnished property.

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

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

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistic support. The term does not include the normal administrative costs of processing the VECP.

"Instant contract savings," as used in this clause, means the estimated reduction in Contractor cost of performance resulting from acceptance of the VECP, minus allowable Contractor's development and implementation costs, including subcontractors' development and implementation costs (see paragraph (h) below).

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

(1) Requires a change to this, the instant contract, to implement; and  
(2) Results in reducing the contract price or estimated cost without impairing essential functions or characteristics; provided, that it does not involve a change--

(i) In deliverable end item quantities only; or

(ii) To the contract type only.

(c) VECP preparation. As a minimum, the Contractor shall include in each VECP the information described in subparagraphs (1) through (7) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

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

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

(3) A separate, detailed cost estimate for (i) the affected portions of the existing contract requirement and (ii) the VECP. The cost reduction associated with the VECP shall take into account the

Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under paragraph (h) below.

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

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

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

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

(d) Submission. The Contractor shall submit VECP's to the Resident Engineer at the worksite, with a copy to the Contracting Officer.

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

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

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause. The Contracting Officer may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The Contracting Officer's decision to accept or reject all or part of any VECP shall be final and not subject to the Disputes clause or otherwise subject to litigation under the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

(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) Collateral savings. If a VECP is accepted, the instant contract amount shall be increased 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 shall not exceed (1) the contract's firm-fixed-price or estimated cost, at the time the VECP is accepted, or (2) \$100,000, whichever is greater. The Contracting Officer shall be the sole determiner of the amount of collateral savings, and that amount shall not be subject to the Disputes clause or otherwise subject to litigation under 41 U.S.C. 601-613.

(h) 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.

(i) 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.)

(End of clause)

82 52.249-2 I 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 (f) 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)

83 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 (xi) 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.

(d) 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)

84 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (DFARS) (48 CFR CHAPTER II ) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of clause)

(NM)

85 52.253-1 COMPUTER GENERATED FORMS (JAN 1991)

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

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

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

(End of clause)

86 52.0-4010 GENERAL NOTICES (52.0000-4010)

a. In the technical specifications wherever the term "stabilized

aggregate base course" is used, or wherever a reference is made to a section entitled "Stabilized Aggregate Base Course," it shall be deemed to mean "Aggregate Base Course."

b. Bidders must provide full, accurate, and complete information as required by this solicitation and its attachments. The penalty for making false statements in bids is prescribed in 18 USC 1001. (FAR 52.214-4)

c. The Affirmative Action Requirement of the Equal Opportunity Clause may apply to any contract resulting from this RFP.

d. Statements in technical section submittal paragraphs that "Submittals shall be submitted in accordance with the Section 01300: Submittals" shall be deemed to mean "Submittals shall be submitted in accordance with Section 01300, SUBMITTAL PROCEDURES."  
(End of Provision)

87 52.0-4049 PRINCIPAL CONTRACTING OFFICER (52.0000-4049)

The Contracting Officer who signs this contract will be the Principal Contracting Officer for this contract. However, any Contracting Officer assigned to the Fort Worth District, contracting within his or her authority, may take formal action on this contract when a contract action needs to be taken and the Principal Contracting Officer is unavailable.

88 DELETED

89 52.245-7001 REPORTS OF GOVERNMENT PROPERTY (MAY 1994)

(a) The Contractor shall provide an annual report--

(1) For all DoD property for which the Contractor is accountable under the contract;

(2) Prepared in accordance with the requirements of DD Form 1662, DoD Property in the Custody of Contractors, or approved substitute, including instructions on the reverse side of the form;

(3) In duplicate, to the cognizant Government property administrator, no later than October 31.

(b) The Contractor is responsible for reporting all Government property accountable to this contract, including that at subcontractor and alternate locations.

(End of clause)

90 52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER--CENTRAL CONTRACTOR REGISTRATION (MAY 1999)

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

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

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

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

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

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

(d) Suspension of payment. If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT

information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

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

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

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

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

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

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

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

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

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

(End of Clause)

Contract price means the award price of the contract or, for requirements contracts, the price payable for the estimated quantity; or for indefinite-delivery type contracts, the price payable for the specified minimum quantity.

(b) Unless the resulting contract price is \$100,000 or less, the successful offeror shall be required to furnish performance and payment bonds to the Contracting Officer as follows:

(1) Performance Bonds (Standard Form 25):

(i) The penal amount of performance bonds shall be 100 percent of the original contract price.

(ii) The Government may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.

(iii) The Government may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(2) Payment Bonds (Standard Form 25-A):

(i) The penal amount of payment bonds shall equal--

(A) 50 percent of the contract price if the contract price is not more than \$1 million;

(B) 40 percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(C) \$2.5 million if the contract price is more than \$5 million.

(ii) If the original contract price is \$5 million or less, the Government may require additional protection if the contract price is increased. The penal amount of the total protection shall meet the requirement of subparagraph (b)(2)(i) of this clause.

(iii) The Government may secure additional protection by directing the Contractor to increase the penal sum of the existing bond or to obtain an additional bond.

(c) 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) 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.

(End of clause)

92 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (APR 1984) (DEVIATION) (DEVIATION)

(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 and necessary dressing or sleeping areas, which shall be 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 that contains the clause of this contract entitled "Equal Opportunity."

(End of clause)

93 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997)

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

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

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

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

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

(1) The actual subcontract; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

94 52.228-1 BID GUARANTEE (SEP 1996)

(a) Failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid.

(b) The bidder shall furnish a bid 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 bid guarantees, other than bid bonds, (1) to unsuccessful bidders as soon as practicable after the opening of bids, and (2) to the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.

(c) The amount of the bid guarantee shall be 20 percent of the bid price or \$3,000,000.00, whichever is less.

(d) If the successful bidder, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or furnish executed bond(s) within 10 days after receipt of the forms by the bidder, the Contracting Officer may terminate the contract for default.

(e) In the event the contract is terminated for default, the bidder is liable for any cost of acquiring the work that exceeds the amount of its bid, and the bid guarantee is available to offset the difference.

FACSIMILE BONDS ARE NOT ACCEPTABLE.

(End of provision)

95 52.215-11 Price Reduction for Defective Cost or Pricing Data--Modifications.

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 paragraph (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

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

(End of clause)

END OF SECTION 00700

APPLICATION OF WAGE DECISIONS

Solicitation No.: DACA63-99-R-0008  
Project: Standard Dining Facility  
Location: Fort Sam Houston, Texas  
Bexar County

1. **Davis-Bacon Act Wage Decision TX990003, Building Construction Projects**, is applicable to construction, alteration, painting, or repair of buildings, installations within buildings, appurtenances to buildings, foundations for buildings, excavation and fill for buildings, and utilities within five feet of buildings.
2. **Davis-Bacon Act Wage Decision TX990043, Heavy and Highway Construction Projects**, is applicable to utilities more than five feet from buildings and any other construction requirements not shown in paragraph 1 above.

NOTE: **PAYROLL RECORDS ARE REQUIRED**, UNDER THE DAVIS-BACON ACT, FOR ALL CONSTRUCTION WORK. THE WAGE DECISION NUMBER APPLICABLE TO THE WORK PERFORMED IS TO BE SHOWN ON ALL CERTIFIED PAYROLL RECORDS.

ACCOMPANYING AMENDMENT NO. 0002 TO SOLICITATION NO. DACA63-99-R-0008  
**GENERAL DECISION TX990003 05/21/99 TX3**  
 General Decision Number TX990003

Superseded General Decision No. TX980003

State: **TEXAS**

Construction Type:  
**BUILDING**

County(ies):  
**BEXAR**

**BUILDING CONSTRUCTION PROJECTS** (does not include single family homes and apartments up to and including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

Modification Number	Publication Date
0	03/12/1999
1	04/09/1999
2	04/16/1999
<b>3</b>	<b>05/21/1999</b>

COUNTY(ies):  
**BEXAR**

ASBE0087A 07/01/1998		
	Rates	Fringes
ASBESTOS/INSULATORS WORKERS (Includes application of all insulating materials, protective coverings, coatings, and finishings to all types of mechanical systems.)	17.88	5.14
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* BRTX0001D 05/01/1999		
	Rates	Fringes
BRICKLAYERS	15.45	3.05
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ELEC0060A 06/01/1998		
	Rates	Fringes
ELECTRICIANS (Including pulling and installing cable through conduit for low voltage)	18.00	2.20+8%
CABLE SPLICERS	18.25	2.20+8%
-----		
ELEV0081A 07/11/1998		
	Rates	Fringes
ELEVATOR CONSTRUCTORS: MECHANIC	19.695	6.675+A

FOOTNOTE; A = UNDER 5 YEARS EMPLOYMENT, 6% BHR; OVER 5 YEARS EMPLOYMENT, 8% BHR. PAID HOLIDAYS : New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday after

ACCOMPANYING AMENDMENT NO. 0002 TO SOLICITATION NO. DACA63-99-R-0008  
 Thanksgiving Day and Christmas Day.

ENGI0450A 04/01/1994		
	Rates	Fringes
POWER EQUIPMENT OPERATORS: Cranes	12.95	3.30
IRON0066A 06/01/1998		
	Rates	Fringes
IRONWORKERS (Excluding metal building erectors)		
Structural	14.50	4.05
MARB0002B 05/01/1995		
	Rates	Fringes
TILE SETTERS	13.79	2.07
PLUM0142A 07/01/1998		
	Rates	Fringes
PLUMBERS & PIPEFITTERS (Including HVAC WORK)	20.85	4.57
SFTX0669A 04/01/1999		
	Rates	Fringes
SPRINKLER FITTERS	20.62	5.90
SHEE0067A 04/01/1999		
	Rates	Fringes
SHEET METAL WORKERS (HVAC Duct Work Only)	20.31	5.65
SUTX1052A 11/01/1988		
	Rates	Fringes
ACOUSTICAL CEILING INSTALLERS	12.26	
CARPENTERS (Excluding Acoustical Ceiling Installer & Drywall Hanger	10.64	
CEMENT MASONS	11.46	
DRYWALL HANGERS	11.88	
GLAZIERS	10.78	1.40
IRONWORKERS (Excluding Metal Building Assemblers): REINFORCING	10.19	3.57
LABORERS: Unskilled	7.06	

ACCOMPANYING AMENDMENT NO. 0002 TO SOLICITATION NO. DACA63-99-R-0008

Mason Tenders	8.36	1.78
Mortar Mixers	8.99	
PLASTERER'S TENDERS	8.68	
LATHERS	15.25	
PAINTERS (Excluding Tapers/Finishers)	8.01	
PLASTERERS	15.25	
POWER EQUIPMENT OPERATORS		
Front End Loader	7.36	
ROOFERS:		
Roofers	8.14	
Kettlemen	8.85	
Waterproofers	6.88	
SHEET METAL WORKERS:		
Other Work	11.62	
TAPERS/FINISHERS	7.99	
TRUCK DRIVERS	7.10	

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WELDERS - Receive rate prescribed for craft performing operation  
to which welding is incidental.  
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Unlisted classifications needed for work not included within  
the scope of the classifications listed may be added after  
award only as provided in the labor standards contract clauses  
(29 CFR 5.5(a)(1)(v)).  
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In the listing above, the "SU" designation means that rates  
listed under that identifier do not reflect collectively  
bargained wage and fringe benefit rates. Other designations  
indicate unions whose rates have been determined to be  
prevailing.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can  
be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a  
position on a wage determination matter
- \* a conformance (additional classification and rate)  
ruling

On survey related matters, initial contact, including requests  
for summaries of surveys, should be with the Wage and Hour  
Regional Office for the area in which the survey was conducted  
because those Regional Offices have responsibility for the  
Davis-Bacon survey program. If the response from this initial  
contact is not satisfactory, then the process described in 2.)  
and 3.) should be followed.

ACCOMPANYING AMENDMENT NO. 0002 TO SOLICITATION NO. DACA63-99-R-0008  
With regard to any other matter not yet ripe for the formal  
process described here, initial contact should be with the Branch  
of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division

U. S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

2.) If the answer to the question in 1.) is yes, then an  
interested party (those affected by the action) can request  
review and reconsideration from the Wage and Hour Administrator  
(See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

The request should be accompanied by a full statement of the  
interested party's position and by any information (wage payment  
data, project description, area practice material, etc.) that the  
requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an  
interested party may appeal directly to the Administrative Review  
Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U. S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

4.) All decisions by the Administrative Review Board are final.

**END OF GENERAL DECISION**

**GENERAL DECISION TX990043 03/12/99 TX43**  
 Superseded General Decision No. TX980043

State: **TEXAS**

Construction Type:

**HEAVY  
 HIGHWAY**

County(ies):

BELL	CORYELL	TRAVIS
<b>BEXAR</b>	GUADALUPE	WILLIAMSON
BRAZOS	HAYS	
COMAL	MCLENNAN	

**Heavy** (excluding tunnels and dams) **and Highway Construction Projects** (does not include building structures in rest area projects). \*NOT TO BE USED FOR WORK ON SEWAGE OR WATER TREATMENT PLANTS OR LIFT/PUMP STATIONS IN BELL, CORYELL, McLENNAN AND WILLIAMSON COUNTIES.

<b>Modification Number</b>	<b>Publication Date</b>
0	03/12/1999

COUNTY(ies):

BELL	CORYELL	TRAVIS
<b>BEXAR</b>	GUADALUPE	WILLIAMSON
BRAZOS	HAYS	
COMAL	MCLENNAN	

SUTX2042A 03/26/1998

	Rates	Fringes
AIR TOOL OPERATOR	8.08	
ASPHALT HEATER OPERATOR	11.00	
ASPHALT RAKER	8.00	
ASPHALT SHOVELER	7.97	
BATCHING PLANT WEIGHER	11.00	
CARPENTER	10.80	
CONCRETE FINISHER-PAVING	9.57	
CONCRETE FINISHER-STRUCTURES	8.83	
CONCRETE RUBBER	8.52	
ELECTRICIAN	16.25	
FLAGGER	6.86	
FORM BUILDER-STRUCTURES	8.77	
FORM LINER-PAVING & CURB	8.00	
FORM SETTER-PAVING & CURB	8.68	
FORM SETTER-STRUCTURES	8.73	
LABORER-COMMON	7.12	
LABORER-UTILITY	7.99	
MECHANIC	12.15	
OILER	11.40	
SERVICER	8.44	
PAINTER-STRUCTURES	10.00	
PIPE LAYER	8.27	
ASPHALT DISTRIBUTOR OPERATOR	9.70	
ASPHALT PAVING MACHINE	9.26	
BROOM OR SWEEPER OPERATOR	7.12	

ACCOMPANYING AMENDMENT NO. 0002 TO SOLICITATION NO. DACA63-99-R-0008	
BULLDOZER	9.28
CONCRETE CURING MACHINE	7.79
CONCRETE FINISHING MACHINE	11.00
CONCRETE PAVING SAW	9.79
SLIPFORM MACHINE OPERATOR	11.15
CRANE, CLAMSHELL, BACKHOE, DERRICK, DRAGLINE, SHOVEL	10.12
FOUNDATION DRILL OPERATOR	
TRUCK MOUNTED	15.00
FRONT END LOADER	8.86
HOIST - DOUBLE DRUM & LESS	10.81
MIXER	7.12
MIXER - CONCRETE PAVING	11.00
MOTOR GRADER FINE GRADE	12.37
MOTOR GRADER	11.14
PAVEMENT MARKING MACHINE	8.31
PLANER OPERATOR	15.75
ROLLER, STEEL WHEEL PLANT-MIX PAVEMENTS	7.73
ROLLER, STEEL WHEEL OTHER FLATWHEEL OR TAMPING	7.33
ROLLER, PNEUMATIC, SELF PROPELLED	7.17
SCRAPERS	8.38
TRACTOR-CRAWLER TYPE	9.40
TRAVELING MIXER	7.92
TRENCHING MACHINE, HEAVY	9.92
WAGON-DRILL/BORING MACHINE	8.00
REINFORCING STEEL SETTER PAVING	14.50
REINFORCING STEEL SETTER STRUCTURES	10.61
STEEL WORKER-STRUCTURAL	11.73
SPREADER BOX OPERATOR	8.55
WORK ZONE BARRICADE	8.29
SIGN INSTALLER	7.97
TRUCK DRIVER-SINGLE AXLE LIGHT	8.32
TRUCK DRIVER-SINGLE AXLE HEAVY	7.954
TRUCK DRIVER-TANDEM AXLE SEMI- TRAILER	8.02
TRUCK DRIVER-LOWBOY/FLOAT	10.12
WELDER	11.02

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(v)).

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted

because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U. S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U. S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

4.) All decisions by the Administrative Review Board are final.

**END OF GENERAL DECISION**

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SECTION 00800

SPECIAL CONTRACT REQUIREMENTS

1 52.0-4000 ITB NOTICE OF AVAILABILITY OF SOLICITATION PROVISIONS (52.0000-4000 ITB)

Text of the referenced clauses can be found in the Federal Acquisition Regulations, Part 52, "Solicitation Provisions and Contract Clauses." The Federal Acquisition regulations are available (1) in the larger public libraries, (2) on the Internet (WEB site address "http://www.gsa.gov/far" or (3) may be purchased from the Superintendent of Documents, Congressional Sales Office, Government Printing Office, Washington, DC 20402. Upon award of a contract the complete text of the referenced clauses will be furnished to the Contractor.

(End of Provision)

2 52.0-4039 YEAR 2000 COMPLIANCE (JULY 1998) (52.0000-4039)

In accordance with FAR 39.106, the contractor shall ensure that with respect to any design, construction, goods, or services under this contract as well as any subsequent task/delivery orders issued under this contract (if applicable), all information technology contained therein shall be Year 2000 compliant. Specifically the contractor shall:

a. Perform, maintain, and provide an inventory of all major components to include structures, equipment, items, parts, and furnishings under this contract and each task/delivery order that may be affected by the Y2K compliance requirement.

b. Indicate whether each component is currently Year 2000 compliant or requires an upgrade for compliance prior to government acceptance.

(End of Paragraph)

3 52.0-4040 REQUIRED INVENTORY OF INFORMATION TECHNOLOGY (52.0000-4040)

In accordance with paragraph 52.0000-4039, "Year 2000 Compliance", the inventory of all information technology, including embedded systems (i.e., microprocessor-based equipment) furnished under this contract which may be affected by the Year 2000 compliance requirement shall contain the following information:

a. Contract number, project title, name of contractor

b. Equipment name/label

c. Indication on whether the information technology is currently Year 2000 compliant or requires an upgrade for compliance prior to government acceptance

d. Manufacturer's model/serial number and date manufactured

e. Specific location of equipment, i.e., building/room number

f. If equipment is a controller only, indicate what other equipment is controlled by this controller

g. Interoperability: identify any other equipment that is sending/receiving information to monitor or control said equipment

h. If a PC, including laptop, is required to program, update data, etc., of said equipment, provide PC specifications, operating software name and version number

i. Method used to determine Y2K compliance, i.e., field test, manufacturer's Statement of Compliance, etc.

See Appendix A at Section 00800 for a list of examples of embedded systems.

(End of Paragraph)

4 52.0-4083 CORRESPONDENCE IDENTIFICATION (52.0000-4083)

a. The Contractor shall use a serial numbering system on all formal correspondence sent to the Contracting Officer or his representative. The Contractor will provide one original and two duplicate copies of all correspondence.

b. The Contractor may use a Request for Information (RFI) system for drawing/specification clarifications, subject to the following conditions:

(1) The Contractor shall use a sequential numbering system for all RFI's separate and apart from the correspondence numbering system.

(2) The Contractor shall provide one original and two copies of all RFI's.

(3) The Contractor shall designate ONE individual responsible person, subject to approval by the Contracting Officer, for reviewing and

issuing RFI's.

(4) If a Network Analysis is required, all RFI's are to identify the NAS activities directly and/or indirectly affected by the RFI on the progress schedule. The Contractor should anticipate a minimum of 10 calendar days for Government review and response.

(5) No requests for deviations or variations from the contract by RFI will be allowed. Deviations/variations are to be submitted on ENG Form 4025 as described in Section 01300, SUBMITTAL PROCEDURES.

(6) The use of RFI's does not relieve the Contractor of his responsibility for reviewing the contract documents and coordinating the work to be performed. If it is determined by the Contracting Officer that the RFI system is being used for other than its intended purpose, the Contracting Officer has the authority to discontinue the use of the RFI's for the remainder of the contract.

(End of Statement)

5 52.1-4038 196 TIME EXTENSIONS FOR UNUSUALLY SEVERE WEATHER (OCT 1989) (ER 415-1-15)  
(52.0001-4038 1/96)

a. This provision specifies the procedure for the determination of time extensions for unusually severe weather in accordance with the Contract Clause entitled "DEFAULT (FIXED PRICE CONSTRUCTION)". In order for the Contracting Officer to award a time extension under this clause, the following conditions must be satisfied:

(1) The weather experienced at the project site during the contract period must be found to be unusually severe, that is, more severe than the adverse weather anticipated for the project location during any given month.

(2) The unusually severe weather must actually cause a delay to completion of the project. The delay must be beyond the control and without the fault or negligence of the contractor.

b. The following schedule of monthly anticipated adverse weather delays is based on National Oceanic and Atmospheric Administration (NOAA) or similar data for the project location and will constitute the base line for monthly weather time evaluations. The contractor's progress schedule must reflect these anticipated adverse weather delays in all weather dependent activities.

MONTHLY ANTICIPATED ADVERSE WEATHER CALENDAR DAYS											
WORK DAYS BASED ON (5) DAY WORK WEEK											
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
4	3	3	2	4	4	1	1	3	2	2	3

c. Upon acknowledgment of the Notice to Proceed (NTP) and continuing throughout the contract, the contractor will record on the daily CQC report, the occurrence of adverse weather and resultant impact to normally scheduled work. Actual adverse weather delay days must prevent work on critical activities for 50 percent or more of the contractor's scheduled work day. The number of actual adverse weather delay days shall include days impacted by actual adverse weather (even if adverse weather occurred in previous month). be calculated chronologically from the first to the last day of each month, and be recorded as full days. If the number of actual adverse weather delay days exceeds the number of days anticipated in paragraph "b" above, the Contracting Officer will convert any qualifying delays to calendar days, giving full consideration for equivalent fair weather work days, and issue a modification in accordance with the contract clause entitled "DEFAULT (FIXED PRICE CONSTRUCTION)." (END)

6 52.1-4048 196 RESPONSIBILITY OF THE CONTRACTOR (1991 LOCAL)(52.0001-4048 DB)

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

b. Neither the Government's review, approval or acceptance of, nor payment for, any of the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause or action arising out of the performance of this contract, and the Contractor shall be and remain liable to the Government in accordance

with applicable law for all damages to the Government caused by the Contractor's negligent performance of any of these services described in paragraph (a) furnished under this contract or their failure to discharge their duties to produce a design of professional quality and technically accurate.

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

7 52.1-4049 196 LIMITATION OF PAYMENT FOR DESIGN (52.0001-4049 196)

If it should be necessary to terminate this contract, for any reason, prior to completion, the Government will pay the Contractor a fair and reasonable price for the design services performed and delivered to the Government. However, such payment will not exceed a sum greater than the amount allowable under 10 USC 4540 regardless of the actual costs the Contractor may be able to substantiate.

8 52.1-4063 VALUE ENGINEERING CONTRACTOR PROPOSAL - VECP (AUG 86) (52.0001-4063)

a. Reference the Contract Clause "VALUE ENGINEERING-CONSTRUCTION". This clause applies only to changes to contract requirements stated in the Request For Proposals.

b. After receipt of an approved VECP modification signed by the Contracting Officer, the Contractor may include its share of the Instant Contract Savings as part of the next scheduled Progress Payment estimate.

c. Payment of the Contractor's share of the Instant Contract Savings may be withheld at the discretion of the Contracting Officer, until a revised NAS or BAR CHART for the affected activity has been submitted and approved.

(End of Clause)

9 52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984)

The Contractor shall be required to (a) commence work under this contract within 10 calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than the dates or the number of calendar days set forth in Section 01000 Design and Construction Schedule. The time stated for completion shall include final cleanup of the premises.

(End of clause)

10 52.211-12 LIQUIDATED DAMAGES--CONSTRUCTION (APR 1984)

(a) If the Contractor fails to complete the work within the time specified in the contract, or any extension, the Contractor shall pay to the Government as liquidated damages, the sum of the amount as specified in Section 01000 Design and Construction Schedule for each day of delay.

(b) If the Government terminates the Contractor's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned the Government in completing the work.

(c) If the Government does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted.

(End of clause)

11 52.28-4000 HAZARDOUS MATERIALS ABATEMENT INSURANCE - (AUG 1997) (52.0028-4000)

a. If hazardous materials (e.g. asbestos, lead-based paint, polychlorinated biphenyl (pcb) compounds) abatement/removal or any other work with hazardous materials is required under this contract and Comprehensive General Liability Insurance is required, the policy of insurance which covers the hazardous materials abatement/removal or other work with asbestos shall be a "per occurrence" policy as that term used in the insurance industry. A policy issued on a "claims made" basis or any other "short tail" basis will not be accepted.

b. The Comprehensive General Liability per occurrence policy shall be obtained by the prime Contractor if the hazardous materials abatement

work is performed by the prime Contractor's own work force, or by an hazardous materials abatement subcontractor(s), if the hazardous materials abatement work is subcontracted. The Contractor shall insert in the subcontract a requirement for the hazardous materials abatement subcontractor(s) to provide and maintain the insurance required by this paragraph. The Contractor shall maintain a copy of the subcontractor's proof of required insurance, and shall make such copy available to the Contracting Officer upon request."

12 52.228-4005 L1 REQUIRED INSURANCE (APR 1984) (52.0228-4005 L1)

As a minimum and pursuant to contract clause entitled "Insurance--Work on a Government Installation", the contractor shall maintain the following insurance.

(a) Workmen's compensation and employers' liability insurance in compliance with applicable state statutes, with a minimum employers' liability coverage of \$100,000.

(b) Comprehensive general liability insurance for bodily injury in the minimum limits of \$500,000 per occurrence. No property damage liability insurance is required.

(c) Comprehensive automobile liability insurance covering the operation of all automobiles used in connection with the performance of the contract in the minimum limits of \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage.

13 52.232-5000 PAYMENT FOR MATERIALS DELIVERED OFF-SITE (MAR 1995)--EFARS

(a) Pursuant to FAR clause 52.232-5, Payments Under Fixed Priced Construction Contracts, materials delivered to the contractor at locations other than the site of the work may be taken into consideration in making payments if included in payment estimates and if all the conditions of the General Provisions are fulfilled. Payment for items delivered to locations other than the work site will be limited to: (1) materials required by the technical provisions; or (3) materials that have been fabricated to the point where they are identifiable to an item of work required under this contract.

(b) Such payment will be made only after receipt of paid or receipted invoices or invoices with canceled check showing title to the items in the prime contractor and including the value of material and labor incorporated into the item. In addition to petroleum products, payment for materials delivered off-site is limited to the following items: None.

(End of clause)

14 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 physical conditions indicated on the drawings and in the specifications are the result of site investigations by surveys and borings.

b. Ground water levels

It has been observed that ground water levels in heavily timbered or grassed areas quite often undergo a significant temporary rise when the area is cleared and/or stripped. This increase in water level can hinder traffic and construction progress in the affected areas. The duration of the ground water rise varies considerably, depending on prevailing weather and/or climatic conditions. Ref: Yearbook of Agriculture, 1957, copy available for inspection in Fort Worth District Office.

(End of clause)

(R 7-603.25 1965 JAN)

15 52.236-14 AVAILABILITY AND USE OF UTILITY SERVICES (APR 1984)

(a) The Government shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. Unless otherwise provided in the contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the Government or, where

the utility is produced by the Government, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge.

(b) The Contractor, at its expense and in a workmanlike manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges. Before final acceptance of the work by the Government, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.

(End of clause)

(R 7-603.30 1967 APR)

(R 7-2102.4 1976 OCT)

16 52.36-4004 DB DESIGN-BUILD CONTRACT ORDER OF PRECEDENCE

(a) The contract includes the standard contract clauses and schedules current at the time of contract award. It also entails: (1) the solicitation in its entirety, including all drawings, cuts and illustrations, and any amendments, and (2) the successful offeror's accepted proposal, and (3) the Government-accepted Contractor's final (100%) design drawings and specifications. The contract constitutes and defines the entire agreement between the Contractor and the Government. No documentation shall be omitted which in any way bears upon the terms of that agreement.

(b) In the event of conflict or inconsistency between any of the provisions of this contract, precedence shall be given in the following order:

- (1) Contractor-identified, Government-accepted deviations, including betterments, to the Solicitation (i.e. "Request for Proposals").
- (2) The Solicitation, including all amendments (See also Contract Clause SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION and Section 00800 SPECIAL CONTRACT REQUIREMENTS clause ALTERATIONS IN CONTRACT).
- (3) All other provisions of the accepted proposal.
- (4) Government-accepted final (100%) design drawings and specifications.
- (4) Any design products including, but not limited to, drawings, specifications, engineering studies and analyses, shop drawings, equipment installation drawings, etc. Design products shall conform with all provisions of the Contract.

Failure of any of the reviews to identify a proposed level of quality of systems, equipment, or materials that does not meet the minimum criteria of the Request For Proposal documents does not relieve the Contractor of these requirements. If the accepted Final (100%) Design submittal documents specify a level of quality of systems or materials that exceed any that are specified in the Request For Proposal documents (i.e. betterments), then these new levels shall become the new minimum level of quality requirements. The new minimum requirements shall not be lowered or changed without written Government approval.

(End of Clause)

17 52.236-4001 EBS CONTRACT DRAWINGS, MAPS, AND SPECIFICATIONS (OCT 1996) (52.0236-4001 EBS)

(a) The Government--

(1) Will provide the Contractor, without charge, one set of contract drawings and one set of specifications in electronic format on a compact disk. It is the contractor's responsibility to reproduce a set of contract drawings from this compact disk. The Government will not give the contractor any hard copy paper drawings or specifications for any contract resulting from this solicitation.

(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; and
- (4) Be responsible for any errors which might have been avoided by complying with this paragraph (b).

(c) Large scale drawings shall, in general, govern small scale drawings. Figures marked on drawings shall, in general, be followed in preference

to scale measurements.

(d) Omissions from the drawings or specifications or the misdescription of details of work which are manifestly necessary to carry out the intent of the drawings and specifications, or which are customarily performed, shall not relieve the Contractor from performing such omitted or misdescribed details of the work, but shall be performed 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:

Title	File	and	Drawing No.
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The list of drawings and maps set out in the index on the drawings is hereby incorporated by reference into these specifications.

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Schedules included in the drawings are for the purpose of defining requirements other than quantities.

(End of clause)

18 52.236-4005 I SALVAGE MATERIALS AND EQUIPMENT (JAN 1965) (52.0236-4005)

The Contractor shall maintain adequate property control records for all materials or equipment specified to be salvaged. These records may be in accordance with the Contractor's system of property control, if approved by the property administrator. The contractor shall be responsible for the adequate storage and protection of all salvaged materials and equipment and shall replace, at no cost to the Government, all salvage materials and equipment which are broken or damaged during salvage operations as the result of his negligence, or while in his care.

19 52.236-4006 196 PAYMENT FOR UTILITY SERVICES (52.0236-4006 196)

In accordance with Contract Clause 52.236-14, "Availability and use of Utility Services," water and electricity are available from Government-owned and operated systems and will be furnished without charge to the Contractor.

(End of clause)

20 52.36-4006 DB SUBMITTAL OF WORK TO BE PERFORMED BY THE CONTRACTOR (LOCAL 1997)(52.0036-4006 DB)

The contractor shall furnish the Contracting Officer within 10 days after the award the items of work he will perform with his own forces and the estimated cost of those items. The percentage of work that must be performed by the Contractor is stated in the clause entitled, "Performance of Work by the Contractor."

(End of Clause)

21 52.249-5000 efr BASIS FOR SETTLEMENT OF PROPOSALS

"Actual costs will be used to determine equipment costs for a settlement proposal submitted on the total cost basis under FAR 49.206-2(b). In evaluating a terminations settlement proposal using the total cost basis, the following principles will be applied to determine allowable equipment costs:

(1) Actual costs for each piece of equipment, or groups of similar serial or series equipment, need not be available in the contractor's accounting records to determine total actual equipment costs.

(2) If equipment costs have been allocated to a contract using predetermined rates, those charges will be adjusted to actual costs.

(3) Recorded job costs adjusted for unallowable expenses will be used to determine equipment operating expenses.

(4) Ownership costs (depreciation) will be determined using the contractor's depreciation schedule (subject to the provisions of FAR 31.205-11).

(5) License, taxes, storage and insurance costs are normally recovered as an indirect expense and unless the contractor charges these costs directly to contracts, they will be recovered through the indirect expense rate."

(End of Statement)

22 52.236-25 REQUIREMENTS FOR REGISTRATION OF DESIGNERS (APR 1984)

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

(End of clause)  
(R 7-608.6 1972 APR)

23 52.227-7023 DRAWINGS AND OTHER DATA TO BECOME PROPERTY OF GOVERNMENT (MAR 1979)

All designs, drawings, specifications, notes and other works developed in the performance of this contract shall become the sole property of the Government and may be used on any other design or construction without additional compensation to the Contractor. The Government shall be considered the "person for whom the work was prepared" for the purpose of authorship in any copyrightable work under 17 U.S.C. 201(b). With respect thereto, the Contractor agrees not to assert or authorize others to assert any rights nor establish any claim under the design patent or copyright laws. The Contractor for a period of three (3) years after completion of the project agrees to furnish all retained works on the request of the Contracting Officer. Unless otherwise provided in this contract, the Contractor shall have the right to retain copies of all works beyond such period.

(End of clause)

24 52.227-7022 GOVERNMENT RIGHTS (UNLIMITED) (MAR 1979)

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

(End of clause)

25 52.36-4003 DB KEY PERSONNEL, SUBCONTRACTORS AND OUTSIDE ASSOCIATES OR CONSULTANTS

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

(End of Clause)

26 52.36-4010 DB PROTECTION OF MATERIAL AND WORK (LOCAL 1997) (52.0036-4010 DB)

The contractor shall at all times protect and preserve all materials, supplies and equipment of every description (including property which may be Government-furnished or owned) and all work performed. All reasonable requests of the Contracting Officer to enclose or specially protect such property shall be complied with. If, as determined by the Contracting Officer, material, equipment, supplies, and work performed are not adequately protected by the contractor, such property may be protected by the Government and the cost thereof may be charged to the contractor or deducted from any payment due him.

(End of Clause)

27 52.36-4012 DB RECOMMENDED INSURANCE COVERAGE (LOCAL 1997) (52.0036-4012 DB)

The Design-Build Contractor's attention is invited to the Special Contract Requirements entitled, "Responsibility of the Contractor for Design" and "Warranty of Construction Work". These requirements vest in the Contractor complete responsibility for the professional quality, technical accuracy, and coordination of all design, drawings, specifications and other work or

materials furnished by in-house or consultant forces, and requires that the Design/Build contractor correct and revise any errors or deficiencies in his work, notwithstanding any review, approval, acceptance or payment by the Government. The Contractor must correct and change any work resulting from his defective design at no additional cost to the Government. The requirements further stipulate that the Design/Build contractor shall be liable to the Government for the damages to the Government caused by negligent performance of his designers. Though not a mandatory requirement, this is to recommend that the design/build contractor investigate and obtain appropriate insurance coverage for such liability protection.

(End of Clause)

28 52.36-4005 DB PROPOSED BETTERMENTS

(a) The minimum requirements of the contract are identified in the Request for Proposal. All betterments offered in the proposal or the Government-accepted Contractor's Final (100%) design submittal documents become a requirement of the awarded contract, unless specifically excluded.

(b) "Betterment" is defined as any material, equipment, component, assembly, or system which exceeds the minimum requirements stated in the Request for Proposal. This includes all proposed betterments listed in accordance with the "Proposal Submission Requirements" of the Solicitation, all Government identified betterments, and those included on any of the Government-accepted Contractor's Final (100%) design submittal documents.

(c) "Government identified betterments" include the betterments identified on the "List of Accepted Project Betterments" prepared by the Proposal Evaluation Board and made part of the contract by alteration, and all other betterments identified in the accepted Proposal after award.

(End of Clause)

29 52.231-5000 EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE (MAR 1995)--EFARS

(a) This clause does not apply to terminations. See 52.249-5000, Basis for Settlement of Proposals and FAR Part 49.

(b) Allowable cost for construction and marine plant and equipment in sound workable condition owned or controlled and furnished by a contractor or subcontractor at any tier shall be based on actual cost data for each piece of equipment or groups of similar serial and series for which the Government can determine both ownership and operating costs from the contractor's accounting records. When both ownership and operating costs cannot be determined for any piece of equipment or groups of similar serial or series equipment from the contractor's accounting records, costs for that equipment shall be based upon the applicable provisions of EP 1110-1-8, Construction Equipment Ownership and Operating Expense Schedule, Region VI. Working conditions shall be considered to be average for determining equipment rates using the schedule unless specified otherwise by the contracting officer. For equipment not included in the schedule, rates for comparable pieces of equipment may be used or a rate may be developed using the formula provided in the schedule. For forward pricing, the schedule in effect at the time of negotiations shall apply. For retroactive pricing, the schedule in effect at the time the work was performed shall apply.

(c) Equipment rental costs are allowable, subject to the provisions of FAR 31.105(d)(ii) and FAR 31.205-36. Rates for equipment rented from an organization under common control, lease-purchase arrangements, and sale-leaseback arrangements, will be determined using the schedule, except that actual rates will be used for equipment leased from an organization under common control that has an established practice of leasing the same or similar equipment to unaffiliated lessees.

(d) When actual equipment costs are proposed and the total amount of the pricing action exceeds the small purchase threshold, the contracting officer shall request the contractor to submit either certified cost or pricing data, or partial/limited data, as appropriate. The data shall be submitted on Standard Form 1411, Contract Pricing Proposal Cover Sheet.

(End of clause)

30. 52.0246-0021 M001 WARRANTY OF CONSTRUCTION WORK

(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 workmanship performed by the Contractor of 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 the damage is the result of --

(1) The contractor's failure to conform to contract requirements; or

(2) Any defect of equipment, material, or workmanship.

(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 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

**#2 31. 52.211-18 VARIATION IN ESTIMATED QUANTITY.**

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.

END OF SECTION 00800

SECTION 01000

DESIGN AND CONSTRUCTION SCHEDULE  
 05/1998

PART 1 GENERAL

1.1 SCHEDULE

Commence, prosecute, and complete the work under this contract in accordance with the following schedule and Section 00800 SPECIAL CONTRACT REQUIREMENT clauses COMMENCEMENT, PROSECUTION AND COMPLETION OF WORK and LIQUIDATED DAMAGES:

Item of Work	Commencement of Work (calendar days)	Completion of Work (calendar days)	Liquidated Damages per calendar day
(1) Completion of all design and construction work for the Facility except Work Items 2, 3, and 4	Within 10 calendar days after receipt of Contract Notice of Proceed <sup>1</sup>	600 <sup>1</sup>	\$550.00 <sup>1</sup>
(2) Abatement of Hazardous Materials and Demolition of the Existing Dining Facility	See paragraph CONSTRUCTION PHASING	120	[AM #2] <u>\$ 95.00</u>
(3) Establishment of Turf	**	**	---
(4) Landscaping	***	***	---

<sup>1</sup>NOTES:

a. The contract duration stated above for Work Item 1 is the maximum duration until Contract Award. Upon Contract Award, the Contractor's proposed duration as stated on the Bidding Schedule shall become the contract duration for this Work Item. The liquidated damages stated above will be applied for each calendar day the Contractor exceeds this

new contract duration schedule."

b. See Section 01015 DESIGN REQUIREMENTS AFTER AWARD, paragraph "SUBMISSION OF CONSTRUCTION DRAWINGS, SPECIFICATIONS, AND DESIGN ANALYSES," concerning submission of construction documents and Section 01000 paragraph, "SEQUENCE OF DESIGN/CONSTRUCTION," concerning start of construction.

c. For construction planning purposes Government review time for review submittals are specified in 01015 DESIGN REQUIREMENTS AFTER AWARD.

d. See Section 01015 DESIGN REQUIREMENTS AFTER AWARD, paragraph "Insufficient Design Submittals and Delays," concerning delays in completion of design.

e. If the option is awarded, liquidated damages will not be a cumulative.

**\*\*Establishment of Turf**

Planting and maintenance for turfing shall be in accordance with Contractor's Section for TURFING . No payment will be made for establishment of turf until all requirements of the section are adequately performed and accepted, as determined by the Contracting Officer.

**\*\*\*Landscaping**

Planting and maintenance for landscaping shall be in accordance with Contractor's Section for LANDSCAPING. No payment will be made for landscaping until all requirements of the section are adequately performed and accepted, as determined by the Contracting Officer.

1.1.1 Testing of Heating and Air-Conditioning Systems

The times stated for completion do not include testing of heating and air-conditioning systems. Final testing of heating and air-conditioning systems will be accomplished during the appropriate heating/cooling season as determined by the Contracting Officer.

1.2 CONSTRUCTION PHASING

Demolition of the existing Dining Facility shall commence not earlier than 60 days after substantial completion of the new dining facility and upon receipt of a letter from the Contracting Officer directing initiation of demolition work.

1.3 UTILITIES

1.3.1 Payment for Utility Services

See Section 00800 SPECIAL CONTRACT REQUIREMENTS.

1.3.2 Outages

The Contractor shall coordinate all requests for utility outages with the Contracting Officer in writing 14 days prior to date of requested outage:

- a. Water, gas, steam, and sewer outages shall be held to a maximum duration of 4 hours unless otherwise approved in writing.
- b. Electrical outages shall have a maximum duration of 4 hours.
- c. All utility outages shall be scheduled only on Saturdays, Sundays, or holidays unless specific approval is otherwise received.

#### 1.3.3 Coordination

The Contractor shall coordinate with San Antonio City Public Services (CPS) on the design and construction of gas lines to the building. CPS will provide gas service up to and including the meter. Contractor is responsible for design and construction within the building up to the meter. All fees and costs for the CPS work will be paid by the Contractor.

#### 1.4 STREET CLOSINGS

The Contractor shall coordinate all requests for street closings with the Contracting Officer in writing 14 days prior to date of requested outage:

- a. One lane traffic shall be maintained at all times (except that a total closing may be allowed for specific 8-hour periods).
- b. The final street repair shall be completed within 14 days after the start of any street crossing. Any part of the street returned to service prior to final repair shall be maintained smooth with hot-mix cold-lay surface course.
- c. One lane traffic shall be maintained at all times; at least two flag men will be on duty to assist traffic in the open lane, when other lanes are closed due to the Contractor's operations. Flag men will meet the requirements of Item 7.7 of the Texas State Department of Highways and Public Transportation Standard Specifications for Construction of Highways, Streets, and Bridges, 1982 Ed.
- d. Open cuts across paved roads and streets for utility crossings will not be allowed. Utility crossings will be accomplished by boring or jacking procedures only.

#### 1.5 SEQUENCE OF DESIGN/CONSTRUCTION

(a) After receipt of the Contract Notice to Proceed (NTP) the Contractor shall initiate design, comply with all design submission requirements as covered under Division 01 General Requirements, and obtain Government review of each submission. No construction may be started, with the exception of clearing, site work, utilities, and foundations after acceptance of the 50% design submittal., until the Government reviews the Final Design submission and determines it satisfactory for purposes of beginning construction. The Contracting Officer will notify the Contractor when the design is cleared for construction. The Government will not grant any time extension for any design resubmittal required when, in the opinion of the Contracting Officer, the initial submission failed to meet the minimum quality requirements as set forth in the Contract.

(b) If the Government allows the Contractor to proceed with limited construction based on pending minor revisions to the reviewed Final Design submission, no payment will be made for any in-place construction related

to the pending revisions until they are completed, resubmitted and are satisfactory to the Government.

(c) No payment will be made for any in-place construction until all required submittals have been made, reviewed and are satisfactory to the Government.

PART 2 PRODUCTS (NOT USED)

PART 3 EXECUTION (NOT USED)

-- End of Section --

SECTION 01015

DESIGN REQUIREMENTS AFTER AWARD  
**AMENDMENT NO. 0002**

PART 1 GENERAL

1.1 SUMMARY

1.1.1 Section Includes

This section includes requirements for developing and submitting a design including preparation of drawings, specifications and design analyses conforming to the requirements contained in this section.

1.1.2 Section Excludes

This section does not include requirements for construction submittals which are specified in Section 01330 SUBMITTAL PROCEDURES.

1.2 DESIGN COMPLETION SCHEDULE

See paragraph COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK in Section 01000 DESIGN AND CONSTRUCTION SCHEDULE for the Completion Schedule of the entire work.

1.3 METRIC REQUIREMENTS

1.3.1 Definitions

Definitions of hard and soft metric are specified in Section 01415 METRIC MEASUREMENTS.

1.3.2 Project Documents

Wherever possible, the project documents shall be accomplished using "hard" metric measurements; drawings, narratives, calculations, dimensions, capacities, and similar expressions of measurement shall be expressed in "hard" metric units.

1.3.3 SI Units of Measure

Products and building components furnished in "hard" metric units are those manufactured using SI units of measure. SI units of measure shall be stated in metric only; do not repeat their English equivalency in parentheses following the metric unit.

1.3.4 Modular Construction Products

Soft metric conversions from their English units are permitted for modular construction products, unless the application of the product requires it to dimensionally coordinate into the 100 millimeter building module. Modular construction products are brick, concrete block, wallboard, plywood, suspended ceiling systems, recessed lighting, raised access flooring and other manufactured components with dimensions based upon a four (4) inch building module. Coordinate finishes available in metric with those available in non-metric.

1.3.5 Metric Design Guide

The designer shall obtain a copy of and follow the requirements in the "Metric Design Guide" (PBS-PQ260), May 1994, U.S. General Services Administration Public Buildings Service. A copy will be furnished after award of the contract.

#### 1.4 DEFINITIONS

##### 1.4.1 Acceptance

This is the Government's review of the design submittals, construction submittals, and record drawings for conformance to the Contract requirements. Acceptance shall not be construed to be an endorsement of the accuracy or completeness of the design. The Contractor is ultimately responsible for the contract design and construction. Design deficiencies or omissions in the accepted design shall be the responsibility of the Contractor and the Designer of Record.

##### 1.4.2 Approve, Approved and Approval

As these words are used throughout the documents, they shall mean "as approved by the Designer of Record unless otherwise expressly stated." See Section 01330 CONSTRUCTION SUBMITTAL PROCEDURES.

##### 1.4.3 Complete Specification Section

A Complete Specification Section is one that follows the CEGS Section format as shown in CEGS-01020 CEGS TEMPLATE, including the required submittal and testing requirements.

##### 1.4.4 Contractor

Firm or company to whom award was made to design and construct the project.

##### 1.4.5 Contract Documents

Contract Documents include the Request for Proposal, all amendments, the Contractor's proposal as accepted, and the Contractor approved, Government accepted 100% final design documents.

##### 1.4.6 Construction Documents

Documents provided by the Contractor and accepted by the Government for use in constructing the project, including but not limited to final design drawings and specifications, schedules, submittal registers, and color boards.

##### 1.4.7 Corps of Engineers Guide Specifications (CEGS)

Includes the Corps of Engineers Guide Specifications (CEGS) for Military Construction, the narrow-scope sections developed by the Fort Worth District (FWGS), and the Fort Worth District Supplements to the CEGS.

##### 1.4.8 Design Documents

Documents which include design drawings, project specifications, and design analyses (basis of design and calculations) prepared by or under the direct supervision of registered professional architects and engineers and proposed by the Contractor to meet the requirements of this Contract.

#### 1.4.9 Design Drawings

Documentation showing in graphic and quantitative form the extent, design, location, relationships, and dimensions of the construction to be provided by the Contractor. (Note: Shop Drawings, as defined in Section 01330, "Submittals During Construction," are not to be provided until after design drawings are approved for construction.)

#### 1.4.10 Designer

Architects and Engineers (A/E) associated with the Contractor who are responsible for the design and have the qualifications and experience specified.

#### 1.4.11 Designer of Record

The Contractor's Architect/Engineer (A/E) is the "Designer of Record" and officially approves the design submittals, construction submittals, and record drawings. The designer of record is solely liable for design errors and/or omissions and shall have professional liability insurance to insure the designer against design errors and omissions. The Contractor's Quality Control Staff will check and certify all submittals.

#### 1.4.12 Mandatory Guides

Mandatory Guides are those guides included in Division 3 ATTACHMENTS which shall be included in the Contractor's technical specifications. Some of the guides may be partially edited; others may not be edited at all. The Contractor shall edit or finish editing these guides.

#### 1.4.13 Mandatory Sections

Mandatory Sections are those sections included in Division 3 ATTACHMENTS which have been completed edited and shall be included in the Contractor's technical specifications verbatim.

#### 1.4.14 Solicitation or Request for Proposal (RFP)

Documents furnished to prospective offerors containing proposal information and specifying criteria and project requirements for design and construction of the project. The documents include this specification, attachments, and the information drawings.

#### 1.4.15 Technical Specifications

Technical specifications are the Contractor's developed construction specifications consisting of the Government-furnished Division 1 (General Requirements) sections and the Contractor-written sections in Divisions 2 through 16. Divisions 2 through 16 shall include the RFP mandatory specifications, the Contractor-edited RFP mandatory CEGS and FWGS guide specifications, Contractor-developed CEGS sections for those items of work covered by the CEGS guides, and the Contractor-developed sections for those items of work not covered by the CEGS and FWGS guides.

#### 1.4.16 50 Percent Design/Submittal

Shall mean 50 percent building and 100 percent site work, utilities, and foundation design submittal. See paragraph DESIGN SUBMITTALS for further

clarification.

## 1.5 SUBMISSION OF CONSTRUCTION DRAWINGS, SPECIFICATIONS AND DESIGN ANALYSES

### 1.5.1 Certification

With each submittal the Contractor shall certify that all items submitted in the design documents (after contract award) comply with the Solicitation's Divisions 1, 2, and 3 specifications and requirements. The criteria specified in this Contract are binding contract criteria and in case of any conflict, after award, between the Contract criteria and Contractor's submittals, the criteria stated in the Document Order of Precedence in Section 00800 SPECIAL CONTRACT REQUIREMENTS will govern. The Contractor shall present with the letter of transmittal for each design submittal (including the 100 percent corrected design (compliance check) submittal) a certification that the submittal (drawings, specifications, design analysis, etc.) complies with the requirements stated above. Prepare the design certification and transmittal letter in the format shown on Attachment A attached at the end of this Section.

#### 1.5.1.1 Signatures

The certification shall be signed by an officer of the Contractor's company and the licensed architect/engineer designer of record attesting that the drawings, specifications and design analyses prepared for the construction of the facility meet the requirements of the Contract.

#### 1.5.2 Deviations

Deviations from the Contract requirements shall be identified in each design submittal's letter of transmittal. Deviations from the Contract requirements will be considered for approval by the Contracting Officer. The Contracting Officer may reject any deviation proposed by the Contractor without explanation.

#### 1.5.3 Field Verification

The Contractor shall verify field conditions which are significant to design by field inspection, researching and reviewing the existing documents pertaining to the site and existing building(s), and evaluating observable existing conditions. . The information shall be reflected in the design documents. It is the responsibility of the Contractor to evaluate existing conditions in the immediate proximity of the project to determine if such conditions may affect, or be affected by the proposed construction. If there are site conditions which appear to affect the proposed construction the Contractor shall inform the Contracting Officer, in writing, before proceeding with the project.

#### 1.5.4 Number of Copies

For each design submittal, submit for review and acceptance the number of copies specified in paragraph "Review Document Distribution" of the construction drawings and specifications, design analyses, equipment schedules, and all other submittal data, which shall be in accordance with the requirements of the Contract Documents. Upon final acceptance, the Contractor shall within 7 calendar days furnish the same number of copies as above (and one reproducible) of the accepted technical documents (drawings, design analysis, and specifications). Proposed modifications shall be submitted in 8 copies. Final modifications, after negotiations,

shall be submitted in 8 copies (including one reproducible).

#### 1.5.5 Final Construction Documents

Provide documents complete, accurate, and explicit enough to show compliance with the Contract requirements and to permit construction. Drawings and specifications illustrating systems proposed to meet the requirements of the Contract shall reflect proper detailing for each such system to assure appropriate use, proper fit, compatibility of components and coordination with the specifications and design analysis required by this section. Coordinate drawings to ensure there are no conflicts between design disciplines and between drawings and specifications. See Section 01016 DESIGN DOCUMENTS REQUIREMENTS for additional requirements.

##### 1.5.5.1 Final Project Drawings

Final design (100 percent) drawings, and record (i.e. as-built) drawings after the completion of the project, shall be submitted on CD-ROM disk in the CADD format required by the Area Office and Fort Sam Houston (i.e. the User), along with hard copies of the drawings, specifications and design analysis. Furnish two CD-ROM disks, one for the Area Office and one for the User. On the CD-ROM disk include the .dgn or .dwg CADD drawing files, the CADD drawing files in .CAL format (CADD files converted to .CAL) for viewing on SourceView Reader, and an Excel spreadsheet containing the drawing number, sequence number, level/layer assignments, line colors, line weights, and line types. See Section 01016 DESIGN DOCUMENT REQUIREMENTS for additional requirements.

##### 1.5.5.2 Computer Aided Design and Drafting (CADD) Systems

Within 10 days of Contract [AM#2] Notice to Proceed, furnish for approval samples of CADD electronic files created on the equipment and software to be used for this work. CADD work will not proceed until the Contractor's proposed CADD system and resulting CADD files have been acceptably demonstrated to work on the Corps of Engineers' Fort Worth District Office and the User's CADD systems.

#### 1.5.6 Specifications and Design Analysis

Specifications and design analysis shall be provided in hard copy and on the same CD-ROM disk as the drawings, Microsoft Word for Windows (Version 6 minimum, Wordspec Macro version, but shall be compatible with the version used at Fort Sam Houston) format. The Division 1 sections included in the RFP shall be reprinted in the final 100 percent construction specifications. Hard copies of the specifications and design analyses shall be bound separately in 3-ring binders. Each set of documents shall have its own Table of Contents. See Section 01016 DESIGN DOCUMENTS REQUIREMENTS for editing and format requirements.

#### 1.6 DESIGN DOCUMENTS

Design documents shall include construction drawings, specifications, design analysis, and drafts of DD Form 1354. Detailing and installation of all equipment and materials shall comply with the manufacturers' recommendations. Construction drawings and specifications shall not make reference to RFP requirements. The Contractor, including designers, shall visit the site and make other trips as necessary during the design to accomplish the work. See Section 01016 DESIGN DOCUMENT REQUIREMENTS for additional descriptions.

#### 1.6.1 Drawings

See paragraph SUBMISSION OF CONSTRUCTION DRAWINGS, SPECIFICATIONS AND DESIGN ANALYSES, subparagraph "Final Construction Documents."

#### 1.6.2 Specifications

Specifications shall be in sufficient detail to fully describe and demonstrate the quality of materials, the installation and performance of equipment, and the quality of workmanship. Specifications shall conform to the Construction Specifications Institute (CSI) 16-Division 3-Part format, follow the CSI's section numbering system defined in CSI Masterformat, and utilize the Corps of Engineers CEGS, Fort Worth District FW guide specifications, and Fort Worth District Supplements to the CEGS. Specifications shall include any mandatory specifications specified in Division 3 ATTACHMENTS. Division 1 specifications shall consist of the Division 1 sections included in this RFP. The specifications shall clearly identify the specific products chosen to meet the requirements of the RFP (manufacturers' brand names and model numbers or similar product information). Turfing sections shall indicate planting dates.

#### 1.6.3 Design Analysis

Describe the design of each discipline of work, including all features and the necessary calculations, tables, methods, and sources used in determining equipment and material sizes and capacities. Provide sufficient information to support the design of the various categories such as, but not limited to, architectural, interior design, structural, mechanical, electrical, civil including grading, drainage, paving, environmental, and outside utility services, and RFP included items

#### 1.6.4 DD Form 1354

The 1354 process consists of a preliminary (draft) DD Form 1354 and a Final DD Form 1354. Prepare a preliminary (draft) of DD Form 1354, TRANSFER AND ACCEPTANCE OF MILITARY REAL PROPERTY, so that Fort Sam Houston can update their real property maintenance records. This draft shall contain as many of the resource code items with cost and quantity data as can be developed from the Contractor's final 100% design documents. Submit it to the Contracting Officer within 30 days of the Government's acceptance of the 100% design documents. The Government will use this Final DD Form 1354 to develop the interim 1354. The form, a sample of a completed form, and a general list of resource codes with cost and quantity data are included in Division 3 ATTACHMENTS. An electronic file of the form, DD1354.frl, for use with Delrina Perform Pro Form Filler, version 16 Jul 1992, is located on the Solicitation CD-ROM disk.

### 1.7 DESIGN AND CONSTRUCTION PERSONNEL QUALIFICATIONS

#### 1.7.1 Project Manager

The project manager shall have a recognized four-year or higher college degree in architecture, engineering (or related technical fields), or construction management and have at least 5 years experience in managing design and construction projects or 10 years experience in managing construction projects only.

#### 1.7.2 Project Architect

The project architect shall have a recognized four-year or higher college degree in architecture, be professionally licensed, 3 years experience as a lead architect, and have at least 5 years design experience, including experience in the design of dining facilities and cafeterias.

#### 1.7.3 Designers

Provide at least one professional licensed architect or engineer for each of the design disciplines (architectural, landscape architectural, civil, electrical, mechanical, and structural design) with at least 5 years experience in their discipline. Each lead designer shall have a recognized four-year (or higher) college degree in architecture or engineering. The fire protection system shall be designed by a registered engineer with a minimum of five years experience in designing fire protection systems. The field work, analysis, and design of the cathodic protection system shall be accomplished by or under direct supervision of an engineer licensed in corrosion engineering or a corrosion specialist certified by the National Association of Corrosion Engineers (NACE).

#### 1.7.4 Design Quality Control Manager

Design quality control manager and the alternate manager qualifications are specified in Section 01430 DESIGN QUALITY CONTROL. Design quality control manager shall not be the same person as the construction quality control manager.

#### 1.7.5 Construction Quality Control Manager

Construction quality control manager and assistants qualifications are specified in Section 01451 CONSTRUCTION QUALITY CONTROL. Construction quality control manager shall not be the same person as the design quality control manager.

#### 1.7.6 CADD Personnel

CADD personnel shall be proficient in the preparation of architectural and engineering drawings and the CADD equipment that will be used to create the required drawings and record drawings. The lead CADD person shall have at least 5 years experience on the proposed equipment.

#### 1.7.7 Project Schedule Scheduler

Qualifications for the Scheduler are specified in Section 01320 PROJECT SCHEDULE.

#### 1.8 DESIGNER(S) OF RECORD

The Contractor shall identify, for approval, the Designer of Record for each area of work. One Designer of Record may be responsible for more than one area. All areas of design disciplines shall be accounted for by a listed, registered Designer of Record. The Designer(s) of Record shall stamp, sign, and date all design drawings under their responsible discipline at each design submittal stage (see Section 00800 clause "Registration of Designers.")

#### 1.9 CONSTRUCTION MANAGEMENT KEY PERSONNEL

The Contractor's construction management key personnel shall be actively involved during the design process to effectively integrate the design and construction requirements of this contract. In addition to the typical required construction activities, the Contractor's involvement shall include, but is not limited to, actions such as integrating the design schedule into the Master Schedule to maximize the effectiveness of fast-tracking design and construction (within the limits allowed in the contract), ensuring constructability and economy of the design, integrating the material and equipment acquisition programs to meet critical schedules, effectively interfacing the construction QC program with the design QC program, and maintaining and providing the design team with accurate, up-to-date redline and as-built documentation. The Contractor shall require and manage the active involvement of key trade subcontractors in the above activities. The Contractor's Quality Control Staff will check and certify all submittals.

#### 1.10 DESIGN SUBMITTALS

##### 1.10.1 General

The Contractor shall schedule the number and date of the design submittal phases and conferences. Design submittals are required at the preliminary (50 percent), final (100 percent) design stages and at the corrected final design stage. The number, date, and contents of the design submittal phases shall be reflected in the project schedules. An authorization letter to start work will be provided separately by the Contracting Officer for each phase of the design. See paragraph "Government Design Review and Acceptance" and Section 01016 DESIGN DOCUMENTS REQUIREMENTS for additional requirements.

##### 1.10.2 50 Percent Design Submittal

The 50 percent design submittal includes the 50 percent in-progress building design plus the 100 percent complete site work, exterior utilities, and foundation design. These documents shall be packaged and stamped "For Review Only - 50% Design"; and each sheet of the drawings shall also be stamped except sitework, exterior utilities, and foundation drawings, which will be stamped 100% design submittal. See Section 01016 DESIGN DOCUMENTS REQUIREMENTS for additional requirements.

##### 1.10.3 100 Percent Design Submittal

The 100 percent design submittal includes complete site and utility design and building design and shall be stamped "For Review Only -100% Design", and each sheet of the drawings shall also be stamped. Contractor shall make final proposal of all materials and finishes at this stage.

##### 1.10.4 Compliance Check Design Submittal

The compliance check design submittal(s) after the Government review of the 100 percent complete building design shall be stamped "100% Corrected Design"; and each sheet of the drawings shall also be stamped and signed by the Designer of Record.

##### 1.10.5 Insufficient Design Submittals and Delays

No additional time for completion of the contract will be granted to the Contractor due to insufficient design submittals. Delays caused by the

Contractor in completion of the 50 percent design, 100 percent design, or the 100 percent corrected design will not be considered as valid reason to delay the entire project within the specified project duration.

#### 1.10.6 Deviations or Betterments

The Contractor shall bring to the Government's attention any deviations or betterments made to the RFP and Contractor's proposal documents. These shall be summarized in letter form with reasons and highlighted or clouded details on the applicable drawings and documents submitted. See Section 00800 SPECIAL CONTRACT REQUIREMENTS for additional requirements concerning betterments.

#### 1.10.7 Review Design Documents

The Contractor shall submit all drawing design documents on blue-line media with "FOR REVIEW" stamped in 12.5 mm high letters in the lower right corner in red ink. Specifications and Design Analyses shall be hard copy with "FOR REVIEW" stamped in 12.5 mm high letters in the lower right corner in red ink. The Contractor shall submit Contractor-approved documents on black-line media with "APPROVED FOR CONSTRUCTION" similarly stamped.

### 1.11 DESIGN REVIEWS

Design reviews will be held in the offices of the Fort Worth District's San Antonio Area Office at the preliminary (50 percent), final (100 percent), and corrected final stages of the final design in accordance with the Contractor's Project Schedule. The Government shall have thirty (30) calendar days review period for each submittal (50 percent design and 100 percent Design) and seven (7) calendar days review period for resubmittal of the 100 percent Design (corrected final design) incorporating final review comments. Design review conference(s) between the Contractor and the Government may be held after submittal of the 50 percent and 100 percent design(s) if the Government determines them necessary. The time for Government review will be calculated from the date of receipt of the design submittals at the Government address to the date annotated conformance review comments are mailed to the Contractor.

#### 1.11.1 Review Intent

Reviews will be for conformance with the technical requirements of the Contract. If the Contractor disagrees technically with any comment and does not intend to comply with the comment, the Contractor shall clearly outline, with ample justification, the reasons for noncompliance within 5 days after receipt of these comments in order that the comment(s) can be resolved. The Contractor shall furnish disposition of all comments, in writing, with the next scheduled submittal. If the Contractor believes the action required by any comment exceeds the requirements of this contract, the Contractor shall immediately notify the Contracting Officer in writing and take no action regarding this matter until the matter is resolved.

#### 1.11.2 Late Submittals

If a design submittal is over one (1) day late in accordance with the latest design schedule, the Government review period will be extended 7 days. The review conference will be held the week after the review period. Submittal date revisions shall be in writing at least one week prior to the affected submittal.

### 1.11.3 Review Document Distribution

For each review, review documents shall be sent, in the quantity indicated, to the addresses listed below. The documents will be in their then present "on-board" design status. All documents must contain an index of contents.

Work shall, however, continue up to the time of the review conference date(s) when 2 copies of then-current design documents will be brought to the issuing office for the conference review. Originals of transmittal letters shall be sent to the Area Engineer, address as shown below, and copies should accompany each mail package. Transmittal letters shall indicate distribution by use of the "ATTN" code shown in the address.

- (5 copies) District Engineer  
US Army Engineer District, Fort Worth  
ATTN: CESWF-EC-D (Jimmy Rawlings)  
P.O. Box 17300  
Fort Worth, TX 76102-0300
- (1 copy) District Engineer  
US Army Engineer District, Fort Worth  
ATTN: CESWF-EC-AM (Ms. Patty Murphy)  
P.O. Box 17300  
Fort Worth, TX 76102-0300
- (1 Copy) Goldie M. Bailey  
Proponent  
Facilities and Equipment Division  
U.S. Army Quartermaster Center and School  
Army Center of Excellence, Subsistence  
Fort Lee, VA 23801-5041
- (1 Copy) District Engineer  
US Army Corps of Engineers, Norfolk District  
Attn: CENAO-EN-D (Patrick J. Sullivan)  
803 Front Street  
Norfolk, VA 23510-1096
- (8 Copies) Directorate of Public Works  
ATTN: MCGA-PW-IP (Mr. Eisele)  
2202 15th Street, Building 4196  
Fort Sam Houston, TX 78234-5007
- (5 Copies) Area Engineer  
ATTN: CESWF-AO-S (Stuart Shillington)  
4204 Woodcock, Suite 245  
San Antonio, TX 78228-1319

### 1.11.4 Additional Review Time

If for any reason the Government requires more time than that stated for review, then the Contractor will be granted an extension of time equal to the number of calendar days of delay.

### 1.11.5 Government Design Review and Acceptance

Government personnel will present review comments for discussion and resolution. Copies of comments, annotated by the Designer of Record with comment action agreed on, will be made available to all parties at least 10 calendar days prior to the conference. Review conferences will be

scheduled by the Contractor. Unresolved problems will be resolved by immediate follow-on action at the end of conferences. Valid comments will be incorporated into the Documents. On receipt of final corrected design documents (with all backcheck comments incorporated) that are acceptable, the Contracting Officer shall notify the Contractor in writing that the documents are accepted and construction may begin.. The Government, however, reserves the right to not accept design document submittals if outstanding unincorporated comments are of too great a significance. In this case, every effort shall be made during follow-up action between the Contractor and the Fort Worth District to resolve conflicts and problems such that documents can be accepted. However, if final submittal(s) are incomplete or deficient, requiring correction by the Contractor and resubmittal for review, the cost of rehandling and reviewing will be deducted from payment due the Contractor at the rate of \$500.00 per submittal.

#### 1.11.5.1 Fort Sam Houston Cultural Office and State Historic Preservation Officer (SHPO)

These two offices will receive their copies (one each) from the Directorate of Public Works and present their review comments for discussion and resolution. Copies of comments, annotated by the Designer of Record with comment action agreed on, will be made available to all parties at least 10 calendar days prior to the conference.

#### 1.12 Final Construction Documents

Following the last submittal, the Contractor shall forward the completed original set of reproducibles for acceptance. Upon Government acceptance of corrected final (100%) design documents, the original will be returned to the Contractor for reproduction purposes. The Contractor shall be responsible for reproduction. Within 7 calendar days after acceptance, the Contractor shall mail 1 complete set of the accepted design documents to the Fort Worth District (CESWF-EC-AM (Contract Administration Branch) and 10 complete sets to the Corps of Engineers' San Antonio Area Office. Each set shall consist of full size paper drawings, specifications, and design analysis and CD-ROM disk(s) containing all drawing, specifications, submittal register, and design analysis files). During and upon completion of the project, the accepted design documents shall be corrected to reflect as-built conditions in accordance with Section 01700 CONTRACT CLOSEOUT.

#### 1.12 COORDINATION

##### 1.12.1 Written Records

The Contractor shall prepare a written record of each design site visit, meeting, or conference, either telephonic or personal, and furnish copies to the Contracting Officer and all parties involved within 5 working days. Include subject, names of participants, outline of discussion, and recommendation or conclusions. Number each written record for the particular project under design in consecutive order.

##### 1.12.2 Design Needs List

Throughout the life of the Contract the Contractor shall furnish the Contracting Officer a biweekly "needs" list for design related items. This list shall itemize in an orderly fashion design data required by the Contractor to advance the design in a timely manner. Each list shall include a sequence number, description of action item, and the name of the

individual or agency responsible for satisfying the action item and remarks. Maintain the list on a continuous basis with satisfied action items checked off and new action items added as required. Once a request for information is initiated, that item shall remain on the list until the requested information has been furnished or otherwise resolved. Mail copies of the lists\ to both the Contracting Officer and the agencies tasked with supplying the information.

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 ATTACHMENTS

ATTACHMENT A

[Prime Contractor's Letterhead]

Date: \_\_\_\_\_

Contract No.: \_\_\_\_\_

[Reviewing Component Address]

Subject: DESIGN CERTIFICATION AND TRANSMITTAL FOR

Project Title: \_\_\_\_\_

Project Location: \_\_\_\_\_

Contract No.: \_\_\_\_\_

Gentlemen,

Enclosed are the following documents which I hereby certify are in compliance with the Contract requirements of the subject construction contract and can be used to commence construction subject to Government acceptance:

1. Design Drawings
2. Project Specifications
3. Design Analysis
  - a. Civil
  - b. Water Supply and Wastewater Collection
  - c. Architectural
  - d. Interior Design
  - e. Structural
  - f. Mechanical
  - g. Fire Protection
  - h. Electrical
  - i. Environmental
- j. Landscape Architectural
4. Submittal Register

\_\_\_\_\_  
[Typed Name and Signature of the  
Officer of the Prime Contractor's company]

5. Deviations

Copy to: [As standard with the Contractor]

\_\_\_\_\_  
[Typed Name and Signature of the  
Licensed Architect/Engineer of Record]



-- End of Section --

SECTION 01200

PROJECT MEETINGS  
09/1998

**AMENDMENT NO. 0002**

PART 1 GENERAL

1.1 DESIGN CONFERENCES

1.1.1 Pre-Work Conference

As part of the Pre-Work Conference conducted after contract award and prior to the start of any design work, key representatives of the Government and the Contractor will review the design submission and review procedures specified herein, discuss the preliminary design schedule and provisions for phase completion of the Design/Build documents with construction activities (fast tracking), as appropriate, meet with Corps of Engineers Design Review personnel and key Using Agency points of contact, and any other appropriate pre-design discussion items. The Contractor's Project Manager, Designers, and Design and Construction Quality Control Managers will attend this meeting. The Contractor is encouraged to have an officer of the company at this conference. This conference will be held at the location specified by the Contracting Officer's authorized representative.

1.1.2 Design Charette

After award of the contract and the Pre-Work Conference, the Contractor shall visit the site and conduct extensive interviews and problem solving discussions with the individual users, base personnel, Corps of Engineers personnel to acquire all necessary site information, review user options, and discuss user needs. The Contractor shall document all discussions. The design shall be finalized as direct result of these meetings. Site visits and discussions shall be coordinated with the Contracting Officer's authorized representative.

1.1.3 Design Review Conferences

Review conferences will be held on base for each design submittal. The Contractor will bring the personnel that developed the design submittal to the review conferences. The conferences will take place the week after the review is complete. See Section 01015 DESIGN REQUIREMENTS AFTER AWARD for additional requirements.

1.2 PRECONSTRUCTION CONFERENCE

After the complete design has been accepted, a pre-construction conference will be scheduled by the authorized representative of the Contracting Officer. The Contractor's Project Manager, Quality Control Manager, and appropriate Superintendent(s) will attend these meetings. The Contractor is encouraged to have an officer of the company and representation from the sub-contractors at this conference. This conference will be held at the location specified by the Contracting Officer's authorized representative.

1.2.1 Start of Construction Work

If the Contractor has submitted his Accident Prevention (Safety) Plan, Quality Control Plan, and Environmental Protection Plan for review prior to this meeting, these may be accepted in toto or accepted with comments at the conference. Construction work will not proceed until after this meeting has been held[AM#2] and these three plans noted above have been accepted [AM#2] \_\_\_\_\_.

1.3 OTHER MEETINGS

Construction Quality Control meetings and conferences are specified in Section 01451 CONTRACTOR QUALITY CONTROL. Other meetings are specified in various Division 1 and technical sections.

PART 2 PRODUCTS (NOT APPLICABLE)

PART 3 EXECUTION (NOT APPLICABLE)

-- End of Section --

ACCOMPANYING AMENDMENT NO. 0002 TO SOLICITATION NO. DACA63-99-R-0008  
DD FORM 1354 CATEGORY CODES  
(Partial Listing)

CATEGORY CODE	DESCRIPTION	UOM	METRIC UOM
72210 [AM #2]	DINING FACILITIES	SF	M2
81113	ELECTRIC POWER, COAL FIRED	KV	
81115	ELECTRIC POWER, OIL FIRED	KV	
81117	ELECTRIC POWER, GAS FIRED	KV	
81121	ELECTRIC POWER, NUCLEAR	KV	
81122	ELECTRIC POWER, PHOTOVOLTAIC	KV	
81150	UNINTERRUPTABLE POWER SUPPLY	KV	
81160	STANDBY GENERATOR	KV	
81171	ELECTRIC POWER, HYDRO	KV	
81230	EXTERIOR LIGHTING	LF	M
81241	OVERHEAD ELECTRIC LINES	LF	M
81242	UNDERGROUND ELECTRIC LINES	LF	M
81320	SUBSTATION	KV	
81350	ELECTRIC SWITCHING STATION	KV	
81360	TRANSFORMERS	KV	
82110	HEATING PLANT, COAL FIRED	MB	
82117	HEATING PLANT, DUAL-FUEL	MB	
82118	HEATING PLANT, WOOD-FIRED	MB	
82120	HEATING PLANT, OIL-FIRED	MB	
82130	HEATING PLANT, GAS-FIRED	MB	
82140	HEATING PLANT, NUCLEAR	MB	
82150	HEATING PLANT, STEAM	MB	
82160	HEATING PLANT, ELECTRIC	MB	
82182	HEATING PLANT, SOLAR	MB	
82187	HEATING PLANT, GEOTHERMAL	MB	
82210	STEAM CONDENSATE LINES	LF	M
82220	HOT WATER LINES	LF	M
82221	HOT/CHILLED WATER LINES	LF	M
82240	STEAM LINES	LF	M
82310	GAS GENERATING PLANT	MB	
82410	GAS PIPELINES	LF	M
82610	AC/REFRIGERATION PLANT	TN	MT
82625	HEAT PUMP	TN	MT
82710	CHILLED WATER DISTRIBUTION SYSTEM	LF	M
83110	PRIMARY WASTE WATER TREATMENT	KG	
83112	SECONDARY WASTE WATER TREATMENT	KG	
83113	ADVANCED WASTE WATER TREATMENT	KG	
83120	SEPTIC TANK AND DRAIN FIELD	KG	
83130	RAW SEWAGE LAGOON/OXIDATION POND	KG	
83140	INDUSTRIAL WASTE TREATMENT PLANT	KG	
83150	SEWAGE LIFT STATION	KG	
83180	GRAVITY OIL/GREASE SEPARATOR	KG	
83181	WATER AND GRIT SEPARATOR	KG	
83210	SANITARY SEWER LINES	LF	M
83220	COMBINED SEWER	LF	M
83240	INDUSTRIAL WASTE SEWER	LF	M
83310	INCINERATOR FACILITY	TN	MT

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<u>CATEGORY CODE</u>	<u>DESCRIPTION</u>	<u>UOM</u>	<u>METRIC UOM</u>
83312	REFUSE COLLECTION FACILITY	TN	MT
83320	RECYCLING FACILITY	TN	MT
83410	SANITARY LANDFILL	AC	
83420	HAZARDOUS WASTE LANDFILL	AC	
84110	WATER TREATMENT PLANT	KG	
84125	FILTER PLANT FACILITY	KG	
84130	WATER WELL, POTABLE	KG	
84141	PUMP STATION, POTABLE	KG	
84150	CHLORINATOR FACILITY	KG	
84210	WATER DISTRIBUTION LINES, POTABLE	LF	M
84215	SUPPLY MAIN, POTABLE	LF	M
84330	FIRE PROTECTION SYSTEM, NONPOTABLE	LF	M
84450	CHLORINATOR FACILITY, NONPOTABLE	KG	
84470	WATER WELL, NONPOTABLE	KG	
84472	PUMP STATION, NONPOTABLE	KG	
84510	WATER DISTRIBUTION LINES, NONPOTABLE	LF	M
84610	WATER STORAGE TANKS, POTABLE	GA	L
84620	RESERVOIR, POTABLE	GA	L
84710	WATER STORAGE TANKS, NONPOTABLE	GA	L
84720	RESERVOIR, NONPOTABLE	GA	L
84730	FIRE PROTECTION POND	GA	L
84740	WATER RETAINING BASIN	GA	L
85110	CANTONMENT AREA ROADS, SURFACED	SY	M2
85120	VEHICLE BRIDGE	SY	M2
85130	CANTONMENT AREA ROADS, UNSURFACED	SY	M2
85150	CANTONMENT AREA TANK TRAIL	SY	M2
85210	ORG. VEHICLE PARKING, SURFACED	SY	M2
85211	ORG. VEHICLE PARKING, UNSURFACED	SY	M2
85212	STAGING/MARSHALLING AREA	SY	M2
85215	NONORG. VEHICLE PARKING, SURFACED	SY	M2
85216	NONORG. VEHICLE PARKING, UNSURFACED	SY	M2
85218	NONORG. VEHICLE PARKING GARAGE	SY	M2
85220	SIDEWALKS AND WALKWAYS, SURFACED	SY	M2
85221	SIDEWALKS AND WALKWAYS, UNSURFACED	SY	M2
85225	PAD	SY	M2
85230	PEDESTRIAN BRIDGE	SY	M2
85710	TRAINING AREA ROADS, SURFACED	SY	M2
85715	TRAINING AREA ROADS, UNSURFACED	SY	M2
85720	TRAINING ATEA TANK TRAILS, SURFACED	SY	M2
85725	TRAINING AREA TANK TRAILS, UNSURFACED	SY	M2
85730	TRAINING AREA BRIDGE	SY	M2
86010	RAILROAD TRACKS	MI	M2
86110	RAILROAD BRIDGE	LF	M
86120	CRANE TRACKS	LF	M
86130	RAILROAD SCALES	LF	M
86140	COAL TRESTLE	LF	M
87110	STORM SEWER	LF	M
87120	DRAINAGE DITCH	LF	M

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CATEGORY CODE	DESCRIPTION	UOM	METRIC UOM
87130	IRRIGATION FACILITY	LF	M
87140	DIKES	LF	M
87150	RETAINING STRUCTURE	LF	M
87171	POLLUTANT DRAINAGE SYSTEM	LF	M
87210	FENCING AND WALLS	LF	M
87250	GATE	LF	M
87255	FIRE BREAKS	LF	M
88010	FIREALARM SYSTEM	BX	
88020	WATCH REPORTING SYSTEM	BX	
88030	AIR RAID ALARM SYSTEM	BX	
88040	INTRUSION ALARM SYSTEM	BX	
88045	RADIATION SENSING DEVICE	BX	
88110	AUTOMATIC WATER SPRINKLER SYSTEM	SF	M2
88120	SPECIAL FIRE EXTINGUISHING SYSTEM	SF	M2
88130	STANDPIPE SYSTEM	SF	M2
89111	POWER PLANT BUILDING	SF	M2
89112	ACETYLENE PLANT	SF	M2
89113	POWER SUBSTATION/SWITCHING STATION BLDG	SF	M2
89115	ENVIRONMENTAL TEST LABORATORY	SF	M2
89117	INERT GAS FACILITY	SF	M2
89120	PLANT/UTILITIES BUILDING	SF	M2
89121	HEATING PLANT BUILDING	SF	M2
89123	COMPRESSED AIR PLANT	SF	M2
89126	REFRIGERATION/AIR CONDITIONING BUILDING	SF	M2
89130	HAZARDOUS BUILDING	SF	M2
89131	SEWAGE/WASTE TREATMENT BUILDING	SF	M2
89132	OXYGEN PLANT	SF	M2
89133	REFUSE AND GARBAGE BUILDING	SF	M2
89141	WATER SUPPLY/TREATMENT BUILDING, POTABLE	SF	M2
89144	WATER SUPPLY BUILDING, NONPOTABLE	SF	M2
89148	WATER STORAGE BUILDING	SF	M2
89150	SHREDDER FACILITY	SF	M2
89210	MONITORING WELLS	EA	M2
89215	ENVIRONMENTAL TEST FACILITY	EA	M2
89220	ENERGY MANAGEMENT CONTROL SYSTEM	EA	
89221	SEWAGE HOLDING TANK	EA	
89225	GAS STORAGE TANK	EA	
89226	VAPORIZER STATION	EA	
89230	TRAFFIC SIGNALS	EA	
89235	FREQUENCY CONVERTER	EA	
89240	FIRE HYDRANTS	EA	
89245	FOAM MIX TANK	EA	
89250	RAILROAD CROSSING SIGNALS	EA	
89260	DECORATIVE FOUNTAIN/POND	EA	
89270	DAM	EA	
89280	LIGHTNING PROTECTION SYSTEM	EA	
89285	IMPROVED LAND - USAREUR	AC	
89286	SEMI-IMPROVED LAND - USAREUR	AC	

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 DD FORM 1354 CATEGORY CODES  
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CATEGORY CODE	DESCRIPTION	UOM	METRIC UOM
89287	UNIMPROVED LAND – USAREUR	AC	
89310	INERT GAS LINE	LF	
89320	COMPRESSED AIR LINE	LF	M
89330	VACUUM LINE	LF	M
89340	UTILDORS	LF	M
89410	COOLING TOWER	CM	
89510	IMHOFF TANK	GA	L
89520	POLLUTANT CATCH BASIN	GA	L
89530	SEWAGE HOLDING TANK	GA	L
89540	FOAM MIX TANK	GA	L
89550	WASTE POL STORAGE TANK	GA	L
89560	HAZARDOUS WASTE HOLDING TANK	GA	L
93210	SITE CLEARING AND GRADING	SY	M2
93220	LANDSCAPE PLANTTING	SY	M2
93310	DEMOLITION	EA	
93410	CUT AND FILL	CY	M3

**Units of Measure**

UNIT OF MEASURE	DESCRIPTION
AC	ACRES
BL	BARRELS (42 Gallons Liquid)
BX	BOXES
CM	CUBIC FEET PER MINUTE
CY	CUBIC YARDS
EA	EACH
GA	GALLONS
KG	THOUSANDS OF GALLONS PER DAY
KV	KILOVOLT - AMPERES
LF	LINEAR FEET
MB	MILLIONS OF BRITISH THERMAL UNITS
MI	MILES
SF	SQUARE FEET
SY	SQUARE YARDS
TN	TONS (2,000 POUNDS OR COOLING CAPACITY)
M2	SQUARE METERS
L	LITERS
M	METERS
M3	CUBIC METER
KL	THOUSAND OF LITERS PER DAY
MT	METRIC TON