AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE OF PAGES
	1 | 36

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. *(If applicable)*
M021	See Block 16C		

6. ISSUED BY CODE

U. S. Department of Energy
Office of River Protection
P. O. Box 450, MS H6-60
Richland, WA 99352

7. ADMINISTERED BY *(If other than item 6)* CODE

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, county, State and ZIP Code)*

CH2M HILL Hanford Group, Inc.
PO Box 1500
Richland, WA 99352

CODE FACILITY CODE

(✓)	9A. AMENDMENT OF SOLICITATION NO.
	9B. DATED (SEE ITEM 11)
✓	10A. MODIFICATION OF CONTRACT/ORDER NO. DE-AC06-99RL14047
	10B. DATED (SEE ITEM 13) September 30, 1999

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

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

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

12. ACCOUNTING AND APPROPRIATION DATA *(if required)*

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

(✓) 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)*
I.22 (Subcontracting Plan) and H.18 (Performance Incentives) See Attached

E. IMPORTANT: Contractor [X] is not, [ ] is required to sign 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 purpose of this modification is to: (1) incorporate the approved FY2000 Subcontracting Plan into Part III, Section J, Appendix I; and (2) incorporate revisions to FY2000 Performance Incentive Agreements (1.1.1 Rev. 1, 3.1.1 Rev. 1, and 4.5.1 Rev. 3) and incorporate two new Super Stretch Performance Incentive Agreements (1.1.3S and 8.1.2S) into Section J, Appendix D. See Page 2 for details. The Subcontracting Plan and Performance Incentive Agreements are attached.

All other terms and conditions remain unchanged.

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)*	
		Jewel J. Short, II Contracting Officer	
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA BY Jewel J. Short II	16C. DATE SIGNED 7/31/00
(Signature of person authorized to sign)		*(Signature of Contracting Officer)*	

The purpose of this contract modification is as follows:

1) Incorporate the following attached FY 2000 Super Stretch Performance Incentive Agreements into the contract Part III, Section J, Appendix D:

   a) ORP 1.1.3S "Characterization Core Sample AN-104 and AZ-101" dated 6/20/00.
   b) ORP 8.1.2S "Acceleration of Project W-519" dated 6/22/00.

2) Revise the existing FY 2000 Performance Incentive Agreements by incorporating the following attached Performance Incentive Agreement Revisions into the contract Part III, Section J, Appendix D:

   a) ORP 1.1.1 Revision No. 1 "Tank Characterization – Sampling Tanks" dated 7/24/00.
   b) ORP 3.1.1 Revision No. 1 "Interim Tank Stabilization" dated 7/24/00.
   c) ORP 4.5.1 Revision No. 3 "Phase I Part B-2 Readiness to Proceed" dated 7/24/00.

3) Incorporate the attached summary listing of Performance Incentive Agreements into the contract Part III, Section J, Appendix D.

4) Incorporate the attached subcontract plan dated March 14, 2000 into the contract Part III, Section J, Appendix I. The plan includes the Small Business Subcontracting Plan (clause I.22 and H.2(a)(9)), and the Make-or-Buy Plan (I.112).

Summary Listing of FY 2000 Performance Incentive Agreements

	FY 2000 PERFORMANCE INCENTIVE AGREEMENTS	
Number	**Title**	**Available Fee**
ORP 1.1.1 Rev. 1	Tank Characterization - Sampling Tanks	$ 1,666,000
ORP 1.1.2	Tank Characterization - Reduce Lab Turnaround	$ 100,000
ORP 2.1.1	Authorization Basis Management Process Improvement	$ 500,000
ORP 2.1.2	SY-101 Safety Mitigation	$ 2,500,000
ORP 3.1.1 Rev. 1	Interim Tank Stabilization	$ 2,584,000
ORP 3.1.2	Supernatant Removal	$ 300,000
ORP 3.1.3	Installation of Replacement Transfer Lines to Support Interim Stabilization of 2 Tanks in S/SX Tank Farm Complex	$ 100,000
ORP 3.2.1	W-314 "A" Complex	$ 1,250,000
ORP 3.2.3	Implementation of Field Optimizations	$ 400,000
ORP 3.3.1	Vault Stabilization	$ 250,000
ORP 3.3.4	Drawing & Labeling	$ 250,000
ORP 3.4.1	ENRAF Installations	$ 150,000
ORP 3.5.1	Integrated Construction Projects/Operations Plan	$ 300,000
ORP 3.8.1	Waste Volume Mgmt	$ 250,000
ORP 4.1.1	Vadose Zone	$ 500,000
ORP 4.2.1	AZ-101 Process Test	$ 750,000
ORP 4.5.1 Rev. 3	Phase I Part B-2 Readiness to Proceed	$ 1,000,000
ORP 8.1.1	W-519 Privatization Phase I Infrastructure Support	$ 500,000
ORP 9.1.1	Immobilized Product Storage / Disposal	$ 250,000
ORP 10.1.3	Project Integration Office Deliverables	$ 800,000
	Total	$ 14,400,000
	FY 2000 SUPER STRETCH PERFORMANCE INCENTIVE AGREEMENTS	
Number	**Title**	**Available Fee**
ORP 1.1.3S	Characterization Core Sample AN-104 and AZ-101	$ 317,000
ORP 2.1.3S	Advanced Preparation of 241-SY-101 for Retrieval and for Receiving and Staging	*$ 1,390,000*
ORP 3.8.2S	Transfer Waste from 241-AW-104 to Evaporator Feed Tank	*$ 760,000*
ORP 4.1.2S	Drill 5 RCRA Groundwater Wells	$ 220,000
ORP 4.3.2S	SST Waste Retrieval of Tank C-104	$ 335,000
ORP 4.3.3S	Tank C-106 Operational Closure Status Assessment	$ 70,000
ORP 4.3.4S	SST Retrieval - Technology Testing and Deployment	$ 88,000
ORP 8.1.2S	Acceleration of Project W-519	*$ 400,000*
	Total	$ 3,580,000
	Grand Total	$ 17,980,000
Note: 2.1.3S, 3.8.2S and 8.1.2S include Super Stretch fee that may be earned in FY01.		

FY 2000 PERFORMANCE INCENTIVE

SECTION 1
General Information

Descriptive Short Title: Characterization Core Sample AN-104 and AZ-101

Project Baseline Summary (PBS): TW01

Estimated Cost (BCWS): $1.761M[1] (FY 2000)

Maximum Available Incentive Fee: $317,000 (FY 2000)

Type: Superstretch X

[1]FY 2000: $1,761K BCWS + $317K Fee = $2,078K Funds

SECTION 2
Technical Contacts

ORP Point of Contact: D. C. Bryson

Contractor Point of Contact: W. E. Ross

SECTION 3
Performance Expectations and Earning Schedule

General Requirements:

1. Both budgeted and actual Cost and Schedule results for this Superstretch incentive will be separated in its PBS so as to have no effect on the fiscal year end calculation of Cost and Schedule Variance used to measure Standard and Stretch incentives.

2. Subject to the maximum available incentive fee shown above, the aggregate sum of actual cost and earned fee for all Superstretch incentives will be less than or equal to DOE approved savings as recorded in Contractor's Management Reserve account (i.e., savings from work efficiencies and deletions) at fiscal year end.

SUPERSTRETCH (100%)

A. All Core Samples in this Superstretch are in addition to quantities in Performance Incentive ORP1.1.1.
B. Deliver two (2) more Core Samples to the analytical laboratory by September 30, 2000. (50% of fee for first core sample and 50% for second core sample)

SECTION 4
Performance Requirements

DEFINE COMPLETION: (*Specify Performance Elements and describe indicators of success (quality/progress). Include baseline documentation/data against which completion documentation should be compared.)*

A Core Sample is completed when the last segment as specified in the Letter of Instruction (LOI), on Tank Sampling and Analysis Plan (TSAP), has been received by the analytical laboratory, and the Chain of Custody has been signed by the laboratory's sample receiving official. The need for Core Samples from these two tanks is for treatability testing documented in ICD-023, Rev 3.c.rl.

DEFINITIONS: (define terms)

None identified.

COMPLETION DOCUMENTS LIST: *(Name the Documents, Databases, etc., which will be submitted to show completion for each Performance Expectation.)*

The documents associated with collection of riser core samples (e.g., Chain of Custody forms, shipment records, Radiological Work Permits, etc.) will be maintained with the Job Control System (JCS) work package as a quality record.

ASSUMPTIONS/TECHNICAL BOUNDARY CONDITIONS: *(For reasonably foreseeable impacts to performance that are not within control of Contractor. If the assumption or condition proves false, the remedy is renegotiations unless stated otherwise.)*

FY 2000 PERFORMANCE INCENTIVE

SECTION 5
Signatures

D Bryson 6/20/00
ORP Contracting Officer's Representative/Date

President and RPP General Manager, CHG/Date 6/20/00

J. Short II 6/20/00
ORP Contracting Officer/Date

CHG Contract Representative/Date 6/20/00

FY 2000 PERFORMANCE INCENTIVE

SECTION 1
General Information

Descriptive Short Title: Acceleration of Project W-519

Project Baseline Summary (PBS): TW08

Estimated Cost (BCWS): N/A

Maximum Available Incentive Fee: 20% of underrun @ Project Closeout (up to a maximum fee of $400,000)

Type: Superstretch X

SECTION 2
Technical Contacts

ORP Point of Contact: W. J. Taylor

Contractor Point of Contact: A. M. Parker

SECTION 3
Performance Expectations and Earning Schedule

General Requirements:

1. Both budgeted and actual Cost and Schedule results for this Superstretch incentive will be separated in its PBS so as to have no effect on the fiscal year end calculation of Cost and Schedule Variance used to measure Standard and Stretch incentives.

2. The contractor fee on this project shall be based on a sliding scale relative to the savings to the current Project TEC of $30,880K. If the Project is closed out by August 31, 2001, the contractor will receive 20% of the realized savings, to the TEC exclusive of contingency and current $4.8M of savings from favorable bids.

SUPERSTRETCH (100%)

A. Complete construction of the 62.5 MVA electrical substation and 230KV transmission lines to supply power to the Waste Treatment Contractor facilities targeted for completion by April 30, 2001.

B. Complete construction of the piping from the Vitrification Facility to the Liquid Effluent Treatment System (LETS) targeted for completion by April 30, 2001.

C. Complete project closeout activities by August 31, 2001.

SECTION 4
Performance Requirements

DEFINE COMPLETION: (*Specify Performance Elements and describe indicators of success (quality/progress). Include baseline documentation/data against which completion documentation should be compared.)*

Satisfactory completion of this Superstretch Performance Incentive will occur when the Construction Completion Document and the Project Closeout Form is completed, approved, and submitted.

The completion dates for milestones A and B are target dates. The fee can be earned by completing the entire project by August 31, 2001.

DEFINITIONS: (define terms) N/A

COMPLETION DOCUMENTS LIST: *(Name the Documents, Databases, etc., which will be submitted to show completion for each Performance Expectation.)*

Approved Construction Completion Document and Project Closeout form.

FY 2000 PERFORMANCE INCENTIVE

ASSUMPTIONS/TECHNICAL BOUNDARY CONDITIONS: *(For reasonably foreseeable impacts to performance that are not within control of Contractor. If the assumption or condition proves false, the remedy is renegotiations unless stated otherwise.)*

The State of Washington Department of Health will have up to 90 days to review and grant the Notice of Construction for this project work.

SECTION 5
Signatures

6/22/00 ORP Contracting Officer's Representative/Date	for 6/22/00 President and RPP General Manager, CHG/Date
6/22/00 ORP Contracting Officer/Date	6/22/00 CHG Contract Representative/Date

project manager

FY 2000 PERFORMANCE INCENTIVE

SECTION 1
General Information

Descriptive Short Title: Interim Tank Stabilization

Project Baseline Summary (PBS): TW03

Maximum Available Incentive Fee: $2,584,000

Type: X Standard X Stretch

SECTION 2
Technical Contacts

ORP Point of Contact: Dana Bryson

Contractor Point of Contact: Dale Allen

SECTION 3
Performance Expectations and Earning Schedule

GENERAL REQUIREMENTS: In order to earn incentive fee under this Performance Incentive, the Contractor shall:

1. Meet the specific completion criteria and expectations set forth in this Performance Incentive; and

2. Not incur any unfavorable cost variance [(BCWP-ACWP)/BCWP] less than -5.0 percent, or incur any unfavorable schedule variance [(BCWP-BCWS/BCWS] less than -7.5 percent, measured at the Project Baseline Summary level identified in Section 1, at the end of FY 2000.

STANDARD (39%)
Positive Performance

1. Initiate pumping on tanks U-102, U-105, and U-109 by 3/31/00 – earn 10% of fee
2. Initiate pumping on tanks A-101, SX-105 and AX-101 by 8/10/00 -- earn 15% of fee
3. Achieve reduction in pumpable liquid volume remaining to be removed to 38% of the projected 502,000 gallons complexant liquid waste by August 30, 2000 -- earn 14% of fee

STRETCH (61%)

1. Maintain an average annual pump efficiency of 40% or greater and:

	Pump Efficiency	Fee Earned
▪ FY Qtr 1	40%	10%
▪ FY Qtr 2	45%	10%
▪ FY Qtr 3	50%	10%
▪ FY Qtr 4	55%	9%

2. Complete interim stabilization of four (4) single-shell tanks. Any claim of interim stabilization due to equipment failure must be supported by a cost benefit analysis and accepted by DOE-ORP. (10% of fee)

3. Perform additional tank start-up by September 30, 2000:
   - One (1) single-shell tank (6% of fee)
   - One (1) single-shell tank (6% of fee) Note: This is a separate tank; credit cannot be taken more than once for each tank.
   - Up to an additional 6% of fee may be earned, not to exceed 60% for this stretch, if both tanks are started on time and the 55% fourth quarter efficiency is met.

NEGATIVE (not to exceed 39%)

1. Initiate pumping on tank U-102, U-103, U-105, or U-109 after 6/15/00 – lose 39% of fee
2. Initiate pumping on either tank A-101 or AX-101 after 10/30/00 – lose 39% of fee
3. Achieve reduction in pumpable liquid volume remaining to be removed to 38% of the projected 502,000 gallons of complexant liquid waste after 9/30/00 – lose 39% of fee

FY 2000 PERFORMANCE INCENTIVE

SECTION 4
Performance Requirements

DEFINE COMPLETION: *(Specify Performance Elements and describe indicators of success (quality/progress). Include baseline documentation/data against which completion documentation should be compared.)*

Item 1: The Contractor shall initiate interim stabilization pumping of three (3) single-shell tanks by March 31, 2000. Initiation of interim stabilization for each tank will be accomplished when actual pump operation has commenced and the pump operates at least 60% of the time over a 72-hour consecutive period, transferring a total of not less than 500 gallons of pumpable liquid tank waste.

Submit an Initiate Pumping Report to the ORP Director for Operations within 30 days of completing the above requirement. This report shall include contractor validation packages for completed work.

Item 2: The Contractor shall initiate interim stabilization pumping of three (3) single-shell tanks by August 10, 2000. Initiation of interim stabilization for each tank will be accomplished when actual pump operation has commenced and the pump operates at least 60% of the time over a 72-hour consecutive period, transferring a total of not less than 500 gallons of pumpable liquid tank waste.

Submit an Initial Pumping Report to the ORP Director for Operations within 30 days of completing the above requirement. This report shall include contractor validation packages for completed work.

Item 3: The Contractor shall reduce single-shell tank pumpable liquid volume remaining to be removed to 38% of the projected 502,000 gallons complexant liquid waste (since program initiation on 6-1-98) by August 30, 2000.

Submit a Liquid Waste Removal Report to the ORP Director for Operations Program Division within 30 days of completing the above requirement. This report shall include contractor validation packages for completed work.

Stretch: For tanks being interim stabilized the Contractor shall improve the quarterly average operating efficiency. Improvement will be measured on the sliding scale presented in Section 3. Additional tank startups shall conform to item 1 above.

Submit a Year-end Annual Operating Efficiency Report to the ORP Director of Operations no later than October 30, 2000. This report shall include contractor validation packages for pumping performance for tanks being interim stabilized.

DEFINITIONS: *(define terms)*
Annual Average Pump Efficiency = Total Hours Pumping / Hours Scheduled
(example: 8760 hours scheduled = 365 days * 24 hrs/day)
Numerator = total hours the pump physically operates during the period.
Denominator = total hours the pump is scheduled to operate, as defined in the Interim Stabilization Project Plan Rev. 3a, during the period.
If a pump start is achieved ahead of schedule for a given tank, the additional hours of operation will be reflected in the numerator however, the hours of availability will not to be factored into the denominator.

COMPLETION DOCUMENTS LIST: *(Name the Documents, Databases, etc., which will be submitted to show completion for each Performance Expectation.)*
Liquid Waste Removal Report
Initiate Pumping Report
Year-end Annual Operating Efficiency Report

ASSUMPTIONS/TECHNICAL BOUNDARY CONDITIONS: *(For reasonably foreseeable impacts to performance that are not within control of Contractor. If the assumption or condition proves false, the remedy is renegotiations unless stated otherwise.)*
If ORP takes a tank off line, the denominator/hours scheduled will be reduced for each hour or partial hour a tank is not available.

1. The pump efficiency definition applies to each tank being interim stabilized. If a tank is off line for the purpose of evaluating if the interim stabilization criteria have been met, the denominator/hours scheduled will be reduced for each hour or partial hour the tank is not available.
2. DOE approves saltwell pumping authorization basis changes (within 30 days of submittal) to delete portable exhausters, allow double valve isolation for physical disconnect, and to reduce continuous flammable gas monitor requirements.

FY 2000 PERFORMANCE INCENTIVE

3. Volume projections are based on "pump starts", pumping efficiency, and historical data on "pumpable volumes" and "liquid drain rates". The assumptions for actual pumpable volumes and drain rates are basis for adjustment and renegotiation of this PA.

SECTION 5
Signatures

7.19.00 ORP Contracting Officer's Representative/Date	7/11/00 CHG President and General Manager/Date
7/24/00 ORP Contracting Officer/Date	7/11/00 CHG Contract Representative/Date

FY 2000 PERFORMANCE INCENTIVE

SECTION 1
General Information

Descriptive Short Title: Phase I Part B-2 Readiness to Proceed

Project Baseline Summary (PBS): TW04

Maximum Available Incentive Fee: $1,000,000

Type: X Standard X Stretch

SECTION 2
Technical Contacts

ORP Point of Contact: S. Wiegman/L. Erickson

Contractor Point of Contact: W. T. Dehn

SECTION 3
Performance Expectations and Earning Schedule

GENERAL REQUIREMENTS: In order to earn incentive fee under this Performance Incentive, the Contractor shall:

1. Meet the specific completion criteria and expectations set forth in this Performance Incentive; and
2. Not incur any unfavorable cost variance [(BCWP-ACWP)/BCWP] less than -5.0 percent, or incur any unfavorable schedule variance [(BCWP-BCWS/BCWS] less than -7.5 percent, measured at the Project Baseline Summary level identified in Section 1, at the end of FY 2000.

STANDARD (50%)

1. Formal certification of the Contractor's ability (Memorandum of Readiness To Proceed) to provide the waste feed and infrastructure to handle the products from the BNFL waste processing plant. Submit a memorandum to ORP to that effect, by April 24, 2000. Supporting material shall be made available to DOE for an independent evaluation of the contractor's readiness.
2. Specific documents listed below will be updated or issued (if required) by April 24, 2000, in support of the Readiness-to-Proceed effort:
   A. Integrated Resource-loaded Schedule
   B. Supporting Documents
      TWRS Operation Utilization Plan; Staffing Plan; Configuration Management Plan; Quality Assurance Program Plan; Safety Program Plan; Environmental Program Plan; Technical Baseline Summary; Draft Project Execution Plan
3. Provide a letter report by April 24, 2000, to the ORP B2 Decision Manager stating how the eight "Major Recommendations on the RTP evidence package," as listed in 98-WDD-032, have been resolved.

STRETCH (50%)

1. ORP will perform a readiness assessment. Based upon its rating by ORP B2 Decision Manager fee is earned.
   Rated Ready to Proceed with no outstanding deficiencies on 4/30/00 earn 37%
   Rated Ready to Proceed with no outstanding deficiencies on 6/15/00 earn 18%
   Rated Ready to Proceed with no outstanding deficiencies on 7/01/00 earn 6%
2. Develop presentation and training materials by June 30, 2000, to assist in the understanding of the Hanford, Regional, and Congressional community on feed delivery, pretreatment processing, glass production, and glass storage system to facilitate a positive B2 decision from Congress earn 13%.

NEGATIVE (100%)

Rated Ready to Proceed with no outstanding deficiencies on 7/15/00 lose 13%
Rated Ready to Proceed with no outstanding deficiencies 7/16/00 - 8/24/00 lose 2%/day until deficiencies are eliminated
Rated Ready to Proceed with no outstanding deficiencies after 8/24/00 lose 3% per day until deficiencies are eliminated

FY 2000 PERFORMANCE INCENTIVE

SECTION 4
Performance Requirements

DEFINE COMPLETION: *(Specify Performance Elements and describe indicators of success (quality/progress). Include baseline documentation/data against which completion documentation should be compared.)*

STANDARD:

1. The Memorandum will describe the approach taken for providing evidence of the Contractor's readiness to proceed to Phase 1 B-2 and serve as the executive summary. The memorandum will include:
   A. Key Enabling Assumptions
   B. Critical risk list and handling actions
   C. Financial and Schedule Risk Analysis
   D. Manageable list of deficiencies, corrective action plan for each, including date for closure.

The Memorandum will state that the contractor can:

- Provide waste feed to the privatization contractor in the specified amounts to the specified place at the required time.
- Provide infrastructure to the privatization contractor as specified in the final privatization contract and the Interface Control Documents.
- Ensure that it will be prepared for receiving, storing and disposing of immobilized waste products
- Ensure that it will be prepared for receiving, managing, treating and disposing of byproducts from private contractors
- Ensure that the contractor can support alternatives other than the current baseline
- Ensure required administrative actions (e.g., permits, etc.) are in place

2. A and B
   The Criteria Review Assessment Documents will be used to evaluate the Integrated Schedule and other Support Documents. Provide a report to the B2 Decision Manager regarding the resolution of the eight recommendations made in 98-WDD-032.

STRETCH:

The Contractor's Readiness to Proceed will be assessed for deficiencies by the following:

Contractor's Memorandum of Readiness to Proceed

1. External Independent Review Team, Criteria Review Assessment Documents (CRADs) developed by ORP.
2. Submit presentation and training materials consisting of a CD-ROM on feed delivery, pretreatment processing, glass production, and glass storage system together with fact sheets on key aspects of the waste feed delivery system by June 30, 2000. These materials will be used to facilitate a B2 decision from Congress.

DEFINITIONS: *(define terms)*

Deficiency – a condition which if left uncorrected or unimproved would preclude, in the opinion of the ORP B2 Decision Manager, a defensible Readiness to Proceed declaration.

COMPLETION DOCUMENTS LIST: *(Name the Documents, Databases, etc., which will be submitted to show completion for each Performance Expectation.)*

Readiness-to-Proceed Memorandum; Integrated Resource-Loaded Schedule; Specific RTP Supporting Documents: TWRS Operations Utilization Plan; Staffing Plan; Configuration Management Plan; Quality Assurance Program Plan; Safety Program Plan; Environmental Program Plan; Technical Baseline Summary; Draft Project Execution Plan; Letter report on Major Recommendations on RTP evidence package; Baseline evaluation of waste feed delivery rates and impacts; and training materials.

ASSUMPTIONS/TECHNICAL BOUNDARY CONDITIONS: *(For reasonably foreseeable impacts to performance that are not within control of Contractor. If the assumption or condition proves false, the remedy is renegotiations unless stated otherwise.)*

- Contractor may access CRADs on drive \\AP006\RPPSHAREDINF. Complete set of CRADs will be available by December 31, 1999. The contractor may suggest improvements to CRADs up until February 29, 2000.
- Review Comment Record process will be used to close out deficiencies.
- No special approvals are required for producing the presentation and training materials.

FY 2000 PERFORMANCE INCENTIVE

SECTION 5
Signatures

ORP ~~Contracting Officer's Representative~~ Senior Technical Advisor/Date

CHG President and General Manager/Date 7/11/00

ORP Contracting Officer/Date 7/24/00

CHG Contract Representative/Date 7/11/00

FY 2000 PERFORMANCE INCENTIVE

SECTION 1
General Information

Descriptive Short Title: Tank Characterization – Sampling Tanks

Project Baseline Summary (PBS): TW01

Maximum Available Incentive Fee: $1,666,000

Type: X Standard X Stretch

SECTION 2
Technical Contacts

ORP Point of Contact: D. Bryson

Contractor Point of Contact: B. Ross

SECTION 3
Performance Expectations and Earning Schedule

GENERAL REQUIREMENTS: In order to earn incentive fee under this Performance Incentive, the Contractor shall:

1. Meet the specific completion criteria and expectations set forth in this Performance Incentive; and

2. Not incur any unfavorable cost variance [(BCWP-ACWP)/BCWP] less than -5.0 percent, or incur any unfavorable schedule variance [(BCWP-BCWS/BCWS] less than -7.5 percent, measured at the Project Baseline Summary level identified in Section 1, at the end of FY 2000.

STANDARD (25%)
Complete characterization sampling to meet the requirements of the River Protection Project, including the Retrieval Project. Also support acquisition of samples required by DOE-ORP's contract with BNFL Inc.

1. Complete 12 core, 12 grab and 6 Type IV vapor samples by September 30, 2000. (3.6% of fee)

2. Complete 7 core, 13 grab and 4-vapor laboratory analysis reports (LAR) by September 30, 2000. (3.6% of fee)

3. Complete the Draft and Final FY 2001 Technical Sampling Basis – Waste Information Requirements Documents (TSB-WIRD). Draft TSB-WIRD due June 15, 2000 (1.85% of fee). Final TSB-WIRD due August 21, 2000. (3.6% of fee)

4. Complete 13 Tank Characterization Reports by September 20, 2000. (3.6% of fee)

5. Complete the FY 00 WIRD deliverables including changes documented in the WIRD quarterly reports, by September 20, 2000. (3.6% of fee)

6. Complete the input of Characterization Data from LAR's into the electronic database within 7 days of LAR publication. (3.6% of fee)

7. Update the Best Basis Standard Inventory Estimates by September 20, 2000. (3.6% of fee)

STRETCH (75%)
All quantities in this stretch are in addition to quantities in the standard.

1. Deliver 2 more Core Samples to the analytical laboratory by 9/30/00 -- Earn 13% of fee for each sample up to 25% of fee.

2. Deliver 4 more Grab Samples to the analytical laboratory by 9/30/00 -- Earn 4% of fee for each sample up to 16% of fee.

3. Deliver 4 more Type IV Vapor Samples to the analytical laboratory by 9/30/00 -- Must complete all four of the Type IV Vapor Samples to earn 16% fee.

FY 2000 PERFORMANCE INCENTIVE

4. Complete 2 more Tank Waste Characterization Laboratory Analysis Reports. Earn 9% of fee for each Laboratory Analysis Report up to 18% of fee.

NEGATIVE (25%)

1. Complete any Standard Performance items 1-7 above after September 30, 2000, and lose 3.6% of fee for each up to a maximum of 25% of fee.

SECTION 4
Performance Requirements

DEFINE COMPLETION: (*Specify Performance Elements and describe indicators of success (quality/progress). Include baseline documentation/data against which completion documentation should be compared.)*

1. A core [grab, vapor] sample is completed when the last segment [sample bottle, vapor sample container] as specified in the Tank Sampling and Analysis Plan (TSAP) has been received by the analytical laboratory, and the chain of custody has been signed by the laboratory's sample receiving official. ORP will provide personnel to perform field verification.

2. A Laboratory Analysis Report is completed on the date of the document's signed cover page.

3. The draft FY 2001 TSB-WIRD is complete when ORP coordination comments are resolved. The final FY 2001 TSB-WIRD is complete when DOE-ORP and Washington State Department of Ecology comments have been resolved.

4. The Tank Characterization Reports (TCRs) are completed when DOE-ORP comments have been resolved and the TCR is released to the public via the Tank Waste Information Network System (TWINS) at internet address http://twins.pnl.gov/twins3/twins.htm

5. See Section 3

6. See Section 3

7. The Best Basis Standard Inventory (BBI) Estimates are updated when documentation of the changes is published in a publicly available document, and the updated estimates are posted on TWINS at the internet address http://twins.pnl.gov/twins3/twins.htm . The Best Basis Inventory estimates are to include tanks for which a TCR is written or updated in FY 2000 and tanks that were affected by a transaction (such as saltwell pumping) or transfer. Uncertainty estimates are to be included for updated tank content estimates. Solid and liquid splits are to be calculated in cases where there is sufficient data.

DEFINITIONS: *(define terms)*

1. A Core Sample is composed of one to 23, nineteen-inch segments of tank waste depending on the depth of the waste in the tank. The number of core samples required to meet programmatic needs is documented in the individual Tank Sampling and Analysis plans (TSAP).

2. A Grab Sample is a volume of liquid or soft sludge taken from one tank riser at multiple tank depths. Sampling cost increases as volume increases. Therefore, Grab Samples are defined as follows:

Volume (Liters)	Grab Sampling Events
1	1
2	1.2
3	1.3
4	1.5
5	1.7

Evaporator grab samples equal 1.2 Sampling Events. Therefore, 12 grab samples may not equal 12 separate grab-sampling events.

FY 2000 PERFORMANCE INCENTIVE

COMPLETION DOCUMENTS LIST: *(Name the Documents, Databases, etc., which will be submitted to show completion for each Performance Expectation.)*

1. Chain-of-Custody form
2. Laboratory Analysis Reports – name is dependent on tank sampled. Document number is to be assigned.
3. Technical Sampling Basis-Waste Information Requirements Document for FY 2001, document number HNF-4048
4. Tank Characterization Reports. Availability of the Tank Characterization Reports on the Tank Waste Information Network System (TWINS) at internet address http://twins.pnl.gov/twins3/twins.htm shall constitute the documentation of completion.
5. WIRD quarterly report, letter from contractor to DOE-ORP
6. Tank Waste Information Network System, internet address http://twins.pnl.gov/twins3/twins.htm
7. BBI estimates to be published on TWINS internet address http://twins.pnl.gov/twins3/twins.htm and documented in appropriate TCR.

ASSUMPTIONS/TECHNICAL BOUNDARY CONDITIONS: *(For reasonably foreseeable impacts to performance that are not within control of Contractor. If the assumption or condition proves false, the remedy is renegotiations unless stated otherwise.)*
Standard Performance Expectation 3: An administrative change to Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) Milestone M-44 is being negotiated with Washington State Department of Ecology (Ecology) to include the dates of the Characterization Project's quarterly reports and to change the due date of the final TSB-WIRD Deliverables Report. Therefore, upon the formal approval of the administrative change to the milestone, this performance incentive will be revised to reflect the new dates for the quarterly reports and the final TSB-WIRD Deliverables Report.

SECTION 5
Signatures

7/18/00
ORP Contracting Officer's Representative/Date

for 7/11/00
CHG President and General Manager/Date

7/24/00
ORP Contracting Officer/Date

7/11/00
CHG Contract Representative/Date

CH2MHILL
Hanford Group, Inc.

CH2M HILL HANFORD GROUP, INC.

ACQUISITION PLAN

CONTRACT: DE-AC06-99RL14047
CLAUSE: H.2(a)(9)
BUY FOR ECONOMIC STABILIZATION
AND
TRANSITION (BEST)

I-22 Small Business Subcontracting Plan

I-112 Make-or-Buy Plan

WBS: 1.1.10.1.3 RPP Planning/Control

CH2M HILL Hanford Group, Inc.

(Name of Contractor)

T. M. Bateman

(Type name)

Director,. Contract and Procurement

(Title)

3-10-00

(Date)

Plan accepted by: _____

(Contracting Officer)

Date: 3-21-00

CHG-0001343

CONTRACT NUMBER DE-AC06-99RL14047; CH2M HILL HANFORD GROUP, INC. CORPORATION ACQUISITION PLAN

Consisting of 17 pages
including cover page

OVERVIEW

CH2M HILL Hanford Group, Inc. in seeking to streamline work processes recognized the essential correlation between Prime Contract provisions in the area of:

(a). Buy for Economic Stabilization and Transition (BEST) H.2(a)(9)

(b) *Small Business Subcontracting Plan*, I-22

(c) *Make-or-Buy*, I-112

and have established this in an all encompassing Acquisition Plan.

1.0 Background

CH2M HILL Hanford Group, Inc.(CHG) Prime Contract; DE-AC06-99RL14047, with the U.S. Department of Energy, Office of River Protection (ORP) contains in addition to Small Business Subcontracting Plan (I-22) and make Make-or-Buy Plan (I-112) the requirement under Section H *Special Provisions* clause H.2, *Promises and Commitments* subpart (a)(9).

"Of the total Contractor budget, 50% shall be outsourced by 2001, and within two years, 60% of all outsourced dollars shall be directed to local, regional, and Native American businesses. For purposes of this paragraph, outsourcing means contractual commitments to entities other than the Contractor itself."

The total contract budget is equivalent to the River Protection Project (RPP) approved Multi-Year Work Plan, (MYWP) total budgeted cost of work scheduled for a given fiscal year, less fee allocations and work performed by the ORP. The premise to Buy for Economic Stabilization and Transition (BEST) is to further local economic development and job creation.

2.0 Purpose

This plan establishes the Acquisition policy and guidance for CHG. The goal is to ensure that all work activity, products and service requirements (excluding core competency items) required to perform the RPP work scope are acquired, in a cost effective manner that contributes to the meeting of contractual obligations, and promotes local economic stabilization, growth and transition. The program objective is to establish a broad and stable local economic base over the long term, including creating new local commercial employment opportunities, in support of BEST program, H.2 (a) (9).

3.0 Policy

Our Small Business (SB) and Small Disadvantaged Business (SDB) strategy promotes, develops and implements an innovative small, small disadvantaged, small woman owned business and Historically Black Colleges and Universities/Minority Institutions (HBCU/MI) business subcontracting program that ensures significant business opportunities for minority concerns.

It is the policy of CHG to meet the obligations to the ORP in a cost-effective manner, while self-performing core competency activities. This policy establishes preference for buying, subject to specific ORP *make-or-buy* criteria contained in the prime contract, clause I.112, (DEAR 970.5204-76).

When CHG places work with subcontractors, considerations include, company policy and commitments, collective bargaining obligations and certain Government regulations, such as the Government's socioeconomic program (for *Small Business Subcontracting*, clause I-22 {FAR 52.219-9}

3.1 Small Business and Small Disadvantaged Business Initiatives

It is CHG's policy to evaluate its socio-economic subcontracting programs in recognition of compelling moral, social, and economic reasons. Additionally, we afford small and small disadvantaged business concerns maximum practical opportunity to compete for and furnish materials and services required for the RPP program that fall within their demonstrated capabilities.

It is understood that minority companies are most likely to hire minority employees. The main goal of our socio-economic program is to provide those opportunities, which enable the minority segments of our population to contribute to the overall productive output of the country.

CHG and our principal subcontractors recognize the importance to the nation's economic viability of bringing minority-owned concerns into the economic mainstream and strive to do our share to achieve this important goal.

We will compile, maintain, and share SDB source data associated with this program to enhance increased opportunities for known qualified SDB firms. Where practical, the RPP Team will combine program requirements and create bidding opportunities for SDBs only.

Senior Materiel and RPP Program Office personnel will ensure that all areas of the RPP team are actively involved in providing these business opportunities. Acquisition strategy will include consideration of socio-economic subcontracting requirements in order to meet SB/SDB goals.

The RPP team will explore every opportunity provided by legislation and regulation to implement programs that contain incentives conducive to developing more opportunities for SDBs. We have a strong leadership role within, and its focus on increasing opportunities for small disadvantaged businesses.

3.1.1 Mentor/Protégé Program

The RPP team will implement the Mentor/Protégé Program in accordance with the FAR and DOE regulatory guidelines. CHG with direct involvement of our technical and management staffs, will identify high technology SDB candidates for the Mentor/Protégé program.

Potential candidates for the Mentor/Protégé technical and management assistance program will be developed from known existing sources as well s reviewing the data available from the following organizations:

- National Center for American Indian Enterprise Development
- National Minority Supplier Development Council
- Latin American Management Association
- Black Business Association

- Asian Business Association
- National Association for Equal Opportunity Higher Education (NAFEO)

3.1.2 CHG, Innovative Reporting

With the concurrence of DOE the RPP team will add emphasis on SDB Program reporting. RPP SDB Program will be organized and reported as follows:

- CHG will identify and develop, wherever practical, SDB firms, which have sufficient capabilities to become qualified production partners.
- CHG will collect the subcontracting data committed by its subcontractor base to SDBs and provide a consolidated RPP program report.
- CHG and our principal and major/critical subcontractors will meet quarterly to exchange ideas, develop and track innovative approaches for increasing opportunities for the SDB community.
- CHG will coordinate the use of common SDB sources for materials and supplies to enhance our total SDB commitments.

4.0 Process

It is a requirement that CHG develops an MYWP or an Annual Work Plan (AWP), shall during that development, review potential work scope for subcontracting candidates using the following process to identify and select candidates:

- An evaluation of prior years actual subcontracting goals versus performance.
- Analyze the MYWP scope to see if additional actions are required. If additional actions are required, they will be identified during the MYWP or AWP process. Candidates are analyzed for viability and compliance with Collective Bargaining Agreements.
- Additional candidates are evaluated by the project management and are listed on the *Candidate Evaluation List*, attachment A, including the final determination to subcontract or self perform (make-or-by) and the rationalization for that determination.
- The Project Manager will then forward the *Candidate Evaluation List* (containing all candidates initially identified) to CHG Contracts with completed *Candidate Screen Form*, attachment B for all candidates deemed to be viable. **Note**: A cost Benefits Analysis must be attached to each *Candidate Screening Form* submitted, which addresses, as a minimum, cost of current performance compared to the total estimated cost to subcontract (submission timeline: within 60 days of ORP's approval of the MYWP/AWP).
- CHG reviews candidates submitted for consistency with the strategy, core competencies, and documentation required to demonstrate contract compliance.

5.0 Subcontract Management and Control

Philosophy/Approach. Our subcontractor management and control approach is focused on engaging subcontractors to ensure that RPP program technical, quality, schedule, and cost objectives are achieved. Attainment of our subcontracting goals are based on two critical elements of subcontract management: status and control. Obtaining status effectively provides the current state of the subcontract and provides a static perspective of the subcontractors performance. Status is an essential element that provides the foundation of our control philosophy. It is the goal of our RPP team to invoke subcontract management controls, which will allow appropriate actions to be taken to affect future results. The intent of our control approach is to achieve a thorough understanding of the subcontractors procedures, processes, personnel, systems, and performance. The RPP team will thoroughly comprehend the underlying reasons for the subcontractors performance, and will recognize deviations from established cost, schedule, quality, or technical baselines. Striving for this level of understanding will allow the RPP to implement actions, which may be required to ensure the desired end results.

The specific status and control techniques generally used in the management of RPP subcontractors are divided into five categories:

- Management
- Technical
- Cost
- Schedule
- Quality

An innovative and aggressive RPP subcontract management approach will ensure that subcontractor performance meets RPP objectives for technical, cost, schedule, and quality.

Submission Requirements

If additional actions are required based on the above process, each subcontracting submission package shall consist of, as a minimum, the following attachments:

(a) Candidate Screening Form, one per candidate, Attachment B.
(b) Candidate Evaluation List, one for each candidate initially identified Attachment A.
(c) Statement of Work, if necessary, based on CHG standards. Attachment C.

IMPORTANT NOTES:

- CHG legal/personnel written concurrence is required of any candidate with Collective Bargaining Agreement impacts. CHG will interact with ORP on an as needed basis to ensure an appropriate sharing of information related to the Collective Bargaining Candidates. Appendix A is the CHG summary of administrative actions required by the Federal Requisition Regulation (FAR) 52.219-9 *Small Business Subcontracting Plan*, Contract clause I-22.

Attachment "A"

CANDIDATE EVALUATION LIST

Note: all candidates initially identified and evaluated must have the form completed, including the decision to subcontract or self perform with the rational for that decision. Use one sheet per candidate. (Reproduce as necessary).

Candidate Title: _____

_____

Subcontractor (if known): _____

_____

_____

Small Business: **Yes** _____ **No** _____ **Type**

_____

Short Description: _____

_____

_____

_____

_____

Subcontract Decision (Yes/No): _____

_____

Rationale for decision: _____

_____

_____

_____

_____

Attachment "B"

Candidate Screening Form

Candidate Task: _____

TBR(s) _____

Instructions: Subject each candidate work scope to the preliminary screening criteria below:

Preliminary Screening Criteria	Yes	No
A. Function is currently self performed by a distinct and separable work unit		
B. Satisfactory subcontractors are available and expected to propose		
C. Subcontractors can meet ES&H requirements		
D. Projected costs for subcontracting are expe4cted to be less than self performing		
E. Function is not a unique technology, business interest, or does not produce proprietary information		
F. Company will not provide an unfair competitive advantage to any supplier if this function is subcontracted		
G. Collective bargaining obligations are not adversely impacted (attach LMHC IR letter of concurrence)		
H. Work is not inherently a company function, requiring self-performance.		
I. Employment laws, recall rights or EEO/AA is not adversely impacted.		

Supporting Data/Info for any "no" answers:

_____

_____

_____

Are there other function-specific considerations that would prohibit Subcontracting this work? (Please explain):

_____

Impacts of a change in current practices on the existing work force: (Please explain):

_____

_____

Completed by: _____ Date: _____

Functional Manager of
work scope

Attachment "C"
Example of an SOW

STATEMENT OF WORK
PROFESSIONAL SERVICES FOR KEN HAUG

OBJECTIVE: Provide CH2M HILL Hanford Group, Inc. (CHG) Corporate leadership to the Chief Financial Officer (CFO). This leadership will involve strategic decisions and organizational strategies consistent with Corporate Best Practices.

SCOPE: Will provide senior level interface with CHG to improve the quality of the CHG Contracts and Procurement organization. This improvement will take advantage of CHG best practices techniques utilized at other U.S. Department of Energy sites, and Mr. Haug's vast knowledge of Government contracting. This experience is critical to implementation of the CHG Prime Contract with the U.S. Department of Energy, Office of River Protection (ORP).

Period of Performance October 1, 1999 through March 1, 2000.

Scope of Work
Review Activities:

- Provide CHG CFO strategies and proven methods for streamlining CHG Contracts and Procurement organization to meet ORP goals and objectives
- Provide leadership in the restructuring systems and process consistent with CHG becoming a Prime Contract with ORP versus being a Fluor Hanford, Inc. Subcontractor. This will include the identification of procedure changes, procurement terms and conditions, evaluation of new procurement system, establishment of the new contract organization, and other tasks as assigned by the CFO.
- Assist CHG in customer interface within the U.S. Department of Energy, Richland Operations Office and ORP organization.
- Assist CHG with any interface at DOE-Headquarters in support of the ORP mission.
- Provide assistance to the Contracts and Procurement organization in the restructuring and streamlining with innovative approaches.

Products:

- Provide an assessment of the new Contracts and Procurement organization's ability to perform the Prime Contract.
- Provide the Contracts and Procurement organization with guidance and procedures/policies to implement a CHG culture at Hanford.

Appendix A

Clause I.22, FAR 52.219-9 "Small Business Subcontracting Plan"

1. Name of Prime Contractor: CH2M HILL Hanford Group, Inc.

   Address: Post Office Box 1500
   Richland, Washington 99352

   Telephone Number: (509) 376-1500

2. Contract of Solicitation No.: DE-AC06-99RL14047

   Total Amount of Contract: $305M

   Period of Performance: October 1, 1999 through September 30, 2000

   Place of Performance: Richland, Washington 99352

   Description of Contract Requirements:

CH2M HILL Hanford Group, Inc. shall provide all materials, supplies, services and transportation necessary to perform the Statement of Work as a Prime Contractor to the U. S. Department of Energy, Office of River Protection.

Items 3 through 7 are based on Fiscal Year (FY) 2000 dollars only.

3.	Total amount of planned subcontracting:		$170,000,00.00
	Percentage of total amount of planned subcontract		56%
4.	Total planned for Small Business concerns:		$20,000,000.00
	Percentage to 3 above		12%
5.	Total planned for HUB Zone Small Business concerns:	*	$ 100,000.00
	Percentage to 3 above		.06%
6.	Total planned for Small Disadvantaged Business concerns:	*	$6,800,000.00
	Percentage to 3 above		4%
7.	Total planned for Woman Owned Small Business concerns:		$ 5,000,000.00
	Percentage to 3 above		3.0%

* This percentage and goal are based on individual vendor's self-certification of their status as a small disadvantaged business owner or HUB Zone Small Business Concern.

8. Items to be subcontracted under this contract and the types of businesses supplying them are: (Check all that apply)

Subcontracting Items	Large Business	Small Business	Small/Disad. Business	Women-Owned Small Business	Small HUB Zone Business
Office Supplies		X	X	X	X
Janitorial Supplies		X	X		X
Office Equipment		X	X		X
Construction Materials	X	X	X		X
Construction Services	X	X	X		X
Temporary Empl. Services					
A/E Services		X	X		
Lab Services	X	X			
Safety Equipment	X	X	X		X
Fuels		X	X		X
Operating Materials	X	X	X		X
Vehicles		X			
Real Estate	X	X			
Miscellaneous Services		X	X		X

9. The method used to develop the subcontracting goals for small, small disadvantaged, and woman-owned small business concerns is described as follows:

- The goals for small, HUB Zone small business, small disadvantaged, and woman-owned small business concerns were developed based on procurement history of CH2M HILL Hanford Group, Inc.experience at the Hanford Site as well as projections for FY 2000. Also, taken into consideration was the impact from adding scope as a result of transition to a major subcontractor, and new requirements by the Small Business Administration affecting the small disadvantaged business certifications.

10. The methods used to identify potential sources for solicitation purposes is as follows:

Existing company source lists: Small Business Administration resources including regional and Headquarters; Pro-Net, small, HUB Zone small business, small disadvantaged, and woman-owned small business concerns trade associations; Trade Fairs; conferences/conventions; workshops; CH2M HILL Hanford Group, Inc. existing source lists; and Hanford Site Small Business Council referrals.

11. Indirect costs are not included in the above goals.

12. The following individual will administer the subcontracting program:

Name:	R. A. Finke	
Title:	Procurement Lead	
Address:	Post Office Box 1500	Richland, Washington 99352
Telephone:	(509) 376-1500	

This individual's specific duties as they relate to the firm's subcontracting program are as follows:

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

b. Ensuring, in the Project's acquisition of goods and services, that small business, HUBZone small business, small disadvantaged and woman-owned small business concerns are provided the maximum opportunity practicable to compete for subcontracted work and purchased materials within the framework of the CHG contract.

c. Ensuring the establishment and maintenance of records of the total dollar value of solicitations and awards to small business, HUBZone small business, small disadvantaged and woman-owned small business concerns, large business concerns, and total solicitations and awards.

d. Preparing and submitting semi-annual reports (SF294 & SF295) as required by FAR 52.219-9 on direct procurements to ORP Contracting Officer.

e. Developing and maintaining source files of small business, HUBZone small business, small disadvantaged and woman-owned small business concerns for use by the Project in supporting preparation of site bidders lists for solicitations of direct and indirect goods and services.

f. Participating, or ensuring participation of company representatives, in small business, HUB Zone small business, small disadvantaged and woman-owned small business and WOB trade associations, seminars, business opportunity workshops, and outreach programs.

g. Conducting or arranging instructional and motivational workshops for procurement and contracts personnel and others in the duties and methods of enhancing the participation of small business, HUBZone small business, small disadvantaged and woman-owned small business concerns in RPP acquisitions.

h. Coordinating Project activities during conduct of compliance reviews by federal agencies.

i. Cooperating in any studies or surveys or submission of reports (in addition to those in Item d, above) as may be required by the U.S. Department of Energy or the U. S. Small Business Administration.

j. Establishing and maintaining adequate records of the above activities to document compliance with this subcontracting plan.

k. Obtaining the *Award of Distinction* level as determined by the U.S. Small Business Administration.

l. Implementing a procurement system, which uses the Information Highway to expand access by small business, HUB Zone small business, small disadvantaged and woman-owned small business concerns to the procurement process.

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

13. The following efforts will be made to assure that small, small disadvantaged small HUB Zone and woman-owned small business concerns will have an equitable opportunity to compete for subcontracts.

    a. Identify potential projects or portions of projects that can be performed by small, small disadvantaged small HUB Zone and woman-owned small business.

    b. Include small business, small disadvantaged business, small HUB Zone and woman-owned small business concerns in *Request for Quotes* where such concerns are known to exist and are qualified to supply the items or services being procured.

    c. Assist small business, small disadvantaged, small HUB Zone and woman-owned business with mentoring through establishment of a Small Business Utilization Manager.

    d. Arrange bid solicitation; time for preparation of proposals, quantities, specifications and delivery schedules to facilitate participation.

    e. Provide training for small, small disadvantaged small HUB Zone and woman-owned businesses doing business with CHG.

14. The clause entitled *Utilization of Small Business Concerns and Small Disadvantaged Business Concerns,* will be included in all subcontracts that offer further subcontracting opportunities and all subcontractors (except small business concerns) who receive subcontracts in excess of $500,000.00 ($1,000,000.00 for

construction of any public facility) will be required to adopt a plan similar to the plan agreed to by the officer.

15. The Contractor will cooperate in any studies or surveys as may be required; submit periodic reports in order to allow the Government to determine the extent of compliance by the officer with the subcontracting plan, will submit Standard Form 294 *Subcontracting Report for Individual Contracts* and Standard Form 295 *Summary Subcontract Report,* in accordance with the instructions on the forms or as provided in agency regulations and in the FAR Part 19, Small Business Subcontracting Plan (January 1999), and ensure that its subcontractors agree to submit Standard Forms 294 and 295.

16. The following types of records will be maintained to demonstrate procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists, and a description of its efforts to locate small, small disadvantaged, and woman-owned business concerns and award subcontracts to them. The records shall include at least the following (*on a company-wide basis, unless otherwise indicated)*:

    a. Source lists, guides, and other data that identify small, HUB Zone small business, small disadvantaged and woman-owned small business concerns.

    b. Organizations contacted in an attempt to locate sources that are small, HUB Zone small business, small disadvantaged, or woman-owned small business concerns.

    c. Records on each subcontract solicitation resulting in an award of more than $100,000.00, indicating (1) whether small business concerns were solicited and if not, why not, (2) whether small disadvantaged business concerns small HUB Zone concern were solicited and if not why not, (3) whether woman-owned small business concerns were solicited and if not, why not, and (4) if applicable, the reason an award was not made to a small business concern.

    d. Records of any outreach efforts to: (1) trade associations, (2) business development organizations, and (3) conferences and trade fairs to locate small, small disadvantaged, and woman-owned small business sources.

    e. Records of internal guidance and encouragement provided to buyers through (1) workshops, seminars, training, etc., and (2) monitoring performance to evaluate compliance with the program's requirements.

    f. Records to support award data submitted by CH2M HILL Hanford Group, Inc. to the Government, which will include the name, address, and business size of each subcontractor.

6.0 Definitions:

Budget – Total RPP BCWS for the given fiscal year (FY) less fee and direct funds to DOE.

Buy – refers to the acquisition of goods and services by the prime from either major subcontractors, enterprise subcontractors, other businesses in the local community and/or region, and/or other federal contractors.

Core Competency – refers to goods, services, and operations that must be performed by the contractor, and which, are considered essential to serving the customer and to maintaining a cost effective program.

Outsourcing – Prime Contract Section H.2(a) (9) states ..... *outsourcing means contractual commitments to entities other than the Contractor itself.*

Regional – is defined as the Small Business Administration Region X.

Subcontracting – obtaining the maximum benefits of human resources, time, and materials through the use of outside business firms to perform the scope of work previously handled in-house. Work scope is considered to be subcontracted when performed by a business entity other than the prime contractor to ORP.

Viable – having a reasonable chance of succeeding.

7.0 Reporting

CHG will report annually (starting in November 2000) for FY 2000 results to ORP with corrective actions to achieve goals, if required, for Small Business Subcontractors and BEST program.

(a) Formula for BEST:

Add Cost Elements: Material + Services + Other Hanford Contractors (OHC) + Enterprise Companies + cost to subcontract.

Divide by fiscal year to date (FYTD) budgeted cost of work scheduled (BCWS) less fee as defined in this document.

(b) Standard Form 295 *Summary Sub-Contract Report*, Contracting Officer for Small Business Subcontracting.

End Appendix A

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE 1 OF 3

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. *(If applicable)*
A022	See Block 16c	06-00RL14047.012	

6. ISSUED BY CODE

U.S. Department of Energy
Office of River Protection
P.O. Box 450, M/S H6-60
Richland, Washington 99352

7. ADMINISTERED BY *(If other than Item 6)* CODE

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, city, county, state and zip code)*

CH2M Hill Hanford Group, Inc.
P.O. Box 1500
Richland, Washington 99352

CODE FACILITY CODE

(X)	
	9A. AMENDMENT OF SOLICITATION NO.
	9B. DATED *(SEE ITEM 11)*
X	10A. MODIFICATION OF CONTRACT/ ORDER NO. DE-AC06-99RL14047
	10B. DATED *(SEE ITEM 13)* 09/30/99

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

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

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 _____ 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)*

See attached detail

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

(X)	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: *(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:
X	D. OTHER *(Specify type of modification and authority)* Contract Clause B-2, "Obligation of Funds"

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.)*

OBLIGATION NOTICE NO. 12

Pursuant to Paragraph ~~(b)~~ (a) of Article B.2 of the Schedule of Contract DE-AC06-99RL14047, the amount obligated by DOE is hereby increased by $45,270,083.00 from $0.00 to $45,270,083.00.

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)*	
		Jewel J. Short, II	
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(Signature of person authorized to sign)		*(Signature of Contracting Officer)*	8/31/00

Fund st be controlled within specific limitations required by and/or at levels directed by the DOE contracting officer. ept as noted below, this document identifies the funding levels with corresponding Budget and Reporting (B&R) numbers and, for construction line items, the Budget Reference number, that cannot be exceeded. Costs plus commitments at each control point shall not exceed total budget authority (BA) available (Prior year uncosted and current fiscal year obligations) AND must be related to DOE authorized work scope. The following B&R numbers have funding ceilings at a lower level as indicated below:

ACTIVITY	B&R NUMBER	FUNDING CONTROL POINT
Work for other fed. agencies	400000000	By each individual work order from requesting entity.
Work for commercial entities	600000000 650000000	By each individual work order from requesting entity.
Inter-DOE work orders	820101000	By each individual work order from requesting entity.

Note: For modifications with a net change of $0.00, the modification reflects changes in distribution.

FINAL

CH2M HILL HANFORD GROUP, INC.
Modification No. : A022 Requisition No. : 00RL14047,012
Contract ID: RL14047

SF-0030
Page 1

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

BNR Control	Budget Ref	Prior Year Uncosted	Amount This Modification	Previous Modifications Signed This FY	Total FY Mods	Total BA Avail
Fin Plan: RL	Fund Type: TE	Approp: 89X0242.91				
39EW02J10	PRN89D17300	$0.00	$0.00	$12,090.30	$12,090.30	$12,090.30
39EW02J10	PRN93D18200	$0.00	$0.00	($87,955.86)	($87,955.86)	($87,955.86)
39EW02J10	PRN94D40700	$8,000,000.00	$0.00	$7,169,670.04	$7,169,670.04	$15,169,670.04
39EW02J10	PRN97D40200	$200,000.00	($60,000.00)	$22,274,427.24	$22,214,427.24	$22,414,427.24
39EW02J10	PRN99D40300	$1,000,000.00	($80,000.00)	$16,034,894.06	$15,954,894.06	$16,954,894.06
820200000		$0.00	$20,600,000.00	($372,948,990.03)	($352,348,990.03)	($352,348,990.03)
EW0200000		$6,298,350.33	$336,000.00	$303,437,333.44	$303,773,333.44	$310,071,683.77
EW0400000		$0.00	$89,000.00	$0.00	$89,000.00	$89,000.00
EW4000000		$70,000.00	$0.00	$1,540,180.48	$1,540,180.48	$1,610,180.48

CH2M HILL HANFORD GROUP, INC.
Modification No. : A022 Requisition No. : 00RL14047,012
Contract ID: RL14047

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

BNR Control	Budget Ref	Prior Year Uncosted	Amount This Modification	Previous Modifications Signed This FY	Total FY Mods	Total BA Avail
	Fund Type Total	$15,568,350.33	$20,885,000.00	($22,568,350.33)	($1,683,350.33)	$13,885,000.00
Fin Plan: RL Fund Type: TQ Approp: 89X0249.91						
EW0300000		$0.00	$24,385,083.00	$7,000,000.00	$31,385,083.00	$31,385,083.00
	Fund Type Total	$0.00	$24,385,083.00	$7,000,000.00	$31,385,083.00	$31,385,083.00
	Contract Total	$15,568,350.33	$45,270,083.00	($15,568,350.33)	$29,701,732.67	$45,270,083.00

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE	OF	PAGES
	1		25

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. *(If applicable)*
M023	See Block 16		

6. ISSUED BY CODE

U.S. Department of Energy
Office of River Protection
PO Box 450, MS H6-60
Richland, WA. 99352

7. ADMINISTERED BY *(If other than Item 6)* CODE

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, city, county, state and zip code)*

CH2M Hill Hanford Group, Inc.
P.O. Box 1500
Richland, WA 99352

CODE FACILITY CODE

(X)	
	9A. AMENDMENT OF SOLICITATION NO.
	9B. DATED *(SEE ITEM 11)*
x	10A. MODIFICATION OF CONTRACT/ ORDER NO. DE-AC06-99RL14047
	10B. DATED *(SEE ITEM 13)*

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

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

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 _____ 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.

(X)	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:
X	D. OTHER *(Specify type of modification and authority)* H.13 "SCA Wage Determination"; I.114 "Laws, Regs, and DOE Dir."; H.18 "Performance..."

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 purpose of this modification is to (1)revise Section J, Appendix D with the attached FY2000 performance incentive agreements revisions,(2)incorporate Service Contract Act wage determination no. 99-0590 into Section J, Appendix J, and (3) revise Section J, Appendix C by adding ORPID 110.1A and removing RLID 1300.1D. See attached page 2 for details.

All other terms and conditions of the contract are unchanged.

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)*	
		Jewel J. Short, II	
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(Signature of person authorized to sign)		Jewel J. Short II *(Signature of Contracting Officer)*	9/11/00

The purpose of this contract modification is as follows:

1) Incorporate the attached Service Contract Act Wage Determination No. 99-0590 dated 3/16/00 into Section J, Appendix J.

2) In accordance with CHG Letter No. CHG-0003850R1, revise Section J, Appendix C, "DOE Directives" as follows:

   a) Delete: "RLID 1300.1D Richland Operations Office Facility Representative Program."
   b) Incorporate: "ORPID 110.1A Office of River Protection Facility Representative Program."

3) Revise existing FY 2000 Performance Incentive Agreements (PIs), by incorporating the following attached Performance Incentive Agreement Revisions into Section J, Appendix D. These revisions replace the previous versions of these PIs:

   a) ORP 1.1.1 Revision No. 2 "Tank Characterization – Sampling Tanks" dated 8/8/00.
   b) ORP 3.1.1 Revision No. 2 "Interim Tank Stabilization" dated 8/8/00.
   c) ORP 3.2.1 Revision No. 1 "W-314 A Complex" dated 8/2/00.
   d) ORP 3.2.3 Revision No. 1 "Implementation of Field Optimizations" dated 8/14/00.

4) Revise existing FY 2000 Performance Incentive Agreements (PIs), in Section J, Appendix D by deleting in its entirety the Performance Incentive Agreement No. 1.1.2 "Tank Characterization – Reduce Lab Turnaround". The incentive fee associated with this PI was allocated to ORP 1.1.1 Rev. No. 2.

5) Incorporate the attached summary of Performance Incentive Agreements into Section J, Appendix D, which replaces the summary incorporated by contract mod. no. M021.

Summary of FY 2000
Performance Incentive Agreements

	FY 2000 PERFORMANCE INCENTIVE AGREEMENTS	
Number	**Title**	**Available Fee**
ORP 1.1.1 Rev. 1	Tank Characterization - Sampling Tanks	$ 1,766,000
ORP 1.1.2	Tank Char. - Reduce Lab Turnaround DELETED 8/8/00	$ -
ORP 2.1.1	Authorization Basis Management Process Improvement	$ 500,000
ORP 2.1.2	SY-101 Safety Mitigation	$ 2,500,000
ORP 3.1.1 Rev. 1	Interim Tank Stabilization	$ 2,584,000
ORP 3.1.2	Supernatant Removal	$ 300,000
ORP 3.1.3	Installation of Replacement Transfer Lines to Support Interim Stabilization of 2 Tanks in S/SX Tank Farm Complex	$ 100,000
ORP 3.2.1	W-314 "A" Complex	$ 1,250,000
ORP 3.2.3	Implementation of Field Optimizations	$ 400,000
ORP 3.3.1	Vault Stabilization	$ 250,000
ORP 3.3.4	Drawing & Labeling	$ 250,000
ORP 3.4.1	ENRAF Installations	$ 150,000
ORP 3.5.1	Integrated Construction Projects/Operations Plan	$ 300,000
ORP 3.8.1	Waste Volume Mgmt	$ 250,000
ORP 4.1.1	Vadose Zone	$ 500,000
ORP 4.2.1	AZ-101 Process Test	$ 750,000
ORP 4.5.1 Rev. 3	Phase I Part B-2 Readiness to Proceed	$ 1,000,000
ORP 8.1.1	W-519 Privatization Phase I Infrastructure Support	$ 500,000
ORP 9.1.1	Immobilized Product Storage / Disposal	$ 250,000
ORP 10.1.3	Project Integration Office Deliverables	$ 800,000
	Total	$ 14,400,000
	FY 2000 SUPER STRETCH PERFORMANCE INCENTIVE AGREEMENTS	
Number	**Title**	**Available Fee**
ORP 1.1.3S	Characterization Core Sample AN-104 and AZ-101	$ 317,000
ORP 2.1.3S	Advanced Preparation of 241-SY-101 for Retrieval and for Receiving and Staging	*$ 1,390,000*
ORP 3.8.2S	Transfer Waste from 241-AW-104 to Evaporator Feed Tank	*$ 760,000*
ORP 4.1.2S	Drill 5 RCRA Groundwater Wells	$ 220,000
ORP 4.3.2S	SST Waste Retrieval of Tank C-104	$ 335,000
ORP 4.3.3S	Tank C-106 Operational Closure Status Assessment	$ 70,000
ORP 4.3.4S	SST Retrieval - Technology Testing and Deployment	$ 88,000
ORP 8.1.2S	Acceleration of Project W-519	*$ 400,000*
	Total	$ 3,580,000
	Grand Total	$ 17,980,000
Note: 2.1.3S, 3.8.2S and 8.1.2S include Super Stretch fee that may be earned in FY01.		

Office of River Protection

Performance Incentive Number ORP1.1.2
Revision No. 0 Date: 11/16/99

FY 2000 PERFORMANCE INCENTIVE

SECTION 1
General Information

Descriptive Short Title: Tank Characterization – Reduce Laboratory Analysis Report Turnaround Time

Project Baseline Summary (PBS): TW01

Maximum Available Incentive Fee: $100,000

Type: X Standard

SECTION 2
Technical Contacts

ORP Point of Contact: J. Poppiti

Contractor Point of Contact: B. Ross

Cancel

SECTION 3
Performance Expectations and Earning Schedule

GENERAL REQUIREMENTS: In order to earn incentive fee under this Performance Incentive, the Contractor shall:

1. Meet the specific completion criteria and/expectations set forth in this Performance Incentive; and

2. Not incur any unfavorable cost variance [(BCWP-ACWP)/BCWP] less than -5.0 percent, or incur any unfavorable schedule variance [(BCWP-BCWS/BCWS] less than -7.5 percent, measured at the Project Baseline Summary level identified in Section 1, at the end of FY 2000.

STRETCH (100%)

The contractor shall perform an alternatives analysis and business process improvement study to develop a Business Plan and Recommendations for implementation actions for reduction of a core sample Laboratory Analysis Report (LAR) turnaround time. The cases of reduction to 126 days and 90-day turnaround shall both be developed. The Business Plan and Recommendations shall be submitted to ORP by 6/1/2000

Note: ORP COR (Bryson - Division Director, Ops Support Division), Recommends Cancelling this and adding all fee ($100K) to ORP 1.1.1, "Stretch # 2 & 3." J Short, CO.

8/3/00

FY 2000 PERFORMANCE INCENTIVE

SECTION 1
General Information

Descriptive Short Title: Tank Characterization – Sampling Tanks

Project Baseline Summary (PBS): TW01

Maximum Available Incentive Fee: $1,766,000

Type: X Standard X Stretch

SECTION 2
Technical Contacts

ORP Point of Contact: D. C. Bryson

Contractor Point of Contact: B. Ross

SECTION 3
Performance Expectations and Earning Schedule

GENERAL REQUIREMENTS: In order to earn incentive fee under this Performance Incentive, the Contractor shall:

1. Meet the specific completion criteria and expectations set forth in this Performance Incentive; and

2. Not incur any unfavorable cost variance [(BCWP-ACWP)/BCWP] less than -5.0 percent, or incur any unfavorable schedule variance [(BCWP-BCWS/BCWS] less than -7.5 percent, measured at the Project Baseline Summary level identified in Section 1, at the end of FY 2000.

STANDARD (24%)

Complete characterization sampling to meet the requirements of the River Protection Project, including the Retrieval Project. Also support acquisition of samples required by DOE-ORP's contract with BNFL Inc.

1. Complete 12 core, 12 grab and 6 Type IV vapor samples by September 30, 2000. (3.4% of fee)

2. Complete 7 core, 13 grab and 4-vapor laboratory analysis reports (LAR) by September 30, 2000. (3.4% of fee)

3. Complete the Draft and Final FY 2001 Technical Sampling Basis – Waste Information Requirements Documents (TSB-WIRD). Draft TSB-WIRD due June 15, 2000 (1.7% of fee). Final TSB-WIRD due August 21, 2000. (1.7% of fee)

4. Complete 13 Tank Characterization Reports by September 20, 2000. (3.4% of fee)

5. Complete the FY 00 WIRD deliverables including changes documented in the WIRD quarterly reports, by September 30, 2000. Record of completion will be documented in the fourth quarter WIRD Quarterly Status Report due to DOE-ORP October 20, 2000. (3.4% of fee)

6. Complete the input of Characterization Data from LAR's into the electronic database within 7 days of LAR publication. (3.4% of fee)

7. Update the Best Basis Standard Inventory Estimates by September 20, 2000. (3.4% of fee)

STRETCH (76%)
All quantities in this stretch are in addition to quantities in the standard.

1. Deliver 2 more Core Samples to the analytical laboratory by 9/30/00 -- Earn 12% of fee for each sample up to 24% of fee.

2. Deliver 4 more Grab Samples to the analytical laboratory by 9/30/00 -- Earn 4.4% of fee for each sample up to 17.7% of fee.

3. Deliver 4 more Type IV Vapor Samples to the analytical laboratory by 9/30/00 -- Must complete all four of the Type IV Vapor Samples to earn 17.7% fee.

FY 2000 PERFORMANCE INCENTIVE

4. Complete 2 more Tank Waste Characterization Laboratory Analysis Reports. Earn 8.5% of fee for each Laboratory Analysis Report up to 17% of fee.

NEGATIVE (24%)

1. Complete any Standard Performance items 1-7 above after September 30, 2000, and lose 3.4% of fee for each up to a maximum of 24% of fee.

SECTION 4
Performance Requirements

DEFINE COMPLETION: *(Specify Performance Elements and describe indicators of success (quality/progress). Include baseline documentation/data against which completion documentation should be compared.)*

1. A core [grab, vapor] sample is completed when the last segment [sample bottle, vapor sample container] as specified in the Tank Sampling and Analysis Plan (TSAP) has been received by the analytical laboratory, and the chain of custody has been signed by the laboratory's sample receiving official. ORP will provide personnel to perform field verification.

2. A Laboratory Analysis Report is completed on the date of the document's signed cover page.

3. The draft FY 2001 TSB-WIRD is complete when ORP coordination comments are resolved. The final FY 2001 TSB-WIRD is complete when DOE-ORP and Washington State Department of Ecology comments on the draft FY 2001 TSB-WIRD have been resolved and the final FY 2001 TSB-WIRD has been delivered to DOE-ORP.

4. The Tank Characterization Reports (TCRs) are completed when DOE-ORP comments have been resolved and the TCR is released to the public via the Tank Waste Information Network System (TWINS) at internet address http://twins.pnl.gov/twins3/twins.htm.

5. The FY 2000 WIRD deliverables expectation is complete when completion of the field activities as of September 30, 2000, are documented in the fourth quarter FY 2000 WIRD Quarterly Status Reprot due in October 2000.

6. See Section 3

7. The Best Basis Standard Inventory (BBI) Estimates are updated when documentation of the changes is published in a publicly available document, and the updated estimates are posted on TWINS at the internet address http://twins.pnl.gov/twins3/twins.htm . The Best Basis Inventory estimates are to include tanks for which a TCR is written or updated in FY 2000 and tanks that were affected by a transaction (such as saltwell pumping) or transfer. Uncertainty estimates are to be included for updated tank content estimates. Solid and liquid splits are to be calculated in cases where there is sufficient data.

DEFINITIONS: *(define terms)*

1. A Core Sample is composed of one to 23, nineteen-inch segments of tank waste depending on the depth of the waste in the tank. The number of core samples required to meet programmatic needs is documented in the individual Tank Sampling and Analysis plans (TSAP).

2. A Grab Sample is a volume of liquid or soft sludge taken from one tank riser at multiple tank depths. Sampling cost increases as volume increases. Therefore, Grab Samples are defined as follows:

Volume (Liters)	Grab Sampling Events
1	1
2	1.2
3	1.3
4	1.5
5	1.7

Evaporator grab samples equal 1.2 Sampling Events. Therefore, 12 grab samples may not equal 12 separate grab-sampling events.

FY 2000 PERFORMANCE INCENTIVE

COMPLETION DOCUMENTS LIST: *(Name the Documents, Databases, etc., which will be submitted to show completion for each Performance Expectation.)*

1. Chain-of-Custody form
2. Laboratory Analysis Reports – name is dependent on tank sampled. Document number is to be assigned.
3. Technical Sampling Basis-Waste Information Requirements Document for FY 2001, document number HNF-4048
4. Tank Characterization Reports. Availability of the Tank Characterization Reports on the Tank Waste Information Network System (TWINS) at internet address http://twins.pnl.gov/twins3/twins.htm shall constitute the documentation of completion.
5. WIRD fourth quarterly report, letter from contractor to DOE-ORP
6. Tank Waste Information Network System, internet address http://twins.pnl.gov/twins3/twins.htm.
7. BBI estimates to be published on TWINS internet address http://twins.pnl.gov/twins3/twins.htm and documented in appropriate TCR.

ASSUMPTIONS/TECHNICAL BOUNDARY CONDITIONS: *(For reasonably foreseeable impacts to performance that are not within control of Contractor. If the assumption or condition proves false, the remedy is renegotiations unless stated otherwise.)*
Standard Performance Expectation 5: An administrative change to Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) Milestone M-44 is being negotiated with Washington State Department of Ecology (Ecology) to include the dates of the Characterization Project's quarterly reports and to change the due date of the final TSB-WIRD Deliverables Report. Therefore, upon the formal approval of the administrative change to the milestone, this performance incentive will be revised to reflect the new dates for the quarterly reports and the final TSB-WIRD Deliverables Report.

SECTION 5
Signatures

DC Bryson 8/8/00
ORP Contracting Officer's Representative/Date

for Dave Allen 8/8/00
President and General Manager, CHG/Date

ORP Contracting Officer/Date

J.M. Bateman 8/7/00
CHG Contract Representative/Date

This cancels ORP1.1.2.

FY 2000 PERFORMANCE INCENTIVE

SECTION 1
General Information

Descriptive Short Title: Interim Tank Stabilization

Project Baseline Summary (PBS): TW03

Maximum Available Incentive Fee: $2,584,000

Type: X Standard X Stretch

SECTION 2
Technical Contacts

ORP Point of Contact: Dana Bryson

Contractor Point of Contact: Dale Allen

SECTION 3
Performance Expectations and Earning Schedule

GENERAL REQUIREMENTS: In order to earn incentive fee under this Performance Incentive, the Contractor shall:

1. Meet the specific completion criteria and expectations set forth in this Performance Incentive; and

2. Not incur any unfavorable cost variance [(BCWP-ACWP)/BCWP] less than -5.0 percent, or incur any unfavorable schedule variance [(BCWP-BCWS/BCWS] less than -7.5 percent, measured at the Project Baseline Summary level identified in Section 1, at the end of FY 2000.

STANDARD (39%)
Positive Performance

1. Initiate pumping on tanks U-102, U-105, and U-109 by 3/31/00 – earn 10% of
2. Initiate pumping on tanks A-101 and AX-101 by 8/10/00, and SX-105 by 8/15/00 -- earn 15% of fee
3. Achieve reduction in pumpable liquid volume remaining to be removed to 38% of the projected 502,000 gallons complexant liquid waste by 9/15/00 -- earn 14% of fee

STRETCH (61%)

1. Maintain an average annual pump efficiency of 40% or greater and:

	Pump Efficiency	Fee Earned
▪ FY Qtr 1	40%	10%
▪ FY Qtr 2	45%	10%
▪ FY Qtr 3	50%	10%
▪ FY Qtr 4	55%	9%

2. Complete interim stabilization of four (4) single-shell tanks. Any claim of interim stabilization due to equipment failure must be supported by a cost benefit analysis and accepted by DOE-ORP. (10% of fee)

3. Perform additional tank start-up by September 30, 2000:
   - One (1) single-shell tank (6% of fee)
   - One (1) single-shell tank (6% of fee) Note: This is a separate tank; credit cannot be taken more than once for each tank.
   - Up to an additional 6% of fee may be earned, not to exceed 60% for this stretch, if both tanks are started on time and the 55% fourth quarter efficiency is met.

NEGATIVE (not to exceed 39%)

1. Initiate pumping on tank U-102, U-105, or U-109 after 6/15/00 – lose 39% of fee
2. Initiate pumping on either tank A-101 or AX-101 after 10/30/00 – lose 39% of fee
3. Achieve reduction in pumpable liquid volume remaining to be removed to 38% of the projected 502,000 gallons of complexant liquid waste after 9/30/00 – lose 39% of fee

FY 2000 PERFORMANCE INCENTIVE

SECTION 4
Performance Requirements

DEFINE COMPLETION: *(Specify Performance Elements and describe indicators of success (quality/progress). Include baseline documentation/data against which completion documentation should be compared.)*

Item 1: The Contractor shall initiate interim stabilization pumping of three (3) single-shell tanks by March 31, 2000. Initiation of interim stabilization for each tank will be accomplished when actual pump operation has commenced and the pump operates at least 60% of the time over a 72-hour consecutive period, transferring a total of not less than 500 gallons of pumpable liquid tank waste.

Submit an Initiate Pumping Report to the ORP Director for Operations within 30 days of completing the above requirement. This report shall include contractor validation packages for completed work.

Item 2: The Contractor shall initiate interim stabilization pumping of tanks A-101 and AX-101 by August 10, 2000, and tank SX-105 by August 15, 2000. Initiation of interim stabilization for each tank will be accomplished when actual pump operation has commenced and the pump operates at least 60% of the time over a 72-hour consecutive period, transferring a total of not less than 500 gallons of pumpable liquid tank waste.

Submit an Initial Pumping Report to the ORP Director for Operations within 30 days of completing the above requirement. This report shall include contractor validation packages for completed work.

Item 3: The Contractor shall reduce single-shell tank pumpable liquid volume remaining to be removed to 38% of the projected 502,000 gallons complexant liquid waste (since program initiation on 6-1-98) by September 15, 2000.

Submit a Liquid Waste Removal Report to the ORP Director for Operations Program Division within 30 days of completing the above requirement. This report shall include contractor validation packages for completed work.

Stretch: For tanks being interim stabilized the Contractor shall improve the quarterly average operating efficiency. Improvement will be measured on the sliding scale presented in Section 3. Additional tank startups shall conform to item 1 above.

Submit a Year-end Annual Operating Efficiency Report to the ORP Director of Operations no later than October 30, 2000. This report shall include contractor validation packages for pumping performance for tanks being interim stabilized.

DEFINITIONS: *(define terms)*
Annual Average Pump Efficiency = Total Hours Pumping / Hours Scheduled
(example: 8760 hours scheduled = 365 days * 24 hrs/day)
Numerator = total hours the pump physically operates during the period.
Denominator = total hours the pump is scheduled to operate, as defined in the Interim Stabilization Project Plan, Rev. 3a, except as noted below, during the period. The scheduled start date for SX-105 shall be August 15, 2000.

If a pump start is achieved ahead of schedule for a given tank, the additional hours of operation will be reflected in the numerator however, the hours of availability will not to be factored into the denominator. Exceptions: For tanks A-101, AX-101, S-102, and SX-105, the pump start date will also be reflected in the denominator. (See Section 4, Item 1.)

Percentage of "pumpable liquid volume remaining to be removed" is calculated by dividing the volume of pumpable liquid remaining in tanks not yet stabilized by the sum of (A), the amount of liquid that has been pumped and (B), the amount of pumpable liquid remaining in tanks that are not yet stabilized.

COMPLETION DOCUMENTS LIST: *(Name the Documents, Databases, etc., which will be submitted to show completion for each Performance Expectation.)*
Liquid Waste Removal Report
Initiate Pumping Report
Year-end Annual Operating Efficiency Report

FY 2000 PERFORMANCE INCENTIVE

ASSUMPTIONS/TECHNICAL BOUNDARY CONDITIONS: *(For reasonably foreseeable impacts to performance that are not within control of Contractor. If the assumption or condition proves false, the remedy is renegotiations unless stated otherwise.)*
If ORP takes a tank off line, the denominator/hours scheduled will be reduced for each hour or partial hour a tank is not available.

1. The pump efficiency definition applies to each tank being interim stabilized. If a tank is off line for the purpose of evaluating if the interim stabilization criteria have been met, the denominator/hours scheduled will be reduced for each hour or partial hour the tank is not available. Tanks A-101 and S-102 shall be placed in "engineering evaluation" effective July 1, 2000, and tank AX-101 shall be placed in "engineering evaluation" effective August 2, 2000. They will be excluded from the "pumping efficiency" calculation from the dates specified above, until the scheduled restart date (9/30/00) or the actual restart date, which ever occurs first. (Refer to "Definitions" above.) Note: these tanks may be operated intermittently to evaluate pumping alternatives without being considered a restart. Each tank shall be considered as "restarted" after it is able to operate for 4 consecutive days without significant degradation from design discharge pressure and volumes.

2. DOE approves saltwell pumping authorization basis changes (within 30 days of submittal) to delete portable exhausters, allow double valve isolation for physical disconnect, and to reduce continuous flammable gas monitor requirements.

3. Volume projections are based on "pump starts", pumping efficiency, and historical data on "pumpable volumes" and "liquid drain rates". The assumptions for actual pumpable volumes and drain rates are basis for adjustment and renegotiation of this PI.

SECTION 5
Signatures

DC Bryson 8/8/00
ORP Contracting Officer's Representative/Date

Dee Alle 8/8/00
CHG President and General Manager/Date

Daniel J. Shorr II 8/8/00
ORP Contracting Officer/Date

T.M. Bateman 8/8/00
CHG Contract Representative/Date

FY 2000 PERFORMANCE INCENTIVE

SECTION 1
General Information

Descriptive Short Title: W-314 "A" Complex

Project Baseline Summary (PBS): TW03

Maximum Available Incentive Fee: $1,250,000

Type: X Standard Stretch

SECTION 2
Technical Contacts

ORP Point of Contact: W. J. Taylor

Contractor Point of Contact: Kitty Bryan

SECTION 3
Performance Expectations and Earning Schedule

GENERAL REQUIREMENTS: In order to earn incentive fee under this Performance Incentive, the Contractor shall:

1. Meet the specific completion criteria and expectations set forth in this Performance Incentive; and

2. Not incur any unfavorable cost variance [(BCWP-ACWP)/BCWP] less than -5.0 percent, or incur any unfavorable schedule variance [(BCWP-BCWS/BCWS] less than -7.5 percent, measured at the Project Baseline Summary level identified in Section 1, at the end of FY 2000.

STANDARD (100%)

1. Complete Master Pump Shutdown System definitive design by September 30, 2000 - earn 5% of fee
2. Successfully complete ATP for AY-01A Pit Upgrades by September 30, 2000 - earn 30% of fee
3. Complete backfill of piping for Line 635 by:
   - September 30, 2000 (baseline schedule) – earn 15% of fee
   - July 18, 2000 – earn 35% of fee
4. Complete Line 633 –Successfully complete ATP for Line 633's 3" and 6" piping by September 30, 2000 – earn 30% of fee.

SECTION 4
Performance Requirements

DEFINE COMPLETION: *(Specify Performance Elements and describe indicators of success (quality/progress). Include baseline documentation/data against which completion documentation should be compared.)*

DEFINITIONS: *(define terms)*
The date of completion is the most recent date on the document.

ATP is Acceptance Test Procedure

COMPLETION DOCUMENTS LIST: *(Name the Documents, Databases, etc., which will be submitted to show completion for each Performance Expectation.)*
Standard

1. Final Sign off sheet for Title II Design.
2. Job Control System sign off page indicating work is complete for work-related packages

All work above scope to be in accordance with the "Project Execution Plan, Tank Farm Restoration and Safe Operations, Project W-314 (HNF-SD-W314-PMP-001)." Also, pipe routings per Drawing No. ES-314E-M40, rev B.

ASSUMPTIONS/TECHNICAL BOUNDARY CONDITIONS: *(For reasonably foreseeable impacts to performance that are not within control of Contractor. If the assumption or condition proves false, the remedy is renegotiations unless stated otherwise.)*

SECTION 5
Signatures

W J Taylor 8/2/00 ORP Contracting Officer's Representative/Date	Dave Allen 8/2/00 CHG President and General Manager/Date
James B. Thorsen II 8/2/00 ORP Contracting Officer/Date	8/2/00 CHG Contract Representative/Date

FY 2000 PERFORMANCE INCENTIVE

SECTION 1
General Information

Descriptive Short Title: Implementation of Field Optimizations

Project Baseline Summary (PBS): TW02, TW03

Maximum Available Incentive Fee: $400,000

Type: X Standard

SECTION 2
Technical Contacts

ORP Point of Contact: Mike Royack

Contractor Point of Contact: Dale Allen

SECTION 3
Performance Expectations and Earning Schedule

GENERAL REQUIREMENTS: In order to earn incentive fee under this Performance Incentive, the Contractor shall:

1. Meet the specific completion criteria and expectations set forth in this Performance Incentive; and

2. Not incur any unfavorable cost variance [(BCWP-ACWP)/BCWP] less than -5.0 percent, or incur any unfavorable schedule variance [(BCWP-BCWS/BCWS] less than -7.5 percent, measured at the Project Baseline Summary level identified in Section 1, at the end of FY 2000.

STANDARD (100%)

1. Achieve removal or isolation of up to 21 Standard Hydrogen Monitoring Systems (SHMS), as approved by ORP, by September 30, 2000. The contractor will submit a recommendation to ORP by December 20, 1999 regarding the disposition of SHMS with respect to removal, isolation and continued use – earn 50% of fee.

2. Implement an alternative control strategy for LCO 3.1.4 by completing installation and functional testing of HEPA filter differential pressure switch/exhauster interlock systems for six (6) of the exhaust systems associated with the Process Area Applicability of LCO 3.1.4 of HNF-SD-WM-TSR-006, Rev. 1 by September 30, 2000. The contractor will submit an engineering study to ORP by January 31, 2000 documenting the adequacy and benefits of implementing an alternative to the ventilation stack CAMs currently used in conjunction with LCO 3.1.4. The contractor will submit an Authorization Basis amendment package to support the changed control strategy by April 17, 2000 – earn 50% of fee.

NEGATIVE (25%)

1. Failure to reroute the power circuit from 202S (REDOX) to 244-S and 241-SX lighting by June 1, 2000.

SECTION 4
Performance Requirements

DEFINE COMPLETION: (*Specify Performance Elements and describe indicators of success (quality/progress). Include baseline documentation/data against which completion documentation should be compared.*)

1. Completion of the removal or isolation of up to 21 SHMS, as allowed by ORP, will be documented in a letter to ORP by no later than September 30, 2000. The letter will summarize the field implementation dates for the subject SHMS. ORP verification will include field inspections for the subject SHMS.

2. Completion of the alternative control strategy for LCO 3.1.4 consists of: (a) Submission of an engineering study documenting the adequacy and benefits of utilizing a HEPA filter differential pressure switch/exhauster interlock to perform the safety function currently performed by the LCO 3.1.4 ventilation stack CAM interlock system by January 31, 2000; (b) Submission of an Authorization Basis amendment package to allow the use of the HEPA filter differential pressure switch/exhauster interlock as an equivalent control to the ventilation stack CAM interlock by April 17, 2000; (c) Completion of installation, functional testing and AB implementation actions associated with HEPA filter differential pressure switch/exhauster inter-lock for six (6) primary exhaust systems currently subject to LCO 3.1.4.

NEGATIVE:

1. Completion of the 244-S power reroute is defined as: (a) completion of electrical change over, (b) testing of the new system, (c) disabling of the old system and placement of the old system into a safe condition, and (d) notification of the S-202 landlord of

FY 2000 PERFORMANCE INCENTIVE

the deactivation.

DEFINITIONS: *(define terms)*

1. A SHMS is a Standard Hydrogen Monitoring System that is currently installed at a Single-Shell or Double-Shell Tank in either the 200 East or 200 West Tank Farms.

2. A ventilation stack CAM/exhauster interlock system refers to any of seventeen (17) systems as of November 18, 1999 that are associated with the Process Area Applicability for LCO 3.1.4. These systems are installed on DSTs, SSTs, DCRTs, 204-AR, and portable exhausters used for primary ventilation. (NOTE: The number of ventilation stack CAM/exhauster interlock systems to be installed by September 30, 2000 has been re-evaluated as directed by letter 00-SHD-072, dated July 28, 2000, from R. T. French, ORP, to M. P. DeLozier, CHG, "CONTRACT NO. DE-AC06-99RL14047 APPROVAL OF THE AUTHORIZATION BASIS (AB) AMENDMENT FOR WASTE TRANSFER LEAK ACCIDENTS AND REVISED RADIOLOGICAL CONSEQUENCE METHODOLOGY.")

3. Isolation of SHMS for future use includes weatherization and maintenance of the unit in an operable condition.

COMPLETION DOCUMENTS LIST: *(Name the Documents, Databases, etc., which will be submitted to show completion for each Performance Expectation.)*

1. A letter issued to ORP by no later than September 30, 2000 documenting the removal or isolation of SHMS, as allowed by ORP.

2. Engineering study submitted to ORP by January 31, 2000 documenting the adequacy and benefits of the HEPA filter differential pressure switch interlock. Authorization Basis amendment package submitted to ORP by April 17, 2000 supporting the changed control strategy. A letter issued to ORP documenting completion of field installation, functional testing and AB implementation actions for six (6) HEPA filter differential pressure interlock systems.

3. A letter from the contractor to ORP documenting completion of the fieldwork for the 244-S power reroute.

ASSUMPTIONS/TECHNICAL BOUNDARY CONDITIONS: *(For reasonably foreseeable impacts to performance that are not within control of Contractor. If the assumption or condition proves false, the remedy is renegotiations unless stated otherwise.)*

1. Concurrence with Contractor recommendations for removal or isolation of SHMS must be provided by ORP to the Contractor no later than January 6, 2000.

2. Concurrence with Contractor recommendations contained in the engineering study on HEPA filter differential pressure switch interlock must be provided by ORP to the Contractor no later than February 15, 2000. Approval of the Authorization Basis amendment must be provided by ORP no later than June 16, 2000. The number of SHMS units involved in the fieldwork will depend upon ORP concurrence and will not exceed 21 units.

3. Fieldwork associated with the 244-S power reroute is covered by existing Davis-Bacon reviews; thus fieldwork will be accomplished by plant forces and utility personnel.

SECTION 5
Signatures

8/14/00
RC Bryson 8/14/00
ORP Contracting Officer's Representative/Date

Dale I Allen 8/11/00
CHG President and General Manager/Date

8/14/00
ORP Contracting Officer/Date

8/11/00
CHG Contract Representative/Date

STANDARD FORM 98
Rev. Feb. 1973
U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION

NOTICE OF INTENTION TO MAKE A SERVICE CONTRACT AND RESPONSE TO NOTICE

(*See Instructions on Reverse*)

1. NOTICE NO. A 1637227

MAIL TO:

MAR 28 2000

Administrator
Wage and Hour Division
U.S. Department of Labor
Washington, D.C. 20210

2. Estimated solicitation date (*use numerals*)

Month	Day	Year

3. Estimated date bids or proposals to be opened or negotiations begun (*use numerals*)

Month	Day	Year

4. Date contract performance to begin (*use numerals*)

Month	Day	Year
09	30	999

5. PLACE(S) OF PERFORMANCE

Benton County
Richland, WA
99352

6. SERVICES TO BE PERFORMED (*describe*)

Waste Treatment and Immobilization services

7. INFORMATION ABOUT PERFORMANCE

A. ☒ Services now performed by a contractor
B. ☐ Services now performed by Federal employees
C. ☐ Services not presently being performed

8. IF BOX A IN ITEM 7 IS MARKED, COMPLETE ITEM 8 AS APPLICABLE

a. Name and address of incumbent contractor
CH2M Hill
PO Box 1500
Richland, WA 99352

b. Number(s) of any wage determination(s) in incumbent's contract
94-2569 R9
98-0109

c. Name(s) of union(s) if services are being performed under collective bargaining agreement(s). *Important:* Attach copies of current applicable collective bargaining agreements

Hanford Atomic Metal Trades Council
PO Box 898 Richland, WA 99352

9. OFFICIAL SUBMITTING NOTICE

SIGNED: Sharon D. Ruehl
DATE: 3/8/00
TYPE OR PRINT NAME: Sharon D. Ruehl
TELEPHONE NO.: (509) 376-7221

10. TYPE OR PRINT NAME AND TITLE OF PERSON TO WHOM RESPONSE IS TO BE SENT AND NAME AND ADDRESS OF DEPARTMENT OR AGENCY, BUREAU, DIVISION, ETC.

U.S. Department of Energy
ATTN: Sharon D. Ruehl
PO Box 550 MISIN A7-80
Richland, WA 99532

RESPONSE TO NOTICE

(*by Department of Labor*)

A. ☒ The attached wage determination(s) listed below apply to procurement.
99-0590
94-2569 (R10)

B. ☐ As of this date, no wage determination applicable to the specified locality and classes of employees is in effect.

C. ☐ From information supplied, the Service Contract Act does not apply (*see attached explanation*).

D. ☐ Notice returned for additional information (*see attached explanation*).

Signed: Clarence D. Strain
(*U.S. Department of Labor*)

MAR 16 2000
(*Date*)

STANDARD FORM 98a
February 1973
U.S. DEPARTMENT OF LABOR
Employment Standards Administration

NOTICE OF INTENTION TO MAKE A SERVICE CONTRACT AND RESPONSE TO NOTICE

(Attachment A)

11. NOTICE NO. A1637227

12. CLASSES OF SERVICE EMPLOYEES TO BE EMPLOYED ON CONTRACT	13. NUMBER OF EMPLOYEES IN EACH CLASS	14. HOURLY WAGE RATE THAT WOULD BE PAID IF FEDERALLY EMPLOYED
The classifications for employees working on this		
project are contained in the attached collective		
bargaining agreement.		

98—201

REGISTER OF WAGE DETERMINATION UNDER
THE SERVICE CONTRACT ACT
By direction of the Secretary of Labor

Division of Wage Determinations

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
Washington, D.C. 20210

Wage Determination No.: 99-0590
Revision No.: 00
Date of Last Revision: 03/16/2000

State(s): Washington

Areas: Washington COUNTIES OF Benton

** Fringe Benefits Required For All Occupations Included In
This Wage Determination Follow The Occupational Listing **

OCCUPATION CODE AND TITLE **MINIMUM HOURLY WAGE**

Employed on US Department of Energy
contract(s) for Waste Treatment and
Immobilization services in the
above locality:

In accordance with Section 2(a) and 4(c) of the Service Contract Act, as amended, employees employed by the contractor in performing the above services and covered by the collective bargaining agreement between CH2M Hill Hanford Group, Inc. and Hanford Atomic Metal Trades Council, AFL-CIO, are to be paid wage rates and fringe benefits set forth in the current collective bargaining agreement effective October 01, 1999 through March 31, 2000 or March 31, 2002.

REGISTER OF WAGE DETERMINATION UNDER
THE SERVICE CONTRACT ACT
By direction of the Secretary of Labor

Division of Wage Determinations

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
Washington, D.C. 20210

Wage Determination No.: 94-2569
Revision No.: 10
Date of Last Revision: 06/01/1999

State(s): Oregon, Washington

Areas: Oregon COUNTIES OF Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union, Wallowa, Wheeler
Washington COUNTIES OF Benton, Franklin, Walla Walla, Yakima

** Fringe Benefits Required For All Occupations Included In This Wage Determination Follow The Occupational Listing **

OCCUPATION CODE AND TITLE	MINIMUM HOURLY WAGE
Administrative Support and Clerical Occupations:	
01011 Accounting Clerk I	$ 7.99
01012 Accounting Clerk II	$ 8.73
01013 Accounting Clerk III	$ 10.13
01014 Accounting Clerk IV	$ 13.23
01030 Court Reporter	$ 10.85
01050 Dispatcher, Motor Vehicle	$ 9.55
01060 Document Preparation Clerk	$ 9.08
01070 Messenger (Courier)	$ 6.97
01090 Duplicating Machine Operator	$ 9.08
01110 Film/Tape Librarian	$ 9.70
01115 General Clerk I	$ 6.97
01116 General Clerk II	$ 7.75
01117 General Clerk III	$ 9.08
01118 General Clerk IV	$ 10.18
01120 Housing Referral Assistant	$ 12.95
01131 Key Entry Operator I	$ 8.78
01132 Key Entry Operator II	$ 9.58
01191 Order Clerk I	$ 7.99
01192 Order Clerk II	$ 9.58
01261 Personnel Assistant (Employment) I	$ 8.64
01262 Personnel Assistant (Employment) II	$ 9.70
01263 Personnel Assistant (Employment) III	$ 10.85
01264 Personnel Assistant (Employment) IV	$ 12.95
01270 Production Control Clerk	$ 12.95
01290 Rental Clerk	$ 9.70
01300 Scheduler, Maintenance	$ 9.70
01311 Secretary I	$ 9.70
01312 Secretary II	$ 10.85
01313 Secretary III	$ 12.95
01314 Secretary IV	$ 14.50
01315 Secretary V	$ 16.05
01320 Service Order Dispatcher	$ 9.70
01341 Stenographer I	$ 9.02
01342 Stenographer II	$ 10.87
01400 Supply Technician	$ 14.50
01420 Survey Worker (Interviewer)	$ 10.85
01460 Switchboard Operator-Receptionist	$ 7.86
01510 Test Examiner	$ 10.85
01520 Test Proctor	$ 10.85

01531	Travel Clerk I	$ 7.80
01532	Travel Clerk II	$ 8.20
01533	Travel Clerk III	$ 8.77
01611	Word Processor I	$ 8.64
01612	Word Processor II	$ 9.70
01613	Word Processor III	$ 10.85

Automatic Data Processing Occupations:

03010	Computer Data Librarian	$ 8.83
03041	Computer Operator I	$ 8.83
03042	Computer Operator II	$ 10.90
03043	Computer Operator III	$ 13.78
03044	Computer Operator IV	$ 15.93
03045	Computer Operator V	$ 17.09
03071	Computer Programmer I 1/	$ 13.20
03072	Computer Programmer II 1/	$ 15.58
03073	Computer Programmer III 1/	$ 18.48
03074	Computer Programmer IV 1/	$ 22.78
03101	Computer Systems Analyst I 1/	$ 18.88
03102	Computer Systems Analyst II 1/	$ 22.15
03103	Computer Systems Analyst III 1/	$ 23.79
03160	Peripheral Equipment Operator	$ 9.38

Automotive Service Occupations:

05005	Automobile Body Repairer, Fiberglass	$ 18.08
05010	Automotive Glass Installer	$ 16.27
05040	Automotive Worker	$ 16.27
05070	Electrician, Automotive	$ 17.18
05100	Mobile Equipment Servicer	$ 14.44
05130	Motor Equipment Metal Mechanic	$ 18.08
05160	Motor Equipment Metal Worker	$ 16.27
05190	Motor Vehicle Mechanic	$ 18.08
05220	Motor Vehicle Mechanic Helper	$ 13.53
05250	Motor Vehicle Upholstery Worker	$ 15.34
05280	Motor Vehicle Wrecker	$ 16.27
05310	Painter, Automotive	$ 17.18
05340	Radiator Repair Specialist	$ 16.27
05370	Tire Repairer	$ 14.44
05400	Transmission Repair Specialist	$ 18.08

Food Preparation and Service Occupations:

07010	Baker	$ 15.13
07041	Cook I	$ 13.50
07042	Cook II	$ 15.13
07070	Dishwasher	$ 9.56
07100	Food Service Worker (Cafeteria Worker)	$ 9.56
07130	Meat Cutter	$ 15.13
07250	Waiter/Waitress	$ 10.67

Furniture Maintenance and Repair Occupations:

09010	Electrostatic Spray Painter	$ 17.18
09040	Furniture Handler	$ 11.31
09070	Furniture Refinisher	$ 17.18
09100	Furniture Refinisher Helper	$ 13.53
09110	Furniture Repairer, Minor	$ 15.34
09130	Upholsterer	$ 17.18

General Service and Support Occupations:

11030	Cleaner, Vehicles	$ 9.56
11060	Elevator Operator	$ 9.56
11090	Gardener	$ 13.50
11121	Housekeeping Aide I	$ 8.46
11122	Housekeeping Aide II	$ 9.56
11150	Janitor	$ 9.56
11210	Laborer, Grounds Maintenance	$ 10.67
11240	Maid or Houseman	$ 8.46
11270	Pest Controller	$ 14.27
11300	Refuse Collector	$ 9.56
11330	Tractor Operator	$ 12.76
11360	Window Cleaner	$ 10.67

Health Occupations:

12020	Dental Assistant	$ 9.55
12040	Emergency Medical Technician/Paramedic Ambulance Driver	$ 11.09
12071	Licensed Practical Nurse I	$ 7.61
12072	Licensed Practical Nurse II	$ 8.54
12073	Licensed Practical Nurse III	$ 9.55
12100	Medical Assistant	$ 8.54
12130	Medical Laboratory Technician	$ 8.54
12160	Medical Record Clerk	$ 8.54
12190	Medical Record Technician	$ 11.83
12221	Nursing Assistant I	$ 6.20
12222	Nursing Assistant II	$ 6.97
12223	Nursing Assistant III	$ 7.61
12224	Nursing Assistant IV	$ 8.54
12250	Pharmacy Technician	$ 10.65
12280	Phlebotomist	$ 8.54
12311	Registered Nurse I	$ 11.83
12312	Registered Nurse II	$ 14.47
12313	Registered Nurse II, Specialist	$ 14.47
12314	Registered Nurse III	$ 17.51
12315	Registered Nurse III, Anesthetist	$ 17.51
12316	Registered Nurse IV	$ 20.99

Information and Arts Occupations:

13002	Audiovisual Librarian	$ 14.31
13011	Exhibits Specialist I	$ 12.40
13012	Exhibits Specialist II	$ 14.79
13013	Exhibits Specialist III	$ 16.23
13041	Illustrator I	$ 12.40
13042	Illustrator II	$ 14.79
13043	Illustrator III	$ 16.23
13047	Librarian	$ 16.05
13050	Library Technician	$ 10.85
13071	Photographer I	$ 11.55
13072	Photographer II	$ 14.83
13073	Photographer III	$ 16.23
13074	Photographer IV	$ 18.01
13075	Photographer V	$ 19.99

Laundry, Drycleaning, Pressing and Related Occups:

15010	Assembler	$ 5.80
15030	Counter Attendant	$ 5.80
15040	Dry Cleaner	$ 7.62
15070	Finisher, Flatwork, Machine	$ 5.80
15090	Presser, Hand	$ 5.80
15100	Presser, Machine, Drycleaning	$ 5.80
15130	Presser, Machine, Shirts	$ 5.80

15160	Presser, Machine, Wearing Apparel, Laundry	$ 5.80
15190	Sewing Machine Operator	$ 8.22
15220	Tailor	$ 8.84
15250	Washer, Machine	$ 6.41

Machine Tool Operation and Repair Occupations:

19010	Machine-Tool Operator (Toolroom)	$ 17.18
19040	Tool and Die Maker	$ 20.82

Materials Handling and Packing Occupations:

21010	Fuel Distribution System Operator	$ 14.44
21020	Material Coordinator	$ 12.09
21030	Material Expediter	$ 12.09
21040	Material Handling Laborer	$ 8.92
21050	Order Filler	$ 10.90
21071	Forklift Operator	$ 9.83
21080	Production Line Worker (Food Processing)	$ 11.92
21100	Shipping/Receiving Clerk	$ 10.29
21130	Shipping Packer	$ 9.95
21140	Store Worker I	$ 8.86
21150	Stock Clerk (Shelf Stocker; Store Worker II)	$ 9.95
21210	Tools and Parts Attendant	$ 10.70
21400	Warehouse Specialist	$ 11.92

Mechanics and Maintenance and Repair Occupations:

23010	Aircraft Mechanic	$ 18.08
23040	Aircraft Mechanic Helper	$ 13.53
23050	Aircraft Quality Control Inspector	$ 19.01
23060	Aircraft Servicer	$ 15.34
23070	Aircraft Worker	$ 16.27
23100	Appliance Mechanic	$ 17.18
23120	Bicycle Repairer	$ 14.44
23125	Cable Splicer	$ 18.08
23130	Carpenter, Maintenance	$ 17.18
23140	Carpet Layer	$ 16.27
23160	Electrician, Maintenance	$ 18.08
23181	Electronics Technician, Maintenance I	$ 14.47
23182	Electronics Technician, Maintenance II	$ 17.71
23183	Electronics Technician, Maintenance III	$ 18.64
23260	Fabric Worker	$ 15.34
23290	Fire Alarm System Mechanic	$ 18.08
23310	Fire Extinguisher Repairer	$ 14.44
23340	Fuel Distribution System Mechanic	$ 18.08
23370	General Maintenance Worker	$ 16.27
23400	Heating, Refrigeration and Air-Conditioning Mechanic	$ 18.08
23430	Heavy Equipment Mechanic	$ 18.08
23440	Heavy Equipment Operator	$ 16.08
23460	Instrument Mechanic	$ 18.08
23470	Laborer	$ 9.56
23500	Locksmith	$ 17.18
23530	Machinery Maintenance Mechanic	$ 18.08
23550	Machinist, Maintenance	$ 18.08
23580	Maintenance Trades Helper	$ 13.53
23640	Millwright	$ 18.08
23700	Office Appliance Repairer	$ 17.18
23740	Painter, Aircraft	$ 17.18
23760	Painter, Maintenance	$ 17.18
23790	Pipefitter, Maintenance	$ 18.08
23800	Plumber, Maintenance	$ 17.18
23820	Pneudraulic Systems Mechanic	$ 18.08

23850	Rigger	$ 18.08
23870	Scale Mechanic	$ 16.27
23890	Sheet-Metal Worker, Maintenance	$ 18.08
23910	Small Engine Mechanic	$ 16.27
23930	Telecommunications Mechanic I	$ 18.08
23931	Telecommunications Mechanic II	$ 19.01
23950	Telephone Lineman	$ 18.08
23960	Welder, Combination, Maintenance	$ 18.08
23965	Well Driller	$ 18.08
23970	Woodcraft Worker	$ 18.08
23980	Woodworker	$ 14.44

Personal Needs Occupations:

24570	Child Care Attendant	$ 8.82
24580	Child Care Center Clerk	$ 10.52
24600	Chore Aide	$ 8.46
24630	Homemaker	$ 12.21

Plant and System Operation Occupations:

25010	Boiler Tender	$ 18.08
25040	Sewage Plant Operator	$ 17.18
25070	Stationary Engineer	$ 18.08
25190	Ventilation Equipment Tender	$ 13.53
25210	Water Treatment Plant Operator	$ 17.18

Protective Service Occupations:

27004	Alarm Monitor	$ 9.60
27006	Corrections Officer	$ 17.39
27010	Court Security Officer	$ 18.49
27040	Detention Officer	$ 17.39
27070	Firefighter	$ 17.41
27101	Guard I	$ 7.65
27102	Guard II	$ 9.60
27130	Police Officer	$ 20.68

Stevedoring/Longshoremen Occupational Services:

28010	Blocker and Bracer	$ 14.34
28020	Hatch Tender	$ 14.34
28030	Line Handler	$ 14.34
28040	Stevedore I	$ 13.51
28050	Stevedore II	$ 15.13

Technical Occupations:

29010	Air Traffic Control Specialist, Center 2/	$ 22.77
29011	Air Traffic Control Specialist, Station 2/	$ 15.71
29012	Air Traffic Control Specialist, Terminal 2/	$ 17.29
29023	Archeological Technician I	$ 12.76
29024	Archeological Technician II	$ 14.27
29025	Archeological Technician III	$ 17.68
29030	Cartographic Technician	$ 17.68
29035	Computer Based Training (CBT) Specialist/Instructor	$ 18.88
29040	Civil Engineering Technician	$ 17.68
29061	Drafter I	$ 10.27
29062	Drafter II	$ 11.55
29063	Drafter III	$ 14.83
29064	Drafter IV	$ 17.68
29081	Engineering Technician I	$ 11.14
29082	Engineering Technician II	$ 12.50

29083	Engineering Technician III	$ 15.10
29084	Engineering Technician IV	$ 18.28
29085	Engineering Technician V	$ 22.28
29086	Engineering Technician VI	$ 26.96
29090	Environmental Technician	$ 15.93
29100	Flight Simulator/Instructor (Pilot)	$ 22.15
29150	Graphic Artist	$ 18.88
29160	Instructor	$ 16.26
29210	Laboratory Technician	$ 13.78
29240	Mathematical Technician	$ 17.69
29361	Paralegal/Legal Assistant I	$ 11.74
29362	Paralegal/Legal Assistant II	$ 14.50
29363	Paralegal/Legal Assistant III	$ 16.15
29364	Paralegal/Legal Assistant IV	$ 21.46
29390	Photooptics Technician	$ 17.69
29480	Technical Writer	$ 16.47
29491	Unexploded Ordnance Technician I	$ 14.47
29492	Unexploded Ordnance Technician II	$ 17.51
29493	Unexploded Ordnance Technician III	$ 20.99
29494	Unexploded Safety Escort	$ 14.47
29495	Unexploded Sweep Personnel	$ 14.47
29620	Weather Observer, Senior 3/	$ 15.31
29621	Weather Observer, Combined Upper Air & Surface Programs 3/	$ 13.78
29622	Weather Observer, Upper Air 3/	$ 13.78

Transportation/Mobile Equipment Operation Occups:

31030	Bus Driver	$ 11.77
31260	Parking and Lot Attendant	$ 7.78
31290	Shuttle Bus Driver	$ 11.09
31300	Taxi Driver	$ 10.43
31361	Truckdriver, Light Truck	$ 11.09
31362	Truckdriver, Medium Truck	$ 11.77
31363	Truckdriver, Heavy Truck	$ 13.86
31364	Truckdriver, Tractor-Trailer	$ 13.86

Miscellaneous Occupations:

99020	Animal Caretaker	$ 11.78
99030	Cashier	$ 7.19
99041	Carnival Equipment Operator	$ 12.76
99042	Carnival Equipment Repairer	$ 13.63
99043	Carnival Worker	$ 9.56
99050	Desk Clerk	$ 8.82
99095	Embalmer	$ 14.47
99300	Lifeguard	$ 7.86
99310	Mortician	$ 14.47
99350	Park Attendant (Aide)	$ 9.86
99400	Photofinishing Worker (Photo Lab Tech., Darkroom Tech)	$ 7.86
99500	Recreation Specialist	$ 12.21
99510	Recycling Worker	$ 12.64
99610	Sales Clerk	$ 7.86
99620	School Crossing Guard (Crosswalk Attendant)	$ 9.56
99630	Sports Official	$ 7.86
99658	Survey Party Chief (Chief of Party)	$ 14.97
99659	Surveying Technician (Instr. Person/Surveyor Asst./Instr.)	$ 12.87
99660	Surveying Aide	$ 9.40
99690	Swimming Pool Operator	$ 15.13
99720	Vending Machine Attendant	$ 12.63
99730	Vending Machine Repairer	$ 15.13
99740	Vending Machine Repairer Helper	$ 12.63

**** Fringe Benefits Required For All Occupations Included In This Wage Determination ****

HEALTH & WELFARE: $1.63 an hour or $65.20 a week or $282.53 a month.

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years; 4 weeks after 10 years; 5 weeks after 20 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 4.173)

HOLIDAYS: Minimum of ten paid holidays per year: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4.174)

1/
Does not apply to employees employed in a bona fide executive, administrative, or professional capacity as defined and delineated in 29 CFR 541. (See 29 CFR 4.156)

2/
APPLICABLE TO AIR TRAFFIC CONTROLLERS ONLY - NIGHT DIFFERENTIAL: An employee is entitled to pay for all work performed between the hours of 6:00 P.M. and 6:00 A.M. at the rate of basic pay plus a night pay differential amounting to 10 percent of the rate of basic pay.

3/
WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employee (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday preium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

**** UNIFORM ALLOWANCE ****

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of $4.25 per week (or $.85 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

**** NOTES APPLYING TO THIS WAGE DETERMINATION ****

Source of Occupational Titles and Descriptions:

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations," Fourth Edition, January 1993, as amended by the Second Supplement, dated August 1995, unless otherwise indicated. This publication may be obtained from the Superintendent of Documents, at 202-783-3238, or by writing to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of specific job descriptions may also be obtained from the appropriate contracting officer.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).

2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.

3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).

4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE	OF	PAGES
	1		3

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. *(If applicable)*
A024	See Block 16c	06-00RL14047.013	

6. ISSUED BY CODE

U.S. Department of Energy
Office of River Protection
P.O. Box 450, M/S H6-60
Richland, Washington 99352

7. ADMINISTERED BY *(If other than Item 6)* CODE

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, city, county, state and zip code)*

CH2M Hill Hanford Group, Inc.
P.O. Box 1500
Richland, Washington 99352

CODE | FACILITY CODE

(X) 9A. AMENDMENT OF SOLICITATION NO.

9B. DATED *(SEE ITEM 11)*

X 10A. MODIFICATION OF CONTRACT/ ORDER NO. DE-AC06-99RL14047

10B. DATED *(SEE ITEM 13)* 09/30/99

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

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

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 _____ 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)*

See attached detail

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

(X) A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: *(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:

X D. OTHER *(Specify type of modification and authority)* Contract Clause B-2, "Obligation of Funds"

E. IMPORTANT: Contractor ◯ is not, ◉ is required to sign this document and return 3 copies to the issuing office.

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

OBLIGATION NOTICE NO. 13

Pursuant to Paragraph ~~(b)~~ (a) of Article B.2 of the Schedule of Contract DE-AC06-99RL14047, the amount obligated by DOE is hereby decreased by $5,338,105.41 from $45,270,083.00 to $39,931,977.59.

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)*	
M. D. Ebben, Vice President and CFO		Jewel J. Short, II	
15B. CONTRACTOR/OFFEROR *(Signature of person authorized to sign)*	15C. DATE SIGNED SEP 30 2000	16B. UNITED STATES OF AMERICA *(Signature of Contracting Officer)*	16C. DATE SIGNED SEP 30 2000

Fund ist be controlled within specific limitations required by and/or at levels directed by the DOE contracting officer. ept as note. elow, this document identifies the funding levels with corr sponding Budget and Reporting (B&R) numbers and, for construc. on line items, the Budget Reference number, that cannot be exceeded. Costs plus commitments at each control point shall not exceed total budget authority (BA) available (Prior year uncosted and current fiscal year obligations) AND must be related to DOE authorized work scope. The following B&R numbers have funding ceilings at a lower level as indicated below:

ACTIVITY	B&R NUMBER	FUNDING CONTROL POINT
Work for other fed. agencies	400000000	By each individual work order from requesting entity.
Work for commercial entities	600000000 650000000	By each individual work order from requesting entity.
Inter-DOE work orders	820101000	By each individual work order from requesting entity.

Note: For modifications with a net change of $0.00, the modification reflects changes in distribution.

FINAL

CH2M HILL HANFORD GROUP, INC.
Modification No. : A024 Requisition No. : 00RL14047.013
Contract ID: RL14047

SF-0030
Page 1

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

BNR Control	Budget Ref	Prior Year Uncosted	Amount This Modification	Previous Modifications Signed This FY	Total FY Mods	Total BA Avail
Fin Plan: RL **Fund Type:** SA **Approp:** 89X0228.91						
WA1000000		$0.00	$5,000.00	$0.00	$5,000.00	$5,000.00
	Fund Type Total	$0.00	$5,000.00	$0.00	$5,000.00	$5,000.00
Fin Plan: RL **Fund Type:** TE **Approp:** 89X0242.91						
39EW02J10	PRN89D17300	$0.00	$0.00	$12,090.30	$12,090.30	$12,090.30
39EW02J10	PRN93D18200	$0.00	$0.00	($87,955.86)	($87,955.86)	($87,955.86)
39EW02J10	PRN94D40700	$8,000,000.00	($4,060,000.00)	$7,169,670.04	$3,109,670.04	$11,109,670.04
39EW02J10	PRN97D40200	$200,000.00	($20,516,000.00)	$22,214,427.24	$1,698,427.24	$1,898,427.24

CH2M HILL HANFORD GROUP, INC.
Modification No. : A024 Requisition No. : 00RL14047.013
Contract ID: RL14047

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

BNR Control	Budget Ref	Prior Year Uncosted	Amount This Modification	Previous Modifications Signed This FY	Total FY Mods	Total BA Avail
39EW02J10	PRN99D40300	$1,000,000.00	($13,988,000.00)	$15,954,894.06	$1,966,894.06	$2,966,894.06
39EW02J20	PRN94D40700	$0.00	$4,060,000.00	$0.00	$4,060,000.00	$4,060,000.00
39EW02J20	PRN97D40200	$0.00	$20,516,000.00	$0.00	$20,516,000.00	$20,516,000.00
39EW02J20	PRN99D40300	$0.00	$13,988,000.00	$0.00	$13,988,000.00	$13,988,000.00
820200000		$0.00	($12,111,407.14)	($352,348,990.03)	($364,460,397.17)	($364,460,397.17)
EW0200000		$6,298,350.33	$3,619,267.88	$303,773,333.44	$307,392,601.32	$313,690,951.65
EW0400000		$0.00	$0.00	$89,000.00	$89,000.00	$89,000.00
EW4000000		$70,000.00	$62,322.85	$1,540,180.48	$1,602,503.33	$1,672,503.33
	Fund Type Total	$15,568,350.33	($8,429,816.41)	($1,683,350.33)	($10,113,166.74)	$5,455,183.59

Fin Plan: RL Fund Type: TQ Approp: 89X0249.91

EW0300000		$0.00	$3,086,711.00	$31,385,083.00	$34,471,794.00	$34,471,794.00
	Fund Type Total	$0.00	$3,086,711.00	$31,385,083.00	$34,471,794.00	$34,471,794.00
	Contract Total	$15,568,350.33	($5,338,105.41)	$29,701,732.67	$24,363,627.26	$39,931,977.59

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE 1 OF 7 PAGES

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)
M025	9/13/00		

6. ISSUED BY CODE

U.S. Department of Energy
Office of River Protection
PO Box 450, MS H6-60
Richland, WA. 99352

7. ADMINISTERED BY (If other than Item 6) CODE

8. NAME AND ADDRESS OF CONTRACTOR (No., street, city, county, state and zip code)

CH2M Hill Hanford Group, Inc.
P.O. Box 1500
Richland, WA 99352

CODE FACILITY CODE

(X)	
	9A. AMENDMENT OF SOLICITATION NO.
	9B. DATED (SEE ITEM 11)
x	10A. MODIFICATION OF CONTRACT/ ORDER NO. DE-AC06-99RL14047
	10B. DATED (SEE ITEM 13) 9/30/99

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

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

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 _____ 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.

(X)	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).
X	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: I.92 "Changes"; H.20 "Available Fee"
	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor ◯ is not, ◉ is required to sign this document and return 3 copies to the issuing office.

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

This is a supplemental agreement reflecting an equitable adjustment in contract cost, fee and terms to definitize the change order to perform interim operations and design activities associated with the Waste Treatment and Immobilization Plant (WTP). See attached pages for details of the following: (1) Contractor's Statement of Release (FAR 43.204.c); (2) Revision to Section B.3 "Estimated Cost and Fee"; (3) Revision to Section C "Statement of Work"; (3) Incorporation of Performance Incentive no. 6.1.2 dated 9/13/00.

All other terms and conditions of the contract are unchanged.

Exceptt 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)	
Michael D. Ebben, Vice President and CFO		Jewel J. Short, II	
15B. CONTRACTOR/OFFEROR (Signature of person authorized to sign)	15C. DATE SIGNED 9-28-00	16B. UNITED STATES OF AMERICA (Signature of Contracting Officer)	16C. DATE SIGNED 9/28/00

The purpose of this contract modification is as follows:

1. Contractor's Statement of Release:

   In consideration of the modifications agreed to herein as complete equitable adjustments for the Contractor's "proposals for adjustment" (listed below and in response to the DOE-ORP direction to assume work previously performed by BNFL Inc.), the Contractor hereby releases the Government from any and all liability under this contract for further equitable adjustments attributable to such facts or circumstances giving rise to the "proposals for adjustment."

   "Proposals for Adjustment" include but are not limited to, the following Contractor communications in response to the DOE-ORP direction to the Contractor to assume work previously performed by BNFL Inc. under the Waste Treatment Plant privatization contract:

CHG-0004311	"RPP Baseline Change Request No. 133…" dated 8/11/00.
CHG-0003362R2	"Additional Funding for Ongoing WTP Workscope" dated 8/3/00.
CHG-0003527	"MYWP Baseline Update for Operations of WTP Scope" dated 7/17/00.
CHG-0002574R1	"Acknowledgement of Receipt of Additional Work Scope Associated with BNFL, Inc." dated 7/14/00.

2. Section B.3 "Estimated Cost and Fee" is revised by changing Table B-2 as follows:

   "Estimated CHG Cost" is increased by $33.4 million from $318 million to $351.4 million.

   "Available Fee Pool" is increased by $1.5 million from $14.4 million to $15.9 million.

   "Total Fee" is increased by $1.5 million from $19.4 million to $20.9 million.

(continued on next page)

3. Section C "Statement of Work" is revised by adding the following as the third paragraph of Section C.1 "SUMMARY DESCRIPTION OF WORK":

   "CHG shall also be responsible for Waste Treatment and Immobilization Plant (WTP) interim responsibilities consistent with the Department of Energy, Office of River Protection direction in the four letters below. All interim responsibility will conclude upon the program transition to the new WTP contractor, which is expected to be completed 45 days after the projected WTP contract award date of January 15, 2001. If any of the letters below imply that the operations/design work shall continue beyond the transition, then such implications are superceded by this work statement. However, CHG may perform operability oversight of the WTP after the transition as directed by DOE-ORP.

00-AMSA-036	"Clarification of Scope for Interim Design of the Waste Treatment and Immobilization Plant (WTP)" dated September 6, 2000.
00-ORP-082	"Radiological and Nuclear Safety Workscope Guidance" dated August 31, 2000.
00-ORP-035	"Realignment of Responsibilities for the Hanford Waste Treatment and Immobilization Plant and Tasking for Interim Design Responsibilities" dated June 28, 2000.
00-BMA-070	"Operation of the Waste Treatment Plant (WTP)" dated June 8, 2000."

4. Revise existing FY 2000 Performance Incentive Agreements (PIs), by incorporating the attached PI No. ORP 6.1.2 "Waste Treatment Plant Interim Design and Transition" dated 9/13/00, into Section J, Appendix D.

5. Incorporate the attached summary of Performance Incentive Agreements into Section J, Appendix D, which replaces the prior summary incorporated into the contract.

Summary of FY 2000
Performance Incentive Agreements

	FY 2000 PERFORMANCE INCENTIVE AGREEMENTS	
Number	**Title**	**Available Fee**
ORP 1.1.1 Rev. 2	Tank Characterization - Sampling Tanks	$ 1,766,000
ORP 1.1.2	Tank Char. - Reduce Lab Turnaround DELETED 8/8/00	$ -
ORP 2.1.1 Rev. 1	Authorization Basis Management Process Improvement	$ 500,000
ORP 2.1.2	SY-101 Safety Mitigation	$ 2,500,000
ORP 3.1.1 Rev. 2	Interim Tank Stabilization	$ 2,584,000
ORP 3.1.2	Supernatant Removal	$ 300,000
ORP 3.1.3	Installation of Replacement Transfer Lines to Support Interim Stabilization of 2 Tanks in S/SX Tank Farm Complex	$ 100,000
ORP 3.2.1 Rev. 1	W-314 "A" Complex	$ 1,250,000
ORP 3.2.3 Rev. 1	Implementation of Field Optimizations	$ 400,000
ORP 3.3.1 Rev. 1	Vault Stabilization	$ 250,000
ORP 3.3.4	Drawing & Labeling	$ 250,000
ORP 3.4.1	ENRAF Installations	$ 150,000
ORP 3.5.1	Integrated Construction Projects/Operations Plan	$ 300,000
ORP 3.8.1	Waste Volume Mgmt	$ 250,000
ORP 4.1.1	Vadose Zone	$ 500,000
ORP 4.2.1 Rev. 1	AZ-101 Process Test	$ 750,000
ORP 4.5.1 Rev. 3	Phase I Part B-2 Readiness to Proceed	$ 1,000,000
ORP 6.1.2	Waste Treatment Plant Interim Design and Transition	$ 1,500,000
ORP 8.1.1	W-519 Privatization Phase I Infrastructure Support	$ 500,000
ORP 9.1.1	Immobilized Product Storage / Disposal	$ 250,000
ORP 10.1.3	Project Integration Office Deliverables	$ 800,000
	Total	$ 15,900,000
	FY 2000 SUPER STRETCH PERFORMANCE INCENTIVE AGREEMENTS	
Number	**Title**	**Available Fee**
ORP 1.1.3S	Characterization Core Sample AN-104 and AZ-101	$ 317,000
ORP 2.1.3S	Advanced Preparation of 241-SY-101 for Retrieval and for Receiving and Staging	*$ 1,390,000*
ORP 3.8.2S	Transfer Waste from 241-AW-104 to Evaporator Feed Tank	*$ 760,000*
ORP 4.1.2S	Drill 5 RCRA Groundwater Wells	$ 220,000
ORP 4.3.2S	SST Waste Retrieval of Tank C-104	$ 335,000
ORP 4.3.3S	Tank C-106 Operational Closure Status Assessment	$ 70,000
ORP 4.3.4S	SST Retrieval - Technology Testing and Deployment	$ 88,000
ORP 8.1.2S	Acceleration of Project W-519	*$ 400,000*
	Total	$ 3,580,000
	Grand Total	$ 19,480,000
Note: 2.1.3S, 3.8.2S and 8.1.2S include Super Stretch fee that may be earned in FY01.		

FY 2000 PERFORMANCE INCENTIVE

SECTION 1
General Information

Title: **Waste Treatment Plant Interim Design and Transition**

Project Baseline Summary (PBS): TW06

Maximum Available Incentive Fee: $1,500,000

SECTION 2
Technical Contacts

ORP Point of Contact: W. J. Taylor

Contractor Point of Contact: M. A. Payne

SECTION 3
Performance Expectations and Earning Schedule

GENERAL REQUIREMENTS: In order to earn incentive fee under this Performance Incentive, the Contractor shall:

1. Meet the completion criteria and expectations set forth in this Performance Incentive; and
2. No incur any unfavorable cost variance {(BCWP –ACWP)/BCWP} greater than 5.0 percent, or incur any unfavorable schedule variance {(BCWP – BCWS}/BCWS) greater than 7.5 percent, measured at the Project Baseline Summary level identified in Section 1, at the end of FY 2000.

SPECIFIC REQUIREMENTS:

General Assessment:
Based upon a rating assigned by the Office of River Protection (ORP) Transition Manager by October 15, 2000, the contractor may earn up to 40% of the available incentive fee (see the rating table below). Areas of the assessment include the following:

- Manage and supervise the interim team.
- Accomplishment of assigned tasks (DOE letter numbers 00-BMA-070, 00-ORP-035, and 00-ORP-082) in a cooperative and proactive manner.
- Mobilize the WTP project work force towards completion of FY2000 work assigned in ORP letters 00-ORP-035 and 00-AMSA-036.
- Complete transition activities (from BNFL to CHG) as outlined in the CHG transition plan.
- Aggressively develop responses to regulator Notice of Deficiencies on the Waste Treatment Plant Dangerous Waste Permit Application and regulator comments on the Risk Assessment Work Plan including, but not limited to developing a draft response table (and informally providing to ORP Transition Manager) by September 20, 2000.
- Aggressively pursue resolution and closure of ORP comments on the draft Notices of Construction and draft Prevention of Significant Deterioration Permit Application for the Waste Treatment Plant.

Assessment Rating	% Fee Earned	
Unsatisfactory	0%	
Satisfactory	1% to 75%	of the available incentive fee based upon the ORP Transition Manager's assessment of the criteria stated above.
Outstanding	76% to 100%	of the available incentive fee based upon the ORP Transition Manager's assessment of the criteria stated above.

Specific Deliverables:

Earn up to 60% of the available incentive fee as follows:

1. By September 29, 2000, submit a draft resource loaded schedule that defines the scope of work, cost, and schedule (with an estimate of the man-hours required and expected dates of completion) for the WTP interim design and transition to the

FY 2000 PERFORMANCE INCENTIVE

new WTP Contractor. Definition of the specific requirements is included in ORP letter 00-AMSA-036. (Earn 15% of available incentive fee)

2. By September 29, 2000, evaluate the 3D model, Operations Research (OR) model, and G2 model as received from BNFL to determine if they are complete and fully functional. Also, evaluate if the WTP Equipment List is complete and sortable. (See Assumption regarding OR model). (Earn 15% of available incentive fee)

3. By September 29, 2000, submit a clear and concise plan, complete with milestones to measure progress against, that supports submittal of necessary air permitting materials to support the project schedule for the treatment plant. The construction date for permitting purposes will be consistent with the $1 billion baseline. (Earn 5% of available incentive fee)

4. By September 29, 2000, CHG shall have completed transition activities and readiness activities (e.g., resumption plans, self assessments, management assessments, independent assessments, etc.) related to the transitioned BNFL Inc. Quality Assurance Program (PP W375 QA 00001, *Quality Assurance Provisions Document*) to ensure that the program is fully compliant and implemented and that associated documents and records have been maintained. By September 29, 2000, CHG shall evaluate outstanding QA commitments and corrective actions to determine those that are still applicable. CHG shall develop a corrective action schedule to disposition applicable corrective actions. (Earn 10% of available incentive fee)

5. By September 29, 2000, develop (or update) a Design Change Control procedure that establishes DOE-ORP as an approval authority, along with CHG, over the process and facility design. CHG shall submit to ORP a draft design change control procedure by September 15, 2000. CHG shall work with ORP to obtain agreement by September 29, 2000 on the procedure to initiate, manage, and approve changes to the design. (Earn 15% of available incentive fee)

SECTION 4
Performance Requirements

DEFINE COMPLETION: *(Specify Performance Elements and describe indicators of success (quality/progress). Include baseline documentation/data against which completion documentation should be compared.)*

1. Regarding the OR model referenced in specific deliverable item number 2 above: CHG states that they have not received the OR model. Therefore, CHG shall have 14 days from receipt of the OR model to complete this deliverable. If BNFL has not provided the OR model by September 30, 2000, the deliverable description and the fee associated with it (15%) shall be allocated to the "general assessment" portion of the performance expectation. This allocation will cause the general assessment to change from 40% to 55% of the total available incentive fee.

2. The Contractor may submit any self-assessment input by October 5, 2000, in order to be considered for the ORP Transition Manager's review.

DEFINITIONS: *(define terms)*

COMPLETION DOCUMENTS LIST: *(Name the Documents, Databases, etc., which will be submitted to show completion for each Performance Expectation.)*

SECTION 5
Signatures

W G Taylor 9/13/00
Contracting Officer's Representative/Date

9/13/00
Title/Date: Sr VP, Tank Waste Treatment
(This person has signature authority to sign legally binding documents for the conduct of business affairs on behalf of CHG)

9/13/00
ORP Contracting Officer/Date

9/13/00
CHG Contract Representative/Date

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE	OF	PAGES
	1		1

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. *(If applicable)*
M026	10/18/00	01RL14047.001	

6. ISSUED BY CODE

U.S. Department of Energy
Office of River Protection
PO Box 450, MS H6-60
Richland, WA. 99352

7. ADMINISTERED BY *(If other than Item 6)* CODE

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, city, county, state and zip code)*

CH2M Hill Hanford Group, Inc.
P.O. Box 1500
Richland, WA 99352

CODE FACILITY CODE

(X)	
	9A. AMENDMENT OF SOLICITATION NO.
	9B. DATED *(SEE ITEM 11)*
x	10A. MODIFICATION OF CONTRACT/ ORDER NO. DE-AC06-99RL14047
	10B. DATED *(SEE ITEM 13)* 9/30/99

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

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

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 _____ 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.

(X)	
	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.
X	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 purpose of this contract modification is to transfer the contract from the Department of Energy (DOE) Richland Operations Office, Richland, WA. to the DOE Office of River Protection, Richland, WA. The Contract Number is changed from DE-AC06-99RL14047 to DE-AC27-99RL14047.

All other terms and conditions of the contract are unchanged.

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)*	
		Jewel J. Short, II	
15B. CONTRACTOR/OFFEROR *(Signature of person authorized to sign)*	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA *(Signature of Contracting Officer)*	16C. DATE SIGNED 10/18/00

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE	OF	PAGES
	1		7

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. *(If applicable)*
M028	10/1/00		

6. ISSUED BY CODE

U.S. Department of Energy
Office of River Protection
PO Box 450, MS H6-60
Richland, WA. 99352

7. ADMINISTERED BY *(If other than Item 6)* CODE

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, city, county, state and zip code)*

CH2M Hill Hanford Group, Inc. (CHG)
P.O. Box 1500
Richland, WA 99352

CODE | FACILITY CODE

(X) 9A. AMENDMENT OF SOLICITATION NO.

9B. DATED *(SEE ITEM 11)*

x 10A. MODIFICATION OF CONTRACT/ ORDER NO. DE-AC27-99RL14047

10B. DATED *(SEE ITEM 13)* 9/30/99

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

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

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 _____ 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.

(X) 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:

X D. OTHER *(Specify type of modification and authority)* H.15 "Payments and Advances" and I-104 "Key Personnel"

E. IMPORTANT: Contractor ◯ is not, ◉ is required to sign this document and return 3 copies to the issuing office.

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

The purpose of this contract modification is to:

1. Incorporate the attached Special Bank Account Agreement into Section J, Appendix K, and

2. Revise Section J, Appendix A "Key Personnel" as follows: A.M. Parker, Executive Vice President and Deputy General Manager, is hereby added to Appendix A. (note: This revision is granted in response to letter no. CHG-0004366 dated August 21, 2000).

All other terms and conditions of the contract are unchanged.

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)*	
. D. Ebben, Vice President & CFO		Jewel J. Short, II	
15B. CONTRACTOR/OFFEROR *(Signature of person authorized to sign)*	15C. DATE SIGNED 10-24-00	16B. UNITED STATES OF AMERICA *(Signature of Contracting Officer)*	16C. DATE SIGNED 10/26/00

CH2M HILL HANFORD GROUP, INC.
CONTRACT NO. 402794-A-C3

SCHEDULE

This agreement is entered into this 1st day of October, 2000, between the UNITED STATES OF AMERICA, represented by the U.S. Department of Energy (hereinafter referred to as the DOE); CH2M HILL Hanford Group, Inc. (CHG), corporation/legal entity existing under the laws of the State of Delaware (hereinafter referred to as the Recipient); and U.S. Bank, a banking corporation under the laws of the State of Washington located at Richland, Washington (hereinafter referred to as the Bank).

RECITALS

a. By mutual agreement of the parties, this Special Bank Account Agreement supersedes and replaces all Special Bank Account Agreements to which this Recipient, the DOE, and the Bank have been parties.

b. On the effective date of October 1, 1999, the DOE and the Recipient entered into Contract(s) No. DE-AC06-99RL14047, providing for an advance of funds by a letter of credit. A copy of such advance provisions has been furnished to the Bank.

c. The DOE requires that amounts advanced to the Recipient thereunder be deposited in a Special Demand Deposit Account at a member bank covered by the U.S. Department of Treasury approved government deposit insurance organizations that are identified in I TFM 6-9000. These special demand deposits must be kept separate from the Recipient's general or other funds; and the parties are agreeable to so depositing said amounts with the Bank.

d. The "Special Demand Deposit Account" shall be designated "CH2M HILL HANFORD GROUP, INC. CONTRACT ACCOUNT."

COVENANTS

In consideration of the foregoing, and for other good and valuable considerations, it is agreed that:

1. The Government shall have a title to the credit balance in said accounts to secure the repayment of all advance payments made to Recipient and said title shall be superior to any lien or claim of the Bank with respect to such accounts.

2. The Bank shall be bound by the provisions of said contract(s) between the DOE and the Recipient relating to the deposit and withdrawal of funds in the above Special Demand Deposit Account, which are hereby incorporated into this Agreement by reference, but the Bank shall not be responsible for the application of funds withdrawn from said accounts. After receipt by the Bank of directions from the DOE, the Bank shall act thereon and shall be under no liability to any party hereto for any action taken in accordance with the said written directions. Any written directions received by the Bank from the Government upon the DOE stationery and purporting to be signed by, or signed at the written direction of , the Government may, insofar as the right, duties, and liabilities of the Bank are considered as having been properly issued and filed with the Bank by the DOE.

3. The DOE, or its authorized representatives, shall have access to the books and records maintained by the Bank with respect to such Special Demand Deposit Account at all reasonable times and for all reasonable purposes, including, without limitation to, the inspection or copying of such books and records and any or all memoranda, checks, correspondence, or documents pertaining thereto. Such books and records shall be preserved by the Bank for a period of six (6) years after the final payment under this Agreement.

4. In the event of the service of any writ of attachment, levy of execution, or commencement of garnishment proceedings with respect to the Special Demand Deposit Account, the Bank shall promptly notify the U.S. Department of Energy at the Office of River Protection, P.O. Box 450, Richland, Washington, 99352.

5. The DOE shall authorize funds that shall remain available to the extent that obligations have been incurred in good faith thereunder by the recipient to the Bank for the benefit of the special demand deposit account. The Bank agrees to honor upon presentation for payment all payments issued by the recipient and to restrict all withdrawals against the funds authorized to an amount sufficient to maintain the average daily balance in the special demand deposit account in a net positive and as close to zero as administratively possible.

The Bank agrees to service the account in this manner based on the requirements and specifications contained in solicitation No. 402794, dated May 1, 2000 in consideration of the placement by the DOE of a noninterest-bearing time deposit with the Bank in an amount determined by the quarterly analysis via the "Calculation of Time Account Balance Required", as adjusted to compensate for changes in volume of services, in the reserve requirement, in the cost of "float" and in the TT&L rate. The quarterly analysis of the noninterest-bearing time deposit will be performed by Pacific Northwest National Laboratory. The Bank agrees that per-item costs, detailed in the form "Schedule of Bank Processing Charges," contained in the Bank's aforesaid bid shall remain constant during the term of this Agreement. The Recipient shall withdraw the amount of funds determined in the quarterly "Calculation of Time Account Balance Required"; from the special demand deposit account and use such funds to make a noninterest-bearing time deposit in a separate account in the Bank. This account shall hereinafter be defined as the time deposit account. The funds in the time deposit account shall remain on deposit and shall not be withdrawn or used for any purpose without the authorization of the DOE. The amount of the deposit may be adjusted upward or downward, but only with the approval of the DOE.

6. The Bank shall post collateral, acceptable under Treasury Department Circular No. 176, with the Federal Reserve Bank in an amount equal to the net balances in all of the accounts included in this Agreement (including the noninterest-bearing time deposit account), less the Department of Treasury - approved deposit insurance.

7. This Agreement, with all its provision and covenants, shall be in effect for a term of one year, beginning on the first day of October, 2000 and extending through the thirtieth day of September, 2001, or through the option periods should the DOE exercise the options to extend the agreement further in accordance with the provision of (8)(a) below. The exercise of any or all of the option periods is the unilateral right of the DOE.

    a. The DOE may extend the term of this Agreement for three years, with three one year options by written notice to the Recipient and the Bank provided that the DOE shall give the Recipient and Bank a preliminary written notice of its intent at least 90 days before this Agreement expires. The preliminary notice does not commit the DOE to an extension.

    b. If the DOE exercises this option, the extended agreement shall be considered to include this option provision.

c. The duration of the Agreement, including the exercise of any options under this covenant, shall not extend past September 30, 2005.

8. The DOE, the Recipient, or the Bank may terminate this Agreement at any time within the agreement period upon submitting written notification to the other parties 90 (ninety) days prior to the desired termination date. The specific provisions for operating the account during this 90 (ninety) day period are contained in covenant (12).

9. The DOE or the Recipient may terminate this Agreement at any time upon 30 days' written notice to the Bank if the DOE or the Recipient, or both parties, find that the Bank has failed to substantially perform its obligations under this Agreement of that the Bank is performing its obligations in a manner which precludes administering the program the in an effective and efficient manner or that precludes the effective utilization of the Government's cash resources.

10. Notwithstanding the provision of Covenants (8) and (9), in the event the contract (referenced in Recital (b) between the DOE and the Recipient is not renewed or is terminated, this Agreement between the DOE, the Recipient and the Bank shall automatically be terminated upon the delivery of written notice to the Bank.

11. In the event of termination, the Bank agrees to retain the Recipient's special demand deposit account for an additional 90-day period to clear outstanding payment items. (For compensation by noninterest-bearing time deposit only.)

    Within 7 days of the expiration of the Agreement term, an analysis of the special demand deposit account shall be made by the DOE to determine whether an insufficient or excessive balance was maintained in the time deposit account to compensate the Bank for services rendered up to the expiration date.

    a. If the analysis indicates that the Bank has been insufficiently compensated for services rendered up to the expiration of the Agreement, the Recipient shall—

        1. Maintain on deposit, during this 90-day period, sufficient Federal funds to reimburse the Bank for prior cumulative loss of earnings, and

        2. Maintain on deposit in the time deposit account sufficient Federal funds to compensate the Bank for services rendered.

    b. If the analysis indicates that the Bank has been overcompensated for services rendered up to the expiration of the Agreement, the DOE shall close out the time deposit account and secure from the Bank a payment in an amount equal to the cumulative excess compensation less compensation for estimated services to be rendered during the 90-day period.

    c. If cumulative excess compensation is not sufficient to compensate the Bank for services rendered during the 90-day period, adjustments shall be made to the time deposit account to compensate the Bank for the difference between the cost of services rendered during the 90-day period and the cumulative excess compensation.

This Agreement shall continue in effect for the 90-day additional period, with exception of the following:

1. Term Agreement (Covenant 7)

2. Termination of Agreement (Covenants 8 and 9)

All terms and conditions of the aforesaid bid submitted by the Bank that are not inconsistent with this 90-day additional term shall remain in effect for this period.

12. Any direction received by the Bank from the DOE which alters any portion of the terms and conditions of this agreement, including the amount of the time deposit agreed to herein, shall not be valid unless signed by the Contracting Officer.

13. Contract Contents: In addition to this Schedule, the contract consists of:

    -Schedule of Bank Processing Charges
    -Calculation of Time Account Balance
    -Requirement Summary, dated May 1, 2000.
    -46 General Provisions.
    -General Representations and Certifications: The representations and certifications dated June 16, 2000, as signed and submitted by the Recipient in response to the RFP which resulted in the award of this contract are hereby incorporated by reference.

15. Contract Modifications: This Contract contains the entire understanding between the parties, and there are no understandings or representations not set forth or incorporated by reference herein. No communication, written or oral, by other than CH2M HILL Hanford Group, Inc. Contracting Officer shall be effective to modify or otherwise affect the provisions of the contract.

IN WITNESS WHEREOF the parties hereto have caused this agreement which consists of 43 pages including the documents incorporated by reference in covenant (13) to be executed as of the day and year first above written.

9/18/00
Date Signed

By Jewel J. Short, II
(Typed Name of Contracting Officer)

(Signature of Contracting Officer)

WITNESS

(Typed Name of Witness)

CH2M HILL Hanford Group, Inc.
(Typed Name of Recipient)

(Signature of Witness)

By Alan M. Parker
(Name of Recipient's Representative)

NOTE: In the case of a corporation, A witness is not required. Type or Print names under all signatures

(Signature of Recipient's Representative)

Executive Vice President and Deputy Manager
(Title)

P.O. Box 1500, Richland, WA 99352
(Address)

(Date Signed)

(Name of Witness)

(Name of Bank)

U.S. BANK
(Name of Bank)

(Signature of Witness)

(Signature of Bank Representative)

Note: In the case of a corporation, A witness is not required. Type or Print names under all signatures.

VICE PRESIDENT
(Title)

W. 428 RIVERSIDE, SUITE 1230
SPOKANE, WA 99202
(Address)

9/25/2000
(Date Signed)

NOTE

The Recipient, if a corporation, shall cause the following Certificate to be executed under its corporate seal, provided that the same officer shall not execute both the Agreement and the Certificate.

CERTIFICATE

I, Michael D. Ebben, certify that I am the Secretary of the corporation named as Recipient herein: that Alan M. Parker, who signed this Agreement on behalf of the Recipient, was then Executive Vice President and Deputy Manager of said corporation; and that said Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(Corporate Seal) (Signature)

NOTE

Bank, if a corporation, shall cause the following Certificate to be executed under its corporate seal, provided that the same officer shall not execute both the Agreement and the Certificate.

CERTIFICATE

I, M THERESA PARRY, certify that I am the RELATIONSHIP ASSISTANT of the corporation named as Bank herein; that GAIL HEINSELMAN, who signed this Agreement on behalf of the Bank, was then VICE PRESIDENT of said corporation; and that said Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

M Theresa Parry

(Corporate Seal) (Signature)

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE 1 OF 3

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. *(If applicable)*
A029	See Block 16c	06-01RL14047.003	

6. ISSUED BY CODE

U.S. Department of Energy
Office of River Protection
P.O. Box 450, M/S H6-60
Richland, Washington 99352

7. ADMINISTERED BY *(If other than Item 6)* CODE

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, city, county, state and zip code)*

CH2M Hill Hanford Group, Inc.
P.O. Box 1500
Richland, Washington 99352

CODE FACILITY CODE

(X)	
	9A. AMENDMENT OF SOLICITATION NO.
	9B. DATED *(SEE ITEM 11)*
X	10A. MODIFICATION OF CONTRACT/ ORDER NO. DE-AC~~06~~27-99RL14047
	10B. DATED *(SEE ITEM 13)* 09/30/99

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

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

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 _____ 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)*

See attached detail

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

(X)	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: *(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 p ying 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:
X	D. OTHER *(Specify type of modification and authority)* Contract Clause B-2, "Obligation of Funds"

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.)*

OBLIGATION NOTICE NO. 15

Pursuant to Paragraph (a) of Article B.2 of the Schedule of Contract DE-AC~~06~~27-99RL14047, the amount obligated by DOE is hereby increased by $114,401,137.74 from $66,089,422.59 to $180,490,560.33.

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)*	
		Jewel J. Short, II	
15B. CONTRACTOR/OFFEROR *(Signature of person authorized to sign)*	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA *(Signature of Contracting Officer)*	16C. DATE SIGNED 11/30/00

Funds must be controlled within specific limitations required by law and/or at levels directed by the DOE contracting officer. Ex[illegible] as noted below, this document identifies the funding levels with corresponding Budget and Reporting (B&R) numb[illegible] and, fo[illegible]nstruction line items, the Budget Reference number, that cannot be exceeded. Costs plus commitments at each con[illegible] point shall not exceed total budget authority (BA) available (Prior year uncosted and current fiscal year obligations) AND must be related to DOE authorized work scope. The following B&R numbers have funding ceilings at a lower level as indicated below:

ACTIVITY	B&R NUMBER	FUNDING CONTROL POINT
Work for other fed. agencies	400000000	By each individual work order from requesting entity.
Work for commercial entities	600000000 650000000	By each individual work order from requesting entity.
Inter-DOE work orders	820101000	By each individual work order from requesting entity.

Note: For modifications with a net change of $0.00, the modification reflects changes in distribution.

FINAL

CH2M HILL HANFORD GROUP, INC.
Modification No. : A029 Requisition No. : 01RL14047.003
Contract ID: RL14047

SF-0030
Page 1

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

BNR Control	Budget Ref	Prior Year Uncosted	Amount This Modification	Previous Modifications Signed This FY	Total FY Mods	Total BA Avail
Fin Plan: RL	Fund Type: TE	Approp: 89X0242.91				
39EW01J20	PRN01D41600	$0.00	$22,500,000.00	$0.00	$22,500,000.00	$22,500,000.00
39EW01J20	PRN94D40700	$0.00	$4,346,250.00	$0.00	$4,346,250.00	$4,346,250.00
39EW01J20	PRN97D40200	$0.00	$11,159,749.00	$0.00	$11,159,749.00	$11,159,749.00
39EW01J20	PRN99D40300	$0.00	$1,889,000.00	$0.00	$1,889,000.00	$1,889,000.00
39EW02J10	PRN97D40200	$0.00	($3,038,898.00)	$3,038,898.00	$0.00	$0.00
39EW02J20	PRN94D40700	$0.00	($1,147,932.00)	$1,147,932.00	$0.00	$0.00
39EW02J20	PRN99D40300	$0.00	($515,826.00)	$515,826.00	$0.00	$0.00
820200000		$0.00	$33,307,719.74	($6,028,000.00)	$27,279,719.74	$27,279,719.74
EW0100000		$0.00	$72,605,614.00	$0.00	$72,605,614.00	$72,605,614.00
EW0200000		$0.00	($18,803,739.00)	$18,803,739.00	$0.00	$0.00

CH2M HILL HANFORD GROUP, INC.
Modification No. : A029 Requisition No. : 01 RL 14047.003
Contract ID: RL14047

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

BNR Control	Budget Ref	Prior Year Uncosted	Amount This Modification	Previous Modifications Signed This FY	Total FY Mods	Total BA Avail
EW0400000		$0.00	$66,000.00	$46,000.00	$112,000.00	$112,000.00
EW4000000		$0.00	$533,200.00	$133,050.00	$666,250.00	$666,250.00
	Fund Type Total	$0.00	$122,901,137.74	$17,657,445.00	$140,558,582.74	$140,558,582.74

Fin Plan: RL Fund Type: TQ Approp: 89X0249.91

EW0300000		$0.00	($8,500,000.00)	$8,500,000.00	$0.00	$0.00
	Fund Type Total	$0.00	($8,500,000.00)	$8,500,000.00	$0.00	$0.00
	Contract Total	$0.00	$114,401,137.74	$26,157,445.00	$140,558,582.74	$140,558,582.74

DOE RL

FINAL

Contract No.: RL14047 Modification No.: A029

Distribution of Obligation Report

FY: 2001

Listed below is a detailed distribution of funds available for obligation to your contract. Costs are to be reported to DOE Financial Management Division at the level of detail identified.

Due to Congressional, Office of Management and Budget, and/or Department actions/restrictions, total fiscal year funding may not be available for obligation. Following is a distribution of funds available for obligation to your contract.
It should be pointed out, that all funds available for obligation to your contract MAY NOT have been obligated (contract modification unsigned). At no time are costs plus commitments to exceed the total funds OBLIGATED (Signed) at the BNR control point or a budget reference control level.

DOE RL

Contract No.: RL14047 Modification No.: A029

Distribution of Obligations Report

FY: 2001

Control Bud Reference	BNR	Detail Bud Ref	Program Task	OPI	Activity Local Proj Order	RL Task	Prior Year Uncosted	This Change	Total FY BA Signed	Total Funds Available Signed	Total Funds Available For Obligation
Fin Plan	**RL**	**Fund Type**	**TE**		**Appropriation**	**89X0242.91**					
PRN01D41600	39EW01J20	PRN01D41600	ADSRLTW06		W530	0000	.00	22,500,000.00	.00	22,500,000.00	22,500,000.00
25% allocation received. Correction made per FT/BNR recast - TQ/EW03 to TE/39EW01J20											
Total Control Budget Ref:	PRN01D41600						.00	22,500,000.00	.00	22,500,000.00	22,500,000.00
PRN94D40700	39EW01J20	PRN94D40700	ADSRLTW04		W211	0000	.00	1,936,250.00	.00	1,936,250.00	1,936,250.00
Initial allocation up to 25% for FY01. Includes BNR recast 39EW02J20 to 39EW01J20.											
PRN94D40700	39EW01J20	PRN94D40700	ADSRLTW04		W521	0000	.00	2,410,000.00	.00	2,410,000.00	2,410,000.00
Initial allocation up to 25% for FY01. Includes BNR recast of 39EW02J20 to 39EW01J20.											
Total Control Budget Ref:	PRN94D40700						.00	4,346,250.00	.00	4,346,250.00	4,346,250.00
PRN97D40200	39EW01J20	PRN97D40200	ADSRLTW03		W314	0000	.00	11,159,749.00	.00	11,159,749.00	11,159,749.00
Initial allocation up to 25% of FY01 funding. Includes correction of BNR recast from 39EW02J20 to 39EW01J20.											
Total Control Budget Ref:	PRN97D40200						.00	11,159,749.00	.00	11,159,749.00	11,159,749.00
PRN99D40300	39EW01J20	PRN99D40300	ADSRLTW08		W519	0000	.00	1,889,000.00	.00	1,889,000.00	1,889,000.00
Initial allocation up to 25% for FY01. Includes correction for BNR recast from 39EW02J20 to 39EW01J20.											
Total Control Budget Ref:	PRN99D40300						.00	1,889,000.00	.00	1,889,000.00	1,889,000.00
Total BNR:	39EW01J20						.00	39,894,999.00	.00	39,894,999.00	39,894,999.00
Total BNR Control:	39EW01J20						.00	39,894,999.00	.00	39,894,999.00	39,894,999.00
PRN97D40200	39EW02J10	PRN97D40200	ADSRLTW03		W314	0000	.00	-3,038,898.00	3,038,898.00	.00	.00
BNR recast to BNR 39EW01J20.											
Total Control Budget Ref:	PRN97D40200						.00	-3,038,898.00	3,038,898.00	.00	.00
Total BNR:	39EW02J10						.00	-3,038,898.00	3,038,898.00	.00	.00
Total BNR Control:	39EW02J10						.00	-3,038,898.00	3,038,898.00	.00	.00
PRN94D40700	39EW02J20	PRN94D40700	ADSRLTW04		W211	0000	.00	-1,147,932.00	1,147,932.00	.00	.00
BNR Recast to 39EW01J20.											
Total Control Budget Ref:	PRN94D40700						.00	-1,147,932.00	1,147,932.00	.00	.00
PRN99D40300	39EW02J20	PRN99D40300	ADSRLTW08		W519	0000	.00	-515,826.00	515,826.00	.00	.00
BNR Recast to 39EW01J20.											
Total Control Budget Ref:	PRN99D40300						.00	-515,826.00	515,826.00	.00	.00
Total BNR:	39EW02J20						.00	-1,663,758.00	1,663,758.00	.00	.00

DOE RL

Contract No.: RL14047 Modification No.: A029

Distribution of Obligations Report

FY: 2001

Control Bud Reference	BNR	Detail Bud Ref	Program Task	OPI	Activity Local Proj Order	RL Task	Prior Year Uncosted	This Change	Total FY BA Signed	Total Funds Available Signed	Total Funds Available For Obligation
Total BNR Control:	39EW02J20						.00	-1,663,758.00	1,663,758.00	.00	.00
PRN01D41400	39EW04J10	PRN01D41400	ADSRLTW09		W464	0000	.00	.00	.00	.00	.00
Total Control Budget Ref:	PRN01D41400						.00	.00	.00	.00	.00
Total BNR:	39EW04J10						.00	.00	.00	.00	.00
Total BNR Control:	39EW04J10						.00	.00	.00	.00	.00
820201000				RLD0		PNL1	.00	15,000.00	10,000.00	25,000.00	25,000.00
Provides 25% of FY01 8202 authority estimate.											
820201000				RL9F		FDH1	.00	368,000.00	132,000.00	500,000.00	500,000.00
Provides 25% of FY01 8202 authority estimate.											
820201000				RL9B		BHI1	.00	10,000.00	5,000.00	15,000.00	15,000.00
Provides 25% of FY01 8202 authority estimate.											
Total Control Budget Ref:							.00	393,000.00	147,000.00	540,000.00	540,000.00
Total BNR:	820201000						.00	393,000.00	147,000.00	540,000.00	540,000.00
820202000				RL9H		HEH1	.00	-200,000.00	-125,000.00	-325,000.00	-325,000.00
Provide 25% of 8202 funding to HEHF.											
820202000				RLD0		PNL1	.00	-125,000.00	-50,000.00	-175,000.00	-175,000.00
Provides 25% of FY01 8202 authority estimate.											
820202000				RL9F		FDH1	.00	33,239,719.74	-6,000,000.00	27,239,719.74	27,239,719.74
Provides 25% of FY01 8202 authority estimate (-$16,500,000) and reconciles CHG/FHI startup 8202 balances ($49,739,714.74)											
820202000				RL9B		BHI1	.00	.00	.00	.00	.00
Total Control Budget Ref:							.00	32,914,719.74	-6,175,000.00	26,739,719.74	26,739,719.74
Total BNR:	820202000						.00	32,914,719.74	-6,175,000.00	26,739,719.74	26,739,719.74
Total BNR Control:	820200000						.00	33,307,719.74	-6,028,000.00	27,279,719.74	27,279,719.74
EW01J2010			ADSRLTW01			0000	.00	7,509,000.00	.00	7,509,000.00	7,509,000.00
25% allocation of FY01 funding											
Total Control Budget Ref:							.00	7,509,000.00	.00	7,509,000.00	7,509,000.00
Total BNR:	EW01J2010						.00	7,509,000.00	.00	7,509,000.00	7,509,000.00
EW01J2020			ADSRLTW02			0000	.00	4,306,000.00	.00	4,306,000.00	4,306,000.00

Contract No.: RL14047 Modification No.: A029

Distribution of Obligations Report

FY: 2001

Control Bud Reference	BNR	Detail Bud Ref	Program Task	OPI	Activity Local Proj Order	RL Task	Prior Year Uncosted	This Change	Total FY BA Signed	Total Funds Available Signed	Total Funds Available For Obligation
25% allocation of FY01 funding less DOE/PNNL allocations											
Total Control Budget Ref:							.00	4,306,000.00	.00	4,306,000.00	4,306,000.00
Total BNR:	EW01J2020						.00	4,306,000.00	.00	4,306,000.00	4,306,000.00
	EW01J2030		ADSRLTW03			0000	.00	34,246,614.00	.00	34,246,614.00	34,246,614.00
25% allocation of FY01 funding less 209-E transfer to FHI ($526k) & 25% of laundry funds											
	EW01J2030	GPPR	ADSRLTW03		W420	0000	.00	.00	.00	.00	.00
Total Control Budget Ref:							.00	34,246,614.00	.00	34,246,614.00	34,246,614.00
Total BNR:	EW01J2030						.00	34,246,614.00	.00	34,246,614.00	34,246,614.00
	EW01J2040		ADSRLTW04			0000	.00	14,024,000.00	.00	14,024,000.00	14,024,000.00
25% allocation of FY01 funding less DOE allocations											
Total Control Budget Ref:							.00	14,024,000.00	.00	14,024,000.00	14,024,000.00
Total BNR:	EW01J2040						.00	14,024,000.00	.00	14,024,000.00	14,024,000.00
	EW01J2050		ADSRLTW05			0000	.00	261,000.00	.00	261,000.00	261,000.00
Initial Allocation up to 25% of FY01. Correction made for BNR recast from EW02 to EW01.											
Total Control Budget Ref:							.00	261,000.00	.00	261,000.00	261,000.00
Total BNR:	EW01J2050						.00	261,000.00	.00	261,000.00	261,000.00
	EW01J2080		ADSRLTW08			0000	.00	901,000.00	.00	901,000.00	901,000.00
Iniital allocation up to 25% of FY01. Correction made for BNR recast from EW02 to EW01.											
Total Control Budget Ref:							.00	901,000.00	.00	901,000.00	901,000.00
Total BNR:	EW01J2080						.00	901,000.00	.00	901,000.00	901,000.00
	EW01J2090		ADSRLTW09			0000	.00	1,948,000.00	.00	1,948,000.00	1,948,000.00
Initial Allocation up to 25% of FY01. Correction made for BNR recast from EW02 to EW01.											
Total Control Budget Ref:							.00	1,948,000.00	.00	1,948,000.00	1,948,000.00
Total BNR:	EW01J2090						.00	1,948,000.00	.00	1,948,000.00	1,948,000.00
	EW01J2100		ADSRLTW10			0000	.00	9,410,000.00	.00	9,410,000.00	9,410,000.00
25% allocation of FY01 funding less DOE allocations											
Total Control Budget Ref:							.00	9,410,000.00	.00	9,410,000.00	9,410,000.00
Total BNR	EW01J2100						.00	9,410,000.00	.00	9,410 J	9,410,000.00
Total BNR Control:	EW0100000						.00	72,605,614.00	.00	72,605,614.00	72,605,614.00

DOE RL

Contract No.: RL14047 Modification No.: A029

Distribution of Obligations Report

FY: 2001

Control Bud Reference	BNR	Detail Bud Ref	Program Task	OPI	Activity Local Proj Order	RL Task	Prior Year Uncosted	This Change	Total FY BA Signed	Total Funds Available Signed	Total Funds Available For Obligation
	EW02J2010		ADSRLTW01			0000	.00	-1,943,000.00	1,943,000.00	.00	.00
ORP expenses now funded under EW01 budget account for FY 2001											
Total Control Budget Ref:							.00	-1,943,000.00	1,943,000.00	.00	.00
Total BNR:	EW02J2010						.00	-1,943,000.00	1,943,000.00	.00	.00
	EW02J2020		ADSRLTW02			0000	.00	-1,205,000.00	1,205,000.00	.00	.00
ORP expenses now funded under EW01 budget account for FY 2001											
Total Control Budget Ref:							.00	-1,205,000.00	1,205,000.00	.00	.00
Total BNR:	EW02J2020						.00	-1,205,000.00	1,205,000.00	.00	.00
	EW02J2030		ADSRLTW03			0000	.00	-8,837,000.00	8,837,000.00	.00	.00
ORP expenses now funded under EW01 budget account for FY 2001											
Total Control Budget Ref:							.00	-8,837,000.00	8,837,000.00	.00	.00
Total BNR:	EW02J2030						.00	-8,837,000.00	8,837,000.00	.00	.00
	EW02J2040		ADSRLTW04			0000	.00	-3,473,739.00	3,473,739.00	.00	.00
ORP expenses now funded under EW01 budget account for FY 2001											
Total Control Budget Ref:							.00	-3,473,739.00	3,473,739.00	.00	.00
Total BNR:	EW02J2040						.00	-3,473,739.00	3,473,739.00	.00	.00
	EW02J2080		ADSRLTW08			0000	.00	-285,000.00	285,000.00	.00	.00
ORP expenses now funded under EW01 budget account for FY 2001											
Total Control Budget Ref:							.00	-285,000.00	285,000.00	.00	.00
Total BNR:	EW02J2080						.00	-285,000.00	285,000.00	.00	.00
	EW02J2090		ADSRLTW09			0000	.00	-598,000.00	598,000.00	.00	.00
ORP expenses now funded under EW01 budget account for FY 2001											
Total Control Budget Ref:							.00	-598,000.00	598,000.00	.00	.00
Total BNR:	EW02J2090						.00	-598,000.00	598,000.00	.00	.00
	EW02J2100		ADSRLTW10			0000	.00	-2,462,000.00	2,462,000.00	.00	.00
ORP expenses now funded under EW01 budget account for FY 2001											
Total Control Budget Ref:							.00	-2,462,000.00	2,462,000.00	.00	.00
Total BNR:	EW02J2100						.00	-2,462,000.00	2,462,000.00	.00	.00
Total BNR Control:	EW0200000						.00	-18,803,739.00	18,803,739.00	.00	.00

Contract No.: RL14047 Modification No.: A029

Distribution of Obligations Report

FY: 2001

Control Bud Reference	BNR	Detail Bud Ref	Program Task	OPI	Activity Local Proj Order	RL Task	Prior Year Uncosted	This Change	Total FY BA Signed	Total Funds Available Signed	Total Funds Available For Obligation
	EW04J1110		ADSRLWM01			0000	.00	66,000.00	46,000.00	112,000.00	112,000.00
Increases FY 2001 funding to CHG for Spent Nucl Fuel ORR support by ADI Tech subcontract, RFS# 1W7631											
Total Control Budget Ref:							.00	66,000.00	46,000.00	112,000.00	112,000.00
Total BNR:	EW04J1110						.00	66,000.00	46,000.00	112,000.00	112,000.00
Total BNR Control:	EW0400000						.00	66,000.00	46,000.00	112,000.00	112,000.00
	EW4010000		ADSRL08WT21			0000	.00	76,348.00	27,402.00	103,750.00	103,750.00
Incremental funding to 25%											
	EW4010000		ADSRL08WT41			0000	.00	162,500.00	.00	162,500.00	162,500.00
25% Supports RFS 1W8520.											
	EW4010000		ADSRL08WT51			0000	.00	79,107.00	28,393.00	107,500.00	107,500.00
Incremental funding to 25%											
	EW4010000		ADSRL09WT22			0000	.00	215,245.00	77,255.00	292,500.00	292,500.00
Incremental funding to 25%											
Total Control Budget Ref:							.00	533,200.00	133,050.00	666,250.00	666,250.00
Total BNR:	EW4010000						.00	533,200.00	133,050.00	666,250.00	666,250.00
Total BNR Control:	EW4000000						.00	533,200.00	133,050.00	666,250.00	666,250.00
Total Fund Type:	TE						.00	122,901,137.74	17,657,445.00	140,558,582.74	140,558,582.74

DOE RL

Contract No.: RL14047 Modification No.: A029

Distribution of Obligations Report

FY: 2001

Control Bud Reference	BNR	Detail Bud Ref	Program Task	OPI	Activity Local Proj Order	RL Task	Prior Year Uncosted	This Change	Total FY BA Signed	Total Funds Available Signed	Total Funds Available For Obligation
Fin Plan	**RL**	**Fund Type**	**TQ**	**Appropriation**		**89X0249.91**					
	EW03J1010		ADSRLTW06			0000	.00	-8,500,000.00	8,500,000.00	.00	.00
Fund Type / BNR recast											
Total Control Budget Ref:							.00	-8,500,000.00	8,500,000.00	.00	.00
Total BNR:		EW03J1010					.00	-8,500,000.00	8,500,000.00	.00	.00
Total BNR Control:		EW0300000					.00	-8,500,000.00	8,500,000.00	.00	.00
Total Fund Type:		TQ					.00	-8,500,000.00	8,500,000.00	.00	.00

Contract No.: RL14047 Modification No.: A029

Distribution of Obligations Report

FY: 2001

Control Bud Reference	BNR	Detail Bud Ref	Program Task	OPI	Activity Local Proj Order	RL Task	Prior Year Uncosted	This Change	Total FY BA Signed	Total Funds Available Signed	Total Funds Available For Obligation
Total Fin Plan:		RL					.00	114,401,137.74	26,157,445.00	140,558,582.74	140,558,582.74
Contract Total:		RL14047					.00	114,401,137.74	26,157,445.00	140,558,582.74	140,558,582.74

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I.1 52.202-1 -- Definitions.

As prescribed in Subpart 2.2, insert the following clause:

Definitions (Oct 1995)

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

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

(c) *"Commercial item"* means --

(1) Any item, other than real property, that is of a type customarily used for nongovernmental purposes and that --

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) *"Nondevelopmental item"* means --

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

(2) Any item described in paragraph (e)(1) of this definition that requires only minor 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.

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

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

(End of Clause)

52.203 -- Improper Business Practices Provisions and Clauses.

I.2 52.203-3 - Gratuities.

As prescribed in 3.202, insert the following clause:

Gratuities (Apr 1984)

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

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

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

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

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

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

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

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

(End of Clause)

I.3 52.203-5 -- Covenant Against Contingent Fees.

As prescribed in 3.404, insert the following clause:

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)

I.4 52.203-6 -- Restrictions on Subcontractor Sales to the Government.

As prescribed in 3.503-2, insert the following clause:

Restrictions on Subcontractor Sales to the Government (Jul 1995)

(a) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation.

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

End of Clause)

I.5 52.203-7 -- Anti-Kickback Procedures.

As prescribed in 3.502-3, insert the following clause:

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)

I.6 52.203-8 -- Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity.

As prescribed in 3.104-9(a), insert the following clause in solicitations and contracts:

Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (Jan 1997)

(a) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may --

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or
(2) Rescind the contract with respect to which --

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

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

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

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

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

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

(End of Clause)

I.7 52.203-10 -- Price or Fee Adjustment for Illegal or Improper Activity.

As prescribed in 3.104-9(b), insert the following clause:

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)

I.8 52.203-12 -- Limitation on Payments to Influence Certain Federal Transactions.

As prescribed in 3.808, insert the following clause:

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)

I.9 52.204-4 - Printed or Copied Double-Sided on Recycled Paper.

As prescribed in 4.303, insert the following clause:

Printed or Copied Double-Sided on Recycled Paper (Aug 2000)

(a) Definitions. As used in this clause-

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

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

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

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

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

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

(1) Postconsumer fiber; and

(2) Manufacturing wastes such as-

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

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

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

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

(End of Clause)

52.209 -- Contractor Qualifications Provisions and Clauses.

I.10 52.209-6 – Protecting the Governments Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.

As prescribed in 9.409(b), insert the following clause:

Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Jul 1995)

(a) The Government suspends or debars Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of $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.

I 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)

I.11 52.211-5 -- Material Requirements.

As prescribed in 11.304, insert the following clause:

Material Requirements (Aug 2000)

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

"New" means composed of previously unused components, whether manufactured from virgin material, recovered material in the form of raw material, or materials and by-products generated from, and reused within, an original manufacturing process; provided that the supplies meet contract requirements, including but not limited to, performance, reliability, and life expectancy.

"Reconditioned" means restored to the original normal operating condition by readjustments and material replacement.

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

"Remanufactured" means factory rebuilt to original specifications.

"Virgin material" means--

(1) Previously unused raw material, including previously unused copper, aluminum, lead, zinc, iron, other metal or metal ore; or

(2) Any undeveloped resource that is, or with new technology will become, a source of raw materials.

(b) Unless this contract otherwise requires virgin material or supplies composed of or manufactured from virgin material, the Contractor shall provide supplies that are new, reconditioned, or remanufactured, as defined in this clause.

(c) A proposal to provide unused former Government surplus property shall include a complete description of the material, the quantity, the name of the Government agency from which acquired, and the date of acquisition.

(d) A proposal to provide used, reconditioned, or remanufactured supplies shall include a detailed description of such supplies and shall be submitted to the Contracting Officer for approval.

(e) Used, reconditioned, or remanufactured supplies, or unused former Government surplus property, may be used in contract performance if the Contractor has proposed the use of such supplies, and the Contracting Officer has authorized their use.

(End of Clause)

I.12 52.215-2 -- Audit and Records - Negotiation.

As prescribed in 15.209(b), insert the following clause:

Audit and Records -- Negotiation (Jun 1999)

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

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

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

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

(d) *Comptroller General* --

> (1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder.

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

(e) *Reports*. If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating --

(1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and

(2) The data reported.

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

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

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

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

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

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

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

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

(End of Clause)

I.13 52.215-8 -- Order of Precedence -- Uniform Contract Format.

As prescribed in 15.209(h), insert the following clause:

Order of Precedence -- Uniform Contract Format (Oct 1997)

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

(a) The Schedule (excluding the specifications).

(b) Representations and other instructions.

(c) Contract clauses.

(d) Other documents, exhibits, and attachments.

(e) The specifications.

(End of Clause)

I.14 52.215-11 -- Price Reduction for Defective Cost or Pricing Data - Modifications.

As prescribed in 15.408(c), insert the following clause:

Price Reduction for Defective Cost or Pricing Data -- Modifications (Oct 1997)

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

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

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

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

(3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause.

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

(1) The actual subcontract; or

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

(d)

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

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

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

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

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

(2)

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

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

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

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

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

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

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

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

(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)

I.15 52.215-13 -- Subcontractor Cost or Pricing Data - Modifications.

As prescribed in 15.408(e), insert the following clause:

Subcontractor Cost or Pricing Data -- Modifications (Oct 1997)

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

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

(2) Be limited to such modifications.

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

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

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

(End of Clause)

I.16 52.215-15 - Pension Adjustments and Asset Reversions.

As prescribed in 15.408(g), insert the following clause:

Pension Adjustments and Asset Reversions (Dec 1998)

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

(b) For segment closings, pension plan terminations, or curtailment of benefits, the adjustment amount shall be the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12) for contracts and subcontracts that are subject to Cost Accounting Standards (CAS) Board rules and regulations (48 CFR Chapter 99). For contracts and subcontracts that are not subject to CAS, the adjustment amount shall be the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12), except the numerator of the fraction at 48 CFR 9904.413-50(c)(12)(vi) shall be the sum of the pension plan costs allocated to all non-CAS-covered contracts and subcontracts that are subject to Federal Acquisition Regulation (FAR) Subpart 31.2 or for which cost or pricing data were submitted.

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

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

(End of Clause)

I.17 52.215-17 -- Waiver of Facilities Capital Cost of Money.

As prescribed in 15.408(i), insert the following clause:

Waiver of Facilities Capital Cost of Money (Oct 1997)

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

(End of Clause)

I.18 52.215-18 -- Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions.

As prescribed in 15.408(j), insert the following clause:

Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (Oct 1997)

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

(End of Clause)

I.19 52.215-19 -- Notification of Ownership Changes.

As prescribed in 15.408(k), insert the following clause:

Notification of Ownership Changes (Oct 1997)

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

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

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

(b) The Contractor shall --

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

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

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

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

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

(End of Clause)

I.20 52.216-7 -- Allowable Cost and Payment.

As prescribed in 16.307(a), insert the following clause:

Allowable Cost and Payment (Mar 2000)

(a) *Invoicing*. The Government shall make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with Subpart 31.2 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract and the terms of this contract. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

(b) *Reimbursing costs*.

(1) For the purpose of reimbursing allowable costs (except as provided in subparagraph (b)(2) of this section, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term "costs" includes only --

(i) Those recorded costs that, at the time of the request for reimbursement, the Contractor has paid by cash, check, or other form of actual payment for items or services purchased directly for the contract;

(ii) When the Contractor is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for --

(A) Supplies and services purchased directly for the contract and associated financing payments to subcontractors, provided payments will be made-

(1) In accordance with the terms and conditions of a subcontract or invoice; and

(2) Ordinarily prior to the submission of the Contractor's next payment request to the Government;

(B) Materials issued from the Contractor's inventory and placed in the production process for use on the contract;

(C) Direct labor;

(D) Direct travel;

(E) Other direct in-house costs; and

(F) Properly allocable and allowable indirect costs, as shown in the records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts; and

(iii) The amount of financing payments that have been paid by cash, check or other form of payment to subcontractors.

(2) Accrued costs of Contractor contributions under employee pension plans shall be excluded until actually paid unless-

(i) The Contractor's practice is to make contributions to the retirement fund quarterly or more frequently; and

(ii) The contribution does not remain unpaid 30 days after the end of the applicable quarter or shorter payment period (any contribution remaining unpaid shall be excluded from the Contractor's indirect costs for payment purposes).

(3) Notwithstanding the audit and adjustment of invoices or vouchers under paragraph (g) of this clause, allowable indirect costs under this contract shall be obtained by applying indirect cost rates established in accordance with paragraph (d) of this clause.

(4) Any statements in specifications or other documents incorporated in this contract by reference designating performance of services or furnishing of materials at the Contractor's expense or at no cost to the Government shall be disregarded for purposes of cost-reimbursement under this clause.

(c) *Small business concerns*. A small business concern may receive more frequent payments than every 2 weeks

(d) *Final indirect cost rates*.

(1) Final annual indirect cost rates and the appropriate bases shall be established in accordance with Subpart 42.7 of the Federal Acquisition Regulation (FAR) in effect for the period covered by the indirect cost rate proposal.

(2)

(i) The Contractor shall submit an adequate final indirect cost rate proposal to the Contracting Officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. Reasonable extensions, for exceptional circumstances only, may be requested in writing by the

Contractor and granted in writing by the Contracting Officer. The Contractor shall support its proposal with adequate supporting data.

(ii) The proposed rates shall be based on the Contractor's actual cost experience for that period. The appropriate Government representative and the Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

(3) The Contractor and the appropriate Government representative shall execute a written understanding setting forth the final indirect cost rates. The understanding shall specify

(i) the agreed-upon final annual indirect cost rates,

(ii) the bases to which the rates apply,

(iii) the periods for which the rates apply,

(iv) any specific indirect cost items treated as direct costs in the settlement, and

(v) the affected contract and/or subcontract, identifying any with advance agreements or special terms and the applicable rates.

The understanding shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. The understanding is incorporated into this contract upon execution.

(4) Within 120 days after settlement of the final indirect cost rates covering the year in which this contract is physically complete (or longer, if approved in writing by the Contracting Officer), the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates.

(5) Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the Disputes clause.

(e) *Billing rates*. Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the Contracting Officer or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates --

(1) Shall be the anticipated final rates; and

(2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.

(f) *Quick-closeout procedures.* Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

(g) *Audit*. At any time or times before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be --

(1) Reduced by amounts found by the Contracting Officer not to constitute allowable costs; or

(2) Adjusted for prior overpayments or underpayments.

(h) *Final payment.*

(1) Upon approval of a completion invoice or voucher submitted by the Contractor in accordance with paragraph (d)(4) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.

(2) The Contractor shall pay to the Government any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Contractor or any assignee under this contract, to the extent that those amounts are properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses incurred by the Contractor for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Contracting Officer. Before final payment under this contract, the Contractor and each assignee whose assignment is in effect at the time of final payment shall execute and deliver --

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, except --

(A) Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;

(B) Claims (including reasonable incidental expenses) based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided, that the claims are not known to the Contractor on the date of the execution of the release, and that the Contractor gives notice of the claims in writing to the Contracting Officer within 6 years following the release date or notice of final payment date, whichever is earlier; and

(C) Claims for reimbursement of costs, including reasonable incidental expenses, incurred by the Contractor under the patent clauses of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

(End of Clause)

I.21 52.219-8 -- Utilization of Small Business Concerns.

As prescribed in 19.708(a), insert the following clause:

Utilization of Small Business Concerns (Oct 2000)

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

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

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

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

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

(1) Means a small business concern-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

I.22 52.219-9 -- Small Business Subcontracting Plan.

As prescribed in 19.708(b), insert the following clause:

Small Business Subcontracting Plan (Oct 2000)

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

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

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

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

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

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

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

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

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

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. Service-disabled veteran-owned small business concerns meet the definition of veteran-owned small business concerns, and offerors may include them within the subcontracting plan goal for veteran-owned small business concerns. A separate goal for service-disable veteran-owned small business concerns is not required. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of --

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

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

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

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

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

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

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

(i) Small business concerns,

(ii) Veteran-owned small business concerns;

(iii) HUBZone small business concerns;
(iv) Small disadvantaged business concerns, and
(v) Women-owned small business concerns.

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

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

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

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) HUBZone small business concerns;
(iv) Small disadvantaged business concerns; and
(v) Women-owned small business concerns.

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

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

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

(10) Assurances that the offeror will --

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

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

(iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with the paragraph (j) of this clause. The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, small disadvantaged business concerns, women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with the instructions on the forms or as provided in agency regulations.

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

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

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

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

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

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

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

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

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

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

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

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

(A) Trade associations;

(B) Business development organizations;

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

(D) Veterans service organizaions.

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

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

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

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

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

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

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

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

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

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

(1) The master plan has been approved;

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

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

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

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

(i) The failure of the Contractor or subcontractor to comply in good faith with --

(1) The clause of this contract entitled "Utilization Of Small Business Concerns;" or

(2) An approved plan required by this clause, shall be a material breach of the contract.

(j) The Contractor shall submit the following reports:

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

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

(End of Clause)

I.23 52.219-16 -- Liquidated Damages -- Subcontracting Plan.

As prescribed in 19.708(b)(2), insert the following clause:

Liquidated Damages -- Subcontracting Plan (Jan 1999)

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

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion, or in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in

accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply, shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal**.**

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

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

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

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

(End of Clause)

I.24 52.222-1 -- Notice to the Government of Labor Disputes.

As prescribed in 22.103-5(a), insert the following clause:

Notice to the Government of Labor Disputes (Feb 1997)

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

(End of Clause)

I.25 52.222-3 -- Convict Labor.

As prescribed in 22.202, insert the following clause:

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)

I.26 52.222-4 -- Contract Work Hours and Safety Standards Act -- Overtime Compensation.

As prescribed in 22.305, insert the following clause:

Contract Work Hours and Safety Standards Act -- Overtime Compensation. (Sept 2000)

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

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

(c) *Withholding for unpaid wages and liquidated damages*. The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or

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

(d) *Payrolls and basic records.*

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

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

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

(End of Clause)

I.27 52.222-21 - Prohibition of Segregated Facilities.

As prescribed in 22.810(a)(1), insert the following clause:

Prohibition of Segregated Facilities (Feb 1999)

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

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

(End of clause)

I.28 52.222-26 -- Equal Opportunity.

As prescribed in 22.810(e), insert the following clause:

Equal Opportunity (Feb 1999)

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

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

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

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to --

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

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

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

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

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

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

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

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

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

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

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

(End of Clause)

I.29 52.222-35 Affirmative Action for Disabled Veterans & Veterans of the Vietnam Era.

As prescribed in 22.1308(a)(1), insert the following clause:

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)

I.30 52.222-36 -- Affirmative Action for Workers With Disabilities.

As prescribed in 22.1408(a), insert the following clause:

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)

I.31 52.222-37 -- Employment Reports on Disabled Veterans and Veterans of the Vietnam Era.

As prescribed in 22.1308(b), insert the following clause:

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)

I.32 52.222-41 -- Service Contract Act of 1965, as Amended.

As prescribed in 22.1006(a), insert the following clause:

Service Contract Act of 1965, as Amended (May 1989)

(a) *Definitions. "Act,"* as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.).

"*Contractor*," as used in this clause or in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

"Service employee," as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) *Applicability*. This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.

(c) *Compensation*.

(1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2)

(i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request For Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)

(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the

corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) *Adjustment of compensation.* If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) *Obligation to furnish fringe benefits*. The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) *Minimum wage*. In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) *Successor contracts*. If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall

pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) *Notification to employees*. The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) *Safe and sanitary working conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) *Records*.

> (1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Act --

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) *Pay periods.* The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(k) *Withholding of payments and termination of contract*. The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment

or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) *Subcontracts*. The Contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) *Collective bargaining agreements applicable to service employees*. If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) *Seniority list*. Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) *Rulings and interpretations*. Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.

(p) *Contractor's certification*.

> (1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.
>
> (2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.
>
> (3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) *Variations, tolerances, and exemptions involving employment*. Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub.L.92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) *Apprentices*. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) *Tips*. An employee engaged in an occupation in which the employee customarily and regularly receives more than $30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part

531. However, the amount of credit shall not exceed $1.34 per hour beginning January 1, 1981. To use this provision --

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

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

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

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

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

(End of Clause)

I.33 52.222-47 -- SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA).

As prescribed in 22.1006(d) and 22.1012-3(d)(1), insert the following clause:

Service Contract Act (SCA) Minimum Wages and Fringe Benefits (May 1989)

An SCA wage determination applicable to this work has been requested from the U.S. Department of Labor. If an SCA wage determination is not incorporated herein, the bidders/offerors shall consider the economic terms of the collective bargaining agreement (CBA) between the incumbent Contractor _____ and the _____ (union). If the economic terms of the collective bargaining agreement or the collective bargaining agreement itself is not attached to the solicitation, copies can be obtained from the Contracting Officer. Pursuant to Department of Labor Regulation, 29 CFR 4.1b and paragraph (g) of the clause at 52.222-41, Service Contract Act of 1965, as amended, the economic terms of that agreement will apply to the contract resulting from this solicitation, notwithstanding the absence of a wage determination reflecting such terms, unless it is determined that the agreement was not the result of arm's length negotiations or that after a hearing pursuant to section 4(c) of the Act, the economic terms of the agreement are substantially at variance with the wages prevailing in the area.

(End of Clause)

I.34 52.223-3 -- Hazardous Material Identification and Material Safety Data.

As prescribed in 23.303, insert the following clause:

Hazardous Material Identification and Material Safety Data (Jan 1997)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of Clause)

Alternate I (Jul 1995). If the contract is awarded by an agency other than the Department of Defense, add the following paragraph (i) to the basic clause:

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

(1) For items shipped to consignees, the Contractor shall include a copy of the MSDS's with the packing list or other suitable shipping document which accompanies each shipment. Alternatively, the Contractor is permitted to transmit MSDS's to consignees in advance of receipt of shipments by consignees, if authorized in writing by the Contracting Officer.

(2) For items shipped to consignees identified by mailing address as agency depots, distribution centers or customer supply centers, the Contractor shall provide one copy of the MSDS's in or on each shipping container. If affixed to the outside of each container, the MSDS's must be placed in a weather resistant envelope.

I. 35 52.223-5 -- Pollution Prevention and Right-to-Know Information.

As prescribed in 23.1005, insert the following clause:

Pollution Prevention and Right-to-Know Information (Apr 1998)

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

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

(End of Clause)

I.36 52.223-6 -- Drug-Free Workplace.

As prescribed in 23.505, insert the following clause:

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) though (b)(6) of this clause.

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

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

(End of Clause)

I.37 52.223-10 -- Waste Reduction Program.

As prescribed in 23.705, insert the following clause:

Waste Reduction Program (Aug 2000)

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

"Recycling" means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of products other than fuel for producing heat or power by combustion.

"Waste prevention" means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

"Waste reduction" means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) Consistent with the requirements of Section 701 of Executive Order 13101, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, *et seq*.) and implementing regulations (40 CFR part 247).

(End of Clause)

I.38 52.223-12 -- Refrigeration Equipment and Air Conditioners.

As prescribed in 23.804(b), insert the following clause:

Refrigeration Equipment and Air Conditioners (May 1995)

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

(End of Clause)

I.39 52.223-14 -- Toxic Chemical Release Reporting.

As prescribed in 23.907(b), insert the following clause:

Toxic Chemical Release Reporting (Oct 2000)

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

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

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

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

(3) The facility does not meet the reporting thresholds of toxic chemicals established under 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) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or

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

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

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

(2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall --

(i) Submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible; and

(ii) Continue to file the annual Form R for the life of the contract for such facility.

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

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

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

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

(End of Clause)

52.224 -- Protection of Privacy and Freedom of Information Provisions and Clauses.

I.40 52.224-1 -- Privacy Act Notification.

As prescribed in 24.104, insert the following clause in solicitations and contracts, when the design, development, or operation of a system of records on individuals is required to accomplish an agency function:

Privacy Act Notification (Apr 1984)

The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C.552a) and applicable agency regulations. Violation of the Act may involve the imposition of criminal penalties.

(End of Clause)

I.41 52.224-2 -- Privacy Act.

As prescribed in 24.104, insert the following clause in solicitations and contracts, when the design, development, or operation of a system of records on individuals is required to accomplish an agency function:

Privacy Act (Apr 1984)

(a) The Contractor agrees to --

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies --

(i) The systems of records; and

(ii) The design, development, or operation work that the contractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Act; and

(3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor is considered to be an employee of the agency.

(c)

(1) *"Operation of a system of records,"* as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

(2) *"Record,"* as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

(3) *"System of records on individuals,"* as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(End of Clause)

I.42 52.225-13 -Restrictions on Certain Foreign Purchases.

As prescribed in 25.1103(a), insert the following clause:

Restriction on Certain Foreign Purchases (Jul 2000)

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

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

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

(End of clause)

I.43 52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.

As prescribed in 26.104, insert the following clause:

Utilization of Indian Organizations and Indian-Owned Economic Enterprises (Jun 2000)

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

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

"Indian organization" means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C., chapter 17.

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

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

"Interested party" means a 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.

(b) The Contractor shall 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 will 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-2626-MIB
Washington, DC 20240-4000

The BIA will determine the eligibility and notify the Contracting Officer. No incentive payment will 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 adjustment to the prime contract is 5 percent of the estimated cost, target cost, or firm-fixed-price included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

(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.

(c) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the amount paid to the subcontractor. The Contracting Officer will seek funding in accordance with agency procedures.

(End of Clause)

I.44 52.227-1 -- Authorization and Consent.

As prescribed at 27.201-2(a), insert the following clause:

Authorization and Consent (Jul 1995)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent

(1) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or

(2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with

(i) specifications or written provisions forming a part of this contract or

(ii) specific written instructions given by the Contracting Officer directing the manner of performance.

The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent herein above granted.

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

(End of Clause)

I.45 52.227-2 -- Notice and Assistance Regarding Patent and Copyright Infringement.

As prescribed at 27.202-2, insert the following clause:

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)

I.46 52.227-3 -- Patent Indemnity.

Insert the following clause as prescribed at 27.203-1(b), 27.203-2(a), or 27.203-4(a)(2) as applicable:

Patent Indemnity (Apr 1984)

(a) The Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work.

(b) This indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to --

(1) An infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor;

(2) An infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance; or

(3) A claimed infringement that is unreasonably settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

(End of Clause)

I.47 52.230-2 -- Cost Accounting Standards.

As prescribed in 30.201-4(a), insert the following clause:

Cost Accounting Standards (Apr 1998)

(a) Unless the contract is exempt under 48 CFR 9903.201-1 and 9903.201-2, the provisions of 48 CFR Part 9903 are incorporated herein by reference and the Contractor, in connection with this contract, shall --

(1) (CAS-covered Contracts Only) By submission of a Disclosure Statement, disclose in writing the Contractor's cost accounting practices as required by 48 CFR 9903.202-1 through 9903.202-5, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the Contractor and which contain a Cost Accounting Standards (CAS) clause. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(2) Follow consistently the Contractor's cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in cost accounting practices is made for the purposes of any contract or subcontract subject to CAS requirements, the change must be applied prospectively to this contract and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a)(4) or (a)(5) of this clause, as appropriate.

(3) Comply with all CAS, including any modifications and interpretations indicated thereto contained in 48 CFR Part 9904, in effect on the date of award of this contract or, if the Contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the Contractor's signed certificate of current cost or pricing data. The Contractor shall also comply with any CAS (or modifications to CAS) which hereafter become applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)

(i) Agree to an equitable adjustment as provided in the Changes clause of this contract if the contract cost is affected by a change which, pursuant to subparagraph (a)(3) of this clause, the Contractor is required to make to the Contractor's established cost accounting practices.

(ii) Negotiate with the Contracting Officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of subparagraph (a)(4) of this clause; provided that no agreement may be made under this provision that will increase costs paid by the United States.

(iii) When the parties agree to a change to a cost accounting practice, other than a change under subdivision (a)(4)(i) of this clause, negotiate an equitable adjustment as provided in the Changes clause of this contract.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with an applicable Cost Accounting Standard, or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States, together with interest thereon computed at the annual rate established under section 6621 of the Internal Revenue Code of 1986 (26 U.S.C.6621) for such period, from the time the payment by the United States was made to the time the adjustment is effected. In no case shall the Government recover costs greater than the increased cost to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the Contractor made a change in its cost accounting practices of which it was aware or should have been aware at the time of price negotiations and which it failed to disclose to the Government.

(b) If the parties fail to agree whether the Contractor or a subcontractor has complied with an applicable CAS in 48 CFR 9904 or a CAS rule or regulation in 48 CFR 9903 and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C.601).

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

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

(End of Clause)

I.48 52.230-6 -- Administration of Cost Accounting Standards.

As prescribed in 30.201-4(d)(1), insert the following clause:

Administration of Cost Accounting Standards (Nov 1999)

For the purpose of administering the Cost Accounting Standards (CAS) requirements under this contract, the Contractor shall take the steps outlined in paragraphs (a) through (g) of this clause:

(a) Submit to the Contracting Officer a description of any cost accounting practice change, the total potential impact of the change on contracts containing a CAS clause, and a general dollar magnitude of the change which identifies the potential shift of costs between CAS-covered

contracts by contract type (i.e., firm-fixed-price, incentive, cost-plus-fixed fee, etc.) and other contractor business activity. As related to CAS-covered contracts, the analysis should identify the potential impact on funds of the various Agencies/Departments (i.e., Department of Energy, National Aeronautics and Space Administration, Army, Navy, Air Force, other Department of Defense, other Government) as follows:

(1) For any change in cost accounting practices required in accordance with subparagraph (a)(3) and subdivision (a)(4)(i) of the clause at FAR 52.230-2, Cost Accounting Standards; or subparagraph (a)(3) and subdivisions (a)(4)(i) or (a)(4)(iv) of the clause at FAR 52.230-5, Cost Accounting Standards -- Educational Institution; within 60 days (or such other date as may be mutually agreed to) after award of a contract requiring this change.

(2) For any change in cost accounting practices proposed in accordance with subdivision (a)(4)(ii) or (iii) of the clauses at FAR 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards -- Educational Institution; or with subparagraph (a)(3) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, not less than 60 days (or such other date as may be mutually agreed to) before the effective date of the proposed change.

(3) For any failure to comply with an applicable CAS or to follow a disclosed practice (as contemplated by subparagraph (a)(5) at FAR 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards -- Educational Institution; or by subparagraph (a)(4) at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices):

(i) Within 60 days (or such other date as may be mutually agreed to) after the date of agreement with the initial finding of noncompliance, or

(ii) In the event of Contractor disagreement with the initial finding of noncompliance, within 60 days of the date the Contractor is notified by the Contracting Officer of the determination of noncompliance.

(b) After an ACO, or cognizant Federal agency official, determination of materiality, submit a cost impact proposal in the form and manner specified by the Contracting Officer within 60 days (or such other date as may be mutually agreed to) after the date of determination of the adequacy and compliance of a change submitted pursuant to paragraph (a) of this clause. The cost impact proposal shall be in sufficient detail to permit evaluation, determination, and negotiation of the cost impact upon each separate CAS-covered contract and subcontract.

(1) Cost impact proposals submitted for changes in cost accounting practices required in accordance with subparagraph (a)(3) and subdivision (a)(4)(i) of the clause at FAR 52.230-2, Cost Accounting Standards; or subparagraph (a)(3) and subdivisions (a)(4)(i) or (a)(4)(iv) of the clause at FAR 52.230-5, Cost Accounting Standards -- Educational Institution; shall identify the applicable standard or cost principle and all contracts and subcontracts containing the clauses entitled Cost Accounting Standards or Cost Accounting Standards -- Educational Institution, which have an award date before the effective date of that standard or cost principle.

(2) Cost impact proposals submitted for any change in cost accounting practices proposed in accordance with subdivisions (a)(4)(ii) or (iii) of the clauses at FAR 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards -- Educational Institution; or with subparagraph (a)(3) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices; shall identify all contracts and subcontracts containing the clauses at FAR 52.230-2, Cost Accounting Standards, FAR 52.230-5, Cost Accounting Standards -- Educational Institution, and FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices.

(3) Cost impact proposals submitted for failure to comply with an applicable CAS or to follow a disclosed practice as contemplated by subparagraph (a)(5) of the clauses at FAR 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards -- Educational Institution; or by subparagraph (a)(4) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, shall identify the cost impact on each separate CAS covered contract from the date of failure to comply until the noncompliance is corrected.

(c) If the submissions required by paragraphs (a) and (b) of this clause are not submitted within the specified time, or any extension granted by the Contracting Officer, an amount not to exceed 10 percent of each subsequent amount determined payable related to the Contractor's CAS-covered prime contracts, up to the estimated general dollar magnitude of the cost impact, may be withheld until such time as the required submission has been provided in the form and manner specified by the Contracting Officer.

(d) Agree to appropriate contract and subcontract amendments to reflect adjustments established in accordance with subparagraphs (a)(4) and (a)(5) of the clauses at FAR 52.230-2 and 52.230-5; or with subparagraphs (a)(3) or (a)(4) of the Disclosure and Consistency of Cost Accounting Practices clause at FAR 52.230-3.

(e) For all subcontracts subject to the clauses at FAR 52.230-2, 52.230-3, or 52.230-5 --

(1) So state in the body of the subcontract, in the letter of award, or in both (self-deleting clauses shall not be used);

(2) Include the substance of this clause in all negotiated subcontracts; and

(3) Within 30 days after award of the subcontract, submit the following information to the Contractor's cognizant contract administration office for transmittal to the contract administration office cognizant of the subcontractor's facility:

(i) Subcontractor's name and subcontract number.

(ii) Dollar amount and date of award.

(iii) Name of Contractor making the award.

(f) Notify the Contracting Officer in writing of any adjustments required to subcontracts under this contract and agree to an adjustment, based on them, to this contract price or estimated cost and fee. This notice is due within 30 days after proposed subcontract adjustments are received

and shall include a proposal for adjusting the higher tier subcontract or the prime contract appropriately.

(g) For subcontracts containing the clauses at FAR 52.230-2 or 52.230-5, require the subcontractor to comply with all Standards in effect on the date of award or of final agreement on price, as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data, whichever is earlier.

(End of Clause)

I.49 52.232-17 - Interest.

As prescribed in 32.617(a) and (b), insert the following clause:

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)

I.50 52.232-22 -- Limitation of Funds.

As prescribed in 32.705-2(c), insert the following clause in solicitations and contracts if an incrementally funded cost-reimbursement contract is contemplated. The 60-day period may be varied from 30 to 90 days and the 75 percent from 75 to 85 percent. "Task Order" or other appropriate designation may be substituted for "Schedule" wherever that word appears in the clause.

Limitation of Funds (Apr 1984)

(a) The parties estimate that performance of this contract will not cost the Government more than

(1) the estimated cost specified in the Schedule or,

(2) if this is a cost-sharing contract, the Government's share of the estimated cost specified in the Schedule.

The Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the Government's and the Contractor's share of the cost.

(b) The Schedule specifies the amount presently available for payment by the Government and allotted to this contract, the items covered, the Government's share of the cost if this is a cost-sharing contract, and the period of performance it is estimated the allotted amount will cover. The parties contemplate that the Government will allot additional funds incrementally to the contract up to the full estimated cost to the Government specified in the Schedule, exclusive of any fee. The Contractor agrees to perform, or have performed, work on the contract up to the point at which the total amount paid and payable by the Government under the contract approximates but does not exceed the total amount actually allotted by the Government to the contract.

(c) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that the costs it expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of

(1) the total amount so far allotted to the contract by the Government or,

(2) if this is a cost-sharing contract, the amount then allotted to the contract by the Government plus the Contractor's corresponding share.

The notice shall state the estimated amount of additional funds required to continue performance for the period specified in the Schedule.

(d) Sixty days before the end of the period specified in the Schedule, the Contractor shall notify the Contracting Officer in writing of the estimated amount of additional funds, if any, required to continue timely performance under the contract or for any further period specified in the Schedule or otherwise agreed upon, and when the funds will be required.

(e) If, after notification, additional funds are not allotted by the end of the period specified in the Schedule or another agreed-upon date, upon the Contractor's written request the Contracting

Officer will terminate this contract on that date in accordance with the provisions of the Termination clause of this contract. If the Contractor estimates that the funds available will allow it to continue to discharge its obligations beyond that date, it may specify a later date in its request, and the Contracting Officer may terminate this contract on that later date.

(f) Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause --

(1) The Government is not obligated to reimburse the Contractor for costs incurred in excess of the total amount allotted by the Government to this contract; and

(2) The Contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of --

(i) The amount then allotted to the contract by the Government or;

(ii) If this is a cost-sharing contract, the amount then allotted by the Government to the contract plus the Contractor's corresponding share, until the Contracting Officer notifies the Contractor in writing that the amount allotted by the Government has been increased and specifies an increased amount, which shall then constitute the total amount allotted by the Government to this contract.

(g) The estimated cost shall be increased to the extent that

(1) the amount allotted by the Government or,

(2) if this is a cost-sharing contract, the amount then allotted by the Government to the contract plus the Contractor's corresponding share, exceeds the estimated cost specified in the Schedule.

If this is a cost-sharing contract, the increase shall be allocated in accordance with the formula specified in the Schedule.

(h) No notice, communication, or representation in any form other than that specified in subparagraph (f)(2) above, or from any person other than the Contracting Officer, shall affect the amount allotted by the Government to this contract. In the absence of the specified notice, the Government is not obligated to reimburse the Contractor for any costs in excess of the total amount allotted by the Government to this contract, whether incurred during the course of the contract or as a result of termination.

(i) When and to the extent that the amount allotted by the Government to the contract is increased, any costs the Contractor incurs before the increase that are in excess of --

(1) The amount previously allotted by the Government or;

(2) If this is a cost-sharing contract, the amount previously allotted by the Government to the contract plus the Contractor's corresponding share, shall be allowable to the same extent as if incurred afterward, unless the Contracting Officer issues a termination or

other notice and directs that the increase is solely to cover termination or other specified expenses.

(j) Change orders shall not be considered an authorization to exceed the amount allotted by the Government specified in the Schedule, unless they contain a statement increasing the amount allotted.

(k) Nothing in this clause shall affect the right of the Government to terminate this contract. If this contract is terminated, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract, based upon the share of costs incurred by each.

(l) If the Government does not allot sufficient funds to allow completion of the work, the Contractor is entitled to a percentage of the fee specified in the Schedule equaling the percentage of completion of the work contemplated by this contract.

(End of Clause)

I.51 52.232-24 -- Prohibition of Assignment of Claims.

As prescribed in 32.806(b), insert the following clause:

Prohibition of Assignment of Claims (Jan 1986)

The assignment of claims under the Assignment of Claims Act of 1940, as amended, 31 U.S.C. 3727, 41 U.S.C. 15, is prohibited for this contract.

(End of Clause)

I.52 52.232-25 -- Prompt Payment.

As prescribed in 32.908(c), insert the following clause:

Prompt Payment (Jun 1997)

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

(a) *Invoice payments* --

(1) *Due date*.

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

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

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

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

(2) *Certain food products and other payments.*

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

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

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

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

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

proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

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

(i) Name and address of the Contractor.

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

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

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

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

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

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

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

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

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

expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

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

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

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

(5) *Computing penalty amount*. The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and 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)(3) 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, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

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

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days (3 days for

meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils).

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

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

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

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and 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.

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

(7) *Additional interest penalty.*

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

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

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

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with subdivision (a)(7)(ii) of this clause, postmarked not later than 40 days after the 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)(5)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in subdivision (a)(7)(iii)(A) of this clause.

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

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

(b) *Contract financing payments* --

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

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

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

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

(End of Clause)

I.53 52.233-1 - Disputes.

As prescribed in 33.215, insert the following clause:

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 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)

Alternate I (Dec 1991). If it is determined under agency procedures, that continued performance is necessary pending resolution of any claim arising under or relating to the contract, substitute the following paragraph (i) for the paragraph (i) of the basic clause:

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

I.54 52.233-3 -- Protest After Award.

As prescribed in 33.106(b), insert the following clause:

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)

Alternate I (Jun 1985). As prescribed in 33.106(b), substitute in paragraph (a)(2) the words "the Termination clause of this contract" for the words "the Default, or the Termination for Convenience of the Government clause of this contract." In paragraph (b) substitute the words "an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected" for the words "an equitable adjustment in the delivery schedule or contract price, or both".

I.55 52.236-8 -- Other Contracts.

As prescribed in 36.508, insert the following clause:

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)

I.56 52.237-2 -- Protection of Government Buildings, Equipment, and Vegetation.

As prescribed in 37.110(b), insert the following clause in solicitations and contracts for services to be performed on Government installations, unless a construction contract is contemplated:

Protection of Government Buildings, Equipment, and Vegetation (Apr 1984)

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.

(End of Clause)

I.57 52.237-3 -- Continuity of Services.

As prescribed in 37.110(c), insert the following clause:

Continuity of Services (Jan 1991)

(a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption and that, upon contract expiration, a successor, either the Government or another contractor, may continue them. The Contractor agrees to --

(1) Furnish phase-in training; and

(2) Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) The Contractor shall, upon the Contracting Officer's written notice,

(1) furnish phase-in, phase-out services for up to 90 days after this contract expires and

(2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required.

The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

(c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

(d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

(End of Clause)

I.58 52.242-1 -- Notice of Intent to Disallow Costs.

As prescribed in 42.802, insert the following clause in solicitations and contracts when a cost-reimbursement contract, a fixed-price incentive contract, or a contract providing for price redetermination is contemplated:

Notice of Intent to Disallow Costs (Apr 1984)

(a) Notwithstanding any other clause of this contract --

(1) The Contracting Officer may at any time issue to the Contractor a written notice of intent to disallow specified costs incurred or planned for incurrence under this contract that have been determined not to be allowable under the contract terms; and

(2) The Contractor may, after receiving a notice under subparagraph (1) above, submit a written response to the Contracting Officer, with justification for allowance of the costs. If the Contractor does respond within 60 days, the Contracting Officer shall, within 60 days of receiving the response, either make a written withdrawal of the notice or issue a written decision.

(b) Failure to issue a notice under this Notice of Intent to Disallow Costs clause shall not affect the Government's rights to take exception to incurred costs.

(End of Clause)

I.59 52.242-3 -- Penalties for Unallowable Costs.

As prescribed in 42.709-6, use the following clause:

Penalties for Unallowable Costs (Oct 1995)

(a) *Definition. "Proposal,"* as used in this clause, means either --

(1) A final indirect cost rate proposal submitted by the Contractor after the expiration of its fiscal year which --

(i) Relates to any payment made on the basis of billing rates; or
(ii) Will be used in negotiating the final contract price; or

(2) The final statement of costs incurred and estimated to be incurred under the Incentive Price Revision clause (if applicable), which is used to establish the final contract price.

(b) Contractors which include unallowable indirect costs in a proposal may be subject to penalties. The penalties are prescribed in 10 U.S.C. 2324 or 41 U.S.C. 256, as applicable, which is implemented in Section 42.709 of the Federal Acquisition Regulation (FAR).

(c) The Contractor shall not include in any proposal any cost which is unallowable, as defined in Part 31 of the FAR, or an executive agency supplement to Part 31 of the FAR.

(d) If the Contracting Officer determines that a cost submitted by the Contractor in its proposal is expressly unallowable under a cost principle in the FAR, or an executive agency supplement to the FAR, that defines the allowability of specific selected costs, the Contractor shall be assessed a penalty equal to --

(1) The amount of the disallowed cost allocated to this contract; plus
(2) Simple interest, to be computed --

(i) On the amount the Contractor was paid (whether as a progress or billing payment) in excess of the amount to which the Contractor was entitled; and

(ii) Using the applicable rate effective for each six-month interval prescribed by the Secretary of the Treasury pursuant to Pub. L. 92-41 (85 Stat. 97).

(e) If the Contracting Officer determines that a cost submitted by the Contractor in its proposal includes a cost previously determined to be unallowable for that Contractor, then the Contractor will be assessed a penalty in an amount equal to two times the amount of the disallowed cost allocated to this contract.

(f) Determinations under paragraphs (d) and (e) of this clause are final decisions within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601, et seq.).

(g) Pursuant to the criteria in FAR 42.709-5, the Contracting Officer may waive the penalties in paragraph (d) or (e) of this clause.

(h) Payment by the Contractor of any penalty assessed under this clause does not constitute repayment to the Government of any unallowable cost which has been paid by the Government to the Contractor.

(End of Clause)

I.60 52.242-4 -- Certification of Final Indirect Costs.

As prescribed in 42.703-2(f), insert the following clause:

Certification of Final Indirect Costs (Jan 1997)

(a) The Contractor shall --

(1) Certify any proposal to establish or modify final indirect cost rates;

(2) Use the format in paragraph (c) of this clause to certify; and

(3) Have the certificate signed by an individual of the Contractor's organization at a level no lower than a vice president or chief financial officer of the business segment of the Contractor that submits the proposal.

(b) Failure by the Contractor to submit a signed certificate, as described in this clause, may result in final indirect costs at rates unilaterally established by the Contracting Officer.

(c) The certificate of final indirect costs shall read as follows:

Certificate of Final Indirect Costs

This is to certify that I have reviewed this proposal to establish final indirect cost rates and to the best of my knowledge and belief:

1. All costs included in this proposal (identify proposal and date) to establish final indirect cost rates for (identify period covered by rate) are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) and its supplements applicable to the contracts to which the final indirect cost rates will apply; and

2. This proposal does not include any costs which are expressly unallowable under applicable cost principles of the FAR or its supplements.

Firm: _____

Signature: _____

Name of Certifying Official: _____

Title: _____

Date of Execution: _____

(End of Clause)

I.61 52.242-13 - Bankruptcy.

As prescribed in 42.903, insert the following clause:

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)

I.62 52.242-15 -- Stop-Work Order.

As prescribed in 42.1305(b), insert the following clause. The "90-day" period stated in the clause may be reduced to less than 90 days.

Stop-Work Order (Aug. 1989)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either --

(1) Cancel the stop-work order; or

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

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if --

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

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

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

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

(End of Clause)

Alternate I (Apr 1984). If this clause is inserted in a cost-reimbursement contract, substitute in paragraph (a)(2) the words "the Termination clause of this contract" for the words "the Default, or the Termination for Convenience of the Government clause of this contract." In paragraph (b) substitute the words "an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected" for the words "an equitable adjustment in the delivery schedule or contract price, or both."

I.63 52.243-2 -- Changes -- Cost-Reimbursement.

As prescribed in 43.205(b)(1), insert the following clause. The 30-day period may be varied according to agency procedures.

Changes -- Cost-Reimbursement (Aug. 1987)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.

(2) Method of shipment or packing.

(3) Place of delivery.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the Contracting Officer shall make an equitable adjustment in the --

(1) Estimated cost, delivery or completion schedule, or both;
(2) Amount of any fixed fee; and
(3) Other affected terms and shall modify the contract accordingly.

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

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

(e) Notwithstanding the terms and conditions of paragraphs (a) and (b) above, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance of this contract, shall not be increased or considered to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. Until this modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point established in the Limitation of Cost or Limitation of Funds clause of this contract.

(End of Clause)

Alternate II (Apr 1984). If the requirement is for services and supplies are to be furnished, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Description of services to be performed.

(2) Time of performance (i.e., hours of the day, days of the week, etc.).

(3) Place of performance of the services.

(4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.

(5) Method of shipment or packing of supplies.

(6) Place of delivery.

I.64 52.243-6 -- Change Order Accounting.

As prescribed in 43.205(f), the contracting officer may insert a clause, substantially the same as follows:

Change Order Accounting (Apr 1984)

The Contracting Officer may require change order accounting whenever the estimated cost of a change or series of related changes exceeds $100,000. The Contractor, for each change or series of related changes, shall maintain separate accounts, by job order or other suitable accounting procedure, of all incurred segregable, direct costs (less allocable credits) of work, both changed and not changed, allocable to the change. The Contractor shall maintain such accounts until the parties agree to an equitable adjustment for the changes ordered by the Contracting Officer or the matter is conclusively disposed of in accordance with the Disputes clause.

(End of Clause)

I.65 52.243-7 -- Notification of Changes.

As prescribed in 43.107, the contracting officer may insert a clause substantially the same as the following in solicitations and contracts. The clause is available for use primarily in negotiated research and development or supply contracts for the acquisition of major weapon systems or principal subsystems. If the contract amount is expected to be less than $1,000,000, the clause shall not be used, unless the contracting officer anticipates that situations will arise that may result in a contractor alleging that the Government has effected changes other than those identified as such in writing and signed by the contracting officer.

Notification of Changes (Apr 1984)

(a) *Definitions. "Contracting Officer,"* as used in this clause, does not include any representative of the Contracting Officer.

"Specifically Authorized Representative (SAR)," as used in this clause, means any person the Contracting Officer has so designated by written notice (a copy of which shall be provided to the Contractor) which shall refer to this subparagraph and shall be issued to the designated representative before the SAR exercises such authority.

(b) *Notice*. The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers to constitute a change to this contract. Except for changes identified as such in writing and signed by the Contracting Officer, the Contractor shall notify the Administrative Contracting

Officer in writing promptly, within ____ (to be negotiated) calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the Contractor regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state --

(1) The date, nature, and circumstances of the conduct regarded as a change;

(2) The name, function, and activity of each Government individual and Contractor official or employee involved in or knowledgeable about such conduct;

(3) The identification of any documents and the substance of any oral communication involved in such conduct;

(4) In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;

(5) The particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including --

(i) What contract line items have been or may be affected by the alleged change;

(ii) What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;

(iii) To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;

(iv) What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and

(6) The Contractor's estimate of the time by which the Government must respond to the Contractor's notice to minimize cost, delay or disruption of performance.

(c) *Continued performance*. Following submission of the notice required by paragraph (b) of this clause, the Contractor shall diligently continue performance of this contract to the maximum extent possible in accordance with its terms and conditions as construed by the Contractor, unless the notice reports a direction of the Contracting Officer or a communication from a SAR of the Contracting Officer, in either of which events the Contractor shall continue performance; provided, however, that if the Contractor regards the direction or communication as a change as described in paragraph (b) of this clause, notice shall be given in the manner provided. All directions, communications, interpretations, orders and

similar actions of the SAR shall be reduced to writing promptly and copies furnished to the Contractor and to the Contracting Officer. The Contracting Officer shall promptly countermand any action which exceeds the authority of the SAR.

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

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

(2) Countermand any communication regarded as a change;

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

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

(e) *Equitable adjustments.*

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

(i) In the contract price or delivery schedule or both; and
(ii) In such other provisions of the contract as may be affected.

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

continue performance as provided, respectively, in paragraphs (b) and (c) of this clause.

Note: The phrases "contract price" and "cost" wherever they appear in the clause, may be appropriately modified to apply to cost-reimbursement or incentive contracts, or to combinations thereof.

(End of Clause)

I.66 52.244-2 -- Subcontracts.

As prescribed in 44.204(a)(1), insert the following clause:

Subcontracts (Aug 1998)

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

"Approved purchasing system" means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR)

"Consent to subcontract" means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.

"Subcontract" means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) This clause does not apply to subcontracts for special test equipment when the contract contains the clause at FAR 52.245-18, Special Test Equipment.

(c) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (d)(or (e) or this clause.

(d) If the contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that--

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds-

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the national Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(ii) For contracts awarded by a civilian agency other that the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(e) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts:

_____

(f)(1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (c), (d), or (e) of this clause, including the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor**.**

(iv) The proposed subcontract price.

(v) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

(vii) A negotiation memorandum reflecting --

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or revised prices;

(C) The reason cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the

Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) The Contractor is not required to notify the Contracting Officer in advance of entering into any subcontract for which consent is not required under paragraph (c), (d), or (e) or this clause.

(g) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination --

(1) Of the acceptability of any subcontract terms or conditions;
(2) Of the allowability of any cost under this contract; or
(3) To relieve the Contractor of any responsibility for performing this contract.

(h) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).

(i) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(j) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

(k) Paragraphs (d) and (f) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:

_____

(End of Clause)

Alternate II (Aug 1998). As prescribed in 44.204(a)(2)(ii), substitute the following paragraph (f)(2) for paragraph (f)(2) of the basic clause:

(f)(2) If the Contractor has an approved purchasing system and consent is not required under paragraph (c), (d), or (e) of this clause, the Contractor nevertheless shall notify the Contracting Officer reasonably in advance of entering into any (i) cost-plus-fixed-fee subcontract, or (ii) fixed-price subcontract that exceeds either the simplified acquisition threshold or 5 percent of the total estimated cost of this contract. The notification shall include the information required by paragraphs (f)(1)(i) through (f)(1)(iv) of this clause.

I.67 52.244-5 -- Competition in Subcontracting.

As prescribed in 44.204(c), insert the following clause:

Competition in Subcontracting (Dec 1996)

(a) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

(b) If the Contractor is an approved mentor under the Department of Defense Pilot Mentor-Protégé Program (Pub.L.101-510, section 831 as amended), the Contractor may award subcontracts under this contract on a noncompetitive basis to its protégés.

(End of Clause)

I.68 52.244-6 -- Subcontracts for Commercial Items and Commercial Components.

As prescribed in 44.403, insert the following clause:

Subcontracts for Commercial Items and Commercial Components (Oct 1998)

(a) *Definitions.*

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

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

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

(c) Notwithstanding any other clause of this contract, the Contractor is not required to include any FAR provision or clause, other than those listed below to

the extent they are applicable and as may be required to establish the reasonableness of prices under Part 15, in a subcontract at any tier for commercial items or commercial components:

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

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

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

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

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

(End of Clause)

I.69 52.246-25 -- Limitation of Liability - Services.

As prescribed in 46.805, insert the following clause:

Limitation of Liability -- Services (Feb 1997)

(a) Except as provided in paragraphs (b) and (c) below, and except to the extent that the Contractor is expressly responsible under this contract for deficiencies in the services required to be performed under it (including any materials furnished in conjunction with those services), the Contractor shall not be liable for loss of or damage to property of the Government that --

(1) Occurs after Government acceptance of services performed under this contract; and

(2) Results from any defects or deficiencies in the services performed or materials furnished.

(b) The limitation of liability under paragraph (a) above shall not apply when a defect or deficiency in, or the Government's acceptance of, services performed or materials furnished results from willful misconduct or lack of good faith on the part of any of the Contractor's managerial personnel. The term "Contractor's managerial personnel," as used in this clause, means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or equivalent representatives who have supervision or direction of --

(1) All or substantially all of the Contractor's business;

(2) All or substantially all of the Contractor's operations at any one plant, laboratory, or separate location at which the contract is being performed; or

(3) A separate and complete major industrial operation connected with the performance of this contract.

(c) If the Contractor carries insurance, or has established a reserve for self-insurance, covering liability for loss or damage suffered by the Government through the Contractor's performance of services or furnishing of materials under this contract, the Contractor shall be liable to the Government, to the extent of such insurance or reserve, for loss of or damage to property of the Government occurring after Government acceptance of, and resulting from any defects and deficiencies in, services performed or materials furnished under this contract.

(End of Clause)

I.70 52.247-1 -- Commercial Bill of Lading Notations.

As prescribed in 47.104-4, insert the following clause:

Commercial Bill of Lading Notations (Apr 1984)

If the Contracting Officer authorizes supplies to be shipped on a commercial bill of lading and the Contractor will be reimbursed these transportation costs as direct allowable costs, the Contractor shall ensure before shipment is made that the commercial shipping documents are annotated with either of the following notations, as appropriate:

(a) If the Government is shown as the consignor or the consignee, the annotation shall be:

Transportation is for the _____ *[name the specific agency]* and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are assignable to, and shall be reimbursed by, the Government.

(b) If the Government is not shown as the consignor or the consignee, the annotation shall be:

Transportation is for the _____ *[name the specific agency]* and the actual total transportation charges paid to the carrier(s) by the consignor or consignee shall be reimbursed by the Government, pursuant to cost-reimbursement contract No. _____. This may be confirmed by contacting _____ *[Name and address of the contract administration office listed in the contract]*.

(End of Clause)

I.71 52.247-67 -- Submission of Commercial Transportation Bills to the General Services Administration for Audit.

As prescribed in 47.104-4(c), insert the following clause:

Submission of Commercial Transportation Bills to the General Services Administration for Audit (Jun 1997)

(a)

(1) In accordance with paragraph (a)(2) of this clause, the Contractor shall submit to the General Services Administration (GSA) for audit, legible copies of all paid freight bills/invoices, commercial bills of lading (CBL's), passenger coupons, and other supporting documents for transportation services on which the United States will assume freight charges that were paid --

(i) By the Contractor under a cost-reimbursement contract; and

(ii) By a first-tier subcontractor under a cost-reimbursement subcontract thereunder.

(2) Cost-reimbursement Contractors shall only submit for audit those CBL's with freight shipment charges exceeding $50.00. Bills under $50.00 shall be retained on-site by the Contractor and made available for GSA on-site audits. This exception only applies to freight shipment bills and is not intended to apply to bills and invoices for any other transportation services.

(b) The Contractor shall forward copies of paid freight bills/invoices, CBL's, passenger coupons, and supporting documents as soon as possible following the end of the month, in one package to the:

General Services Administration
Attn: FWA
1800 F Street, NW
Washington, DC 20405.

The Contractor shall include the paid freight bills/invoices, CBL's, passenger coupons, and supporting documents for first-tier subcontractors under a cost-reimbursement contract. If the inclusion of the paid freight bills/invoices, CBL's, passenger coupons, and supporting documents for any subcontractor in the shipment is not practicable, the documents may be forwarded to GSA in a separate package.

(c) Any original transportation bills or other documents requested by GSA shall be forwarded promptly by the Contractor to GSA. The Contractor shall ensure that the name of the contracting agency is stamped or written on the face of the bill before sending it to GSA.

(d) A statement prepared in duplicate by the Contractor shall accompany each shipment of transportation documents. GSA will acknowledge receipt of the shipment by signing and returning the copy of the statement. The statement shall show --

(1) The name and address of the Contractor;

(2) The contract number including any alpha-numeric prefix identifying the contracting office;

(3) The name and address of the contracting office;

(4) The total number of bills submitted with the statement; and

(5) A listing of the respective amounts paid or, in lieu of such listing, an adding machine tape of the amounts paid showing the Contractor's voucher or check numbers.

(End of Clause)

I.72 52.249-6 -- Termination (Cost-Reimbursement).

As prescribed in 49.503(a)(1), insert the following clause:

Termination (Cost-Reimbursement) (Sep 1996)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part, if --

(1) The Contracting Officer determines that a termination is in the Government's interest; or

(2) The Contractor defaults in performing this contract and fails to cure the default within 10 days (unless extended by the Contracting Officer) after receiving a notice specifying the default. "Default" includes failure to make progress in the work so as to endanger performance.

(b) The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying whether termination is for default of the Contractor or for convenience of the Government, the extent of termination, and the effective date. If, after termination for default, it is determined that the Contractor was not in default or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor as set forth in the Excusable Delays clause, the rights and obligations of the parties will be the same as if the termination was for the convenience of the Government.

(c) 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), 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 cost of which would be reimbursable in whole or in part, under this contract; approval or ratification will be final for purposes of this clause.

(6) Transfer title (if not already transferred) and, as directed by the Contracting Officer, 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;

(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; and

(iii) The jigs, dies, fixtures, and other special tools and tooling acquired or manufactured for this contract, the cost of which the Contractor has been or will be reimbursed under this contract.

(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 (c)(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.

(d) 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.

(e) 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 the 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.

(f) 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.

(g) Subject to paragraph (f) of this clause, the Contractor and the Contracting Officer may agree on the whole or any part of the amount to be paid (including an allowance for fee) because of the termination. The contract shall be amended, and the Contractor paid the agreed amount.

(h) If the Contractor and the Contracting Officer fail to agree in whole or in part on the amount of costs and/or fee to be paid because of the termination of work, the Contracting Officer shall determine, on the basis of information available, the amount, if any, due the Contractor, and shall pay that amount, which shall include the following:

(1) All costs reimbursable under this contract, not previously paid, for the performance of this contract before the effective date of the termination, and those costs that may continue for a reasonable time with the approval of or as directed by the Contracting Officer; however, the Contractor shall discontinue those costs as rapidly as practicable.

(2) 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 subparagraph (h)(1) of this clause.

(3) 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. If the termination is for default, no amounts for the preparation of the Contractor's termination settlement proposal may be included.

(4) A portion of the fee payable under the contract, determined as follows:

(i) If the contract is terminated for the convenience of the Government, the settlement shall include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination proposals, less previous payments for fee.

(ii) If the contract is terminated for default, the total fee payable shall be such proportionate part of the fee as the total number of articles (or amount of services) delivered to and accepted by the Government is to the total number of articles (or amount of services) of a like kind required by the contract.

(5) If the settlement includes only fee, it will be determined under subparagraph (h)(4) of this clause.

(i) The cost principles and procedures in 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 (f), (h), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (f) and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (f), (h) or (l) of this clause, the Government shall pay the Contractor --

(1) The amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken; or

(2) The amount finally determined on an 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 this clause and not recovered by or credited to the Government.

(l) The Contractor and Contracting Officer must agree to any equitable adjustment in fee for the continued portion of the contract when there is a partial termination. The Contracting Officer shall amend the contract to reflect the agreement.

(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) The provisions of this clause relating to fee are inapplicable if this contract does not include a fee.

(End of Clause)

I.73 52.249-14 -- Excusable Delays.

As prescribed in 49.505(d), insert the following clause in solicitations and contracts for supplies, services, construction, and research and development on a fee basis whenever a cost-reimbursement contract is contemplated. Also insert the clause in time-and-material contracts, labor-hour contracts, consolidated facilities contracts, and facilities acquisition contracts. When used in construction contracts, substitute the words "completion time" for "delivery schedule" in the last sentence of the clause. When used in facilities contracts, substitute the words "termination of work" for "termination" in the last sentence of the clause.

Excusable Delays (Apr 1984)

(a) Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are

(1) acts of God or of the public enemy,
(2) acts of the Government in either its sovereign or contractual capacity,
(3) fires,
(4) floods,
(5) epidemics,
(6) quarantine restrictions,
(7) strikes,
(8) freight embargoes, and
(9) unusually severe weather.

In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the work so as to endanger performance.

(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless --

(1) The subcontracted supplies or services were obtainable from other sources;

(2) The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and

(3) The Contractor failed to comply reasonably with this order.

(c) Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of the failure. If the Contracting Officer determines that any failure to perform results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of the Government under the termination clause of this contract.

(End of Clause)

I.74 52.251-1 -- Government Supply Sources.

As prescribed in 51.107, insert the following clause in solicitations and contracts when the contracting officer may authorize the contractor to acquire supplies or services from a Government supply source:

Government Supply Sources (Apr 1984)

The Contracting Officer may issue the Contractor an authorization to use Government supply sources in the performance of this contract. Title to all property acquired by the Contractor under such an authorization shall vest in the Government unless otherwise specified in the contract. Such property shall not be considered to be "Government-furnished property," as distinguished from "Government property." The provisions of the clause entitled "Government Property," except its paragraphs (a) and (b), shall apply to all property acquired under such authorization.

(End of Clause)

I.75 52.251-2 -- Interagency Fleet Management System Vehicles and Related Services.

As prescribed in 51.205, insert the following clause:

Interagency Fleet Management System Vehicles and Related Services (Jan 1991)

The Contracting Officer may issue the Contractor an authorization to obtain interagency fleet management system (IFMS) vehicles and related services for use in the performance of this contract. The use, service, and maintenance of interagency fleet management system vehicles and the use of related services by the Contractor shall be in accordance with 41 CFR 101-39 and 41 CFR 101-38.301-1.

(End of Clause)

I.76 52.252-2 -- Clauses Incorporated by Reference.

As prescribed in 52.107(b), insert the following clause:

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 this/these address(es):

_____

_____

[Insert one or more Internet addresses]

(End of Clause)

I.77 52.252-6 -- Authorized Deviations in Clauses.

As prescribed in 52.107(f), insert the following clause in solicitations and contracts that include any FAR or supplemental clause with an authorized deviation. Whenever any FAR or supplemental clause is used with an authorized deviation, the contracting officer shall identify it by the same number, title, and date assigned to the clause when it is used without deviation, include regulation name for any supplemental clause, except that the contracting officer shall insert *"(Deviation)"* after the date of the clause.

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 _____. *[insert regulation name]* (48 CFR _____) clause with an authorized deviation is indicated by the addition of *"(Deviation)"* after the name of the regulation.

(End of Clause)

I.78 52.253-1 -- Computer Generated Forms.

As prescribed in FAR 53.111, insert the following clause:

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)

DEAR 952 CLAUSES

I.79 952.202-1 Definitions.

(a) As prescribed in 902.200, insert the clause at FAR 52.202-1 in all contracts. The contracting officer shall substitute the following for paragraph (a) of the clause.

(a) *Head of Agency* means the Secretary, Deputy Secretary or Under Secretary of the Department of Energy and the Chairman, Federal Energy Regulatory Commission.
(b) The following shall be added as paragraph (h) except it will be designated paragraph (g) if Alternate I of the FAR clause is used.
(h) The term *DOE* means the Department of Energy and *FERC* means the Federal Energy Regulatory Commission.
[49 FR 12042, Mar. 28, 1984, as amended at 50 FR 12185, Mar. 27, 1985; 62 FR 2310, Jan. 16, 1997]

I.80 952.203-70 -- Whistleblower Protection for Contractor Employees.

As prescribed in 48 CFR 903.971, insert the following clause:

Whistleblower Protection for Contractor Employees (DEC 2000)

(a) The contractor shall comply with the requirements of "DOE Contractor Employee Protection Program" at 10 CFR part 708 for work performed on behalf of DOE directly related to activities at DOE-owned or-leased sites.

(b) The contractor shall insert or have inserted the substance of this clause, including this paragraph (b), in subcontracts at all tiers, for subcontracts involving work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.

(End of Clause)

[65 FR 80994, Dec. 22, 2000]

I.81 952.204-2 Security.

As prescribed in 904.404(d)(1), the following clause shall be included in contracts entered into under section 31 (research assistance) or 41 (ownership and operation of production facilities) of the Atomic Energy Act of 1954, as amended, and in other contracts and subcontracts, which involve or are likely to involve classified information.

SECURITY (SEP 1997)

(a) *Responsibility*. It is the contractor's duty to safeguard all classified information, special nuclear material, and other DOE property. The contractor shall, in accordance with DOE security regulations and requirements, be responsible for safeguarding all classified information and protecting against sabotage, espionage, loss or theft of the classified documents and material in the contractor's possession in connection with the performance of work under this contract. Except as otherwise expressly provided in this contract, the contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter in the possession of the contractor or any person under the contractor's control in connection with performance of this contract. If retention by the contractor of any classified matter is required after the completion or termination of the contract, the contractor shall identify the items and types or categories of matter proposed for retention, the reasons for the retention of the matter, and the proposed period of retention. If the retention is approved by the contracting officer, the security provisions of the contract shall continue to be applicable to the matter retained. Special nuclear material shall not be retained after the completion or termination of the contract.

(b) *Regulations*. The contractor agrees to comply with all security regulations and requirements of DOE in effect on the date of award.

(c) *Definition of classified information*. The term "classified information" means Restricted Data, Formerly Restricted Data, or National Security Information.

(d) *Definition of restricted data*. The term "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended.

(e) *Definition of formerly restricted data*. The term *"Formerly Restricted Data"* means all data removed from the Restricted Data category under section 142 d. of the Atomic Energy Act of 1954, as amended.

(f) *Definition of National Security Information*. The term "National Security Information" means any information or material, regardless
of its physical form or characteristics, that is owned by, produced for or by, or is under the control of the United States Government, that has been determined pursuant to Executive Order 12356 or prior Orders to require protection against unauthorized disclosure, and which is so designated.

(g) *Definition of Special Nuclear Material (SNM)*. *SNM* means: (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, as amended, has been determined to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(h) *Security clearance of personnel*. The contractor shall not permit any individual to have access to any classified information, except in accordance with the Atomic Energy Act of 1954, as amended, Executive Order 12356, and the DOE's regulations or requirements applicable to the particular level and category of classified information to which access is required.

(i) *Criminal liability*. It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any classified information that may come to the contractor or any person under the contractor's

control in connection with work under this contract, may subject the contractor, its agents, employees, or subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794; and E.O. 12356.)

(j) *Subcontracts and purchase orders*. Except as otherwise authorized in writing by the contracting officer, the contractor shall insert provisions similar to the foregoing in all subcontracts and purchase orders under this contract.

[49 FR 12042, Mar. 28, 1984; 49 FR 38951, Oct. 2, 1984, as amended at 52 FR 38425, Oct. 16, 1987; 62 FR 2310, Jan. 16, 1997; 62 FR 42072, Aug. 5, 1997]

I.82 952.204-70 Classification/Declassification.

As prescribed in 904.404(d)(2), the following clause shall be included in all contracts which involve classified information.

CLASSIFICATION/DECLASSIFICATION (SEP 1997)

In the performance of work under this contract, the contractor or subcontractor shall comply with all provisions of the Department of Energy's regulations and mandatory DOE directives which apply to work involving the classification and declassification of information, documents, or material. In this section, "information" means facts, data, or knowledge itself; "document" means the physical medium on or in which information is recorded; and "material" means a product or substance which contains or reveals information, regardless of its physical form or characteristics. Classified information is "Restricted Data" and "Formerly Restricted Data" (classified under the Atomic Energy Act of 1954, as amended) and "National Security Information" (classified under Executive Order 12958 or prior Executive Orders). The original decision to classify or declassify information is considered an inherently Governmental function. For this reason, only Government personnel may serve as original classifiers, i.e., Federal Government Original Classifiers. Other personnel (Government or contractor) may serve as derivative classifiers which involves making classification decisions based upon classification guidance which reflect decisions made by Federal Government Original Classifiers.

The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a Federal Government or a Contractor Derivative Classifier in accordance with classification regulations including mandatory DOE directives and classification/declassification guidance furnished to the contractor by the Department of Energy to determine whether it contains classified information prior to dissemination. For information which is not addressed in classification/declassification guidance, but whose sensitivity appears to warrant classification, the contractor or subcontractor shall ensure that such information is reviewed by a Federal Government Original Classifier.

In addition, the contractor or subcontractor shall ensure that existing classified documents (containing either Restricted Data or Formerly Restricted Data or National Security Information) which are in its possession or under its control are periodically reviewed by a Federal Government or Contractor Derivative Declassifier in accordance with classification regulations, mandatory DOE directives and classification/declassification guidance furnished to the contractor by the Department of Energy to determine if the documents are no longer appropriately

classified. Priorities for declassification review of classified documents shall be based on the degree of public and researcher interest and the likelihood of declassification upon review. Documents which no longer contain classified information are to be declassified. Declassified documents then shall be reviewed to determine if they are publicly releasable. Documents which are declassified and determined to be publicly releasable are to be made available to the public in order to maximize the public's access to as much Government information as possible while minimizing security costs.
The contractor or subcontractor shall insert this clause in any subcontract which involves or may involve access to classified information.
[62 FR 51800, Oct. 3, 1997]

I.83 952.204-71 Sensitive foreign nations controls.

As prescribed in 904.404(d)(3), the contracting officer shall include the following clause.

SENSITIVE FOREIGN NATIONS CONTROLS (APR 1994)

(a) In connection with any activities in the performance of this contract, the contractor agrees to comply with the "Sensitive Foreign Nations Controls" requirements attached to this contract, relating to those countries, which may from time to time, be identified to the contractor by written notice as sensitive foreign nations. The contractor shall have the right to terminate its performance under this contract upon at least 60 days' prior written notice to the contracting officer if the contractor determines that it is unable, without substantially interfering with its polices or without adversely impacting its performance to continue performance of the work under this contract as a result of such notification. If the contractor elects to terminate performance, the provisions of this contract regarding termination for the convenience of the Government shall apply.
(b) The provisions of this clause shall be included in any subcontracts.
[49 FR 12042, Mar. 28, 1984; 49 FR 38951, Oct. 2, 1984; 62 FR 2310, Jan. 16, 1997]

I.84 952.204-72 Disclosure of information.

As prescribed in 904.404(d)(4), this clause may be used in place of the clauses entitled "Security," 952.204-2, and "Classification," 952.204-70, in contracts with educational institutions for research involving nuclear technology which could but is not expected to produce classified information or restricted data.

DISCLOSURE OF INFORMATION (APR 1994)

(a) It is mutually expected that the activities under this contract will not involve classified information. It is understood, however, that if in the opinion of either party, this expectation changes prior to the expiration or terminating of all activities under this contract, said party shall notify the other party accordingly in writing without delay. In any event, the contractor shall classify, safeguard, and otherwise act with respect to all classified information in accordance with applicable law and the requirements of DOE, and shall promptly inform DOE in writing if and when classified information becomes involved, or in the mutual judgment of the parties it appears

likely that classified information or material may become involved. The contractor shall have the right to terminate performance of the work under this contract and in such event the provisions of this contract respecting termination for the convenience of the Government shall apply.
(b) The contractor shall not permit any individual to have access to classified information except in accordance with the Atomic Energy Act 1954, as amended, Executive Order 12356, and DOE's regulations or requirements.
(c) The term "Restricted Data" as used in this article means all data concerning the design, manufacture, or utilization of atomic weapons,
the production of special nuclear material or the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the Atomic Energy Act of 1954, as amended.
[49 FR 12042, Mar. 28, 1984; 49 FR 38951, Oct. 2, 1984; 62 FR 2310, Jan. 16, 1997]

I.85 952.204-73 Foreign ownership, control, or influence over contractor (Representation).

As prescribed in 904.7005(a), insert the following provision in all solicitations for contracts subject to the provisions of 904.70.

FOREIGN OWNERSHIP, CONTROL OR INFLUENCE OVER CONTRACTOR (JUL 1997)

(a) For purposes of this provision, a foreign interest is defined as any of the following:
(1) A foreign government or foreign government agency;
(2) Any form of business enterprise organized under the laws of any country other than the United States or its possessions;
(3) Any form of business enterprise organized or incorporated under the laws of the U.S., or a State or other jurisdiction within the U.S., which is owned, controlled, or influenced by a foreign government, agency, firm, corporation, or person; or
(4) Any person who is not a U.S. citizen.
(b) Foreign ownership, control, or influence (FOCI) means the situation where the degree of ownership, control, or influence over a contractor by a foreign interest is such that a reasonable basis exists for concluding that compromise of classified information or significant quantity of special nuclear material as defined in 10 CFR Part 710 may result.
(c) If the offeror has not previously submitted responses to the following questions to DOE as part of the facility security clearance process, then it shall answer the following questions. Answer each question in either the "yes" or "no" column. If the answer is yes, furnish in detail on a separate sheet of paper all the information requested in parentheses. Copies of information which responds to these questions and which was submitted to other Government agencies may be submitted as responses to these questions if the earlier responses are accurate, complete, and current.

Question	Yes	No
1. Does a foreign interest own or have beneficial ownership in 5% of more of your organization's voting securities? (Identify the percentage of any class of shares or other securities issued which are owned by foreign interests, listed by country. If you answer "Yes" and have received from an		

investor a copy of Schedule 13D and/or Schedule 13G filed by the investors with the Securities and Exchange Commission, you are to attach a copy of Schedule 13D and/or Schedule 13G.)		
2. Does your organization own 10% or more of any foreign interest? (Furnish the name of the foreign interest, address by country, and the percentage owned. Include name and title of officials of your organization who occupy positions with the foreign interest, if any.)		
3. Do any foreign interests have man- agement positions such as directors, officers, or executive personnel in your organization? (Furnish full information concerning the identity of the foreign interest and the position he/she holds in your organization.)		
4. Does any foreign interest control or influence, or is any foreign interest in a position to control or influence the election, appointment, or tenure of any of your directors, officers, or executive personnel? (Identify the foreign interest(s) and furnish full details concerning the control or influence.)		
5. Does your organization have any contracts, binding agreements, understandings, or arrangements with a foreign interest(s) that cumulatively represent 10% or more of your organization's gross income? (Furnish the name of the foreign interest, country, nature of agreement or involvement. Agreements include licensing, sales, patent exchange, trade secrets, agency, cartel, partnership, joint venture, proxy etc. Give overall percentage by country as related to total income and type of services or products in general terms. If you answer "Yes" and have received from the foreign interest a copy of Schedule 13D and/or Schedule 13G filed by the foreign interest with the Securities and Exchange Commission, you are to attach a copy of Schedule 13D and/or Schedule 13G.)		
6. Is your organization indebted to foreign interests? (Furnish the amount of indebtness as related to the current assets of the organization and identify the creditor. Include specifics as to the type of indebtness and what, if any, collateral, including voting stock, has been furnished or pledged. If any, and what will be received after conversion are to be furnished.)		
7. Does your organization derive any income from Communist countries included in Country Groups Q, S, W, Y, and Z in Supplement No. 1 in 15 CFR part 770? (Discuss in detail any income derived from Communist countries, including percentage from each such country as related to total income, and the type of services or products involved.)		
8. Is 5% or more of any class of your organization's securities held in "nominee shares." in "street names" or in some other method which does not disclose beneficial owner of equitable title? (Identify each foreign institutional investor holding 5 percent or more of the voting stock. Identification should include the name and address of the investor and percentage of stock held.		

State whether the investor has attempted to, or has, exerted any management control or influence over the appointment of directors, officers, or other key management personnel, and whether such investors have attempted to influence the policies of the corporation. If you have received from the investor a copy of the Schedule 13D and/or Schedule 13G filed by the investor with the Securities and Exchange Commission, you are to attach a copy of Schedule 13D and/or Schedule 13G.)		
9. Does your organization have inter- locking directors with foreign interests? (Include identifying data on all such directors. If they have a security clearance, so state. Also indicate the name and address of all other corporations with which they serve in any capacity.)		
10. Are there any citizens of foreign countries employed by, or who may visit, your offices or facilities in a capacity which may permit them to have access to classified information or a significant quantity of special nuclear material? (Provide complete information by identifying the individuals and the country of which they are citizens.)		
11. Does your organization have foreign involvement not otherwise covered in your answers to the above questions? (Describe the foreign involvement in detail, including why the involvement would not be reportable in the preceding questions.)		

(d) Prior to award of a contract under this solicitation, the DOE must determine that award of the contract to the offeror will not pose an undue risk to the common defense and security as a result of its access to classified information or a significant quantity of special nuclear material in the performance of the contract. In making the determination, the contracting officer may consider a voting trust or other arrangements proposed by the offeror to mitigate or avoid FOCI. The contracting officer may require the offeror to submit such additional information as deemed pertinent to this determination.
(e) The offeror shall require any subcontractors having access to classified information or a significant quantity of special nuclear material to provide responses to the questions in paragraph (c) of this provision directly to the DOE contracting officer.

(f) Information submitted by the offeror in response to the questions in (c) above is to be used solely for purposes of evaluating foreign ownership, control, or influence and shall be treated by DOE, to the extent permitted by law, as business or financial information submitted in confidence.

I.86 952.204-74 Foreign ownership, control, or influence over contractor.

As prescribed in 904.7005(b), insert the following contract clause in new contracts and contract modifications to existing contracts subject to 904.70.

FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE OVER CONTRACTOR (APR 1984)

(a) For purposes of this clause, a foreign interest is defined as any of the following:
(1) A foreign government or foreign government agency;
(2) Any form of business enterprise organized under the laws of any country other than the United States or its possessions;
(3) Any form of business enterprise organized or incorporated under the laws of the U.S., or a State or other jurisdiction within the U.S., which is owned, controlled, or influenced by a foreign government, agency, firm, corporation or person; or
(4) Any person who is not a U.S. citizen.
(b) Foreign ownership, control, or influence (FOCI) means the situation where the degree of ownership, control, or influence over a contractor by a foreign interest is such that a reasonable basis exists for concluding that compromise of classified information, special nuclear material as defined in 10 CFR Part 710, may result.
(c) For purposes of this clause, subcontractor means any subcontractor at any tier and the term "contracting officer" shall mean DOE contracting officer. When this clause is included in a subcontract, the term "contractor" shall mean subcontractor and the term "contract" shall mean subcontract.
(d) The contractor shall immediately provide the contracting officer written notice of any changes in the extent and nature of FOCI over the contractor which would affect the answers to the questions presented in DEAR 952.204-73. Further, notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice shall also be furnished concurrently to the contracting officer.
(e) In those cases where a contractor has changes involving FOCI, the DOE must determine whether the changes will pose an undue risk to the common defense and security. In making this determination, the contracting officer shall consider proposals made by the contractor to avoid or mitigate foreign influences.
(f) If the contracting officer at any time determines that the contractor is, or is potentially, subject to FOCI, the contractor shall comply with such instructions as the contracting officer shall provide in writing to safeguard any classified information or significant quantity of special nuclear material.
(g) The contractor agrees to insert terms that conform substantially to the language of this clause including this paragraph (g) in all subcontracts under this contract that will require access to classified information or a significant quantity of special nuclear material. Additionally, the contractor shall require such subcontractors to submit a completed certification required in DEAR 952.204-73 prior to award of a subcontract. Information to be provided by a subcontractor pursuant to this clause may be submitted directly to the contracting officer.
(h) Information submitted by the contractor or any affected subcontractor as required pursuant to this clause shall be treated by DOE to the extent permitted by law, as business or financial information submitted in confidence to be used solely for purposes of evaluating FOCI.
(i) The requirements of this clause are in addition to the requirement that a contractor obtain and retain the security clearances required by the contract. This clause shall not operate as a limitation on DOE's rights, including its rights to terminate this contract.

(j) The contracting officer may terminate this contract for default either if the contractor fails to meet obligations imposed by this clause, e.g., provide the information required by this clause, comply with the contracting officer's instructions about safeguarding classified information, or make this clause applicable to subcontractors, or if, in the contracting officer's judgment, the contractor creates an FOCI situation in order to avoid performance or a termination for default. The contracting officer may terminate this contract for convenience if the contractor becomes subject to FOCI and for reasons other than avoidance of performance of the contract, cannot, or chooses not to, avoid or mitigate the FOCI problem.

952.208 Clauses related to required sources of supply.

I.88 952.208-7 Tagging of leased vehicles.

As prescribed in 908.7101-7, insert the following clause when leasing commercial vehicles for periods in excess of 60 days.

TAGGING OF LEASED VEHICLES (APR 1984)

(a) DOE intends to use U.S. Government license tags.
(b) While it is the intention that vehicles leased hereunder shall operate on Federal tags, the DOE reserves the right to utilize State tags if necessary to accomplish its mission. Should State tags be required, the contractor shall furnish the DOE the documentation required by the State to acquire such tags.

I.89 952.208-70 Printing.

As prescribed in 908.802, insert the following clause.

PRINTING (APR 1984)

The contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the U.S. Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 copies of a single unit, or no more than 25,000 units in the aggregate of multiple units, will not be deemed to be printing. A unit is defined as one sheet, size 8½ by 11 inches one side only, one color. A requirement is defined as a single publication document.
(1) The term "printing" includes the following processes: composition, plate making, presswork, binding, microform publishing, or the end items produced by such processes.
(2) If fulfillment of the contract will necessitate reproduction in excess of the limits set forth above, the contractor shall notify the contracting officer in writing and obtain the contracting officer's approval prior to acquiring on DOE's behalf production, acquisition, and dissemination of printed matter. Such printing must be obtained from the Government Printing Office (GPO), a contract source designated by GPO or a Joint Committee on Printing authorized federal printing plant.
(3) Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

(4) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (4).
[49 FR 12042, Mar. 28, 1984; 49 FR 38951, Oct. 2, 1984]

I.90 952.209-72 Organizational conflicts of interest.

As prescribed at 48 CFR 909.507-2, insert the following clause:

ORGANIZATIONAL CONFLICTS OF INTEREST
(JUN 1997)

(a) *Purpose*. The purpose of this clause is to ensure that the contractor (1) is not biased because of its financial, contractual, organizational, or other interests which relate to the work under this contract, and (2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.
(b) *Scope*. The restrictions described herein shall apply to performance or participation by the contractor and any of its affiliates
or their successors in interest (hereinafter collectively referred to as "contractor") in the activities covered by this clause as a prime contractor, subcontractor, cosponsor, joint venturer, consultant, or in any similar capacity. For the purpose of this clause, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.
(1) *Use of Contractor's Work Product*. (i) The contractor shall be ineligible to participate in any capacity in Department contracts, subcontracts, or proposals therefor (solicited and unsolicited) which stem directly from the contractor's performance of work under this contract for a period of (Contracting Officer see DEAR 9.507-2 and enter specific term) years after the completion of this contract. Furthermore, unless so directed in writing by the contracting officer, the Contractor shall not perform any advisory and assistance services work under this contract on any of its products or services or the products or services of another firm if the contractor is or has been substantially involved in their development or marketing. Nothing in this subparagraph shall preclude the contractor from competing for follow-on contracts for advisory and assistance services.
(ii) If, under this contract, the contractor prepares a complete or essentially complete statement of work or specifications to be used in competitive acquisitions, the contractor shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such statement of work or specifications. The contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the contracting officer, in which case the restriction in this subparagraph shall not apply.
(iii) Nothing in this paragraph shall preclude the contractor from offering or selling its standard and commercial items to the Government.
(2) Access to and use of information. (i) If the contractor, in the performance of this contract, obtains access to information, such as Department plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or data which has not been released or otherwise made available to the public, the contractor agrees that without prior written approval of the contracting officer it shall not:

(A) use such information for any private purpose unless the information has been released or otherwise made available to the public;
(B) compete for work for the Department based on such information for a period of six (6) months after either the completion of this contract or until such information is released or otherwise made available to the public, whichever is first;
(C) submit an unsolicited proposal to the Government which is
based on such information until one year after such information is released or otherwise made available to the public; and
(D) release such information unless such information has previously been released or otherwise made available to the public by the Department.
(ii) In addition, the contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or other confidential or privileged technical, business, or financial information under this contract, it shall treat such information in accordance with any restrictions imposed on such information.
(iii) The contractor may use technical data it first produces under this contract for its private purposes consistent with paragraphs (b)(2)(i) (A) and (D) of this clause and the patent, rights in data, and security provisions of this contract.
(c) *Disclosure after award*. (1) The contractor agrees that, if changes, including additions, to the facts disclosed by it prior to award of this contract, occur during the performance of this contract, it shall make an immediate and full disclosure of such changes in writing to the contracting officer. Such disclosure may include a description of any action which the contractor has taken or proposes to take to avoid, neutralize, or mitigate any resulting conflict of interest. The Department may, however, terminate the contract for convenience if it deems such termination to be in the best interest of the Government.
(2) In the event that the contractor was aware of facts required to be disclosed or the existence of an actual or potential organizational conflict of interest and did not disclose such facts or such conflict of interest to the contracting officer, DOE may terminate this contract for default.
(d) *Remedies*. For breach of any of the above restrictions or for nondisclosure or misrepresentation of any facts required to be disclosed concerning this contract, including the existence of an actual or potential organizational conflict of interest at the time of or after award, the Government may terminate the contract for default, disqualify the contractor from subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this contract.
(e) *Waiver*. Requests for waiver under this clause shall be directed in writing to the contracting officer and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of the Government, the contracting officer may grant such a waiver in writing.

(End of clause)

Alternate I

In accordance with 909.507-2 and 970.0905, include the following alternate in the specified types of contracts.
(f) *Subcontracts*. (1) The contractor shall include a clause, substantially similar to this clause, including this paragraph (f), in subcontracts expected to exceed the simplified acquisition threshold determined in accordance with FAR Part 13 and involving the performance of advisory and assistance services as that term is defined at FAR 37.201. The terms ``contract," "contractor," and "contracting officer" shall be appropriately modified to preserve the Government's rights.

(2) Prior to the award under this contract of any such subcontracts for advisory and assistance services, the contractor shall obtain from the proposed subcontractor or consultant the disclosure required by DEAR 909.507-1, and shall determine in writing whether the interests disclosed present an actual or significant potential for an organizational conflict of interest. Where an actual or significant potential organizational conflict of interest is identified, the contractor shall take actions to avoid, neutralize, or mitigate the organizational conflict to the satisfaction of the contractor. If the conflict cannot be avoided or neutralized, the contractor must obtain the approval of the DOE contracting officer prior to entering into the subcontract.

(End of alternate)

[49 FR 12042, Mar. 28, 1984, as amended at 52 FR 38425, Oct. 16, 1987 and 59 FR 66259, Dec. 23, 1994; 62 FR 40748, Jul. 30, 1997]

I.91 952.215-70 -- Key Personnel.

As prescribed in 48 CFR 915.408-70, the contracting officer shall insert the following clause:

Key Personnel (DEC 2000)

(a) The personnel listed below or elsewhere in this contract [Insert cross-reference, if applicable] are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed or specified personnel, the Contractor must: (1) Notify the Contracting Officer reasonably in advance; (2) submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract; and (3) obtain the Contracting Officer's written approval. Notwithstanding the foregoing, if the Contractor deems immediate removal or suspension of any member of its management team is necessary to fulfill its obligation to maintain satisfactory standards of employee competency, conduct, and integrity under the clause at 48 CFR 970.5203-3, Contractor's Organization, the Contractor may remove or suspend such person at once, although the Contractor must notify Contracting Officer prior to or concurrently with such action.

(b) The list of personnel may, with the consent of the contracting parties, be amended from time to time during the course of the contract to add or delete personnel.

[Insert List of Key Personnel unless listed elsewhere in the contract]

(End of clause)

[65 FR 80994, Dec. 22, 2000]

I.92 952.217-70 Acquisition of real property.

Insert the following clause when required by 917.7403(c).

ACQUISITION OF REAL PROPERTY (APR 1984)

(a) Notwithstanding any other provision of the contract, the prior approval of the contracting officer shall be obtained when, in performance of this contract, the contractor acquires or proposes to acquire use of real property by:

(1) Purchase, on the Government's behalf or in the contractor's own name, with title eventually vesting in the Government.
(2) Lease, and the Government assumes liability for, or will otherwise pay for the obligation under the lease as a reimbursable contract cost.
(3) Acquisition of temporary interest through easement, license or permit, and the Government funds the entire cost of the temporary interest.
(b) Justification of and execution of any real property acquisitions shall be in accordance and compliance with directions provided by the contracting officer.
(c) The substance of this clause, including this paragraph (c), shall be included in any subcontract occasioned by this contract under which property described in paragraph (a) of this clause shall be acquired.
[49 FR 12042, Mar. 28, 1984, as amended at 52 FR 38426, Oct. 16, 1987; 56 FR 41965, Aug. 26, 1991]

I.93 952.223-75 Preservation of individual occupational radiation exposure records.

The contracting officer shall insert this clause in contracts containing 952.223-71, Integration of environment, safety, and health into work planning and execution, or 952.223-72, Radiation protection and nuclear criticality.

PRESERVATION OF INDIVIDUAL OCCUPATIONAL
RADIATION EXPOSURE RECORDS (APR 1984)

Individual occupational radiation exposure records generated in the performance of work under this contract shall be subject to inspection by DOE and shall be preserved by the contractor until disposal is authorized by DOE or at the option of the contractor delivered to DOE upon completion or termination of the contract. If the contractor exercises the foregoing option, title to such records shall vest in DOE upon delivery.
[49 FR 12042, Mar. 28, 1984; 49 FR 38952, Oct. 2, 1984; 62 FR 34842, Jun. 27, 1997]

I.94 952.224-70 Paperwork Reduction Act.

Insert the following clause if it is anticipated that information collection from 10 or more persons will be necessary under the contract.

PAPERWORK REDUCTION ACT (APR 1994)

(a) In the event that it subsequently becomes a contractual requirement to collect or record information calling either for answer to identical questions from 10 or more persons other than Federal employees, or information from Federal employees which is to be used for statistical compilations of general public interest, the Paperwork Reduction Act will apply to this contract. No plan, questionnaire, interview guide, or other similar device for collecting information (whether repetitive or single-time) may be used without first obtaining clearance from the Office of Management and Budget (OMB).
(b) The contractor shall request the required OMB clearance from the contracting officer before expending any funds or making public contacts for the collection of data. The authority to expend funds and to proceed with the collection of data shall be in writing by the contracting officer. The contractor must plan at least 90 days for OMB clearance. Excessive delay caused by the

Government which arises out of causes beyond the control and without the fault or negligence of the contractor will be considered in accordance with the clause entitled "Excusable Delays," if such clause is applicable. If not, the period of performance may be extended pursuant to this clause if approved by the contracting officer.
[62 FR 2310, Jan. 16, 1997]

I.95 952.226-74 Displaced employee hiring preference.

As prescribed in 48 CFR (DEAR) 926.7104, insert the following clause.

DISPLACED EMPLOYEE HIRING PREFERENCE
(JUNE 1997)

(a) Definition.
Eligible employee means a current or former employee of a contractor or subcontractor employed at a Department of Energy Defense Nuclear Facility (1) whose position of employment has been, or will be, involuntarily terminated (except if terminated for cause), (2) who has also met the eligibility criteria contained in the Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, and (3) who is qualified for a particular job vacancy with the Department or one of its contractors with respect to work under its contract with the Department at the time the particular position is available.
(b) Consistent with Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, the contractor agrees that it will provide a preference in hiring to an eligible employee to the extent practicable for work performed under this contract.
(c) The requirements of this clause shall be included in subcontracts at any tier (except for subcontracts for commercial items pursuant to 41 U.S.C. 403) expected to exceed $500,000.

[62 FR 34842, Jun. 27, 1997]

I.96 952.227-9 Refund of royalties.

As prescribed in 927.206-2, insert the following clause:

REFUND OF ROYALTIES (FEB 1995)

(a) The contract price includes certain amounts for royalties payable by the Contractor or subcontractors or both, which amounts have been reported to the Contracting Officer.
(b) The term "royalties" as used in this clause refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use of or for rights in patents and patent applications in connection with performing this contract or any subcontract here-under. The term also includes any costs or charges associated with the access to, use of, or other right pertaining to data that is represented to be proprietary and is related to the performance of this contract or the copying of such data or data that is copyrighted.
(c) The Contractor shall furnish to the Contracting Officer, before final payment under this contract, a statement of royalties paid or required to be paid in connection with performing this contract and subcontracts hereunder together with the reasons.
(d) The Contractor will be compensated for royalties reported under paragraph (c) of this clause, only to the extent that such royalties were included in the contract price and are determined by the Contracting Officer to be properly chargeable to the Government and allocable to the

contract. To the extent that any royalties that are included in the contract price are not, in fact, paid by the Contractor or are determined by the Contracting Officer not to be properly chargeable to the government and allocable to the contract, the contract price shall be reduced. Repayment or credit to the Government shall be made as the Contracting Officer directs. The approval by DOE of any individual payments or royalties shall not prevent the Government from contesting at any time the enforceability, validity, scope of, or title to, any patent or the proprietary nature of data pursuant to which a royalty or other payment is to be or has been made.
(e) If, at any time within 3 years after final payment under this contract, the Contractor for any reason is relieved in whole or in part from the payment of the royalties included in the final contract price as adjusted pursuant to paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer of that fact and shall reimburse the Government in a corresponding amount.
(f) The substance of this clause, including this paragraph (f), shall be included in any subcontract in which the amount of royalties reported during negotiation of the subcontract exceeds $250.

(End of clause)

[60 FR 11812, Mar. 2, 1995]

I.97 952.227-13 Patent rights-acquisition by the Government.

As prescribed at 927.303(c), insert the following clause:

PATENT RIGHTS-ACQUISITION BY THE GOVERNMENT (SEP 1997)
(a) Definitions.

"Invention", as used in this clause, means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, et seq.).
"Practical application", as used in this clause, means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.
"Subject invention", as used in this clause, means any invention of the Contractor conceived or first actually reduced to practice in the course of or under this contract.
"Patent Counsel", as used in this clause, means the Department of Energy Patent Counsel assisting the procuring activity.
"DOE patent waiver regulations", as used in this clause, means the Department of Energy patent waiver regulations at 41 CFR 9-9.109- 6 or successor regulations. See 10 CFR part 784.
"Agency licensing regulations" and "applicable agency licensing regulations", as used in this clause, mean the Department of Energy patent licensing regulations at 10 CFR Part 781.
(b) Allocations of principal rights.

(1) Assignment to the Government. The Contractor agrees to assign to the Government the entire

right, title, and interest throughout the world in and to each subject invention, except to the extent that rights are retained by the Contractor under subparagraph (b)(2) and paragraph (d) of this clause. (2) Greater rights determinations. (i) The contractor, or an employee-inventor after consultation with the Contractor, may request greater rights than the nonexclusive license and the foreign patent rights provided in paragraph (d) of this clause on identified inventions in accordance with the DOE patent waiver regulations. A request for a determination of whether the Contractor or the employee-inventor is entitled to acquire such greater rights must be submitted to the Patent Counsel with a copy to the Contracting Officer at the time of the first disclosure of the invention pursuant to subparagraph (e)(2) of this clause, or not later than 8 months thereafter, unless a longer period is authorized in writing by the Contracting Officer for good cause shown in writing by the Contractor. Each determination of greater rights under this contract shall be subject to paragraph (c) of this clause, unless otherwise provided in the greater rights determination, and to the reservations and conditions deemed to be appropriate by the Secretary of Energy or designee.
(ii) Within two (2) months after the filing of a patent application, the Contractor shall provide the filing date, serial number and title, a copy of the patent application (including an English-language version if filed in a language other than English), and, promptly upon issuance of a patent, provide the patent number and issue date for any subject invention in any country for which the Contractor has been granted title or the right to file and prosecute on behalf of the United States by the Department of Energy.
(iii) Not less than thirty (30) days before the expiration of the response period for any action required by the Patent and Trademark Office, notify the Patent Counsel of any decision not to continue prosecution of the application.
(iv) Upon request, the Contractor shall furnish the Government an irrevocable power to inspect and make copies of the patent application file.
(c) Minimum rights acquired by the Government. (1) With respect to each subject invention to which the Department of Energy grants the Contractor principal or exclusive rights, the Contractor agrees as follows:
(i) The Contractor hereby grants to the Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced each subject invention throughout the world by or on behalf of the Government of the United States (including any Government agency).
(ii) The Contractor agrees that with respect to any subject invention in which DOE has granted it title, DOE has the right in accordance with the procedures in the DOE patent waiver regulations (10 CFR part 784) to require the Contractor, an assignee, or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, DOE has the right to grant such a license itself if it determines that-- (A) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use; (B) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees; (C) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or (D) Such action is necessary because the agreement required by paragraph (i) of this clause has neither been obtained nor waived or because a

licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.
(iii) The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as DOE may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by DOE in connection with any march-in proceedings undertaken by that agency in accordance with subparagraph (c)(1)(ii) of this clause. To the extent data or information supplied under this section is considered by the Contractor, its licensee, or assignee to be privileged and confidential and is so marked, the Department of Energy agrees that, to the extent permitted by law, it will not disclose such information to persons outside the Government.
(iv) The Contractor agrees, when licensing a subject invention, to arrange to avoid royalty charges on acquisitions involving Government funds, including funds derived through a Military Assistance Program of the Government or otherwise derived through the Government, to refund any amounts received as royalty charges on a subject invention in acquisitions for, or on behalf of, the Government, and to provide for such refund in any instrument transferring rights in the invention to any party.
(v) The Contractor agrees to provide for the Government's paid-up license pursuant to subparagraph (c)(1)(i) of this clause in any instrument transferring rights in a subject invention and to provide for the granting of licenses as required by subparagraph (c)(1)(ii) of this clause, and for the reporting of utilization information as required by subparagraph (c)(1)(iii) of this clause, whenever the instrument transfers principal or exclusive rights in a subject invention. (2) Nothing contained in this paragraph (c) shall be deemed to grant to the Government any rights with respect to any invention other than a subject invention.
(d) Minimum rights to the Contractor. (1) The Contractor is hereby granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government obtains title, unless the Contractor fails to disclose the subject invention within the times specified in subparagraph (e)(2) of this clause. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of DOE except when transferred to the successor of that part of the Contractor's business to which the invention pertains. (2) The Contractor's domestic license may be revoked or modified by DOE to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in 37 CFR Part 404 and agency licensing regulations. This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical applications and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of DOE to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country. (3) Before revocation or modification of the license, DOE will furnish the Contractor a written notice of its intention to revoke or modify the license, and the

Contractor will be allowed 30 days (or such other time as may be authorized by DOE for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable agency licensing regulations and 37 CFR Part 404 concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license. (4) The Contractor may request the right to acquire patent rights to a subject invention in any foreign country where the Government has elected not to secure such rights, subject to the conditions in subparagraphs (d)(4)(i) through (d)(4)(vii) of this clause. Such request must be made in writing to the Patent Counsel as part of the disclosure required by subparagraph (e)(2) of this clause, with a copy to the DOE Contracting Officer. DOE approval, if given, will be based on a determination that this would best serve the national interest.
(i) The recipient of such rights, when specifically requested by DOE, and three years after issuance of a foreign patent disclosing the subject invention, shall furnish DOE a report stating:
(A) The commercial use that is being made, or is intended to be made, of said invention, and
(B) The steps taken to bring the invention to the point of practical application or to make the invention available for licensing.
(ii) The Government shall retain at least an irrevocable, nonexclusive, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the Government (including any Government agency) and States and domestic municipal governments, unless the Secretary of Energy or designee determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments.
(iii) If noted elsewhere in this contract as a condition of the grant of an advance waiver of the Government's title to inventions under this contract, or, if no advance waiver was granted but a waiver of the Government's title to an identified invention is granted pursuant to subparagraph (b)(2) of this clause upon a determination by the Secretary of Energy that it is in the Government's best interest, this license shall include the right of the Government to sublicense foreign governments pursuant to any existing or future treaty or agreement with such foreign governments.
(iv) Subject to the rights granted in subparagraphs (d)(1), (2), and (3) of this clause, the Secretary of Energy or designee shall have the right to terminate the foreign patent rights granted in this subparagraph (d)(4) in whole or in part unless the recipient of such rights demonstrates to the satisfaction of the Secretary of Energy or designee that effective steps necessary to accomplish substantial utilization of the invention have been taken or within a reasonable time will be taken.
(v) Subject to the rights granted in subparagraphs (d)(1), (2), and (3) of this clause, the Secretary of Energy or designee shall have the right, commencing four years after foreign patent rights are accorded under this subparagraph (d)(4), to require the granting of a nonexclusive or partially exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances, and in appropriate circumstances to terminate said foreign patent rights in whole or in part, following a hearing upon notice thereof to the public, upon a petition by an interested person justifying such hearing:
(A) If the Secretary of Energy or designee determines, upon review of such material as he deems relevant, and after the recipient of such rights or other interested person has had the opportunity to provide such relevant and material information as the Secretary or designee may require, that such foreign patent rights have tended substantially to lessen competition or to result in undue market concentration in any section of the United States in any line of commerce to which the technology relates; or

(B) Unless the recipient of such rights demonstrates to the satisfaction of the Secretary of Energy or designee at such hearing that the recipient has taken effective steps, or within a reasonable time thereafter is expected to take such steps, necessary to accomplish substantial utilization of the invention.
(vi) If the contractor is to file a foreign patent application on a subject invention, the Government agrees, upon written request, to use its best efforts to withhold publication of such invention disclosures for such period of time as specified by Patent Counsel, but in no event shall the Government or its employees be liable for any publication thereof.
(vii) Subject to the license specified in subparagraphs (d)(1), (2), and (3) of this clause, the contractor or inventor agrees to convey to the Government, upon request, the entire right, title, and interest in any foreign country in which the contractor or inventor fails to have a patent application filed in a timely manner or decides not to continue prosecution or to pay any maintenance fees covering the invention. To avoid forfeiture of the patent application or patent, the contractor or inventor shall, not less than 60 days before the expiration period for any action required by any patent office, notify the Patent Counsel of such failure or decision, and deliver to the Patent Counsel, the executed instruments necessary for the conveyance specified in this paragraph.
(e) Invention identification, disclosures, and reports. (1) The Contractor shall establish and maintain active and effective procedures to assure that subject inventions are promptly identified and disclosed o Contractor personnel responsible for patent matters within 6 months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this contract. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of subject inventions, and records that show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of such procedures for evaluation and for determination as to their effectiveness.
(2) The Contractor shall disclose each subject invention to the DOE Patent Counsel with a copy to the Contracting Officer within 2 months after the inventor discloses it in writing to Contractor personnel responsible for patent matters or, if earlier, within 6 months after the Contractor becomes aware that a subject invention has been made, but in any event before any on sale, public use, or publication of such invention known to the Contractor. The disclosure to DOE shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale, or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to DOE, the Contractor shall promptly notify Patent Counsel of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor. The report should also include any request for a greater rights determination in accordance with subparagraph (b)(2) of this clause. When an invention is disclosed to DOE under this paragraph, it shall be deemed to have been made in the manner specified in Sections (a)(1) and (a)(2) of 42

U.S.C. 5908, unless the Contractor contends in writing at the time the invention is disclosed that is was not so made.
(3) The Contractor shall furnish the Contracting Officer the following:
(i) Interim reports every 12 months (or such longer period as may be specified by the Contracting Officer) from the date of the contract, listing all subject inventions during that period, and including a statement that all subject inventions have been disclosed (or that there are not such inventions), and that such disclosure has been made in accordance with the procedures required by paragraph (e)(1) of this clause.
(ii) A final report, within 3 months after completion of the contracted work listing all subject inventions or containing a statement that there were no such inventions, and listing all subcontracts at any tier containing a patent rights clause or containing a statement that there were no such subcontracts.
(4) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) of this clause, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by subparagraph (e)(2) of this clause. (5) The Contractor agrees, subject to FAR 27.302(j), that the Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.
(f) Examination of records relating to inventions.
(1) The Contracting Officer or any authorized representative shall, until 3 years after final payment under this contract, have the right to examine any books (including laboratory notebooks), records, and documents of the Contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether--
(i) Any such inventions are subject inventions;
(ii) The Contractor has established and maintains the procedures required by subparagraphs (e)(1) and (4) of this clause;
(iii) The Contractor and its inventors have complied with the procedures. (2) If the Contracting Officer learns of an unreported Contractor invention which the Contracting Officer believes may be a subject invention, the Contractor may be required to disclose the invention to DOE for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate conditions to protect the confidentiality of the information involved.
(g) Withholding of payment (NOTE: This paragraph does not apply to subcontracts). (1) Any time before final payment under this contract, the Contracting Officer may, in the Government's interest, withhold payment until a reserve not exceeding $50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if, in the Contracting Officer's opinion, the Contractor fails to--
(i) Convey to the Government, using a DOE-approved form, the title and/or rights of the Government in each subject invention as required by this clause.

(ii) Establish, maintain, and follow effective procedures for identifying and disclosing subject inventions pursuant to subparagraph (e)(1) of this clause;
(iii) Disclose any subject invention pursuant to subparagraph (e)(2) of this clause;
(iv) Deliver acceptable interim reports pursuant to subparagraph (e)(3)(i) of this clause; or
(v) Provide the information regarding subcontracts pursuant to subparagraph (h)(4) of this clause.
(2) Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause. (3) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of subject inventions required by subparagraph (e)(2) of this clause, and acceptable final report pursuant to subparagraph (e)(3)(ii) of this clause, and the Patent Counsel has issued a patent clearance certification to the Contracting Officer.
(4) The Contracting Officer may decrease or increase the sums withheld up to the maximum authorized above. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government rights.
(h) Subcontracts.
(1) The contractor shall include the clause at 48 CFR 952.227-11 (suitably modified to identify the parties) in all subcontracts, regardless of tier, for experimental, developmental, demonstration, or research work to be performed by a small business firm or domestic nonprofit organization, except where the work of the subcontract is subject to an Exceptional Circumstances Determination by DOE. In all other subcontracts, regardless of tier, for experimental, developmental, demonstration, or research work, the contractor shall include this clause (suitably modified to identify the parties). The contractor shall not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.
(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Contractor--
(i) Shall promptly submit a written notice to the Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and
(ii) Shall not proceed with such subcontract without the written authorization of the Contracting Officer. (3) In the case of subcontracts at any tier, DOE, the subcontractor, and Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and DOE with respect to those matters covered by this clause. (4) The Contractor shall promptly notify the Contracting Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded. (5) The contractor shall identify all subject inventions of the subcontractor of which it acquires knowledge in the performance of this contract and shall notify the Patent Counsel, with a copy to the contracting officer, promptly upon identification of the inventions.
(i) Preference United States industry. Unless provided otherwise, no Contractor that receives title to any subject invention and no assignee of any such Contractor shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees

that any products embodying the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement may be waived by the Government upon a showing by the Contractor or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.
(j) Atomic energy.
(1) No claim for pecuniary award of compensation under the provisions of the Atomic Energy Act of 1954, as amended, shall be asserted with respect to any invention or discovery made or conceived in the course of or under this contract.
(2) Except as otherwise authorized in writing by the Contracting Officer, the Contractor will obtain patent agreements to effectuate the provisions of subparagraph (e)(1) of this clause from all persons who perform any part of the work under this contract, except nontechnical personnel, such as clerical employees and manual laborers.
(k) Background Patents.
(1) Background Patent means a domestic patent covering an invention or discovery which is not a subject invention and which is owned or controlled by the Contractor at any time through the completion of this contract:
(i) Which the contractor, but not the Government, has the right to license to others without obligation to pay royalties thereon, and
(ii) Infringement of which cannot reasonably be avoided upon the practice of any specific process, method, machine, manufacture, or composition of matter (including relatively minor modifications thereof) which is a subject of the research, development, or demonstration work performed under this contract. (2) The Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive license under any background patent for purposes of practicing a subject of this contract by or for the Government in research, development, and demonstration work only. (3) The Contractor also agrees that upon written application by DOE, it will grant to responsible parties, for purposes of practicing a subject of this contract, nonexclusive licenses under any background patent on terms that are reasonable under the circumstances. If, however, the Contractor believes that exclusive rights are necessary to achieve expeditious commercial development or utilization, then a request may be made to DOE for DOE approval of such licensing by the Contractor.
(4) Notwithstanding subparagraph (k)(3) of this clause, the contractor shall not be obligated to license any background patent if
the Contractor demonstrates to the satisfaction of the Secretary of Energy or designee that:
(i) a competitive alternative to the subject matter covered by said background patent is commercially available or readily introducible from one or more other sources; or
(ii) the Contractor or its licensees are supplying the subject matter covered by said background patent in sufficient quantity and at reasonable prices to satisfy market needs, or have taken effective steps or within a reasonable time are expected to take effective steps to so supply the subject matter. l) Publication. It is recognized that during the course of the work under this contract, the Contractor or its employees may from time to time desire to release or publish information regarding scientific or technical developments conceived or first actually reduced to practice in the course of or under this contract. In order that public disclosure of such information will not adversely affect the patent interests of DOE or the Contractor, patent approval for release of publication shall be secured from Patent Counsel prior to any such release or publication.

m) Forfeiture of rights in unreported subject inventions.
(1) The Contractor shall forfeit and assign to the Government, at the request of the Secretary of Energy or designee, all rights in any subject invention which the Contractor fails to report to Patent Counsel within six months after the time the Contractor:
(i) Files or causes to be filed a United States or foreign patent application thereon; or
(ii) Submits the final report required by subparagraph (e)(2)(ii) of this clause, whichever is later.
(2) However, the Contractor shall not forfeit rights in a subject invention if, within the time specified in subparagraph (m)(1) of this clause, the Contractor:
(i) Prepares a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the course of or under the contract and delivers the decision to Patent Counsel, with a copy to the Contracting Officer; or
(ii) Contending that the invention is not a subject invention, the Contractor nevertheless discloses the invention and all facts pertinent to this contention to the Patent Counsel, with a copy to the Contracting Officer; or
(iii) Establishes that the failure to disclose did not result from the Contractor's fault or negligence.
(3) Pending written assignment of the patent application and patents on a subject invention determined by the Secretary of Energy or designee to be forfeited (such determination to be a final decision under the Disputes clause of this contract), the Contractor shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph (m) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to subject inventions.

(End of clause)

[60 FR 11812, Mar. 3, 1995; 62 FR 42072, Aug. 5, 1997; 63 FR 10499, Mar. 4, 1998]

I.98 952.242-70 -- Technical Direction.

As prescribed in 48 CFR 942.270-2, insert the following clause.

Technical Direction (DEC 2000)

(a) Performance of the work under this contract shall be subject to the technical direction of the DOE Contracting Officer's Representative (COR). The term "technical direction" is defined to include, without limitation:

(1) Providing direction to the contractor that redirects contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details, or otherwise serve to accomplish the contractual Statement of Work.

(2) Providing written information to the contractor that assists in interpreting drawings, specifications, or technical portions of the work description.

(3) Reviewing and, where required by the contract, approving, technical reports, drawings, specifications, and technical information to be delivered by the contractor to the Government.

(b) The contractor will receive a copy of the written COR designation from the contracting officer. It will specify the extent of the COR's authority to act on behalf of the contracting officer.

(c) Technical direction must be within the scope of work stated in the contract. The COR does not have the authority to, and may not, issue any technical direction that:

(1) Constitutes an assignment of additional work outside the Statement of Work;

(2) Constitutes a change as defined in the contract clause entitled "Changes;"

(3) In any manner causes an increase or decrease in the total estimated contract cost, the fee (if any), or the time required for contract performance;

(4) Changes any of the expressed terms, conditions or specifications of the contract; or

(5) Interferes with the contractor's right to perform the terms and conditions of the contract.

(d) All technical direction shall be issued in writing by the COR.

(e) The contractor must proceed promptly with the performance of technical direction duly issued by the COR in the manner prescribed by this clause and within its authority under the provisions of this clause. If, in the opinion of the contractor, any instruction or direction by the COR falls within one of the categories defined in (c)(1) through (c)(5) of this clause, the contractor must not proceed and must notify the Contracting Officer in writing within five (5) working days after receipt of any such instruction or direction and must request the Contracting Officer to modify the contract accordingly. Upon receiving the notification from the contractor, the Contracting Officer must:

(1) Advise the contractor in writing within thirty (30) days after receipt of the contractor's letter that the technical direction is within the scope of the contract effort and does not constitute a change under the Changes clause of the contract;

(2) Advise the contractor in writing within a reasonable time that the Government will issue a written change order; or

(3) Advise the contractor in writing within a reasonable time not to proceed with the instruction or direction of the COR. [*81009]

(f) A failure of the contractor and Contracting Officer either to agree that the technical direction is within the scope of the contract or to agree upon the contract action to be taken with respect to the technical direction will be subject to the provisions of the clause entitled "Disputes."

(End of Clause)

[65 FR 80994, Dec. 22, 2000]

I.99 952.247-70 Foreign travel.

When foreign travel may be required under the contract, insert the following clause.

FOREIGN TRAVEL (FEB 1997)

(a) Foreign travel, when charged directly, shall be subject to the prior approval of the contracting officer for each separate trip regardless of whether funds for such travel are contained in an approved budget. Foreign travel is defined as any travel outside of Canada, Mexico and the United States and its territories and possessions.

(b) Request for approval shall be submitted at least 45 days prior to the planned departure date, be on a Request for Approval of Foreign Travel form, and when applicable, include a notification of proposed soviet-bloc travel.

[62 FR 2310, Jan. 16, 1997]

I.100 952.250-70 Nuclear hazards indemnity agreement.

Insert the following clause in accordance with section 950.7006.

NUCLEAR HAZARDS INDEMNITY AGREEMENT (JUN 1996)

(a) *Authority*. This clause is incorporated into this contract pursuant to the authority contained in subsection 170d. of the Atomic Energy Act of 1954, as amended (hereinafter called the Act.)

(b) *Definitions*. The definitions set out in the Act shall apply to this clause.

(c) *Financial protection*. Except as hereafter permitted or required in writing by DOE, the contractor will not be required to provide or maintain, and will not provide or maintain at Government expense, any form of financial protection to cover public liability, as described in paragraph (d)(2) below. DOE may, however, at any time require in writing that the contractor provide and maintain financial protection of such a type and in such amount as DOE shall determine to be appropriate to cover such public liability, provided that the costs of such financial protection are reimbursed to the contractor by DOE.

(d)(1) *Indemnification*. To the extent that the contractor and other persons indemnified are not compensated by any financial protection permitted or required by DOE, DOE will indemnify the contractor and other persons indemnified against (i) claims for public liability as described in subparagraph (d)(2) of this clause; and (ii) such legal costs of the contractor and other persons indemnified as are approved by DOE, provided that DOE's liability, including such legal costs, shall not exceed the amount set forth in section 170e.(1)(B) of the Act in the aggregate for each nuclear incident or precautionary evacuation occurring within the United States or $100 million in the aggregate for each nuclear incident occurring outside the United States, irrespective of the number of persons indemnified in connection with this contract.

(2) The public liability referred to in subparagraph (d)(1) of this clause is public liability as defined in the Act which (i) arises out of or in connection with the activities under this contract, including transportation; and (ii) arises out of or results from a nuclear incident or precautionary evacuation, as those terms are defined in the Act.

(e)(1) *Waiver of Defenses*. In the event of a nuclear incident, as defined in the Act, arising out of nuclear waste activities, as defined in the Act, the contractor, on behalf of itself and other persons indemnified, agrees to waive any issue or defense as to charitable or governmental immunity.

(2) In the event of an extraordinary nuclear occurrence which:

(i) Arises out of, results from, or occurs in the course of the construction, possession, or operation of a production or utilization facility; or

(ii) Arises out of, results from, or occurs in the course of transportation of source material, by-product material, or special nuclear material to or from a production or utilization facility; or

(iii) Arises out of or results from the possession, operation, or use by the contractor or a subcontractor of a device utilizing special nuclear material or by-product material, during the course of the contract activity; or
(iv) Arises out of, results from, or occurs in the course of nuclear waste activities, the contractor, on behalf of itself and other persons indemnified, agrees to waive:
(A) Any issue or defense as to the conduct of the claimant (including the conduct of persons through whom the claimant derives its cause of action) or fault of persons indemnified, including, but not limited to:
1. Negligence;
2. Contributory negligence;
3. Assumption of risk; or
4. Unforeseeable intervening causes, whether involving the conduct of a third person or an act of God;
(B) Any issue or defense as to charitable or governmental immunity; and
(C) Any issue or defense based on any statute of limitations, if suit is instituted within 3 years from the date on which the claimant first knew, or reasonably could have known, of his injury or change and the cause thereof. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. The waiver shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified.
(v) The term *extraordinary nuclear occurrence* means an event which DOE has determined to be an extraordinary nuclear occurrence as defined in the Act. A determination of whether or not there has been an extraordinary nuclear occurrence will be made in accordance with the procedures in 10 CFR part 840.
(vi) For the purposes of that determination, "offsite" as that term is used in 10 CFR part 840 means away from "the contract location" which phrase means any DOE facility, installation, or site at which contractual activity under this contract is being carried on, and any contractor-owned or controlled facility, installation, or site at which the contractor is engaged in the performance of contractual activity under this contract.
(3) The waivers set forth above:
(i) Shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action;
(ii) Shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified;
(iii) Shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages;
(iv) Shall not apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant;
(v) Shall not apply to injury to a claimant who is employed at the site of and in connection with the activity where the extraordinary nuclear occurrence takes place, if benefits therefor are either payable or required to be provided under any workmen's compensation or occupational disease law;
(vi) Shall not apply to any claim resulting from a nuclear incident occurring outside the United States;

(vii) Shall be effective only with respect to those obligations set forth in this clause and in insurance policies, contracts or other proof of financial protection; and
(viii) Shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (A) the limit of liability provisions under subsection 170e. of the Act, and (B) the terms of this agreement and the terms of insurance policies, contracts, or other proof of financial protection.
(f) *Notification and litigation of claims*. The contractor shall give immediate written notice to DOE of any known action or claim filed or made against the contractor or other person indemnified for public liability as defined in paragraph (d)(2). Except as otherwise directed by DOE, the contractor shall furnish promptly to DOE, copies of all pertinent papers received by the contractor or filed with respect to such actions or claims. DOE shall have the right to, and may collaborate with, the contractor and any other person indemnified in the settlement or defense of any action or claim and shall have the right to (1) require the prior approval of DOE for the payment of any claim that DOE may be required to indemnify hereunder; and (2) appear through the Attorney General on behalf of the contractor or other person indemnified in any action brought upon any claim that DOE may be required to indemnify hereunder, take charge of such action, and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by DOE, the contractor or other person indemnified shall furnish all reasonable assistance in effecting a settlement or asserting a defense.
(g) *Continuity of DOE obligations*. The obligations of DOE under this clause shall not be affected by any failure on the part of the contractor to fulfill its obligation under this contract and shall be unaffected by the death, disability, or termination of existence of the contractor, or by the completion, termination or expiration of this contract.
(h) *Effect of other clauses*. The provisions of this clause shall not be limited in any way by, and shall be interpreted without reference to, any other clause of this contract, including the clause entitled Contract Disputes, provided, however, that this clause shall be subject to the clauses entitled Covenant Against Contingent Fees, and Audit and Records.Negotiation, and any provisions that are later added to this contract as required by applicable Federal law, including statutes, executive orders and regulations, to be included in Nuclear Hazards Indemnity Agreements.
(i) *Civil penalties*. The contractor and its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to civil penalties, pursuant to 234A of the Act, for violations of applicable DOE nuclear-safety related rules, regulations, or orders.
(j) *Criminal penalties*. Any individual director, officer, or employee of the contractor or of its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to criminal penalties, pursuant to 223(c) of the Act, for knowing and willful violation of the Atomic Energy Act of 1954, as amended, and applicable DOE nuclear safety-related rules, regulations or orders which violation results in, or, if undetected, would have resulted in a nuclear incident.
(k) *Inclusion in subcontracts*. The contractor shall insert this clause in any subcontract which may involve the risk of public liability, as that term is defined in the Act and further described in paragraph (d)(2) above. However, this clause shall not be included in subcontracts in which the subcontractor is subject to Nuclear Regulatory Commission (NRC) financial protection requirements under section 170b. of the Act or NRC agreements of indemnification under section 170c. or k. of the Act for the activities under the subcontract.

Effective date

( ) See Note II below for instructions related to this section on Effective Date.

Relationship to general indemnity

( ) See Note III below for instructions related to this section on Relationship to General Indemnity.

(End of clause)

I.101 952.251-70 Contractor employee travel discounts.

As prescribed in Subpart 951.70, the following provision/clause will be included in all cost-reimbursable solicitations and resulting contracts, or contract modifications, as applicable.

CONTRACTOR EMPLOYEE TRAVEL DISCOUNTS (JUNE 1995)

Consistent with contract-authorized travel requirements, contractor employees shall make use of the travel discounts offered to Federal travelers, through use of contracted airlines discount air fares, hotels and motels lodging rates and car rental companies, when use of such discounts would result in lower overall trip costs and the discounted services are reasonably available to contractor employees performing official Government contract business. Vendors providing these services may require that the contractor employee traveling on Government business be furnished with a letter of identification signed by the authorized contracting officer.

(a) *Contracted airlines*. Airlines participating in travel discounts are listed in the Federal Travel Directory (FTD), published monthly by the General Services Administration (GSA). Regulations governing the use of contracted airlines are contained in the Federal Travel Regulation (FTR), 41 CFR Part 301-15, Travel Management Programs. It stipulates that cost-reimbursable contractor employees may obtain discount air fares by use of a Government Transportation Request (GTR), Standard Form 1169, cash or personal credit cards. When the GTR is used, contracting officers may issue a blanket GTR for a period of not less than two weeks nor more than one month. In unusual circumstances, such as prolonged or international travel, the contracting officer may extend the period for which a blanket GTR is effective to a maximum of three months. Contractors will ensure that their employees traveling under GTR provide the GTR number to the contracted airlines for entry on individual tickets and on month-end billings to the contractor.

(b) *Hotels/motels*. Participating hotels and motels which extend discounts are listed in the FTD, which shows rates, facilities, and identifies by code those which offer reduced rates to cost-reimbursable contractor employees while traveling on official contract business.

(c) *Car rentals*. The Military Traffic Management Command (MTMC) Department of Defense, negotiates rate agreements with car rental companies for special flat rates and unlimited mileage. Participating car rental companies which offer these terms to cost-reimbursable contractor employees while traveling on official contract business are listed in the FTD.

(d) *Procedures for obtaining service*. (1) Identification and method of payment requirements for participating Federal contracted airlines are listed in the FTR. Travel discount air fares may be ordered by the issuance of a GTR either directly to the contractor, or to a Scheduled Airline Travel Office (SATO) or Federal Travel Management Center (FTMC), provided the letter of identification signed by the cognizant contracting officer accompanies the order. In appropriate instances, such as geographical proximity, contractors may obtain discount air fares through a DOE office or a cooperating local travel agency when neither a SATO or FTMC is available. Some airlines allow the purchase of discounted air fares with cash or credit card.

(2) In the case of hotel and motel accommodations, reservations may be made by the contractor employee directly with the hotel or motel but the employee must display, on arrival, the letter of identification and any other identification required by the hotel or motel proprietorship.
(3) For car rentals, generally the same procedures as in (d)(2) above will be followed in arranging reservations and obtaining discounts.
(e) *Standard letter of identification*. Contractors shall prepare for the authorizing contracting officer a letter of identification based on the following format:
FORMAT FOR GOVERNMENT CONTRACTORS TO QUALIFY FOR TRAVEL DISCOUNTS (TO BE TYPED ON AGENCY OFFICIAL LETTERHEAD)
To: (*Source of ticketing, accommodations or rental*)
Subject: Official Travel of Government Contractor
(*Full name of traveler*), bearer of this letter, is an employee of (*company name*) which is under contract to this agency under the Government contract (*contract number*). During the period of the contract (*give dates*), the employee is eligible and authorized to use available discount rates for contract-related travel in accordance with your contract and/or agreement with the Federal Government.
(*Signature, title and telephone number of the contracting officer*)
[54 FR 17737, Apr. 25, 1989; 54 FR 26045, June 21, 1989; 60 FR 30005, Jun. 7, 1995]

DEAR 970 CLAUSES

970.5203-1 Covenant against contingent fees.

Insert the clause at FAR 52.203-5.
[60 FR 49516, Sept. 26, 1995

970.5203-2 [Reserved]
[61 FR 21975, May 13, 1996]

I.102 970.5203-1 -- Management controls.

As prescribed in 48 CFR 970.0370-2(a) and 48 CFR 970.3270(a)(4), insert the following clause:

Management Controls (DEC 2000)

(a)(1) The contractor shall be responsible for maintaining, as an integral part of its organization, effective systems of management controls for both administrative and programmatic functions. Management controls comprise the plan of organization, methods, and procedures adopted by management to reasonably ensure that: the mission and functions assigned to the contractor are properly executed; efficient and effective operations are promoted; resources are safeguarded against waste, loss, mismanagement, unauthorized use, or misappropriation; all encumbrances and costs that are incurred under the contract and fees that are earned are in compliance with applicable clauses and other current terms, conditions, and intended purposes; all collections accruing to the contractor in connection with the work under this contract, expenditures, and all other transactions and assets are properly recorded, managed, and reported; and financial,

statistical, and other reports necessary to maintain accountability and managerial control are accurate, reliable, and timely.

(2) The systems of controls employed by the contractor shall be documented and satisfactory to DOE.

(3) Such systems shall be an integral part of the contractor's management functions, including defining specific roles and responsibilities for each level of management, and holding employees accountable for the adequacy of the management systems and controls in their areas of assigned responsibility.

(4) The contractor shall, as part of the internal audit program required elsewhere in this contract, periodically review the management systems and controls employed in programs and administrative areas to ensure that they are adequate to provide reasonable assurance that the objectives of the systems are being accomplished and that these systems and controls are working effectively.

(b) The contractor shall be responsible for maintaining, as a part of its operational responsibilities, a baseline quality assurance program that implements documented performance, quality standards, and control and assessment techniques.

(End of Clause)

I.103 970.5203-2 -- Performance improvement and collaboration.

As prescribed in 48 CFR 970.0370-2(b), insert the following clause:

Performance Improvement and Collaboration (DEC 2000)

(a) The contractor agrees that it shall affirmatively identify, evaluate, and institute practices, where appropriate, that will improve performance in the areas of environmental and health, safety, scientific and technical, security, business and administrative, and any other areas of performance in the management and operation of the contract. This may entail the alteration of existing practices or the institution of new procedures to more effectively or efficiently perform any aspect of contract performance or reduce overall cost of operation under the contract. Such improvements may result from changes in organization, simplification of systems while retaining necessary controls, or any other approaches consistent with the statement of work and performance measures of this contract.

(b) The contractor agrees to work collaboratively with the Department, all other management and operating, DOE major facilities management contractors and affiliated contractors which manage or operate DOE sites or facilities for the following purposes: (i) to exchange information generally, (ii) to evaluate concepts that may be of benefit in resolving common issues, in confronting common problems, or in reducing costs of operations, and (iii) to otherwise identify and implement DOE-complex-wide management improvements discussed in paragraph (a). In doing so, it shall also affirmatively provide information relating to its management improvements

to such contractors, including lessons learned, subject to security considerations and the protection of data proprietary to third parties.

(c) The contractor may consult with the contracting officer in those instances in which improvements being considered pursuant to paragraph (a) involve the cooperation of the DOE. The contractor may request the assistance of the contracting officer in the communication of the success of improvements to other management and operating contractors in accordance with paragraph (b) of this clause.

(d) The contractor shall notify the contracting officer and seek approval where necessary to fulfill its obligations under the contract. Compliance with this clause in no way alters the obligations of the Contractor under any other provision of this contract.

(End of Clause)

I.104 970.5203-3 -- Contractor's organization.

As prescribed in 48 CFR 970.0371-9, insert the following clause:

Contractor's Organization (DEC 2000)

(a) Organization chart. As promptly as possible after the execution of this contract, the contractor shall furnish to the contracting officer a chart showing the names, duties, and organization of key personnel (see 48 CFR 952.215-70) to be employed in connection with the work, and shall furnish supplemental information to reflect any changes as they occur.

(b) Supervisory representative of contractor. Unless otherwise directed by the contracting officer, a competent full-time resident supervisory representative of the contractor satisfactory to the contracting officer shall be in charge of the work at the site, and any work off-site, at all times.

(c) Control of employees. The contractor shall be responsible for maintaining satisfactory standards of employee competency, conduct, and integrity and shall be responsible for taking such disciplinary action with respect to its employees as may be necessary. In the event the contractor fails to remove any employee from the contract work whom DOE deems incompetent, careless, or insubordinate, or whose continued employment on the work is deemed by DOE to be inimical to the Department's mission, the contracting officer may require, with the approval of the Secretary of Energy, the contractor to remove the employee from work under the contract. This includes the right to direct the contractor to remove its most senior key person from work under the contract for serious contract performance deficiencies.

(d) Standards and procedures. The contractor shall establish such standards and procedures as are necessary to implement the requirements set forth in 48 CFR 970.0371. Such standards and procedures shall be subject to the approval of the contracting officer.

(End of Clause)

I.105 970.5204-1 -- Counterintelligence.

(a) As prescribed in 48 CFR 970.0404-4(a), insert the following clause in contracts containing the clauses at 48 CFR 952.204-2, Security, and 48 CFR 952.204-70, Classification/Declassification:

Counterintelligence (DEC 2000)

(a) The contractor shall take all reasonable precautions in the work under this contract to protect DOE programs, facilities, technology, personnel, unclassified sensitive information and classified matter from foreign intelligence threats and activities conducted for governmental or industrial purposes, in accordance with DOE Order 5670.3, Counterintelligence Program; Executive Order 12333, U.S. Intelligence Activities; and other pertinent national and Departmental Counterintelligence requirements.

(b) The contractor shall appoint a qualified employee(s) to function as the Contractor Counterintelligence Officer. The Contractor Counterintelligence Officer will be responsible for conducting defensive Counterintelligence briefings and debriefings of employees traveling to foreign countries or interacting with foreign nationals; providing thoroughly documented written reports relative to targeting, suspicious activity and other matters of Counterintelligence interest; immediately reporting targeting, suspicious activity and other Counterintelligence concerns to the DOE Headquarters Counterintelligence Division; and providing assistance to other elements of the U.S. Intelligence Community as stated in the aforementioned Executive Order, the DOE Counterintelligence Order, and other pertinent national and Departmental Counterintelligence requirements.

(End of Clause)

I.106 970.5204-2 -- Laws, regulations, and DOE directives.

As prescribed in 48 CFR 970.0470-2, insert the following clause:

Laws, Regulations, and DOE Directives (DEC 2000)

(a) In performing work under this contract, the contractor shall comply with the requirements of applicable Federal, State, and local laws and regulations (including DOE regulations), unless relief has been granted in writing by the appropriate regulatory agency. A List of Applicable Laws and regulations (List A) may be appended to this contract for information purposes. Omission of any applicable law or regulation from List A does not affect the obligation of the contractor to comply with such law or regulation pursuant to this paragraph.

(b) In performing work under this contract, the contractor shall comply with the requirements of those Department of Energy directives, or parts thereof, identified in the List of Applicable Directives (List B) appended to this contract. Except as otherwise provided for in paragraph (d) of this clause, the contracting officer may, from time to time and at any time, revise List B by unilateral modification to the contract to add, modify, or delete specific requirements. Prior to revising List B, the contracting officer shall notify the contractor in writing of the Department's intent to revise List B and provide the contractor with the opportunity to assess the effect of the

contractor's compliance with the revised list on contract cost and funding, technical performance, and schedule; and identify any potential inconsistencies between the revised list and the other terms and conditions of the contract. Within 30 days after receipt of the contracting officer's notice, the contractor shall advise the contracting officer in writing of the potential impact of the contractor's compliance with the revised list. Based on the information provided by the contractor and any other information available, the contracting officer shall decide whether to revise List B and so advise the contractor not later than 30 days prior to the effective date of the revision of List B. The contractor and the contracting officer shall identify and, if appropriate, agree to any changes to other contract terms and conditions, including cost and schedule, associated with the revision of List B pursuant to the clause of this contract entitled, "Changes."

(c) Environmental, safety, and health (ES&H) requirements appropriate for work conducted under this contract may be determined by a DOE approved process to evaluate the work and the associated hazards and identify an appropriately tailored set of standards, practices, and controls, such as a tailoring process included in a DOE approved Safety Management System implemented under the clause entitled "Integration of Environment, Safety, and Health into Work Planning and Execution." When such a process is used, the set of tailored (ES&H) requirements, as approved by DOE pursuant to the process, shall be incorporated into List B as contract requirements with full force and effect. These requirements shall supersede, in whole or in part, the contractual environmental, safety, and health requirements previously made applicable to the contract by List B. If the tailored set of requirements identifies an alternative requirement varying from an ES&H requirement of an applicable law or regulation, the contractor shall request an exemption or other appropriate regulatory relief specified in the regulation.

(d) Except as otherwise directed by the contracting officer, the contractor shall procure all necessary permits or licenses required for the performance of work under this contract.

(e) Regardless of the performer of the work, the contractor is responsible for compliance with the requirements of this clause. The contractor is responsible for flowing down the requirements of this clause to subcontracts at any tier to the extent necessary to ensure the contractor's compliance with the requirements.

(End of Clause)

I.107 970.5204-3 -- Access to and ownership of records.

As prescribed in 48 CFR 970.0407-1-3, insert the following clause:

Access to and Ownership of Records (DEC 2000)

(a) Government-owned records. Except as provided in paragraph (b) of this clause, all records acquired or generated by the contractor in its performance of this contract shall be the property of the Government and shall be delivered to the Government or otherwise disposed of by the contractor either as the contracting officer may from time to time direct during the progress of the work or, in any event, as the contracting officer shall direct upon completion or termination of the contract.

(b) Contractor-owned records. The following records are considered the property of the contractor and are not within the scope of paragraph (a) of this clause. [The contracting officer shall identify which of the following categories of records will be included in the clause.]

(1) Employment-related records (such as workers' compensation files; employee relations records, records on salary and employee benefits; drug testing records, labor negotiation records; records on ethics, employee concerns, and other employee related investigations conducted under an expectation of confidentiality; employee assistance program records; and personnel and medical/ health-related records and similar files), and non-employee patient medical/health related records, except for those records described by the contract as being maintained in Privacy Act systems of records.

(2) Confidential contractor financial information, and correspondence between the contractor and other segments of the contractor located away from the DOE facility (i.e., the contractor's corporate headquarters);

(3) Records relating to any procurement action by the contractor, except for records that under 48 CFR 970.5232-3, Accounts, Records, and Inspection, are described as the property of the Government; and

(4) Legal records, including legal opinions, litigation files, and documents covered by the attorney-client and attorney work product privileges; and

(5) The following categories of records maintained pursuant to the technology transfer clause of this contract:

(i) Executed license agreements, including exhibits or appendices containing information on royalties, royalty rates, other financial information, or commercialization plans, and all related documents, notes and correspondence.

(ii) The contractor's protected Cooperative Research and Development Agreement (CRADA) information and appendices to a CRADA that contain licensing terms and conditions, or royalty or royalty rate information.

(iii) Patent, copyright, mask work, and trademark application files and related contractor invention disclosures, documents and correspondence, where the contractor has elected rights or has permission to assert rights and has not relinquished such rights or turned such rights over to the Government.

(c) Contract completion or termination. In the event of completion or termination of this contract, copies of any of the contractor-owned records identified in paragraph (b) of this clause, upon the request of the Government, shall be delivered to DOE or its designees, including successor contractors. Upon delivery, title to such records shall vest in DOE or its designees, and such records shall be protected in accordance with applicable federal laws (including the Privacy Act), as appropriate.

(d) Inspection, copying, and audit of records. All records acquired or generated by the contractor under this contract in the possession of the contractor, including those described at paragraph (b)

of this clause, shall be subject to inspection, copying, and audit by the Government or its designees at all reasonable times, and the contractor shall afford the Government or its designees reasonable facilities for such inspection, copying, and audit; provided, however, that upon request by the contracting officer, the contractor shall deliver such records to a location specified by the contracting officer for inspection, copying, and audit. The Government or its designees shall use such records in accordance with applicable federal laws (including the Privacy Act), as appropriate.

(e) Applicability. Paragraphs (b), (c), and (d) of this clause apply to all records without regard to the date or origination of such records.

(f) Records retention standards. Special records retention standards, described at DOE Order 200.1, Information Management Program (version in effect on effective date of contract), are applicable for the classes of records described therein, whether or not the records are owned by the Government or the contractor. In addition, the contractor shall retain individual radiation exposure records generated in the performance of work under this contract until DOE authorizes disposal. The Government may waive application of these record retention schedules, if, upon termination or completion of the contract, the Government exercises its right under paragraph (c) of this clause to obtain copies and delivery of records described in paragraphs (a) and (b) of this clause.

(g) Subcontracts. The contractor shall include the requirements of this clause in all subcontracts that are of a cost-reimbursement type if any of the following factors is present:

(1) The value of the subcontract is greater than $2 million (unless specifically waived by the contracting officer);

(2) The contracting officer determines that the subcontract is, or involves, a critical task related to the contract; or

(3) The subcontract includes 48 CFR 970.5223-1, Integration of Environment, Safety, and Health into Work Planning and Execution, or similar clause.

(End of Clause)

I.108 970.5215-1 -- Total available fee: Base fee amount and performance fee amount.

As prescribed in 48 CFR 970.1504-5(a), insert the following clause. The clause should be tailored to reflect the contract's actual inclusion of base fee amount and performance fee amount.

Total Available Fee: Base Fee Amount and Performance Fee Amount (DEC 2000)

(a) Total available fee. Total available fee, consisting of a base fee amount (which may be zero) and a performance fee amount (consisting of an incentive fee component for objective performance requirements, an award fee component for subjective performance requirements, or both) determined in accordance with the provisions of this clause, is available for payment in accordance with the clause of this contract entitled, "Payments and advances."

(b) Fee Negotiations. Prior to the beginning of each fiscal year under this contract, or other appropriate period as mutually agreed upon and, if exceeding one year, approved by the Senior Procurement Executive, or designee, the contracting officer and Contractor shall enter into negotiation of the requirements for the year or appropriate period, including the evaluation areas and individual requirements subject to incentives, the total available fee, and the allocation of fee. The contracting officer shall modify this contract at the conclusion of each negotiation to reflect the negotiated requirements, evaluation areas and individual requirements subject to incentives, the total available fee, and the allocation of fee. In the event the parties fail to agree on the requirements, the evaluation areas and individual requirements subject to incentives, the total available fee, or the allocation of fee, a unilateral determination will be made by the contracting officer. The total available fee amount shall be allocated to a twelve month cycle composed of one or more evaluation periods, or such longer period as may be mutually agreed to between the parties and approved by the Senior Procurement Executive, or designee.

(c) Determination of Total Available Fee Amount Earned. (1) The Government shall, at the conclusion of each specified evaluation period, evaluate the contractor's performance of all requirements, including performance based incentives completed during the period, and determine the total available fee amount earned. At the contracting officer's discretion, evaluation of incentivized performance may occur at the scheduled completion of specific incentivized requirements.

(2) The DOE Operations/Field Office Manager, or designee, will be (insert title of DOE Operations/Field Office Manager, or designee). The contractor agrees that the determination as to the total available fee earned is a unilateral determination made by the DOE Operations/Field Office Manager, or designee.

(3) The evaluation of contractor performance shall be in accordance with the Performance Evaluation and Measurement Plan(s) described in subparagraph (d) of this clause unless otherwise set forth in the contract. The Contractor shall be promptly advised in writing of the fee determination, and the basis of the fee determination. In the event that the contractor's performance is considered to be less than the level of performance set forth in the Statement of Work, as amended to include the current Work Authorization Directive or similar document, for any contract requirement, it will be considered by the DOE Operations/Field Office Manager, or designee, who may at his/her discretion adjust the fee determination to reflect such performance. Any such adjustment shall be in accordance with the clause entitled, "Conditional Payment of Fee, Profit, or Incentives" if contained in the contract.

(d) Performance Evaluation and Measurement Plan(s). To the extent not set forth elsewhere in the contract:

(1) The Government shall establish a Performance Evaluation and Measurement Plan(s) upon which the determination of the total available fee amount earned shall be based. The Performance Evaluation and Measurement Plan(s) will address all of the requirements of contract performance specified in the contract directly or by reference. A copy of the Performance Evaluation and Measurement Plan(s) shall be provided to the Contractor:

(i) prior to the start of an evaluation period if the requirements, evaluation areas, specific incentives, amount of fee, and allocation of fee to such evaluation areas and specific incentives have been mutually agreed to by the parties; or

(ii) not later than thirty days prior to the scheduled start date of the evaluation period, if the requirements, evaluation areas, specific incentives, amount of fee, and allocation of fee to such evaluation areas and specific incentives have been unilaterally established by the contracting officer.

(2) The Performance Evaluation and Measurement Plan(s) will set forth the criteria upon which the Contractor will be evaluated relating to any technical, schedule, management, and/or cost objectives selected for evaluation. Such criteria should be objective, but may also include subjective criteria. The Plan(s) shall also set forth the method by which the total available fee amount will be allocated and the amount earned determined.

(3) The Performance Evaluation and Measurement Plan(s) may, consistent with the contract statement of work, be revised during the period of performance. The contracting officer shall notify the contractor:

(i) of such unilateral changes at least ninety calendar days prior to the end of the affected evaluation period and at least thirty calendar days prior to the effective date of the change;

(ii) of such bilateral changes at least sixty calendar days prior to the end of the affected evaluation period; or

(iii) if such change, whether unilateral or bilateral, is urgent and high priority, at least thirty calendar days prior to the end of the evaluation period.

(e) Schedule for total available fee amount earned determinations. The DOE Operations/Field Office Manager, or designee, shall issue the final total available fee amount earned determination in accordance with: the schedule set forth in the Performance Evaluation and Measurement Plan(s); or as otherwise set forth in this contract. However, a determination must be made within sixty calendar days after the receipt by the contracting officer of the Contractor's self-assessment, if one is required or permitted by paragraph (f) of this clause, or seventy calendar days after the end of the evaluation period, whichever is later, or a longer period if the Contractor and contracting officer agree. If the contracting officer evaluates the Contractor's performance of specific requirements on their completion, the payment of any earned fee amount must be made within seventy calendar days (or such other time period as mutually agreed to between the contracting officer and the Contractor) after such completion. If the determination is delayed beyond that date, the Contractor shall be entitled to interest on the determined total available fee amount earned 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 payment date. This rate is referred to as the "Renegotiation Board Interest Rate," and is published in the Federal Register semiannually on or about January 1 and July 1. The interest on any late total available fee amount earned determination will accrue daily and be compounded in 30-day increments inclusive from the first day after the schedule determination date through the actual date the determination is issued. That is, interest accrued at the end of any 30-day period will be added to the determined amount of fee earned and be subject to interest if not paid in the succeeding 30-day period.

(End of Clause)

I.109 970.5215-2 -- Make-or-buy plan.

As prescribed in 48 CFR 970.1504-5(b), insert the following clause:

Make-or-Buy Plan (DEC 2000)

(a) Definitions.

Buy item means a work activity, supply, or service to be produced or performed by an outside source, including a subcontractor or an affiliate, subsidiary, or division of the contractor.

Make item means a work activity, supply, or service to be produced or performed by the contractor using its personnel and other resources at the Department of Energy facility or site.

Make-or-buy plan means a contractor's written program for the contract that identifies work efforts or requirements that either are "make items" or "buy items."

(b) Make-or-buy plan. The contractor shall develop and implement a make-or-buy plan that establishes a preference for providing supplies and services on a least-cost basis, subject to any specific make or buy criteria identified in the contract or otherwise provided by the contracting officer. In developing and implementing its make-or-buy plan, the contractor agrees to assess subcontracting opportunities and implement subcontracting decisions in accordance with the following:

(1) The contractor shall conduct internal productivity improvement and cost-reduction programs so that in-house performance options can be made more efficient and cost-effective.

(2) The contractor shall consider subcontracting opportunities with the maximum practicable regard for open communications with potentially affected employees and their representatives. Similarly, a contractor shall communicate its plans, activities, cost-benefit analyses, and decisions to those stakeholders, including representatives of the community and local businesses, likely to be affected by such actions.

(c) Submission and approval. For new contract awards, the contractor shall submit an initial make-or-buy plan, for approval, within 180 days after contract award. If the existing contract is to be extended, the contractor shall submit a make-or-buy plan for review and approval at least 90 days prior to the commencement of the negotiations for the extension. The following documentation shall be prepared and submitted:

(1) A description of the each work item, and if appropriate, the identification of the associated Work Authorization or Work Breakdown Structure element;

(2) The categorization of each work item as "must make," "must buy," or "can make or buy," with the reasons for such categorization in consideration of the program specific make or buy

criteria (including least cost considerations). For non-core capabilities categorized as "must make," a cost/benefit analysis must be performed for each item if:

(i) The contractor is not the least-cost performer, and

(ii) A program specific make-or-buy criterion does not otherwise justify a "must make" categorization;

(3) A decision to either "make" or "buy" in consideration of the program specific make or buy criteria (including least cost considerations) for work effort categorized as "can make or buy";

(4) Identification of potential suppliers and subcontractors, if known, and their location and size status;

(5) A recommendation to defer a make or buy decision where categorization of an identifiable work effort is impracticable at the time of initial development of the plan and a schedule for future re-evaluation;

(6) A description of the impact of a change in current practice of making or buying on the existing work force; and

(7) Any additional information appropriate to support and explain the plan.

(d) Conduct of operations. Once a make-or-buy plan is approved, the contractor shall perform in accordance with the plan.

(e) Changes to the make-or-buy plan. The make-or-buy plan established in accordance with paragraph (b) of this clause shall remain in effect for the term of the contract, unless:

(1) A lesser period is provided either for the total plan or for individual items or work effort;

(2) The circumstances supporting the make-or-buy decisions change, or

(3) New work is identified.

At least annually, the contractor shall review its approved make-or-buy plan to ensure that it reflects current conditions. Changes to the approved make-or-buy plan shall be submitted in advance of the effective date of the proposed change in sufficient time to permit evaluation and review. Changes shall be submitted in accordance with the instructions provided by the contracting officer. Modification of the make-or-buy plan to incorporate proposed changes or additions shall be effective upon the contractor's receipt of the contracting officer's written approval.

(End of Clause)

I.110 970.5215-3 -- Conditional payment of fee, profit, or incentives.

As prescribed in 48 CFR 970.1504-5(c), insert the following clause:

Conditional Payment of Fee, Profit, or Incentives (DEC 2000)

In order for the Contractor to receive all otherwise earned fee, fixed fee, profit, or share of cost savings under the contract in an evaluation period, the Contractor must meet the minimum requirements in paragraphs (a) and (b) of this clause, and if Alternate I is applicable, (a) through (d) of this clause. If the Contractor does not meet the minimum requirements, the DOE Operations/Field Office Manager or designee may make a unilateral determination to reduce the evaluation period's otherwise earned fee, fixed fee, profit or share of cost savings as described in the following paragraphs of this clause.

(a) Minimum requirements for Environment, Safety & Health (ES&H) Program. The Contractor shall develop, obtain DOE approval of, and implement a Safety Management System in accordance with the provisions of the clause entitled, "Integration of Environment, Safety and Health into Work Planning and Execution," if included in the contract, or as otherwise agreed to with the contracting officer. The minimum performance requirements of the system will be set forth in the approved Safety Management System, or similar document. If the Contractor fails to obtain approval of the Safety Management System or fails to achieve the minimum performance requirements of the system during the evaluation period, the DOE Operations/Field Office Manager or designee, at his/her sole discretion, may reduce any otherwise earned fees, fixed fee, profit or share of cost savings for the evaluation period by an amount up to the amount earned.

(b) Minimum requirements for catastrophic event. If, in the performance of this contract, there is a catastrophic event (such as a fatality, or a serious workplace-related injury or illness to one or more Federal, contractor, or subcontractor employees or the general public, loss of control over classified or special nuclear material, or significant damage to the environment), the DOE Operations/Field Office Manager or designee may reduce any otherwise earned fee for the evaluation period by an amount up to the amount earned. In determining any diminution of fee, fixed fee, profit, or share of cost savings resulting from a catastrophic event, the DOE Operations/Field Office Manager or designee will consider whether willful misconduct and/or negligence contributed to the occurrence and will take into consideration any mitigating circumstances presented by the contractor or other sources.

(End of Clause)

Alternate I (DEC 2000). As prescribed in 48 CFR 970.1504-5(c), for contracts awarded on a cost-plus-award-fee, incentive fee or multiple fee basis, add the following paragraphs (c) and (d):

(c) Minimum requirements for specified level of performance. (1) At a minimum the Contractor must perform the following:

(i) the requirements with specific incentives at the level of performance set forth in the Statement of Work, Work Authorization Directive, or similar document unless an otherwise minimal level of performance has been established in the specific incentive;

(ii) all of the performance requirements directly related to requirements specifically incentivized at a level of performance such that the overall performance of these related requirements is at an acceptable level; and

(iii) all other requirements at a level of performance such that the total performance of the contract is not jeopardized.

(2) The evaluation of the Contractor's achievement of the level of performance shall be unilaterally determined by the contracting officer. To the extent that the Contractor fails to achieve the minimum performance levels specified in the Statement of Work, Work Authorization Directive, or similar document, during the evaluation period, the DOE Operations/Field Office Manager, or designee, may reduce any otherwise earned fee, fixed fee, profit, or shared net savings for the evaluation period. Such reduction shall not result in the total of earned fee, fixed fee, profit, or shared net savings being less than 25% of the total available fee amount. Such 25% shall include base fee, if any.

(d) Minimum requirements for cost performance. (1) Requirements incentivized by other than cost incentives must be performed within their specified cost constraint and must not adversely impact the costs of performing unrelated activities.

(2) The performance of requirements with a specific cost incentive must not adversely impact the costs of performing unrelated requirements.

(3) The Contractor's performance within the stipulated cost performance levels for the evaluation period shall be determined by the contracting officer. To the extent the Contractor fails to achieve the stipulated cost performance levels, the DOE Operations/Field Office Manager, or designee, at his/her sole discretion, may reduce in whole or in part any otherwise earned fee, fixed fee, profit, or shared net savings for the evaluation period. Such reduction shall not result in the total of earned fee, fixed fee, profit or shared net savings being less than 25% of the total available fee amount. Such 25% shall include base fee, if any.

I.111 970.5215-4 – Cost reduction.

As prescribed in 48 CFR 970.1504-5(d), insert the following clause:

Cost Reduction (DEC 2000)

(a) General. It is the Department of Energy's (DOE's) intent to have its facilities and laboratories operated in an efficient and effective manner. To this end, the Contractor shall assess its operations and identify areas where cost reductions would bring cost efficiency to operations without adversely affecting the level of performance required by the contract. The Contractor, to the maximum extent practical, shall identify areas where cost reductions may be effected, and develop and submit Cost Reduction Proposals (CRPs) to the contracting officer. If accepted, the Contractor may share in any shared net savings from accepted CRPs in accordance with paragraph (g) of this clause.

(b) Definitions. Administrative cost is the contractor cost of developing and administering the CRP.

Design, process, or method change is a change to a design, process, or method which has established cost, technical and schedule baseline, is defined, and is subject to a formal control procedure. Such a change must be innovative, initiated by the contractor, and applied to a specific project or program.

Development cost is the Contractor cost of up-front planning, engineering, prototyping, and testing of a design, process, or method.

DOE cost is the Government cost incurred implementing and validating the CRP.

Implementation cost is the Contractor cost of tooling, facilities, documentation, etc., required to effect a design, process, or method change once it has been tested and approved.

Net Savings means a reduction in the total amount (to include all related costs and fee) of performing the effort where the savings revert to DOE control and may be available for deobligation. Such savings may result from a specific cost reduction effort which is negotiated on a cost-plus-incentive-fee, fixed-price incentive, or firm-fixed-price basis, or may result directly from a design, process, or method change. They may also be savings resulting from formal or informal direction given by DOE or from changes in the mission, work scope, or routine reorganization of the Contractor due to changes in the budget.

Shared Net Savings are those net savings which result from:

(1) a specific cost reduction effort which is negotiated on a cost-plus-incentive-fee or fixed-price incentive basis, and is the difference between the negotiated target cost of performing an effort as negotiated and the actual allowable cost of performing that effort; or

(2) a design, process, or method change, which occurs in the fiscal year in which the change is accepted and the subsequent fiscal year, and is the difference between the estimated cost of performing an effort as originally planned and the actual allowable cost of performing that same effort utilizing a revised plan intended to reduce costs along with any Contractor development costs, implementation costs, administrative costs, and DOE costs associated with the revised plan. Administrative costs and DOE costs are only included at the discretion of the contracting officer. Savings resulting from formal or informal direction given by the DOE or changes in the mission, work scope, or routine reorganization of the Contractor due to changes in the budget are not to be considered as shared net savings for purposes of this clause and do not qualify for incentive sharing.

(c) Procedure for submission of CRPs. (1) CRPs for the establishment of cost-plus-incentive-fee, fixed-price incentive, or firm-fixed-price efforts or for design, process, or methods changes submitted by the Contractor shall contain, at a minimum, the following:

(i) Current Method (Baseline)-A verifiable description of the current scope of work, cost, and schedule to be impacted by the initiative, and supporting documentation.

(ii) New Method (New Proposed Baseline)-A verifiable description of the new scope of work, cost, and schedule, how the initiative will be accomplished, and supporting documentation.

(iii) Feasibility Assessment-A description and evaluation of the proposed initiative and benefits, risks, and impacts of implementation. This evaluation shall include an assessment of the difference between the current method (baseline) and proposed new method including all related costs.

(2) In addition, CRPs for the establishment of cost-plus-incentive-fee, fixed-price incentive, or firm-fixed-price efforts shall contain, at a minimum, the following:

(i) The proposed contractual arrangement and the justification for its use; and

(ii) A detailed cost/price estimate and supporting rationale. If the approach is proposed on an incentive basis, minimum and maximum cost estimates should be included along with any proposed sharing arrangements.

(d) Evaluation and Decision. All CRPs must be submitted to and approved by the contracting officer. Included in the information provided by the CRP must be a discussion of the extent the proposed cost reduction effort may:

(1) Pose a risk to the health and safety of workers, the community, or to the environment;

(2) Result in a waiver or deviation from DOE requirements, such as DOE Orders and joint oversight agreements;

(3) Require a change in other contractual agreements;

(4) Result in significant organizational and personnel impacts;

(5) Create a negative impact on the cost, schedule, or scope of work in another area;

(6) Pose a potential negative impact on the credibility of the Contractor or the DOE; and

(7) Impact successful and timely completion of any of the work in the cost, technical, and schedule baseline.

(e) Acceptance or Rejection of CRPs. Acceptance or rejection of a CRP is a unilateral determination made by the contracting officer. The contracting officer will notify the Contractor that a CRP has been accepted, rejected, or deferred within (Insert Number) days of receipt. The only CRPs that will be considered for acceptance are those which the Contractor can demonstrate, at a minimum, will:

(1) Result in net savings (in the sharing period if a design, process, or method change);

(2) Not reappear as costs in subsequent periods; and

(3) Not result in any impairment of essential functions.

(f) The failure of the contracting officer to notify the Contractor of the acceptance, rejection, or deferral of a CRP within the specified time shall not be construed as approval.

(g) Adjustment to Original Estimated Cost and Fee. If a CRP is established on a cost-plus-incentive-fee, fixed-price incentive or firm-fixed-price basis, the originally estimated cost and fee for the total effort shall be adjusted to remove the estimated cost and fee amount associated with the CRP effort.

(h) Sharing Arrangement. If a CRP is accepted, the Contractor may share in the shared net savings. For a CRP negotiated on a cost-plus-incentive-fee or fixed-price incentive basis, with the specific incentive arrangement (negotiated target costs, target fees, share lines, ceilings, profit, etc.) set forth in the contractual document authorizing the effort, the Contractor's share shall be the actual fee or profit resulting from such an arrangement. For a CRP negotiated as a cost savings incentive resulting from a design, process, or method change, the Contractor's share shall be a percentage, not to exceed 25% of the shared net savings. The specific percentage and sharing period shall be set forth in the contractual document.

(i) Validation of Shared Net Savings. The contracting officer shall validate actual shared net savings. If actual shared net savings cannot be validated, the contractor will not be entitled to a share of the net shared savings.

(j) Relationship to Other Incentives. Only those benefits of an accepted CRP not rewardable under other clauses of this contract shall be rewarded under this clause.

(k) Subcontracts. The Contractor may include a clause similar to this clause in any subcontract. In calculating any estimated shared net savings in a CRP under this contract, the Contractor's administration, development, and implementation costs shall include any subcontractor's allowable costs, and any CRP incentive payments to a subcontractor resulting from the acceptance of such CRP. The Contractor may choose any arrangement for subcontractor CRP incentive payments, provided that the payments not reduce the DOE's share of shared net savings.

(End of Clause)

I.112 970.5222-1 -- Collective Bargaining Agreements Management and Operating Contracts.

As prescribed in 48 CFR 970.2201-1-3, insert the following clause:

Collective Bargaining Agreements-Management and Operating Contracts (DEC 2000)

When negotiating collective bargaining agreements applicable to the work force under this contract, the Contractor shall use its best efforts to ensure such agreements contain provisions designed to assure continuity of services. All such agreements entered into during the contract period of performance should provide that grievances and disputes involving the interpretation or application of the agreement will be settled without resorting to strike, lockout, or other

interruption of normal operations. For this purpose, each collective bargaining agreement should provide an effective grievance procedure with arbitration as its final step, unless the parties mutually agree upon some other method of assuring continuity of operations. As part of such agreements, management and labor should agree to cooperate fully with the Federal Mediation and Conciliation Service. The contractor shall include the substance of this clause in any subcontracts for protective services or other services performed on the DOE-owned site which will affect the continuity of operation of the facility.

(End of Clause)

I.113 970.5222-2 -- Overtime management.

As prescribed in 48 CFR 970.2201-2-2, insert the following clause:

Overtime Management (DEC 2000)

(a) The contractor shall maintain adequate internal controls to ensure that employee overtime is authorized only if cost effective and necessary to ensure performance of work under this contract.

(b) The contractor shall notify the contracting officer when in any given year it is likely that overtime usage as a percentage of payroll may exceed 4%.

(c) The contracting officer may require the submission, for approval, of a formal annual overtime control plan whenever contractor overtime usage as a percentage of payroll has exceeded, or is likely to exceed, 4%, or if the contracting officer otherwise deems overtime expenditures excessive. The plan shall include, at a minimum:

(1) An overtime premium fund (maximum dollar amount);

(2) Specific controls for casual overtime for non-exempt employees;

(3) Specific parameters for allowability of exempt overtime;

(4) An evaluation of alternatives to the use of overtime; and

(5) Submission of a semi-annual report that includes for exempt and non-exempt employees:

(i) Total cost of overtime;

(ii) Total cost of straight time;

(iii) Overtime cost as a percentage of straight-time cost;

(iv) Total overtime hours;

(v) Total straight-time hours; and

(vi) Overtime hours as a percentage of straight-time hours.

(End of Clause)

I.114 970.5223-1 -- Integration of environment, safety, and health into work planning and execution.

As prescribed in 48 CFR 970.2303-2(a), insert the following clause:

Integration of Environment, Safety, and Health Into Work Planning and Execution (DEC 2000)

(a) For the purposes of this clause,

(1) Safety encompasses environment, safety and health, including pollution prevention and waste minimization; and

(2) Employees include subcontractor employees.

(b) In performing work under this contract, the contractor shall perform work safely, in a manner that ensures adequate protection for employees, the public, and the environment, and shall be accountable for the safe performance of work. The contractor shall exercise a degree of care commensurate with the work and the associated hazards. The contractor shall ensure that management of environment, safety and health (ES&H) functions and activities becomes an integral but visible part of the contractor's work planning and execution processes. The contractor shall, in the performance of work, ensure that:

(1) Line management is responsible for the protection of employees, the public, and the environment. Line management includes those contractor and subcontractor employees managing or supervising employees performing work.

(2) Clear and unambiguous lines of authority and responsibility for ensuring (ES&H) are established and maintained at all organizational levels.

(3) Personnel possess the experience, knowledge, skills, and abilities that are necessary to discharge their responsibilities.

(4) Resources are effectively allocated to address ES&H, programmatic, and operational considerations. Protecting employees, the public, and the environment is a priority whenever activities are planned and performed.

(5) Before work is performed, the associated hazards are evaluated and an agreed-upon set of ES&H standards and requirements are established which, if properly implemented, provide adequate assurance that employees, the public, and the environment are protected from adverse consequences.

(6) Administrative and engineering controls to prevent and mitigate hazards are tailored to the work being performed and associated hazards. Emphasis should be on designing the work and/or controls to reduce or eliminate the hazards and to prevent accidents and unplanned releases and exposures.

(7) The conditions and requirements to be satisfied for operations to be initiated and conducted are established and agreed-upon by DOE and the contractor. These agreed-upon conditions and requirements are requirements of the contract and binding upon the contractor. The extent of documentation and level of authority for agreement shall be tailored to the complexity and hazards associated with the work and shall be established in a Safety Management System.

(c) The contractor shall manage and perform work in accordance with a documented Safety Management System (System) that fulfills all conditions in paragraph (b) of this clause at a minimum. Documentation of the System shall describe how the contractor will:

(1) Define the scope of work;

(2) Identify and analyze hazards associated with the work;

(3) Develop and implement hazard controls;

(4) Perform work within controls; and

(5) Provide feedback on adequacy of controls and continue to improve safety management.

(d) The System shall describe how the contractor will establish, document, and implement safety performance objectives, performance measures, and commitments in response to DOE program and budget execution guidance while maintaining the integrity of the System. The System shall also describe how the contractor will measure system effectiveness.

(e) The contractor shall submit to the contracting officer documentation of its System for review and approval. Dates for submittal, discussions, and revisions to the System will be established by the contracting officer. Guidance on the preparation, content, review, and approval of the System will be provided by the contracting officer. On an annual basis, the contractor shall review and update, for DOE approval, its safety performance objectives, performance measures, and commitments consistent with and in response to DOE's program and budget execution guidance and direction. Resources shall be identified and allocated to meet the safety objectives and performance commitments as well as maintain the integrity of the entire System. Accordingly, the System shall be integrated with the contractor's business processes for work planning, budgeting, authorization, execution, and change control.

(f) The contractor shall comply with, and assist the Department of Energy in complying with, ES&H requirements of all applicable laws and regulations, and applicable directives identified in the clause of this contract entitled "Laws, Regulations, and DOE Directives." The contractor shall cooperate with Federal and non-Federal agencies having jurisdiction over ES&H matters under this contract.

(g) The contractor shall promptly evaluate and resolve any noncompliance with applicable ES&H requirements and the System. If the contractor fails to provide resolution or if, at any time, the contractor's acts or failure to act causes substantial harm or an imminent danger to the environment or health and safety of employees or the public, the contracting officer may issue an order stopping work in whole or in part. Any stop work order issued by a contracting officer under this clause (or issued by the contractor to a subcontractor in accordance with paragraph (i)

of this clause) shall be without prejudice to any other legal or contractual rights of the Government. In the event that the contracting officer issues a stop work order, an order authorizing the resumption of the work may be issued at the discretion of the contracting officer. The contractor shall not be entitled to an extension of time or additional fee or damages by reason of, or in connection with, any work stoppage ordered in accordance with this clause.

(h) Regardless of the performer of the work, the contractor is responsible for compliance with the ES&H requirements applicable to this contract. The contractor is responsible for flowing down the ES&H requirements applicable to this contract to subcontracts at any tier to the extent necessary to ensure the contractor's compliance with the requirements.

(i) The contractor shall include a clause substantially the same as this clause in subcontracts involving complex or hazardous work on site at a DOE-owned or-leased facility. Such subcontracts shall provide for the right to stop work under the conditions described in paragraph (g) of this clause. Depending on the complexity and hazards associated with the work, the contractor may choose not to require the subcontractor to submit a Safety Management System for the contractor's review and approval.

(End of Clause)

I.115 970.5223-2 -- Acquisition and use of environmentally preferable products and services.

As prescribed in 48 CFR 970.2304-2, insert the following clause:

Acquisition and Use of Environmentally Preferable Products and Services (DEC 2000)

(a) In the performance of this contract, the Contractor shall comply with the requirements of the following issuances:

(1) Executive Order 13101 of September 14, 1998, entitled "Greening the Government Through Waste Prevention, Recycling and Federal Acquisition."

(2) Section 6002 of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended *(42 U.S.C. 6962,* Pub. L. 94-580, 90 Stat. 2822),

(3) Title 40 of the Code of Federal Regulations, Subchapter I, Part 247 (Comprehensive Guidelines for the Procurement of Products Containing Recovered Materials) and such other Subchapter I Parts or Comprehensive Procurement Guidelines as the Environmental Protection Agency may issue from time to time as guidelines for the procurement of products that contain recovered/recycled materials,

(4) "U.S. Department of Energy Affirmative Procurement Program for Products Containing Recovered Materials" and related guidance document(s), as they are identified in writing by the Department.

(b) The Contractor shall prepare and submit reports on matters related to the use of environmentally preferable products and services from time to time in accordance with written direction (e.g., in a specified format) from the contracting officer.

(c) In complying with the requirements of paragraph (a) of this clause, the Contractor shall coordinate its concerns and seek implementing guidance on Federal and Departmental policy, plans, and program guidance with the DOE recycling point of contact, who shall be identified by the contracting officer. Reports required pursuant to paragraph (b) of this clause, shall be submitted through the DOE recycling point of contact.

(End of Clause)

I.116 970.5223-4 -- Workplace Substance Abuse Programs at DOE Sites.

As prescribed in 48 CFR 970.2305-4(b), insert the following clause:

Workplace Substance Abuse Programs at DOE Sites (DEC 2000)

(a) Program Implementation. The contractor shall, consistent with 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, incorporated herein by reference with full force and effect, develop, implement, and maintain a workplace substance abuse program.

(b) Remedies. In addition to any other remedies available to the Government, the contractor's failure to comply with the requirements of 10 CFR part 707 or to perform in a manner consistent with its approved program may render the contractor subject to: the suspension of contract payments, or, where applicable, a reduction in award fee; termination for default; and suspension or debarment.

(c) Subcontracts. (1) The contractor agrees to notify the contracting officer reasonably in advance of, but not later than 30 days prior to, the award of any subcontract the contractor believes may be subject to the requirements of 10 CFR part 707.

(2) The DOE prime contractor shall require all subcontracts subject to the provisions of 10 CFR part 707 to agree to develop and implement a workplace substance abuse program that complies with the requirements of 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, as a condition for award of the subcontract. The DOE prime contractor shall review and approve each subcontractor's program, and shall periodically monitor each subcontractor's implementation of the program for effectiveness and compliance with 10 CFR part 707.

(3) The contractor agrees to include, and require the inclusion of, the requirements of this clause in all subcontracts, at any tier, that are subject to the provisions of 10 CFR part 707.

(End of clause)

I.117 970.5226-1 -- Diversity plan.

As prescribed in 48 CFR 970.2671-2, insert the following clause:

Diversity Plan (DEC 2000)

The Contractor shall submit a Diversity Plan to the contracting officer for approval within 90 days after the effective date of this contract (or contract modification, if appropriate). The contractor shall submit an update to its Plan annually or with its annual fee proposal. Guidance for preparation of a Diversity Plan is provided in Appendix--. The Plan shall include innovative strategies for increasing opportunities to fully use the talents and capabilities of a diverse work force. The Plan shall address, at a minimum, the Contractor's approach for promoting diversity through (1) the Contractor's work force, (2) educational outreach, (3) community involvement and outreach, (4) subcontracting, (5) economic development (including technology transfer), and (6) the prevention of profiling based on race or national origin.

(End of Clause)

I.118 970.5226-2 -- Workforce restructuring under section 3161 of the National Defense Authorization Act for fiscal year 1993.

As prescribed in 48 CFR 970.2672-3, insert the following clause:

Workforce Restructuring under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (DEC 2000)

(a) Consistent with the objectives of Section 3161 of the National Defense Authorization Act for Fiscal Year 1993, *42 U.S.C. 7274h*, in instances where the Department of Energy has determined that a change in workforce at a Department of Energy Defense Nuclear Facility is necessary, the contractor agrees to (1) comply with the Department of Energy Workforce Restructuring Plan for the facility, if applicable, and (2) use its best efforts to accomplish workforce restructuring or displacement so as to mitigate social and economic impacts.

(b) The requirements of this clause shall be included in subcontracts at any tier (except subcontracts for commercial items pursuant to *41 U.S.C. 403)* expected to exceed $500,000.

(End of Clause)

I.119 970.5226-3 -- Community commitment.

As prescribed in 48 CFR 970.2673-2, insert the following clause:

Community Commitment (DEC 2000)

It is the policy of the DOE to be a constructive partner in the geographic region in which DOE conducts its business. The basic elements of this policy include: (1) Recognizing the diverse

interests of the region and its stakeholders, (2) engaging regional stakeholders in issues and concerns of mutual interest, and (3) recognizing that giving back to the community is a worthwhile business practice. Accordingly, the Contractor agrees that its business operations and performance under the Contract will be consistent with the intent of the policy and elements set forth above.

(End of Clause)

I.120 970.5227-1 -- Rights in data-facilities.

As prescribed in 48 CFR 970.2704-3(a), insert the following clause:

Rights in Data-Facilities (DEC 2000)

(a) Definitions. (1) Computer data bases, as used in this clause, means a collection of data in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

(2) Computer software, as used in this clause, means (i) computer programs which are data comprising a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations and (ii) data comprising source code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the computer program to be produced, created, or compiled. The term does not include computer data bases.

(3) Data, as used in this clause, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term "data" does not include data incidental to the administration of this contract, such as financial, administrative, cost and pricing, or management information.

(4) Limited rights data, as used in this clause, means data, other than computer software, developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged. The Government's rights to use, duplicate, or disclose limited rights data are as set forth in the Limited Rights Notice of subparagraph (e) of this clause.

(5) Restricted computer software, as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and is confidential or privileged; or is published copyrighted computer software, including minor modifications of any such computer software. The Government's rights to use, duplicate, or disclose restricted computer software are as set forth in the Restricted Rights Notice of paragraph (f) of this clause.

(6) Technical data, as used in this clause, means recorded data, regardless of form or characteristic, that are of a scientific or technical nature. Technical data does not include computer software, but does include manuals and instructional materials and technical data formatted as a computer data base.

(7) Unlimited rights, as used in this clause, means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, including by electronic means, and perform publicly and display publicly, in any manner, including by electronic means, and for any purpose whatsoever, and to have or permit others to do so.

(b) Allocation of Rights. (1) The Government shall have:

(i) Ownership of all technical data and computer software first produced in the performance of this Contract;

(ii) Unlimited rights in technical data and computer software specifically used in the performance of this Contract, except as provided herein regarding copyright, limited rights data, or restricted computer software, or except for other data specifically protected by statute for a period of time or, where, approved by DOE, appropriate instances of the DOE Work for Others Program;

(iii) The right to inspect technical data and computer software first produced or specifically used in the performance of this Contract at all reasonable times. The Contractor shall make available all necessary facilities to allow DOE personnel to perform such inspection;

(iv) The right to have all technical data and computer software first produced or specifically used in the performance of this Contract delivered to the Government or otherwise disposed of by the Contractor, either as the contracting officer may from time to time direct during the progress of the work or in any event as the contracting officer shall direct upon completion or termination of this Contract. The Contractor agrees to leave a copy of such data at the facility or plant to which such data relate, and to make available for access or to deliver to the Government such data upon request by the contracting officer. If such data are limited rights data or restricted computer software, the rights of the Government in such data shall be governed solely by the provisions of paragraph (e) of this clause ("Rights in Limited Rights Data") or paragraph (f) of this clause ("Rights in Restricted Computer Software"); and

(v) The right to remove, cancel, correct, or ignore any markings not authorized by the terms of this Contract on any data furnished hereunder if, in response to a written inquiry by DOE concerning the propriety of the markings, the Contractor fails to respond thereto within 60 days or fails to substantiate the propriety of the markings. In either case DOE will notify the Contractor of the action taken.

(2) The Contractor shall have:

(i) The right to withhold limited rights data and restricted computer software unless otherwise provided in accordance with the provisions of this clause; and

(ii) The right to use for its private purposes, subject to patent, security or other provisions of this Contract, data it first produces in the performance of this Contract, except for data in DOE's Uranium Enrichment Technology, including diffusion, centrifuge, and atomic vapor laser isotope separation, provided the data requirements of this Contract have been met as of the date of the private use of such data.

(3) The Contractor agrees that for limited rights data or restricted computer software or other technical, business or financial data in the form of recorded information which it receives from, or is given access to by, DOE or a third party, including a DOE Contractor or subcontractor, and for technical data or computer software it first produces under this Contract which is authorized to be marked by DOE, the Contractor shall treat such data in accordance with any restrictive legend contained thereon.

(c) Copyrighted Material. (1) The Contractor shall not, without prior written authorization of the Patent Counsel, assert copyright in any technical data or computer software first produced in the performance of this contract. To the extent such authorization is granted, the Government reserves for itself and others acting on its behalf, a nonexclusive, paid-up, irrevocable, world-wide license for Governmental purposes to publish, distribute, translate, duplicate, exhibit, and perform any such data copyrighted by the Contractor.

(2) The Contractor agrees not to include in the technical data or computer software delivered under the contract any material copyrighted by the Contractor and not to knowingly include any material copyrighted by others without first granting or obtaining at no cost a license therein for the benefit of the Government of the same scope as set forth in paragraph (c)(1) of this clause. If the Contractor believes that such copyrighted material for which the license cannot be obtained must be included in the technical data or computer software to be delivered, rather than merely incorporated therein by reference, the Contractor shall obtain the written authorization of the contracting officer to include such material in the technical data or computer software prior to its delivery.

(d) Subcontracting. (1) Unless otherwise directed by the contracting officer, the Contractor agrees to use in subcontracts in which technical data or computer software is expected to be produced or in subcontracts for supplies that contain a requirement for production or delivery of data in accordance with the policy and procedures of 48 CFR Subpart 27.4 as supplemented by 48 CFR 927.401 through 927.409, the clause entitled, "Rights in Data-General" at 48 CFR 52.227-14 modified in accordance with 927.409(a) and including Alternate V. Alternates II through IV of that clause may be included as appropriate with the prior approval of DOE Patent Counsel, and the Contractor shall not acquire rights in a subcontractor's limited rights data or restricted computer software, except through the use of Alternates II or III, respectively, without the prior approval of DOE Patent Counsel. The clause at 48 CFR 52.227-16, Additional Data Requirements, shall be included in subcontracts in accordance with DEAR 927.409(h). The contractor shall use instead the Rights in Data-Facilities clause at 48 CFR 970.5227-1 in subcontracts, including subcontracts for related support services, involving the design or operation of any plants or facilities or specially designed equipment for such plants or facilities that are managed or operated under its contract with DOE.

(2) It is the responsibility of the Contractor to obtain from its subcontractors technical data and computer software and rights therein, on behalf of the Government, necessary to fulfill the Contractor's obligations to the Government with respect to such data. In the event of refusal by a subcontractor to accept a clause affording the Government such rights, the Contractor shall:

(i) Promptly submit written notice to the contracting officer setting forth reasons or the subcontractor's refusal and other pertinent information which may expedite disposition of the matter, and

(ii) Not proceed with the subcontract without the written authorization of the contracting officer.

(3) Neither the Contractor nor higher-tier subcontractors shall use their power to award subcontracts as economic leverage to acquire rights in a subcontractor's limited rights data or restricted computer software for their private use.

(e) Rights in Limited Rights Data. Except as may be otherwise specified in this Contract as data which are not subject to this paragraph, the Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, paid-up license by or for the Government, in any limited rights data of the Contractor specifically used in the performance of this Contract, provided, however, that to the extent that any limited rights data when furnished or delivered is specifically identified by the Contractor at the time of initial delivery to the Government or a representative of the Government, such data shall not be used within or outside the Government except as provided in the "Limited Rights Notice" set forth. All such limited rights data shall be marked with the following "Limited Rights Notice":

Limited Rights Notice

These data contain "limited rights data," furnished under Contract No.-------- with the United States Department of Energy which may be duplicated and used by the Government with the express limitations that the "limited rights data" may not be disclosed outside the Government or be used for purposes of manufacture without prior permission of the Contractor, except that further disclosure or use may be made solely for the following purposes:

(a) Use (except for manufacture) by support services contractors within the scope of their contracts;

(b) This "limited rights data" may be disclosed for evaluation purposes under the restriction that the "limited rights data" be retained in confidence and not be further disclosed;

(c) This "limited rights data" may be disclosed to other contractors participating in the Government's program of which this Contract is a part for information or use (except for manufacture) in connection with the work performed under their contracts and under the restriction that the "limited rights data" be retained in confidence and not be further disclosed;

(d) This "limited rights data" may be used by the Government or others on its behalf for emergency repair or overhaul work under the restriction that the "limited rights data" be retained in confidence and not be further disclosed; and

(e) Release to a foreign government, or instrumentality thereof, as the interests of the United States Government may require, for information or evaluation, or for emergency repair or overhaul work by such government. This Notice shall be marked on any reproduction of this data in whole or in part.

(End of Notice)

(f) Rights in Restricted Computer Software. (1) Except as may be otherwise specified in this Contract as data which are not subject to this paragraph, the Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, paid-up, license by or for the Government, in any restricted computer software of the Contractor specifically used in the performance of this Contract, provided, however, that to the extent that any restricted computer software when furnished or delivered is specifically identified by the Contractor at the time of initial delivery to the Government or a representative of the Government, such data shall not be used within or outside the Government except as provided in the "Restricted Rights Notice" set forth below. All such restricted computer software shall be marked with the following "Restricted Rights Notice":

Restricted Rights Notice-Long Form

(a) This computer software is submitted with restricted rights under Department of Energy Contract No.-------. It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b) of this notice.

(b) This computer software may be:

(1) Used or copied for use in or with the computer or computers for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;

(2) Used, copied for use, in a backup or replacement computer if any computer for which it was acquired is inoperative or is replaced;

(3) Reproduced for safekeeping (archives) or backup purposes;

(4) Modified, adapted, or combined with other computer software, provided that only the portions of the derivative software consisting of the restricted computer software are to be made subject to the same restricted rights; and

(5) Disclosed to and reproduced for use by contractors under a service contract (of the type defined in 48 CFR 37.101) in accordance with subparagraphs (b)(1) through (4) of this Notice, provided the Government makes such disclosure or reproduction subject to these restricted rights.

(c) Notwithstanding the foregoing, if this computer software has been published under copyright, it is licensed to the Government, without disclosure prohibitions, with the rights set forth in the restricted rights notice above.

(d) This Notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of Notice)

(2) Where it is impractical to include the Restricted Rights Notice on restricted computer software, the following short-form Notice may be used.

Restricted Rights Notice-Short Form

Use, reproduction, or disclosure is subject to restrictions set forth in the Long Form Notice of DOE Contract No.------- with (name of Contractor).

(End of Notice)

(3) If the software is embedded, or if it is commercially impractical to mark it with human readable text, then the symbol R and the clause date (mo/yr), in brackets or a box, a [R-mo/yr], may be used. This will be read to mean restricted computer software, subject to the rights of the Government as described in the Long Form Notice, in effect as of the date indicated next to the symbol. The symbol shall not be used to mark human readable material. In the event this Contract contains any variation to the rights in the Long Form Notice, then the contract number must also be cited.

(4) If restricted computer software is delivered with the copyright notice of *17 U.S.C. 401*, the software will be presumed to be published copyrighted computer software licensed to the Government without disclosure prohibitions and with unlimited rights, unless the Contractor includes the following statement with such copyright notice "Unpublished-rights reserved under the Copyright Laws of the United States."

(g) Relationship to patents. Nothing contained in this clause creates or is intended to imply a license to the Government in any patent or is intended to be construed as affecting the scope of any licenses or other rights otherwise granted to the Government under any patent.

(End of Clause)

I.121 970.5227-4 -- Authorization and consent.

Insert the following clause in solicitations and contracts in accordance with 970.2702-1:

Authorization and Consent (DEC 2000)

(a) The Government authorizes and consents to all use and manufacture of any invention described in and covered by a United States patent in the performance of this contract or any subcontract at any tier.

(b) If the Contractor is sued for copyright infringement or anticipates the filing of such a lawsuit, the Contractor may request authorization and consent to copy a copyrighted work from the contracting officer. Programmatic necessity is a major consideration for DOE in determining whether to grant such request.

(c) The Contractor agrees to include, and require inclusion of, the Authorization and Consent clause at 52.227-1, without Alternate 1, but 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 $25,000).

(d) The Contractor agrees to include, and require inclusion of, paragraph (a) of this Authorization and Consent clause, suitably modified to identify the parties, in all subcontracts at any tier for research and development activities. Omission of an authorization and consent clause from any subcontract, including those valued less than $25,000 does not affect this authorization and consent.

(End of clause)

I.122 970.5227-5 -- Notice and assistance regarding patent and copyright infringement.

Insert the following clause in solicitations and contracts in accordance with 970.2702-2:

Notice and Assistance Regarding Patent and Copyright Infringement (DEC 2000)

(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) If any person files a 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 hereunder, 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. Except where the Contractor has agreed to indemnify the Government, the Contractor shall furnish such evidence and information at the expense of the Government.

(c) The Contractor agrees to include, and require inclusion of, this clause suitably modified to identify the parties, in all subcontracts at any tier expected to exceed $25,000.

(End of clause)

I.123 970.5227-6 -- Patent indemnity--subcontracts.

Insert the following clause in solicitations and contracts in accordance with 970.2702-3:

Patent Indemnity-Subcontracts (DEC 2000)

Except as otherwise authorized by the Contracting Officer, the Contractor shall obtain indemnification of the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a secrecy order by the Government) from Contractor's subcontractors for any contract work subcontracted in accordance with FAR 48 CFR 52.227-3.

(End of clause)

I.124 970.5227-7 -- Royalty information.

Insert the following provision in solicitations in accordance with 970.2702-4:

Royalty Information (DEC 2000)

(a) Cost or charges for royalties. If the response to this solicitation contains costs or charges for royalties totaling more than $250, the following information shall be included in the response relating to each separate item of royalty or license fee:

(1) Name and address of licensor;

(2) Date of license agreement;

(3) Patent numbers, patent application serial numbers, or other basis on which the royalty is payable;

(4) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable;

(5) Percentage or dollar rate of royalty per unit;

(6) Unit price of contract item;

(7) Number of units; and

(8) Total dollar amount of royalties.

(b) Copies of current licenses. In addition, if specifically requested by the Contracting Officer before execution of the contract, the offeror shall furnish a copy of the current license agreement and an identification of applicable claims of specific patents or other basis upon which the royalty may be payable.

(End of provision)

I.125 970.5227-8 -- Refund of royalties.

Insert the following clause in solicitations and contracts in accordance with 970.2702-4:

Refund of Royalties (DEC 2000)

(a) The contract price includes certain amounts for royalties, payable by the Contractor or subcontractors or both, reported to the Contracting Officer in accordance with the Royalty Information provision of the solicitation.

(b) During performance of this contract, if any additional royalty payments are proposed to be charged to the Government as costs under the contract that were not included in the original contract price, the Contractor agrees to submit for approval of the Contracting Officer prior to the execution of any licensing agreement the following information relating to each separate item of royalty or license fee:

(1) Name and address of licensor;

(2) Date of license agreement;

(3) Patent numbers, patent application serial numbers, or other basis on which the royalty is payable;

(4) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable;

(5) Percentage or dollar rate of royalty per unit;

(6) Unit price of contract item;

(7) Number of units; and

(8) Total dollar amount of royalties.

(9) In addition, if specifically requested by the Contracting Officer, the contractor shall furnish a copy of the current license agreement and an identification of applicable claims of specific patents.

(c) The term "royalties" as used in this clause refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use of or for rights in patents and patent applications in connection with performing this contract or any subcontract hereunder. The term also includes any costs or charges associated with the access to, use of, or other right pertaining to data that is represented to be proprietary and is related to the performance of this contract or subcontracts, or the copying of such data or data that is copyrighted.

(d) The Contractor shall furnish to the Contracting Officer, before final payment under this contract, a statement of royalties paid or required to be paid in connection with performing this contract and subcontracts hereunder.

(e) The Contractor is compensated for any royalties reported under paragraph (b) of this clause only to the extent that such royalties were included in the contract price and are determined by the Contracting Officer to be properly chargeable to the Government and allocable to the contract.

(f) The Contracting Officer shall reduce the contract price to the extent any royalties that are included in the contract price are not, in fact, paid by the Contractor or are determined by the Contracting Officer not to be properly chargeable to the Government and allocable to the contract. The Contractor agrees to repay or credit the Government accordingly, as the

Contracting Officer directs. Regardless of prior DOE approval of any individual payments or royalties, DOE may contest at any time the enforceability, validity, scope of, or title to, a patent or the proprietary nature of data pursuant to which DOE makes a royalty or other payment.

(g) If at any time within 3 years after final payment under this contract, the Contractor for any reason is relieved in whole or in part from the payment of the royalties included in the final contract price as adjusted pursuant to paragraph (f) of this clause, the Contractor shall promptly notify the Contracting Office of that fact and shall promptly reimburse the Government in a corresponding amount.

(h) The Contractor agrees to include, and require inclusion of, this clause, including this paragraph (h), suitably modified to identify the parties in any subcontract at any tier in which the amount of royalties reported during negotiation of the subcontract exceeds $250.

(End of clause)

I.126 970.5228-1 -- Insurance-litigation and claims.

As prescribed in 48 CFR 970.2803-2, insert the following clause:

Insurance-Litigation and Claims (DEC 2000)

(a) The contractor may, with the prior written authorization of the contracting officer, and shall, upon the request of the Government, initiate litigation against third parties, including proceedings before administrative agencies, in connection with this contract. The contractor shall proceed with such litigation in good faith and as directed from time to time by the contracting officer.

(b) The contractor shall give the contracting officer immediate notice in writing of any legal proceeding, including any proceeding before an administrative agency, filed against the contractor arising out of the performance of this contract. Except as otherwise directed by the contracting officer, in writing, the contractor shall furnish immediately to the contracting officer copies of all pertinent papers received by the contractor with respect to such action. The contractor, with the prior written authorization of the contracting officer, shall proceed with such litigation in good faith and as directed from time to time by the contracting officer.

(c)(1) Except as provided in paragraph (c)(2) of this clause, the contractor shall procure and maintain such bonds and insurance as required by law or approved in writing by the contracting officer.

(2) The contractor may, with the approval of the contracting officer, maintain a self-insurance program; provided that, with respect to workers' compensation, the contractor is qualified pursuant to statutory authority.

(3) All bonds and insurance required by this clause shall be in a form and amount and for those periods as the contracting officer may require or approve and with sureties and insurers approved by the contracting officer.

(d) The contractor agrees to submit for the contracting officer's approval, to the extent and in the manner required by the contracting officer, any other bonds and insurance that are maintained by the contractor in connection with the performance of this contract and for which the contractor seeks reimbursement. If an insurance cost (whether a premium for commercial insurance or related to self-insurance) includes a portion covering costs made unallowable elsewhere in the contract, and the share of the cost for coverage for the unallowable cost is determinable, the portion of the cost that is otherwise an allowable cost under this contract is reimbursable to the extent determined by the contracting officer.

(e) Except as provided in subparagraphs (g) and (h) of this clause, or specifically disallowed elsewhere in this contract, the contractor shall be reimbursed-

(1) For that portion of the reasonable cost of bonds and insurance allocable to this contract required in accordance with contract terms or approved under this clause, and

(2) For liabilities (and reasonable expenses incidental to such liabilities, including litigation costs) to third persons not compensated by insurance or otherwise without regard to and as an exception to the clause of this contract entitled, "Obligation of Funds."

(f) The Government's liability under paragraph (e) of this clause is subject to the availability of appropriated funds. Nothing in this contract shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

(g) Notwithstanding any other provision of this contract, the contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities, including litigation costs, counsel fees, judgment and settlements)-

(1) Which are otherwise unallowable by law or the provisions of this contract; or

(2) For which the contractor has failed to insure or to maintain insurance as required by law, this contract, or by the written direction of the contracting officer.

(h) In addition to the cost reimbursement limitations contained in 48 CFR Part 31, as supplemented by 48 CFR 970.31, and notwithstanding any other provision of this contract, the contractor's liabilities to third persons, including employees but excluding costs incidental to worker's compensation actions, (and any expenses incidental to such liabilities, including litigation costs, counsel fees, judgments and settlements) shall not be reimbursed if such liabilities were caused by contractor managerial personnel's-

(1) Willful misconduct,

(2) Lack of good faith, or

(3) Failure to exercise prudent business judgment, which means failure to act in the same manner as a prudent person in the conduct of competitive business; or, in the case of a non-profit educational institution, failure to act in the manner that a prudent person would under the circumstances prevailing at the time the decision to incur the cost is made.

(i) The burden of proof shall be upon the contractor to establish that costs covered by paragraph (h) of this clause are allowable and reasonable if, after an initial review of the facts, the contracting officer challenges a specific cost or informs the contractor that there is reason to believe that the cost results from willful misconduct, lack of good faith, or failure to exercise prudent business judgment by contractor managerial personnel.

(j)(1) All litigation costs, including counsel fees, judgments and settlements shall be differentiated and accounted for by the contractor so as to be separately identifiable. If the contracting officer provisionally disallows such costs, then the contractor may not use funds advanced by DOE under the contract to finance the litigation.

(2) Punitive damages are not allowable unless the act or failure to act which gave rise to the liability resulted from compliance with specific terms and conditions of the contract or written instructions from the contracting officer.

(3) The portion of the cost of insurance obtained by the contractor that is allocable to coverage of liabilities referred to in paragraph (g)(1) of this clause is not allowable.

(4) The term "contractor's managerial personnel" is defined in clause paragraph (j) of 48 CFR 970.5245-1.

(k) The contractor may at its own expense and not as an allowable cost procure for its own protection insurance to compensate the contractor for any unallowable or unreimbursable costs incurred in connection with contract performance.

(l) If any suit or action is filed or any claim is made against the contractor, the cost and expense of which may be reimbursable to the contractor under this contract, and the risk of which is then uninsured or is insured for less than the amount claimed, the contractor shall-

(1) Immediately notify the contracting officer and promptly furnish copies of all pertinent papers received;

(2) Authorize Department representatives to collaborate with: in-house or DOE-approved outside counsel in settling or defending the claim; or counsel for the insurance carrier in settling or defending the claim if the amount of the liability claimed exceeds the amount of coverage, unless precluded by the terms of the insurance contract; and

(3) Authorize Department representatives to settle the claim or to defend or represent the contractor in and/or to take charge of any litigation, if required by the Department, if the liability is not insured or covered by bond. In any action against more than one Department contractor, the Department may require the contractor to be represented by common counsel. Counsel for the contractor may, at the contractor's own expense, be associated with the Department representatives in any such claim or litigation.

(m) Reasonable litigation and other legal expenses are allowable when incurred in accordance with the DOE approved contractor legal management procedures (including cost guidelines) as such procedures may be revised from time to time, and if not otherwise made unallowable by law or the provisions of this contract.

(End of Clause)

I.127 970.5229-1 -- State and local taxes.

As prescribed in 48 CFR 970.2904-1(b), insert the following clause in management and operating contracts. The requirement for the notice prescribed in paragraph (a) of the clause may be broadened to include all State and local taxes which may be claimed as allowable costs when considered to be appropriate.

State and Local Taxes (DEC 2000)

(a) The contractor agrees to notify the contracting officer of any State or local tax, fee, or charge levied or purported to be levied on or collected from the contractor with respect to the contract work, any transaction thereunder, or property in the custody or control of the contractor and constituting an allowable item of cost if due and payable, but which the contractor has reason to believe, or the contracting officer has advised the contractor, is or may be inapplicable or invalid; and the contractor further agrees to refrain from paying any such tax, fee, or charge unless authorized in writing by the contracting officer. Any State or local tax, fee, or charge paid with the approval of the contracting officer or on the basis of advice from the contracting officer that such tax, fee, or charge is applicable and valid, and which would otherwise be an allowable item of cost, shall not be disallowed as an item of cost by reason of any subsequent ruling or determination that such tax, fee, or charge was in fact inapplicable or invalid.

(b) The contractor agrees to take such action as may be required or approved by the contracting officer to cause any State or local tax, fee, or charge which would be an allowable cost to be paid under protest; and to take such action as may be required or approved by the contracting officer to seek recovery of any payments made, including assignment to the Government or its designee of all rights to an abatement or refund thereof, and granting permission for the Government to join with the contractor in any proceedings for the recovery thereof or to sue for recovery in the name of the contractor. If the contracting officer directs the contractor to institute litigation to enjoin the collection of or to recover payment of any such tax, fee, or charge referred to above, or if a claim or suit is filed against the contractor for a tax, fee, or charge it has refrained from paying in accordance with this clause, the procedures and requirements of the clause entitled "Insurance-Litigation and Claims" shall apply and the costs and expenses incurred by the contractor shall be allowable items of costs, as provided in this contract, together with the amount of any judgment rendered against the contractor.

(c) The Government shall hold the contractor harmless from penalties and interest incurred through compliance with this clause. All recoveries or credits in respect of the foregoing taxes, fees, and charges (including interest) shall inure to and be for the sole benefit of the Government.

(End of Clause)

I.128 970.5231-4 -- Preexisting conditions.

As prescribed in 48 CFR 970.3170, insert the following clause:

Preexisting Conditions (DEC 2000)

(a) The Department of Energy agrees to reimburse the contractor, and the contractor shall not be held responsible, for any liability (including without limitation, a claim involving strict or absolute liability and any civil fine or penalty), expense, or remediation cost, but limited to those of a civil nature, which may be incurred by, imposed on, or asserted against the contractor arising out of any condition, act, or failure to act which occurred before the contractor assumed responsibility on [Insert date contract began]. To the extent the acts or omissions of the contractor cause or add to any liability, expense or remediation cost resulting from conditions in existence prior to [Insert date contract began], the contractor shall be responsible in accordance with the terms and conditions of this contract.

(b) The obligations of the Department of Energy under this clause are subject to the availability of appropriated funds.

(End of Clause)

I.129 970.5232-1 -- Reduction or suspension of advance, partial, or progress payments upon finding of substantial evidence of fraud.

As prescribed in 48 CFR 970.3200-1-1, insert the following clause:

Reduction or Suspension of Advance, Partial, or Progress Payments (DEC 2000)

(a) The contracting officer may reduce or suspend further advance, partial, or progress payments to the contractor upon a written determination by the Senior Procurement Executive that substantial evidence exists that the contractor's request for advance, partial, or progress payment is based on fraud.

(b) The contractor shall be afforded a reasonable opportunity to respond in writing.

(End of Clause)

I.130 970.5232-2 -- Payments and advances.

As prescribed in 48 CFR 970.3270(a)(1), insert the following clause:

Payments and Advances (DEC 2000)

(a) Installments of fixed-fee. The fixed-fee payable under this contract shall become due and payable in periodic installments in accordance with a schedule determined by the contracting officer. Fixed-fee payments shall be made by direct payment or withdrawn from funds advanced or available under this contract, as determined by the contracting officer. The contracting officer may offset against any such fee payment the amounts owed to the Government by the contractor,

including any amounts owed for disallowed costs under this contract. No fixed-fee payment may be withdrawn against the payments cleared financing arrangement without prior written approval of the contracting officer.

(b) Payments on Account of Allowable Costs. The contracting officer and the contractor shall agree as to the extent to which payment for allowable costs or payments for other items specifically approved in writing by the contracting officer (for example, negotiated fixed amounts) shall be made from advances of Government funds. When pension contributions are paid by the contractor to the retirement fund less frequently than quarterly, accrued costs therefor shall be excluded from costs for payment purposes until such costs are paid. If pension contribution are paid on a quarterly or more frequent basis, accrual therefor may be included in costs for payment purposes, provided that they are paid to the fund within 30 days after the close of the period covered. If payments are not made to the fund within such 30-day period, pension contribution costs shall be excluded from cost for payment purposes until payment has been made.

(c) Special financial institution account-use. All advances of Government funds shall be withdrawn pursuant to a payments cleared financing arrangement prescribed by DOE in favor of the financial institution or, at the option of the Government, shall be made by direct payment or other payment mechanism to the contractor, and shall be deposited only in the special financial institution account referred to in the Special Financial Institution Account Agreement, which is incorporated into this contract as Appendix-. No part of the funds in the special financial institution account shall be commingled with any funds of the contractor or used for a purpose other than that of making payments for costs allowable and, if applicable, fees earned under this contract, negotiated fixed amounts, or payments for other items specifically approved in writing by the contracting officer. If the contracting officer determines that the balance of such special financial institution account exceeds the contractor's current needs, the contractor shall promptly make such disposition of the excess as the contracting officer may direct.

(d) Title to funds advanced. Title to the unexpended balance of any funds advanced and of any special financial institution account established pursuant to this clause shall remain in the Government and be superior to any claim or lien of the financial institution of deposit or others. It is understood that an advance to the contractor hereunder is not a loan to the contractor, and will not require the payment of interest by the contractor, and that the contractor acquires no right, title or interest in or to such advance other than the right to make expenditures therefrom, as provided in this clause.

(e) Financial settlement. The Government shall promptly pay to the contractor the unpaid balance of allowable costs (or other items specifically approved in writing by the contracting officer) and fee upon termination of the work, expiration of the term of the contract, or completion of the work and its acceptance by the Government after:

(1) Compliance by the contractor with DOE's patent clearance requirements, and

(2) The furnishing by the contractor of:

(i) An assignment of the contractor's rights to any refunds, rebates, allowances, accounts receivable, collections accruing to the contractor in connection with the work under this contract, or other credits applicable to allowable costs under the contract;

(ii) A closing financial statement;

(iii) The accounting for Government-owned property required by the clause entitled "Property"; and

(iv) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract subject only to the following exceptions:

(A) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible to exact statement by the contractor;

(B) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the contractor to third parties arising out of the performance of this contract; provided that such claims are not known to the contractor on the date of the execution of the release; and provided further that the contractor gives notice of such claims in writing to the contracting officer promptly, but not more than one (1) year after the contractor's right of action first accrues. In addition, the contractor shall provide prompt notice to the contracting officer of all potential claims under this clause, whether in litigation or not (see also Contract Clause--, DEAR 970.5228-1, "Insurance-Litigation and Claims");

(C) Claims for reimbursement of costs (other than expenses of the contractor by reason of any indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the contractor under the provisions of this contract relating to patents; and

(D) Claims recognizable under the clause entitled, Nuclear Hazards Indemnity Agreement.

(3) In arriving at the amount due the contractor under this clause, there shall be deducted,

(i) Any claim which the Government may have against the contractor in connection with this contract, and

(ii) Deductions due under the terms of this contract, and not otherwise recovered by or credited to the Government. The unliquidated balance of the special financial institution account may be applied to the amount due and any balance shall be returned to the Government forthwith.

(f) Claims. Claims for credit against funds advanced for payment shall be accompanied by such supporting documents and justification as the contracting officer shall prescribe.

(g) Discounts. The contractor shall take and afford the Government the advantage of all known and available cash and trade discounts, rebates, allowances, credits, salvage, and commissions unless the contracting officer finds that action is not in the best interest of the Government.

(h) Collections. All collections accruing to the contractor in connection with the work under this contract, except for the contractor's fee and royalties or other income accruing to the contractor from technology transfer activities in accordance with this contract, shall be Government property and shall be processed and accounted for in accordance with applicable requirements imposed by the contracting officer pursuant to the Laws, regulations, and DOE directives clause of this contract and, to the extent consistent with those requirements, shall be deposited in the special financial institution account or otherwise made available for payment of allowable costs under this contract, unless otherwise directed by the contracting officer.

(i) Direct payment of charges. The Government reserves the right, upon ten days written notice from the contracting officer to the contractor, to pay directly to the persons concerned, all amounts due which otherwise would be allowable under this contract. Any payment so made shall discharge the Government of all liability to the contractor therefor.

(j) Determining allowable costs. The contracting officer shall determine allowable costs in accordance with the Federal Acquisition Regulation subpart 31.2 and the Department of Energy Acquisition Regulation subpart 48 CFR 970.31 in effect on the date of this contract and other provisions of this contract.

Alternate II (DEC 2000). As prescribed in 48 CFR 970.3270(a)(1)(ii), when total available fee provisions are used, replace paragraph (a) of the basic clause with the following paragraph (a):

(a) Payment of Total available fee: Base Fee and Performance Fee. The base fee amount, if any, is payable in equal monthly installments. Total available fee amount earned is payable following the Government's Determination of Total Available Fee Amount Earned in accordance with the clause of this contract entitled "Total Available Fee: Base Fee Amount and Performance Fee Amount." Base fee amount and total available fee amount earned payments shall be made by direct payment or withdrawn from funds advanced or available under this contract, as determined by the contracting officer. The contracting officer may offset against any such fee payment the amounts owed to the Government by the contractor, including any amounts owed for disallowed costs under this contract. No base fee amount or total available fee amount earned payment may be withdrawn against the payments cleared financing arrangement without the prior written approval of the contracting officer.

Alternate IV (DEC 2000). As prescribed in 48 CFR 970.3270(a)(1)(iv), the following paragraph (k) shall be included in management and operating contracts without integrated accounting systems:

(k) Certification and penalties. The contractor shall prepare and submit a "Statement of Costs Incurred and Claimed" (Cost Statement) for the total of net expenditures incurred for the period covered by the Cost Statement. It is anticipated that this will be an annual submission unless otherwise agreed to by the contracting officer. The contractor shall certify the Cost Statement subject to the penalty provisions for unallowable costs as stated in sections 306(b) and (i) of the Federal Property and Administrative Services Act of 1949 *(41 U.S.C. 256)*, as amended.

I.131 970.5232-3 -- Accounts, records, and inspection.

As prescribed in 48 CFR 970.3270(a)(2), insert the following clause:

Accounts, Records, and Inspection (DEC 2000)

(a) Accounts. The contractor shall maintain a separate and distinct set of accounts, records, documents, and other evidence showing and supporting: all allowable costs incurred; collections accruing to the contractor in connection with the work under this contract, other applicable credits, negotiated fixed amounts, and fee accruals under this contract; and the receipt, use, and disposition of all Government property coming into the possession of the contractor under this contract. The system of accounts employed by the contractor shall be satisfactory to DOE and in accordance with generally accepted accounting principles consistently applied.

(b) Inspection and audit of accounts and records. All books of account and records relating to this contract shall be subject to inspection and audit by DOE or its designees in accordance with the provisions of Clause--, Access to and ownership of records, at all reasonable times, before and during the period of retention provided for in paragraph (d) of this clause, and the contractor shall afford DOE proper facilities for such inspection and audit.

(c) Audit of subcontractors' records. The contractor also agrees, with respect to any subcontracts (including fixed-price or unit-price subcontracts or purchase orders) where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor of any tier, to either conduct an audit of the subcontractor's costs or arrange for such an audit to be performed by the cognizant government audit agency through the contracting officer.

(d) Disposition of records. Except as agreed upon by the Government and the contractor, all financial and cost reports, books of account and supporting documents, system files, data bases, and other data evidencing costs allowable, collections accruing to the contractor in connection with the work under this contract, other applicable credits, and fee accruals under this contract, shall be the property of the Government, and shall be delivered to the Government or otherwise disposed of by the contractor either as the contracting officer may from time to time direct during the progress of the work or, in any event, as the contracting officer shall direct upon completion or termination of this contract and final audit of accounts hereunder. Except as otherwise provided in this contract, including provisions of Clause--, Access to and ownership of records, all other records in the possession of the contractor relating to this contract shall be preserved by the contractor for a period of three years after final payment under this contract or otherwise disposed of in such manner as may be agreed upon by the Government and the contractor.

(e) Reports. The contractor shall furnish such progress reports and schedules, financial and cost reports, and other reports concerning the work under this contract as the contracting officer may from time to time require.

(f) Inspections. The DOE shall have the right to inspect the work and activities of the contractor under this contract at such time and in such manner as it shall deem appropriate.

(g) Subcontracts. The contractor further agrees to require the inclusion of provisions similar to those in paragraphs (a) through (g) and paragraph (h) of this clause in all subcontracts (including

fixed-price or unit-price subcontracts or purchase orders) of any tier entered into hereunder where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor.

(h) Comptroller General. (1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder.

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

(3) Nothing in this contract shall be deemed to preclude an audit by the General Accounting Office of any transaction under this contract.

(End of Clause)

I.132 970.5232-4 -- Obligation of funds.

As prescribed in 48 CFR 970.3270(a)(3), insert the following clause:

Obligation of Funds (DEC 2000)

(a) Obligation of funds. The amount presently obligated by the Government with respect to this contract is-- dollars ($--). Such amount may be increased unilaterally by DOE by written notice to the contractor and may be increased or decreased by written agreement of the parties (whether or not by formal modification of this contract). Estimated collections from others for work and services to be performed under this contract are not included in the amount presently obligated. Such collections, to the extent actually received by the contractor, shall be processed and accounted for in accordance with applicable requirements imposed by the contracting officer pursuant to the Laws, regulations, and DOE directives clause of this contract. Nothing in this paragraph is to be construed as authorizing the contractor to exceed limitations stated in financial plans established by DOE and furnished to the contractor from time to time under this contract.

(b) Limitation on payment by the Government. Except as otherwise provided in this contract and except for costs which may be incurred by the contractor pursuant to the Termination clause of this contract or costs of claims allowable under the contract occurring after completion or termination and not released by the contractor at the time of financial settlement of the contract in accordance with the clause entitled "Payments and Advances," payment by the Government under this contract on account of allowable costs shall not, in the aggregate, exceed the amount obligated with respect to this contract, less the contractor's fee and any negotiated fixed amount. Unless expressly negated in this contract, payment on account of those costs excepted in the preceding sentence which are in excess of the amount obligated with respect to this contract shall be subject to the availability of:

(1) collections accruing to the contractor in connection with the work under this contract and processed and accounted for in accordance with applicable requirements imposed by the contracting officer pursuant to the Laws, regulations, and DOE directives clause of this contract, and

(2) other funds which DOE may legally use for such purpose, provided DOE will use its best efforts to obtain the appropriation of funds for this purpose if not otherwise available.

(c) Notices-Contractor excused from further performance. The contractor shall notify DOE in writing whenever the unexpended balance of available funds (including collections available under paragraph (a) of this clause), plus the contractor's best estimate of collections to be received and available during the-- day period hereinafter specified, is in the contractor's best judgment sufficient to continue contract operations at the programmed rate for only-- days and to cover the contractor's unpaid fee and any negotiated fixed amounts, and outstanding encumbrances and liabilities on account of costs allowable under the contract at the end of such period. Whenever the unexpended balance of available funds (including collections available under paragraph (a) of this clause), less the amount of the contractor's fee then earned but not paid and any negotiated fixed amounts, is in the contractor's best judgment sufficient only to liquidate outstanding encumbrances and liabilities on account of costs allowable under this contract, the contractor shall immediately notify DOE and shall make no further encumbrances or expenditures (except to liquidate existing encumbrances and liabilities), and, unless the parties otherwise agree, the contractor shall be excused from further performance (except such performance as may become necessary in connection with termination by the Government) and the performance of all work hereunder will be deemed to have been terminated for the convenience of the Government in accordance with the provisions of the Termination clause of this contract.

(d) Financial plans; cost and encumbrance limitations. In addition to the limitations provided for elsewhere in this contract, DOE may, through financial plans, such as Approved Funding Programs, or other directives issued to the contractor, establish controls on the costs to be incurred and encumbrances to be made in the performance of the contract work. Such plans and directives may be amended or supplemented from time to time by DOE. The contractor agrees

(1) to comply with the specific limitations (ceilings) on costs and encumbrances set forth in such plans and directives,

(2) to comply with other requirements of such plans and directives, and

(3) to notify DOE promptly, in writing, whenever it has reason to believe that any limitation on costs and encumbrances will be exceeded or substantially underrun.

(e) Government's right to terminate not affected. The giving of any notice under this clause shall not be construed to waive or impair any right of the Government to terminate the contract under the provisions of the Termination clause of this contract.

(End of Clause)

I.133 970.5232-5 -- Liability with respect to cost accounting standards.

As prescribed in 48 CFR 970.3270(a)(5), insert the following clause:

Liability With Respect to Cost Accounting Standards (DEC 2000)

(a) The contractor is not liable to the Government for increased costs or interest resulting from its failure to comply with the clauses of this contract entitled, "Cost Accounting Standards," and "Administration of Cost Accounting Standards," if its failure to comply with the clauses is caused by the contractor's compliance with published DOE financial management policies and procedures or other requirements established by the Department's Chief Financial Officer or Procurement Executive.

(b) The contractor is not liable to the Government for increased costs or interest resulting from its subcontractors' failure to comply with the clauses at FAR 52.230-2, "Cost Accounting Standards," and FAR 52.230-6, "Administration of Cost Accounting Standards," if the contractor includes in each covered subcontract a clause making the subcontractor liable to the Government for increased costs or interest resulting from the subcontractor's failure to comply with the clauses; and the contractor seeks the subcontract price adjustment and cooperates with the Government in the Government's attempts to recover from the subcontractor.

I.134 970.5232-6 -- Work for others funding authorization.

As prescribed in 48 CFR 970.3270(a)(6), insert the following clause:

Work for Others Funding Authorization (DEC 2000)

Any uncollectible receivables resulting from the contractor utilizing contractor corporate funding for reimbursable work shall be the responsibility of the contractor, and the United States Government shall have no liability to the contractor for the contractor's uncollected receivables. The contractor is permitted to provide advance payment utilizing contractor corporate funds for reimbursable work to be performed by the contractor for a non-Federal entity in instances where advance payment from that entity is required under the Laws, regulations, and DOE directives clause of this contract and such advance cannot be obtained. The contractor is also permitted to provide advance payment utilizing contractor corporate funds to continue reimbursable work to be performed by the contractor for a Federal entity when the term or the funds on a Federal interagency agreement required under the Laws, regulations, and DOE directives clause of this contract have elapsed. The contractor's utilization of contractor corporate funds does not relieve the contractor of its responsibility to comply with all requirements for Work for Others applicable to this contract.

I.135 970.5232-7 -- Financial management system.

As prescribed in 48 CFR 970.3270(b)(1), insert the following clause:

Financial Management System (DEC 2000)

The contractor shall maintain and administer a financial management system that is suitable to provide proper accounting in accordance with DOE requirements for assets, liabilities, collections accruing to the contractor in connection with the work under this contract, expenditures, costs, and encumbrances; permits the preparation of accounts and accurate, reliable financial and statistical reports; and assures that accountability for the assets can be maintained. The contractor shall submit to DOE for written approval an annual plan for new financial management systems and/or subsystems and major enhancements and/or upgrades to the currently existing financial systems and/or subsystems. The contractor shall notify DOE thirty (30) days in advance of any planned implementation of any substantial deviation from this plan and, as requested by the contracting officer, shall submit any such deviation to DOE for written approval before implementation

I.136 970.5236-1 -- Government facility subcontract approval.

As prescribed in 48 CFR 970.3605-2, insert the following clause:

Government Facility Subcontract Approval (DEC 2000)

Upon request of the contracting officer and acceptance thereof by the contractor, the contractor shall procure, by subcontract, the construction of new facilities or the alteration or repair of Government-owned facilities at the plant. Any subcontract entered into under this paragraph shall be subject to the written approval of the contracting officer and shall contain the provisions relative to labor and wages required by law to be included in contracts for the construction, alteration, and/or repair, including painting and decorating, of a public building or public work.

(End of Clause)

I.137 970.5237-2 -- Facilities management.

As prescribed in 48 CFR 970.3770-2, insert the following clause:

Facilities Management (DEC 2000)

Copies of DOE Directives referenced herein are available from the contracting officer.

(a) Site development planning. The Government shall provide to the contractor site development guidance for the facilities and lands for which the contractor is responsible under the terms and conditions of this contract. Based upon this guidance, the contractor shall prepare, and maintain through annual updates, a Long-Range Site Development Plan (Plan) to reflect those actions necessary to keep the development of these facilities current with the needs of the Government and allow the contractor to successfully accomplish the work required under this contract. In developing this Plan, the contractor shall follow the procedural guidance set forth in the applicable DOE Directives in the Life Cycle Facility Operations Series listed elsewhere in this

contract. The contractor shall use the Plan to manage and control the development of facilities and lands. All plans and revisions shall be approved by the Government.

(b) General design criteria. The general design criteria which shall be utilized by the contractor in managing the site for which it is responsible under this contract are those specified in the applicable DOE Directives in the 6430, Design Criteria, series listed elsewhere in this contract. The contractor shall comply with these mandatory, minimally acceptable requirements for all facility designs with regard to any building acquisition, new facility, facility addition or alteration or facility lease undertaken as part of the site development activities of paragraph (a) of this clause. This includes on-site constructed buildings, pre-engineered buildings, plan-fabricated modular buildings, and temporary facilities. For existing facilities, original design criteria apply to the structure in general; however, additions or modifications shall comply with this directive and the associated latest editions of the references therein. An exception may be granted for off-site office space being leased by the contractor on a temporary basis.

(c) Energy management. The contractor shall manage the facilities for which it is responsible under the terms and conditions of this contract in an energy efficient manner in accordance with the applicable DOE Directives in the Life Cycle Facility Operations Series listed elsewhere in this contract. The contractor shall develop a 10-year energy management plan for each site with annual reviews and revisions. The contractor shall submit an annual report on progress toward achieving the goals of the 10-year plan for each individual site, and an energy conservation analysis report for each new building or building addition project. Any acquisition of utility services by the contractor shall be conducted in accordance with 48 CFR 970.41.

(d) Subcontract Requirements. To the extent the contractor subcontracts performance of any of the responsibilities discussed in this clause, the subcontract shall contain the requirements of this clause relative to the subcontracted responsibilities.

(End of Clause)

I.138 970.5244-1 -- Contractor purchasing system.

As prescribed in 48 CFR 970.4402-5, insert the following clause:

Contractor Purchasing System (DEC 2000)

(a) General. The contractor shall develop, implement, and maintain formal policies, practices, and procedures to be used in the award of subcontracts consistent with this clause and 48 CFR 970.44. The contractor's purchasing system and methods shall be fully documented, consistently applied, and acceptable to DOE in accordance with 48 CFR 970.4401-1. The contractor shall maintain file documentation which is appropriate to the value of the purchase and is adequate to establish the propriety of the transaction and the price paid. The contractor's purchasing performance will be evaluated against such performance criteria and measures as may be set forth elsewhere in this contract. DOE reserves the right at any time to require that the contractor

submit for approval any or all purchases under this contract. The contractor shall not purchase any item or service the purchase of which is expressly prohibited by the written direction of DOE and shall use such special and directed sources as may be expressly required by the DOE contracting officer. DOE will conduct periodic appraisals of the contractor's management of all facets of the purchasing function, including the contractor's compliance with its approved system and methods. Such appraisals will be performed through the conduct of Contractor Purchasing System Reviews in accordance with 48 CFR subpart 44.3, or, when approved by the contracting officer, through the contractor's participation in the conduct of the Balanced Scorecard performance measurement and performance management system. The contractor's approved purchasing system and methods shall include the requirements set forth in paragraphs (b) through (x) of this clause.

(b) Acquisition of utility services. Utility services shall be acquired in accordance with the requirements of 48 CFR 970.41.

(c) Acquisition of Real Property. Real property shall be acquired in accordance with 48 CFR Subpart 917.74.

(d) Advance Notice of Proposed Subcontract Awards. Advance notice shall be provided in accordance with 48 CFR 970.4401-3.

(e) Audit of Subcontractors. (1) The contractor shall provide for:

(i) periodic post-award audit of cost-reimbursement subcontractors at all tiers, and

(ii) audits, where necessary, to provide a valid basis for pre-award or cost or price analysis.

(2) Responsibility for determining the costs allowable under each cost-reimbursement subcontract remains with the contractor or next higher-tier subcontractor. The contractor shall provide, in appropriate cases, for the timely involvement of the contractor and the DOE contracting officer in resolution of subcontract cost allowability.

(3) Where audits of subcontractors at any tier are required, arrangements may be made to have the cognizant Federal agency perform the audit of the subcontract. These arrangements shall be made administratively between DOE and the other agency involved and shall provide for the cognizant agency to audit in an appropriate manner in light of the magnitude and nature of the subcontract. In no case, however, shall these arrangements preclude determination by the DOE contracting officer of the allowability or unallowability of subcontractor costs claimed for reimbursement by the contractor.

(4) Allowable costs for cost reimbursable subcontracts are to be determined in accordance with the cost principles of 48 CFR Part 31, appropriate for the type of organization to which the subcontract is to be awarded, as supplemented by 48 CFR Part 931. Allowable costs in the purchase or transfer from contractor-affiliated sources shall be determined in accordance with 48 CFR 970.4402-3 and 48 CFR 970.3102-3-21(b).

(f) Bonds and Insurance. (1) The contractor shall require performance bonds in penal amounts as set forth in 48 CFR 28.102-2(a) for all fixed priced and unit-priced construction subcontracts in

excess of $100,000. The contractor shall consider the use of performance bonds in fixed price nonconstruction subcontracts, where appropriate.

(2) For fixed-price, unit-priced and cost reimbursement construction subcontracts in excess of $100,000 a payment bond shall be obtained on Standard Form 25A modified to name the contractor as well as the United States of America as obligees. The penal amounts shall be determined in accordance with 48 CFR 28.102-2(b).

(3) For fixed-price, unit-priced and cost-reimbursement construction subcontracts, greater than $25,000, but not greater than $100,000, the contractor shall select two or more of the payment protections at 48 CFR 28.102-1(b), giving particular consideration to the inclusion of an irrevocable letter of credit as one of the selected alternatives.

(4) A subcontractor may have more than one acceptable surety in both construction and other subcontracts, provided that in no case will the liability of any one surety exceed the maximum penal sum for which it is qualified for any one obligation. For subcontracts other than construction, a co-surety (two or more sureties together) may reinsure amounts in excess of their individual capacity, with each surety having the required underwriting capacity that appears on the list of acceptable corporate sureties.

(g) Buy American. The contractor shall comply with the provisions of the Buy American Act as reflected in 48 CFR 52.225-3 and 48 CFR 52.225-5. The contractor shall forward determinations of nonavailability of individual items to the DOE contracting officer for approval. Items in excess of $100,000 require the prior concurrence of the Head of Contracting Activity. If, however, the contractor has an approved purchasing system, the Head of the Contracting Activity may authorize the contractor to make determinations of nonavailability for individual items valued at $100,000 or less.

(h) Construction and Architect-Engineer Subcontracts. (1) Independent Estimates. A detailed, independent estimate of costs shall be prepared for all construction work to be subcontracted.

(2) Specifications. Specifications for construction shall be prepared in accordance with the DOE publication entitled "General Design Criteria Manual."

(3) Prevention of Conflict of Interest. (i) The contractor shall not award a subcontract for construction to the architect-engineer firm or an affiliate that prepared the design. This prohibition does not preclude the award of a "turnkey" subcontract so long as the subcontractor assumes all liability for defects in design and construction and consequential damages.

(ii) The contractor shall not award both a cost-reimbursement subcontract and a fixed-price subcontract for construction or architect-engineer services or any combination thereof to the same firm where those subcontracts will be performed at the same site.

(iii) The contractor shall not employ the construction subcontractor or an affiliate to inspect the firm's work. The contractor shall assure that the working relationships of the construction subcontractor and the subcontractor inspecting its work and the authority of the inspector are clearly defined.

(i) Contractor-Affiliated Sources. Equipment, materials, supplies, or services from a contractor-affiliated source shall be purchased or transferred in accordance with 48 CFR 970.4402-3.

(j) Contractor-Subcontractor Relationship. The obligations of the contractor under paragraph (a) of this clause, including the development of the purchasing system and methods, and purchases made pursuant thereto, shall not relieve the contractor of any obligation under this contract (including, among other things, the obligation to properly supervise, administer, and coordinate the work of subcontractors). Subcontracts shall be in the name of the contractor, and shall not bind or purport to bind the Government.

(k) Government Property. Identification, inspection, maintenance, protection, and disposition of Government property shall conform with the policies and principles of 48 CFR Part 45, 48 CFR 945, the Federal Property Management Regulations 41 CFR Chapter 101, the DOE Property Management Regulations 41 CFR Chapter 109, and their contracts.

(l) Indemnification. Except for Price-Anderson Nuclear Hazards Indemnity, no subcontractor may be indemnified except with the prior approval of the Senior Procurement Executive.

(m) Leasing of Motor Vehicles. Contractors shall comply with 48 CFR 8.11 and 48 CFR 908.11.

(n) Make-or-Buy Plans. Acquisition of property and services shall be obtained on a least-cost basis, consistent with the requirements of the "Make-or-Buy Plan" clause of this contract and the contractor's approved make-or-buy plan.

(o) Management, Acquisition and Use of Information Resources. Requirements for automatic data processing resources and telecommunications facilities, services, and equipment, shall be reviewed and approved in accordance with applicable DOE Orders and regulations regarding information resources.

(p) Priorities, Allocations and Allotments. Priorities, allocations and allotments shall be extended to appropriate subcontracts in accordance with the clause or clauses of this contract dealing with priorities and allocations.

(q) Purchase of Special Items. Purchase of the following items shall be in accordance with the following provisions of 48 CFR 908.71 and the Federal Property Management Regulations, 41 CFR Chapter 101:

(1) Motor vehicles-48 CFR 908.7101

(2) Aircraft-48 CFR 908.7102

(3) Security Cabinets-48 CFR 908.7106

(4) Alcohol-48 CFR 908.7107

(5) Helium-48 CFR 908.7108

(6) Fuels and packaged petroleum products-48 CFR 908.7109

(7) Coal-48 CFR 908.7110

(8) Arms and Ammunition-48 CFR 908.7111

(9) Heavy Water-48 CFR 908.7121(a)

(10) Precious Metals-48 CFR 908.7121(b)

(11) Lithium-48 CFR 908.7121(c)

(12) Products and services of the blind and severely handicapped-41 CFR 101-26.701

(13) Products made in Federal penal and correctional institutions-41 CFR 101-26.702

(r) Purchase vs. Lease Determinations. Contractors shall determine whether required equipment and property should be purchased or leased, and establish appropriate thresholds for application of lease vs. purchase determinations. Such determinations shall be made:

(1) at time of original acquisition;

(2) when lease renewals are being considered; and

(3) at other times as circumstances warrant.

(s) Quality Assurance. Contractors shall provide no less protection for the Government in its subcontracts than is provided in the prime contract.

(t) Setoff of Assigned Subcontractor Proceeds. Where a subcontractor has been permitted to assign payments to a financial institution, the assignment shall treat any right of setoff in accordance with 48 CFR 932.803.

(u) Strategic and Critical Materials. The contractor may use strategic and critical materials in the National Defense Stockpile.

(v) Termination. When subcontracts are terminated as a result of the termination of all or a portion of this contract, the contractor shall settle with subcontractors in conformity with the policies and principles relating to settlement of prime contracts in 48 CFR Subparts 49.1, 49.2 and 49.3. When subcontracts are terminated for reasons other than termination of this contract, the contractor shall settle such subcontracts in general conformity with the policies and principles in 48 CFR Subparts 49.1, 49.2, 49.3 and 49.4. Each such termination shall be documented and consistent with the terms of this contract. Terminations which require approval by the Government shall be supported by accounting data and other information as may be directed by the contracting officer.

(w) Unclassified Controlled Nuclear Information. Subcontracts involving unclassified uncontrolled nuclear information shall be treated in accordance with 10 CFR part 1017.

(x) Subcontract Flowdown Requirements. In addition to terms and conditions that are included in the prime contract which direct application of such terms and conditions in appropriate subcontracts, the contractor shall include the following clauses in subcontracts, as applicable:

(1) Davis-Bacon clauses prescribed in 48 CFR 22.407.

(2) Foreign Travel clause prescribed in 48 CFR 952.247-70.

(3) Counterintelligence clause prescribed in 48 CFR 970.0404-4(a).

(4) Service Contract Act clauses prescribed in 48 CFR 22.1006.

(5) State and local taxes clause prescribed in 48 CFR 970.2904-1.

(6) Cost or pricing data clauses prescribed in 48 CFR 970.1504-3-1(b).

(End of Clause)

I.139 970.5245-1 -- Property.

As prescribed in 48 CFR 970.4501-1(a), insert the following clause:

Property (DEC 2000)

(a) Furnishing of Government property. The Government reserves the right to furnish any property or services required for the performance of the work under this contract.

(b) Title to property. Except as otherwise provided by the contracting officer, title to all materials, equipment, supplies, and tangible personal property of every kind and description purchased by the contractor, for the cost of which the contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass directly from the vendor to the Government. The Government reserves the right to inspect, and to accept or reject, any item of such property. The contractor shall make such disposition of rejected items as the contracting officer shall direct. Title to other property, the cost of which is reimbursable to the contractor under this contract, shall pass to and vest in the Government upon (1) issuance for use of such property in the performance of this contract, or (2) commencement of processing or use of such property in the performance of this contract, or (3) reimbursement of the cost thereof by the Government, whichever first occurs. Property furnished by the Government and property purchased or furnished by the contractor, title to which vests in the Government, under this paragraph are hereinafter referred to as Government property. Title to Government property shall not be affected by the incorporation of the property into or the attachment of it to any property not owned by the Government, nor shall such Government property or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty.

(c) Identification. To the extent directed by the contracting officer, the contractor shall identify Government property coming into the contractor's possession or custody, by marking and segregating in such a way, satisfactory to the contracting officer, as shall indicate its ownership by the Government.

(d) Disposition. The contractor shall make such disposition of Government property which has come into the possession or custody of the contractor under this contract as the contracting officer may direct during the progress of the work or upon completion or termination of this contract. The contractor may, upon such terms and conditions as the contracting officer may

approve, sell, or exchange such property, or acquire such property at a price agreed upon by the contracting officer and the contractor as the fair value thereof. The amount received by the contractor as the result of any disposition, or the agreed fair value of any such property acquired by the contractor, shall be applied in reduction of costs allowable under this contract or shall be otherwise credited to account to the Government, as the contracting officer may direct. Upon completion of the work or the termination of this contract, the contractor shall render an accounting, as prescribed by the contracting officer, of all government property which had come into the possession or custody of the contractor under this contract.

(e) Protection of government property-management of high-risk property and classified materials. (1) The contractor shall take all reasonable precautions, and such other actions as may be directed by the contracting officer, or in the absence of such direction, in accordance with sound business practice, to safeguard and protect government property in the contractor's possession or custody.

(2) In addition, the contractor shall ensure that adequate safeguards are in place, and adhered to, for the handling, control and disposition of high-risk property and classified materials throughout the life cycle of the property and materials consistent with the policies, practices and procedures for property management contained in the Federal Property Management regulations (41 CFR chapter 101), the Department of Energy Property Management regulations (41 CFR chapter 109), and other applicable regulations.

(3) High-risk property is property, the loss, destruction, damage to, or the unintended or premature transfer of which could pose risks to the public, the environment, or the national security interests of the United States. High-risk property includes proliferation sensitive, nuclear related dual use, export controlled, chemically or radioactively contaminated, hazardous, and specially designed and prepared property, including property on the militarily critical technologies list.

(f) Risk of loss of Government property. (1)(i) The contractor shall not be liable for the loss or destruction of, or damage to, Government property unless such loss, destruction, or damage was caused by any of the following:

(A) Willful misconduct or lack of good faith on the part of the contractor's managerial personnel;

(B) Failure of the contractor's managerial personnel to take all reasonable steps to comply with any appropriate written direction of the contracting officer to safeguard such property under paragraph (e) of this clause; or

(C) Failure of contractor managerial personnel to establish, administer, or properly maintain an approved property management system in accordance with paragraph (i)(1) of this clause.

(ii) If, after an initial review of the facts, the contracting officer informs the contractor that there is reason to believe that the loss, destruction of, or damage to the government property results from conduct falling within one of the categories set forth above, the burden of proof shall be upon the contractor to show that the contractor should not be required to compensate the government for the loss, destruction, or damage.

(2) In the event that the contractor is determined liable for the loss, destruction or damage to Government property in accordance with (f)(1) of this clause, the contractor's compensation to the Government shall be determined as follows:

(i) For damaged property, the compensation shall be the cost of repairing such damaged property, plus any costs incurred for temporary replacement of the damaged property. However, the value of repair costs shall not exceed the fair market value of the damaged property. If a fair market value of the property does not exist, the contracting officer shall determine the value of such property, consistent with all relevant facts and circumstances.

(ii) For destroyed or lost property, the compensation shall be the fair market value of such property at the time of such loss or destruction, plus any costs incurred for temporary replacement and costs associated with the disposition of destroyed property. If a fair market value of the property does not exist, the contracting officer shall determine the value of such property, consistent with all relevant facts and circumstances.

(3) The portion of the cost of insurance obtained by the contractor that is allocable to coverage of risks of loss referred to in paragraph (f)(1) of this clause is not allowable.

(g) Steps to be taken in event of loss. In the event of any damage, destruction, or loss to Government property in the possession or custody of the contractor with a value above the threshold set out in the contractor's approved property management system, the contractor:

(1) Shall immediately inform the contracting officer of the occasion and extent thereof,

(2) Shall take all reasonable steps to protect the property remaining, and

(3) Shall repair or replace the damaged, destroyed, or lost property in accordance with the written direction of the contracting officer. The contractor shall take no action prejudicial to the right of the Government to recover therefore, and shall furnish to the Government, on request, all reasonable assistance in obtaining recovery.

(h) Government property for Government use only. Government property shall be used only for the performance of this contract.

(i) Property Management. (1) Property Management System. (i) The contractor shall establish, administer, and properly maintain an approved property management system of accounting for and control, utilization, maintenance, repair, protection, preservation, and disposition of Government property in its possession under the contract. The contractor's property management system shall be submitted to the contracting officer for approval and shall be maintained and administered in accordance with sound business practice, applicable Federal Property Management regulations and Department of Energy Property Management regulations, and such directives or instructions which the contracting officer may from time to time prescribe.

(ii) In order for a property management system to be approved, it must provide for:

(A) Comprehensive coverage of property from the requirement identification, through its life cycle, to final disposition;

(B) Employee personal responsibility and accountability for Government-owned property;

(C) Full integration with the contractor's other administrative and financial systems; and

(D) A method for continuously improving property management practices through the identification of best practices established by "best in class" performers.

(iii) Approval of the contractor's property management system shall be contingent upon the completion of the baseline inventory as provided in subparagraph (i)(2) of this clause.

(2) Property Inventory. (i) Unless otherwise directed by the contracting officer, the contractor shall within six months after execution of the contract provide a baseline inventory covering all items of Government property.

(ii) If the contractor is succeeding another contractor in the performance of this contract, the contractor shall conduct a joint reconciliation of the property inventory with the predecessor contractor. The contractor agrees to participate in a joint reconciliation of the property inventory at the completion of this contract. This information will be used to provide a baseline for the succeeding contract as well as information for closeout of the predecessor contract.

(j) The term "contractor's managerial personnel" as used in this clause means the contractor's directors, officers and any of its managers, superintendents, or other equivalent representatives who have supervision or direction of:

(1) All or substantially all of the contractor's business; or

(2) All or substantially all of the contractor's operations at any one facility or separate location to which this contract is being performed; or

(3) A separate and complete major industrial operation in connection with the performance of this contract; or

(4) A separate and complete major construction, alteration, or repair operation in connection with performance of this contract; or

(5) A separate and discrete major task or operation in connection with the performance of this contract.

(k) The contractor shall include this clause in all cost reimbursable subcontracts.

(End of Clause)

CONSTRUCTION CLAUSES

I.140 52.202-1 – Definitions.

As prescribed in Subpart 2.2, insert the following clause:

Definitions (Oct 1995)

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

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

I *"Commercial item"* means –

(1) Any item, other than real property, that is of a type customarily used for nongovernmental purposes and that –

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

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

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

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

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

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

(5) Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in paragraphs I(1), (2), (3), or (4) of this clause, and if the source of such services –

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

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

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

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

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

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

(e) *"Nondevelopmental item"* means –

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

(2) Any item described in paragraph (e)(1) of this definition that requires only minor 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.

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

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

(End of Clause)

Alternate I (Apr 1984). If the contract is for personal services; construction; architect-engineer services; or dismantling, demolition, or removal of improvements, delete paragraph I of the basic clause.

I.141 52.211-10 -- Commencement, Prosecution, and Completion of Work.

As prescribed in 11.404(b), insert the following clause in solicitations and contracts when a fixed-price construction contract is contemplated. The clause may be changed to accommodate the issuance of orders under indefinite-delivery contracts for construction.

Commencement, Prosecution, and Completion of Work (Apr 1984)

The Contractor shall be required to

(a) commence work under this contract within _____ *[Contracting Officer insert number]* 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 time stated for completion shall include final cleanup of the premises.

(End of Clause)

**** The Contracting Officer shall specify either a number of days after the date the contractor receives the notice to proceed, or a calendar date.***

Alternate I (Apr 1984). If the completion date is expressed as a specific calendar date, computed on the basis of the contractor receiving the notice to proceed by a certain day, add the following paragraph to the basic clause:

> The completion date is based on the assumption that the successful offeror will receive the notice to proceed by_____*[Contracting Officer insert date]*. The completion date will be extended by the number of calendar days after the above date that the Contractor receives the notice to proceed, except to the extent that the delay in issuance of the notice to proceed results from the failure of the Contractor to execute the contract and give the required performance and payment bonds within the time specified in the offer.

I.142 52.211-12 -- Liquidated Damages - Construction.

As prescribed in 11.503(b), insert the following clause in solicitations and contracts:

Liquidated Damages -- Construction (Sept 2000)

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of _____ *[Contracting Officer insert amount]* for each calendar day of delay until the work is completed or accepted.

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

(End of Clause)

I.143 52.216-9 -- Fixed Fee - Construction.

As prescribed in 16.307(c), insert the following clause:

Fixed Fee -- Construction (Mar 1997)

(a) The Government shall pay to the Contractor for performing this contract the fixed fee specified in the Schedule.

(b) Payment of the fixed fee shall be made in installments based upon the percentage of completion of the work as determined from estimates submitted to and approved by the Contracting Officer, but subject to the withholding provisions of paragraph (c) of this section.

(c) After the payment of 85 percent of the fixed fee, the Contracting Officer may withhold further payment of fee until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed 15 percent of the total fixed fee or $100,000, whichever is less. The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withholds under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.

(End of Clause)

I.144 52.222-6 -- Davis-Bacon Act.

As prescribed in 22.407(a), insert the following clause:

Davis-Bacon Act (Feb 1995)

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

programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period. Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (b) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(b)

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

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

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

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

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the:

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
Washington, DC 20210

The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including

the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

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

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

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

(End of Clause)

I.145 52.222-7 -- Withholding of Funds.

As prescribed in 22.407(a), insert the following clause:

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)

I.146 52.222-8 -- Payrolls and Basic Records.

As prescribed in 22.407(a), insert the following clause:

Payrolls and Basic Records (Feb 1988)

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

(b)

(1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the --

Superintendent of Documents
U.S. Government Printing Office
Washington, DC 20402

The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

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

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

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

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

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

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

(End of Clause)

I.147 52.222-9 -- Apprentices and Trainees.

As prescribed in 22.407(a), insert the following clause:

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 allow- able 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)

I.148 52.222-10 -- Compliance with Copeland Act Requirements.

As prescribed in 22.407(a), insert the following clause:

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)

I.149 52.222-11 -- Subcontracts (Labor Standards).

As prescribed in 22.407(a), insert the following clause:

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)

I.150 52.222-12 -- Contract Termination - Debarment.

As prescribed in 22.407(a), insert the following clause:

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)

I.151 52.222-13 -- Compliance with Davis-Bacon and Related Act Regulations.

As prescribed in 22.407(a), insert the following clause:

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)

I.152 52.222-14 -- Disputes Concerning Labor Standards.

As prescribed in 22.407(a), insert the following clause:

Disputes Concerning Labor Standards (Feb 1988)

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

(End of Clause)

I.153 52.222-15 -- Certification of Eligibility.

As prescribed in 22.407(a), insert the following clause:

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)

I.154 52.222-20 -- Walsh-Healey Public Contracts Act.

As prescribed in 22.610, insert the following clause in solicitations and contracts covered by the Act:

Walsh-Healey Public Contracts Act (Dec 1996)

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed $10,000, and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C.35-45), the following terms and conditions apply:

(a) All stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.

(b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and handicapped workers may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (41 U.S.C. 40).

(End of Clause)

I.155 52.222-22 -- Previous Contracts and Compliance Reports.

As prescribed in 22.810(a)(2), insert the following provision:

Previous Contracts and Compliance Reports (Feb 1999)

The offeror represents that --

(a) It * has, * has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) It * has, * has not filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(End of Provision)

I.156 52.222-23 – Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction.

As prescribed in 22.810(b), insert the following provision:

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction (Feb 1999)

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

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

Goals for Minority Participation for Each Trade	**Goals for Female Participation for Each Trade**
[Contracting Officer shall insert goals] shall insert goals]	*[Contracting Officer shall insert goals] shall insert goals]*

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

I The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on

(1) its implementation of the Equal Opportunity clause,

(2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction,'' and

(3) its efforts to meet the goals.

The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor, or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

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

(1) Name, address, and telephone number of the subcontractor;
(2) Employer's identification number of the subcontractor;
(3) Estimated dollar amount of the subcontract;
(4) Estimated starting and completion dates of the subcontract; and
(5) Geographical area in which the subcontract is to be performed.

(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is _____ *[Contracting Officer shall insert description of the geographical areas where the contract is to be performed, giving the state, county, and city]*.

(End of Provision)

I.157 52.222-27 -- Affirmative Action Compliance Requirements for Construction.

As prescribed in 22.810(f), insert the following clause:

Affirmative Action Compliance Requirements for Construction (Feb 1999)

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

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

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

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

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

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

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

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

(b) If the Contractor, or a subcontractor at any tier, subcontracts a portion of the work involving any construction trade, each such subcontract in excess of $10,000 shall include this clause and

the Notice containing the goals for minority and female participation stated in the solicitation for this contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) Review, at least annually, the Contractor's equal employment policy and affirmative action obligations with all employees having responsibility for hiring, assignment, layoff, termination, or other employment decisions. Conduct review of this policy with all on-site supervisory personnel before initiating construction work at a job site. A written record

shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

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

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

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

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

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

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

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

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

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

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

be asserted as fulfilling one or more of its obligations under subparagraphs (g)(1) through (16) of this clause, provided the Contractor --

(1) Actively participates in the group;

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

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

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

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

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

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

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

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

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

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

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

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

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

(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)

I.158 52.225-11 - Buy American Act-Balance of Payments Program-Construction Materials under Trade Agreements.

As prescribed in 25.1102(c), insert the following clause:

Buy American Act--Balance of Payments Program--Construction Materials Under Trade Agreements (Feb 2000)

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

"Component" means any article, material, or supply incorporated directly into construction materials.

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

"Cost of components" means--

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

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of

components does not include any costs associated with the manufacture of the end product.

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

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

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

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

"Domestic construction material" means--

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

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

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

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

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

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

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

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

(b) Construction materials.

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

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

(3) The requirement in paragraph (b)(2) of this clause does not apply to the construction materials or components listed by the Government as follows:_____
[*Contracting Officer to list applicable excepted materials or indicate ``none''*]

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

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent. For determination of unreasonable cost under the Balance of Payments Program, the Contracting Officer will use a factor of 50 percent;

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

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

(c) Request for determination of inapplicability of the Buy American Act or Balance of Payments Program.

(1)

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

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

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

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

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

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

Foreign and Domestic Construction Materials Price Comparison

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

Domestic construction material			
Item 2			
Foreign construction material			
Domestic construction material			

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

[*Include other applicable supporting information.*]

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

(End of clause)

I.159 52.225-12 -- Notice of Buy American Act/Balance of Payments Program Requirement-Construction Materials Under Trade Agreements.

As prescribed in 25.1102(d)(1), insert the following provision:

Notice of Buy American Act/Balance of Payments Program Requirement-Construction Materials Under Trade Agreements (Feb 2000)

(a) *Definitions*. "Construction material," "designated country construction material," "domestic construction material," "foreign construction material," and "NAFTA country construction material," as used in this provision, are defined in the clause of this solicitation entitled ``Buy American Act--Balance of Payments Program--Construction Materials under Trade Agreements" (Federal Acquisition Regulation (FAR) clause 52.225-11).

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

(c) *Evaluation of offers*.

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

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

(d) *Alternate offers.*

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

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

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

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

(ii) May be accepted if revised during negotiations.

(End of provision)

I.160 52.225-13 -Restrictions on Certain Foreign Purchases.

As prescribed in 25.1103(a), insert the following clause:

Restriction on Certain Foreign Purchases (Jul 2000)

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

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

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

(End of clause)

I.161 52.227-4 -- Patent Indemnity -- Construction Contracts.

As prescribed at 27.203-5, insert the following clause:

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)

I.162 52.229-4 -- Federal, State, and Local Taxes (Noncompetitive Contract).

As prescribed in 29.401-4, insert the following clause:

Federal, State, and Local Taxes (Noncompetitive Contract (Jan 1991)

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

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

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

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

"Excepted tax," as used in this clause, means social security or other employment taxes, net income and franchise taxes, excess profits taxes, capital stock taxes, transportation taxes, unemployment compensation taxes, and property taxes. "Excepted tax" does not include gross income taxes levied on or measured by sales or receipts from sales, property taxes assessed on completed supplies covered by this contract, or any tax assessed on the

Contractor's possession of, interest in, or use of property, title to which is in the Government.

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

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

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

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

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

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

(h) The Government shall furnish evidence appropriate to establish exemption from any Federal, State, or local tax when --

(1) The Contractor requests such exemption and states in writing that it applies to a tax excluded from the contract price; and

(2) A reasonable basis exists to sustain the exemption.

(End of Clause)

I.163 52.229-5 -- Taxes -- Contracts Performed in U.S. -- Possessions or Puerto Rico.

As prescribed in 29.401-5, insert the following clause in solicitations and contracts that include the clause at 52.229-3, Federal, State, and Local Taxes, or 52.229-4, Federal, State, and Local Taxes (Noncompetitive Contract):

Taxes -- Contracts Performed in U.S. Possessions or Puerto Rico (Apr 1984)

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

(End of Clause)

I.164 52.232-27 -- Prompt Payment for Construction Contracts.

As prescribed in 32.908(b), insert the following clause:

Prompt Payment for Construction Contracts (Jun 1997)

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 subdivisions (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 subdivision (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 subdivisions (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 subdivision (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 *[insert day as prescribed by Agency head; if not prescribed, insert 30th day]* 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 subdivision (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 subdivision (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 subdivision (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)

I.165 52.236-1 -- Performance of Work by the Contractor.

As prescribed in 36.501(b), insert the following clause in solicitations and contracts when a fixed-price construction contract is contemplated and the contract amount is expected to exceed $1,000,000. The Contracting Officer may insert the clause in solicitations and contracts when a fixed-price construction contract is contemplated and the contract amount is expected to be $1,000,000 or less. Complete the clause by inserting the appropriate percentage consistent with the complexity and magnitude of the work and customary or necessary specialty subcontracting (see 36.501(a)).

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 _____ *[insert the appropriate number in words followed by numerals in parentheses]* 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)

I.166 52.236-2 -- Differing Site Conditions.

As prescribed in 36.502, insert the following clause:

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 paragraph (a) of this clause 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)

I.167 52.236-3 -- Site Investigation and Conditions Affecting the Work.

As prescribed in 36.503, insert the following clause:

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)

I.168 52.236-4 -- Physical Data.

As prescribed in 36.504, insert the following clause in solicitations and contracts when a fixed-price construction contract is contemplated and physical data (e.g., test borings, hydrographic, weather conditions data) will be furnished or made available to offerors. All information to be furnished or made available to offerors before award that pertains to the performance of the work should be identified in the clause. When subparagraphs are not applicable they may be deleted.

Physical Data (Apr 1984)

Data and information furnished or referred to below is for the Contractor's information. The Government shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor.

(a) The indications of physical conditions on the drawings and in the specifications are the result of site investigations by _____ *[insert a description of investigational methods used, such as surveys, auger borings, core borings, test pits, probings, test tunnels]*.

(b) Weather conditions _____ *[insert a summary of weather records and warnings]*.

(c) Transportation facilities _____ *[insert a summary of transportation facilities providing access from the site, including information about their availability and limitations]*.

(d) _____ *[insert other pertinent information]*.

(End of Clause)

I.169 52.236-5 -- Material and Workmanship.

As prescribed in 36.505, insert the following clause:

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)

I.170 52.236-6 -- Superintendence by the Contractor.

As prescribed in 36.506, insert the following clause:

Superintendence by the Contractor (Apr 1984)

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the worksite a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

(End of Clause)

I.171 52.236-8 -- Other Contracts.

As prescribed in 36.508, insert the following clause:

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)

I.172 52.236-9 -- Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements.

As prescribed in 36.509, insert the following clause:

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)

I.173 52.236-10 -- Operations and Storage Areas.

As prescribed in 36.510, insert the following clause:

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)

I.174 52.236-11 -- Use and Possession Prior to Completion.

As prescribed in 36.511, insert the following clause:

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)

I.175 52.236-12 -- Cleaning Up.

As prescribed in 36.512, insert the following clause:

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)

I.176 52.236-13 -- Accident Prevention.

As prescribed in 36.513, insert the following clause:

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)

I.177 52.236-14 -- Availability and Use of Utility Services.

As prescribed in 36.514, insert the following clause in solicitations and contracts when a fixed-price construction contract or a fixed-price dismantling, demolition, or removal of improvements contract is contemplated, the contract is to be performed on Government sites when the contracting officer decides

(a) that the existing utility system is adequate for the needs of both the Government and the contractor, and

(b) furnishing it is in the Government's interest. When this clause is used, the contracting officer shall list the available utilities in the contract.

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)

I.178 52.236-17 -- Layout of Work.

As prescribed in 36.517, insert the following clause in solicitations and contracts when a fixed-price construction contract is contemplated and use of this clause is appropriate due to a need for accurate work layout and for siting verification during work performance:

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)

I.179 52.236-18 -- Work Oversight in Cost-Reimbursement Construction Contracts.

As prescribed in 36.518, insert the following clause in solicitations and contracts when cost-reimbursement construction contracts are contemplated:

Work Oversight in Cost-Reimbursement Construction Contracts (Apr 1984)

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

(End of Clause)

I.180 52.236-19 -- Organization and Direction of the Work.

As prescribed in 36.519, insert the following clause in solicitations and contracts when a cost-reimbursement construction contract is contemplated:

Organization and Direction of the Work (Apr 1984)

(a) When this contract is executed, the Contractor shall submit to the Contracting Officer a chart showing the general executive and administrative organization, the personnel to be employed in connection with the work under this contract, and their respective duties. The Contractor shall keep the data furnished current by supplementing it as additional information becomes available.

(b) Work performance under this contract shall be under the full-time resident direction of

(1) the Contractor, if the Contractor is an individual;

(2) one or more principal partners, if the Contractor is a partnership; or

(3) one or more senior officers, if Contractor is a corporation, association, or similar legal entity.

However, if the Contracting Officer approves, the Contractor may be represented in the direction of the work by a specific person or persons holding positions other than those identified in this paragraph.

(End of Clause)

I.181 52.236-21 -- Specifications and Drawings for Construction.

As prescribed in 36.521, insert the following clause:

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)

I.182 52.242-14 -- Suspension of Work.

As prescribed in 42.1305(a), insert the following clause in solicitations and contracts when a fixed-price construction or architect-engineer contract is contemplated:

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)

I.185 52.243-2 -- Changes -- Cost-Reimbursement.

As prescribed in 43.205(b)(1), insert the following clause. The 30-day period may be varied according to agency procedures.

Changes -- Cost-Reimbursement (Aug. 1987)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.

(2) Method of shipment or packing.

(3) Place of delivery.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the Contracting Officer shall make an equitable adjustment in the --

(1) Estimated cost, delivery or completion schedule, or both;
(2) Amount of any fixed fee; and
(3) Other affected terms and shall modify the contract accordingly.

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

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

(e) Notwithstanding the terms and conditions of paragraphs (a) and (b) above, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance of this contract, shall not be increased or considered to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. Until this modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point established in the Limitation of Cost or Limitation of Funds clause of this contract.

(End of Clause)

Alternate III (Apr 1984). If the requirement is for construction, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the plans and specifications or instructions incorporated in the contract.

I.184 52.243-4 - Changes.

As prescribed in 43.205(d), insert the following clause: The 30-day period may be varied according to agency procedures.

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)

I.185 52.245-2 -- Government Property (Fixed-Price Contracts).

[see Dod deviation below, Alternates I and II]

As prescribed in 45.106(b)(1), insert the following clause:

Government Property (Fixed-Price Contracts) (Dec 1989)

(a) *Government-furnished property.*

(1) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the Government-furnished property described in the Schedule or specifications together with any related data and information that the Contractor may request and is reasonably required for the intended use of the property (hereinafter referred to as "Government-furnished property").

(2) The delivery or performance dates for this contract are based upon the expectation that Government-furnished property suitable for use (except for property furnished "as is") will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.

(3) If Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt of it, notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either repair, modify, return, or otherwise dispose of the property. After completing the directed action and upon written request of the Contractor, the Contracting Officer shall make an equitable adjustment as provided in paragraph (h) of this clause.

(4) If Government-furnished property is not delivered to the Contractor by the required time, the Contracting Officer shall, upon the Contractor's timely written request, make a determination of the delay, if any, caused

the Contractor and shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(b) *Changes in Government-furnished property.*

(1) The Contracting Officer may, by written notice,

(i) decrease the Government-furnished property provided or to be provided under this contract, or

(ii) substitute other Government-furnished property for the property to be provided by the Government, or to be acquired by the Contractor for the Government, under this contract.

The Contractor shall promptly take such action as the Contracting Officer may direct regarding the removal, shipment, or disposal of the property covered by such notice.

(2) Upon the Contractor's written request, the Contracting Officer shall make an equitable adjustment to the contract in accordance with paragraph (h) of this clause, if the Government has agreed in the Schedule to make the property available for performing this contract and there is any --

(i) Decrease or substitution in this property pursuant to subparagraph (b)(1) of this clause; or

(ii) Withdrawal of authority to use this property, if provided under any other contract or lease.

(c) *Title in Government property*.

(1) The Government shall retain title to all Government-furnished property.

(2) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. However, special tooling accountable to this contract is subject to the provisions of the Special Tooling clause and is not subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(3) Title to each item of facilities and special test equipment acquired by the Contractor for the Government under this contract shall pass to and vest in the Government when its use in performing this contract

commences or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.

(4) If this contract contains a provision directing the Contractor to purchase material for which the Government will reimburse the Contractor as a direct item of cost under this contract --

(i) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and

(ii) Title to all other material shall pass to and vest in the Government upon --

(A) Issuance of the material for use in contract performance;

(B) Commencement of processing of the material or its use in contract performance; or

(C) Reimbursement of the cost of the material by the Government, whichever occurs first.

(d) *Use of Government property*. The Government property shall be used only for performing this contract, unless otherwise provided in this contract or approved by the Contracting Officer.

(e) *Property administration*.

(1) The Contractor shall be responsible and accountable for all Government property provided under this contract and shall comply with Federal Acquisition Regulation (FAR) Subpart 45.5, as in effect on the date of this contract.

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound industrial practice and the applicable provisions of Subpart 45.5 of the FAR.

(3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot effect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(4) The Contractor represents that the contract price does not include any amount for repairs or replacement for which the Government is responsible. Repair or replacement of property for which the Contractor is responsible shall be accomplished by the Contractor at its own expense.

(f) *Access*. The Government and all its designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.

(g) *Risk of loss*. Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or destruction of, or damage to, Government property upon its delivery to the Contractor or upon passage of title to the Government under paragraph (c) of this clause. However, the Contractor is not responsible for reasonable wear and tear to Government property or for Government property properly consumed in performing this contract.

(h) *Equitable adjustment*. When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the Government. The right to an equitable adjustment shall be the Contractor's exclusive remedy. The Government shall not be liable to suit for breach of contract for --

(1) Any delay in delivery of Government-furnished property;

(2) Delivery of Government-furnished property in a condition not suitable for its intended use;

(3) A decrease in or substitution of Government-furnished property; or

(4) Failure to repair or replace Government property for which the Government is responsible.

(i) *Final accounting and disposition of Government property*. Upon completing this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government property (including any resulting scrap) not consumed in performing this contract or delivered to the Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to the Government as the Contracting Officer directs.

(j) *Abandonment and restoration of Contractor's premises*. Unless otherwise provided herein, the Government --

(1) May abandon any Government property in place, at which time all obligations of the Government regarding such abandoned property shall cease; and

(2) Has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or upon contract completion). However, if the Government-furnished property (listed in the Schedule or specifications) is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.

(k) *Communications.* All communications under this clause shall be in writing.

(l) *Overseas contracts*. If this contract is to be performed outside of the United States of America, its territories, or possessions, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

(End of Clause)

I.186 52.245-3 -- Identification of Government-Furnished Property.

As prescribed in 45.106(c), insert the following clause, in addition to the clause at 52.245-2, Government Property (Fixed-Price Contracts), in solicitations and contracts when a fixed-price construction contract is contemplated under which the Government is to furnish Government property f.o.b. railroad cars at a specified destination or f.o.b. truck at the project site. The contract Schedule shall specify the point of delivery and may include special terms and conditions covering installation, preparation for operation, or equipment testing by the Government or by another contractor.

Identification of Government-Furnished Property (Apr 1984)

(a) The Government will furnish to the Contractor the property identified in the Schedule to be incorporated or installed into the work or used in performing the contract. The listed property will be furnished f.o.b. railroad cars at the place specified in the contract Schedule or f.o.b. truck at the project site. The Contractor is required to accept delivery, pay any demurrage or detention charges, and unload and transport the property to the job site at its own expense. When the property is delivered, the Contractor shall verify its quantity and condition and acknowledge receipt in writing to the Contracting Officer. The Contractor shall also report in writing to the Contracting Officer within 24 hours of delivery any damage to or shortage of the property as received. All such property shall be installed or incorporated into the work at the expense of the Contractor, unless otherwise indicated in this contract.

(b) Each item of property to be furnished under this clause shall be identified in the Schedule by quantity, item, and description.

(End of Clause)

I.187 52.245-18 -- Special Test Equipment.

As prescribed in 45.307-3, insert the following clause:

Special Test Equipment (Feb 1993)

(a) *"Special test equipment,"* as used in this clause, means either single or multipurpose integrated test units engineered, designed, fabricated, or modified to accomplish special purpose testing in performing a contract. It consists of items or assemblies of equipment, including standard or general purpose items or components, that are interconnected and interdependent so as to become a new functional entity for special testing purposes. It does not include material, special tooling, facilities (except foundations and similar improvements necessary for installing special test equipment), and plant equipment items used for general plant testing purposes.

(b) The Contractor may either acquire or fabricate special test equipment at Government expense when the equipment is not otherwise itemized in this contract and the prior approval of the Contracting Officer has been obtained. The Contractor shall provide the Contracting Officer with a written notice, at least 30 days in advance, of the Contractor's intention to acquire or fabricate the special test equipment. As a minimum, the notice shall also include an estimated aggregate cost of all items and components of the equipment the individual cost of which is less than $5,000, and the following information on each item or component of equipment costing $5,000 or more:

(1) The end use application and function of each proposed special test unit, identifying special characteristics and the reasons for the classification of the test unit as special test equipment.

(2) A complete description identifying the items to be acquired and the items to be fabricated by the Contractor.

(3) The estimated cost of the item of special test equipment or component.

(4) A statement that intra-plant screening of Contractor and Government-owned special test equipment and components has been accomplished and that none are available for use in performing this contract.

(c) The Government may furnish any special test equipment or components rather than approve their acquisition or fabrication by the Contractor. Such Government-furnished items shall be subject to the Government Property clause, except that the Government shall not be obligated to deliver such items any sooner than the Contractor could have acquired or fabricated them after expiration of the 30-day

notice period in paragraph (b) of this clause. However, unless the Government notifies the Contractor of its decision to furnish the items within the 30-day notice period, the Contractor may proceed to acquire or fabricate the equipment or components subject to any other applicable provisions of this contract.

(d) The Contractor shall, in any subcontract that provides that special test equipment or components may be acquired or fabricated for the Government, insert provisions that conform substantially to the language of this clause, including this paragraph (d). The Contractor shall furnish the names of such subcontractors to the Contracting Officer.

(e) If an engineering change requires either the acquisition or fabrication of new special test equipment or substantial modification of existing special test equipment, the Contractor shall comply with paragraph (b) above. In so complying, the Contractor shall identify the change order which requires the proposed acquisition, fabrication, or modification.

(End of Clause)

I.188 52.249-2 -- Termination for Convenience of the Government (Fixed-Price).

As prescribed in 49.502(b)(1)(i), insert the following clause:

Termination for Convenience of the Government (Fixed-Price) (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 the Contracting Officer fail to agree on the whole amount to be paid because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (f) of this clause:

(1) The contract price for completed supplies or services accepted by the Government (or sold or acquired under subparagraph (b)(9) of this clause) not previously paid for, adjusted for any saving of freight and other charges.

(2) The total of --

(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (g)(1) of this clause;

(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)(2)(i) of this clause; and

(iii) A sum, as profit on subdivision (g)(2)(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 (g)(2)(iii) and shall reduce the settlement to reflect the indicated rate of loss.

(3) 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)

Alternate I (Sep 1996). If the contract is for construction, substitute the following paragraph (g) for paragraph (g) of the basic clause:

(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 (g)(1)(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.

I.189 52.249-10 -- Default (Fixed-Price Construction).

As prescribed in 49.504(c)(1), insert the following clause:

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)

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE OF PAGES
	1 | 168

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. *(If applicable)*
M030	See Block 16C		

6. ISSUED BY CODE

U. S. Department of Energy
Office of River Protection
P. O. Box 450, MS H6-60
Richland, WA 99352

7. ADMINISTERED BY *(If other than item 6)* CODE

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, county, State and ZIP Code)*

CH2M HILL Hanford Group, Inc.
PO Box 1500
Richland, WA 99352

CODE | FACILITY CODE

(ğ) 9A. AMENDMENT OF SOLICITATION NO.

9B. DATED (SEE ITEM 11)

ğ 10A. MODIFICATION OF CONTRACT/ORDER NO. DE-AC27-99RL14047

10B. DATED (SEE ITEM 13) September 30, 1999

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

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

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

12. ACCOUNTING AND APPROPRIATION DATA *(if required)*
$0.00 N/A

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

(ğ)

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).

ğ C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
Mutual agreement, and Section F, Clause F.3 "Option to Extend the Term of the Contract (Modification A000)"

D. OTHER *(Specify type of modification and authority)*

E. IMPORTANT: Contractor ☐ is ☐ not, ☒ is required to sign and return 2 copies to the issuing office.

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

The purpose of this contract modification is to exercise the Government's option to extend the term of the contract, and replaces in their entirety Sections B through I, and Section J, Appendices A through C, and Appendices E through H, of the existing contract, with the attached Sections B through I, and Section J, Appendices A through C, and Appendices E through H. The existing cover page of Section J, Appendix D, is replaced by the attached Section J, Appendix D cover page. This modification also incorporates the attached Performance Incentives and Table D-1 into the contract at Section J, Appendix D. The attached performance incentives are effective as of October 1, 2000. All remaining provisions of this modification are effective as of the date in Block 16C. In addition, there is no change to the existing Section J, Appendices I, J, and K. See attached.

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)*	
Mary P. DeLozier, President and General Manager		Harry L. Boston, Manager	
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA BY	16C. DATE SIGNED
(Signature of person authorized to sign)		*(Signature of Contracting Officer)*	

PART I – THE SCHEDULE
SECTION B
SUPPLIES OR SERVICES AND PRICES/COSTS

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PART I – THE SCHEDULE
SECTION B
SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 SERVICES BEING ACQUIRED

The Contractor shall be responsible for planning, managing, and executing the U.S. Department of Energy (DOE) Office of River Protection (DOE-ORP) River Protection Project (RPP) operations, projects, and other activities as described in Section C, Statement of Work, of this Contract.

B.2 OBLIGATION OF FUNDS

Pursuant to the Section I Clause entitled, *Obligation of Funds*, the total amount obligated by the Government with respect to this Contract is $222,405,775.33.

B.3 ESTIMATED COST AND FEE

The estimated cost of the Contract is the total Budget Authority (BA) provided to the Contractor from October 1, 1999, through September 30, 2000, ($404,392,374.76), plus the estimated new BA of $2,197,700,000 for the period October 1, 2000, through September 30, 2006, for an estimated total of $2,602,092,374.76.

The estimated BA for fiscal year (FY) 2001 through FY 2006 is set forth in Table B-1. The BA includes Contractor Available Fee Pool, but excludes the DOE controlled budgetary accounts "Safeguards and Security Assessments," "Headquarters Assessments," and "DOE-ORP Support Accounts."

BA set forth in Table B-1 is an estimate until the BA is formally provided to the Contractor at or near the beginning of each fiscal year.

If the estimated total BA for the baseline work for a fiscal year as set forth in Table B-1 varies from the actual funding by more than plus or minus 10%, or the complexity of the work scope changes significantly, the Contracting Officer may adjust the table (BA and Fee), for that year. The Fee adjustment shall be based on the fee curves and fee policy contained in the Department of Energy Acquisition Regulations (DEAR).

Unearned fee that is not forfeited for failure to meet contract or performance-based incentive requirements shall be accrued, if appropriate, or recorded as a commitment.

Table B-1
Estimated Budget Authority for Fiscal Years 2001-2006

($ in millions)							
	FY01	FY02	FY03	FY04	FY05	FY06	Total
New BA (Includes Fee)	$402.7	$355	$360	$360	$360	$360	$2,197.7
Fee	$19.8	$17.1	$17.3	$17.3	$17.3	$17.3	$106.1

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B.4 AVAILABILITY OF APPROPRIATED FUNDS

The duties and obligations of the Government calling for the expenditure of appropriated funds shall be subject to the availability of funds appropriated by the United States Congress, which the DOE may legally spend for authorized purposes. Any work performed beyond the funds obligated and/or performed without the written consent of the Contracting Officer shall be at the Contractor's own risk.

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PART I - THE SCHEDULE
SECTION C
STATEMENT OF WORK

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PART I - THE SCHEDULE
SECTION C
STATEMENT OF WORK

C.1 SUMMARY DESCRIPTION OF WORK

The Hanford Site has two major missions: (1) cleanup, and (2) science and technology. There are two major Office of Environmental Management (EM) programs associated with cleanup. The first is the River Protection Project (RPP), which entails cleanup of Hanford Site high- level waste (HLW), and is managed by the U.S. Department of Energy (DOE) Office of River Protection (DOE-ORP). The second is Project Hanford, which entails cleanup of the remainder of the Hanford Site, and is managed by the DOE Richland Operations Office (RL). The RPP will execute its workscope as part of the Hanford Waste Treatment Complex (HWTC) to treat and disposition Hanford Site HLW.

RPP is composed of two major scopes of work performed by two separate contractors. CH2M HILL Hanford Group, Inc ("Contractor") shall be responsible for planning, managing, and executing the Tank Farm Contract (TFC) projects, operations, and other activities as described in more detail in Section C.3, *River Protection Project -Technical Scope*, of this Statement of Work. The Hanford Waste Treatment and Immobilization Plant (WTP) contractor will design, construct and commence operations of the WTP for treating the tank farm waste.

The Contractor shall be responsible for interfacing and coordinating with other Hanford Site prime contractors in the performance of this work. Contractor shall ensure that requirements for services provided by Contractor to other Hanford Site contractors and received from other site contractors are integrated with other Hanford Site contractors and provided for in the Baseline identified in Section H Clause entitled, *Project Controls*. The Contractor shall establish appropriate arrangements with other Hanford Site prime contractors for the tasking and incentivization of work, consistent with the approved Hanford Site Services Manual.

The Contractor shall conduct business at the Hanford Site consistent with the following outcomes, which flow from the Hanford Strategic Plan.

- Maintain Tank Farms waste and infrastructure in a safe and stable configuration.
- Retrieve tank wastes to the extent needed for tank closure and deliver to the WTP contractor for treatment and immobilization.
- The immobilized low-activity waste (ILAW) fraction will be disposed onsite in a 200 Area disposal system.
- The immobilized high-level waste (IHLW) fraction will be interim stored until it can be shipped offsite for disposal (planned for the Yucca Mountain geologic repository).
- Incorporate the cesium/strontium capsules declared as waste into the HLW process for repository disposal.
- Efficiently and cost effectively close all Hanford Tank Farms.

Success in achieving these outcomes shall consider the following factors:

- Protection of worker safety and health, public safety and health, and the environment;
- Leadership and management effectiveness (Operations Management);
- Management responsiveness to customers (Customer Service);
- Responsive communications with external and internal Hanford customers; and
- Proficient partnering with other Hanford Site prime contractors.

Specific performance objectives, measures, and expectations are detailed in Section J, Appendix D, *Performance Based Incentives*, and Section C.3, *River Protection Project – Technical Scope*.

The Contractor shall integrate safety and environmental awareness into all activities, including those of subcontractors at all levels consistent with Integrated Safety Management principles. Work must be accomplished in a manner that achieves high levels of quality, protects the environment, the safety and health of workers and the public, and complies with requirements. The Contractor shall identify hazards, manage risks, identify and implement good management practices, and make continued improvements in environment, safety, health, and quality (ESH&Q) performance.

The Contractor shall seek ways to streamline work processes by the use of necessary and sufficient standards and requirements. This includes requesting relief in the form of exemptions from requirements when appropriate, such as when the cost of the requirement will exceed its expected benefits.

The Contractor shall furnish, or cause to be furnished, all personnel, facilities, equipment, material, supplies, and services (except as may be expressly set forth in this contract as furnished by the Government), and otherwise do all things necessary for, or incident to, providing its best efforts so as to carry out in an efficient and effective manner all necessary work set forth in this Contract.

This Contract is intended to perform work necessary to reduce the potential risk to the public and the environment from the HLW on the Hanford Site. It is also intended to meet the DOE legal obligations and commitments in carrying out this work. DOE is in the process of modifying commitments with its regulators to better assure protection of the public and the environment. The work scope in this Contract is intended to meet ongoing changes and commitments with the regulators, as of the effective date of this contract extension. This Contract will be changed as required to assure that applicable legal obligations and commitments will be met.

The work scope of this Contract will be performed for the specified annual funding in Section B, *Supplies or Services and Prices/Costs*. Upon entering into this Contract the estimated Budgeted Cost of Work Scheduled (BCWS) is in excess of the total funding committed to in Section B. The Contractor is incentivized to perform the full work scope of this Contract, as set forth in the TFC Baseline, for the specified funding by planning and performing work more efficiently. The work scope of this Contract is incentivized such that Contractor fee is at risk if the scope of work is not performed as agreed.

C.2 MANAGEMENT WORKSCOPE

(a) Project Planning

The Contractor shall:

(1) Perform planning based on the requirements, interfaces, endpoint targets and performance objectives provided in DOE guidance. This planning activity shall utilize systems engineering techniques assuring that the Contractor's workscope is integrated. The Contractor shall support required revisions of the Hanford Strategic Plan and will participate with other DOE prime contractors, regulators, stakeholders, and customers in strategic situation analysis, integrated baseline development discussions and issue definition, and resolution. This planning shall look beyond the period of this contract to the life-cycle of RPP projects.

(2) Complete and maintain an integrated life-cycle baseline which reflects: (a) technical scope of work specified in this Contract, (b) project/program schedules with critical paths identified, and (c) a validated cost profile based on a resource-loaded schedule. The Contractor shall use industry-proven methodology, which will interface with DOE specific management information systems, in the preparation of this technical, schedule and cost baseline. The Baseline shall be the basis for budget development, input to risk analysis, and prioritization of

work. The Baseline shall be developed and implemented in the Contractor's management system and shall be linked to the WTP contractor baselines to provide an integrated RPP baseline. Specifically, the Contractor shall:

(i) Organize the technical scope of work to be planned, managed, integrated, and reported using conventional project management techniques. The Contractor shall develop and use a Work Breakdown Structure (WBS), which will align with the DOE-ORP WBS.

(ii) Implement a systems engineering process, which supports the management and integration of workscope activities. The Contractor shall describe its approach to systems engineering in a Systems Engineering Management Plan as required in Section J, Appendix E, *Guidance for Other Required Plans*. The Contractors' selected approach to systems engineering should be based on best industry practices and should utilize a graded approach, as necessary.

(iii) Develop and implement a risk management process, which supports the management and integration activities under the authority of the Contract. The Contractor shall describe the approach to risk management specifically in the Risk Management Plan as required in Section J, Appendix E, *Guidance for Other Required Plans*.

(iv) Use a "graded approach" to determine applicable sets of requirements for use in design, management and operation of the individual facilities, and execution of projects and programs, with due consideration for industry standards, elimination of redundant requirements, value added, and the level of risk associated with each facility or program.

(v) Incorporate the requirements of the *National Environmental Policy Act of 1969* (NEPA) into the planning process for activities covered in this Contract.

(vi) Provide support to DOE-ORP planning and integration activities. Conduct studies and analyses of RPP/Hanford systems and information, which supports DOE-ORP internal and external management needs. The Contractor shall provide support in: 1) corporate strategic planning, 2) policy development, 3) management information systems, and 4) baseline management and reporting. Studies and analyses include identification and development in conjunction with DOE of breakthroughs that significantly improve baseline performance and lifecycle costs or improve work processes.

(vii) Provide operational and constructability review support to DOE for WTP design and permitting. Operational reviews will provide operations experts to assess documentation to assure long term operability, reliability and maintainability of the WTP

(viii) Provide support for review of TFC planning and operations by both internal (DOE-ORP) and external (DOE-Headquarters, Inspector General, Defense Nuclear Facilities Safety Board, U.S Environmental Protection Agency, Washington State Department of Ecology, etc.) agencies. This will include resolution of issues and concerns following a review.

(ix) Revise the existing RPP Baseline to reflect changes made by this Contract and work with the WTP contractor and DOE-ORP to resolve schedule discrepancies. The revised baseline shall contain sufficient levels of detail to promote understanding of the logical sequence of major DOE-ORP, WTP, and TFC activities and identify all major interfaces between performing organizations. The revised RPP Baseline shall be delivered to DOE-ORP by May 15, 2001, and contain a level of detail similar to that in the Expanded Management Summary Schedule, Revision 0, and be consistent with WTP Contractor Deliverables 1.2, *Project Execution Plan*, and 1.5, *WTP Project Baseline* (Table C5.1-1) of Contract No. DE-AC27-01RV14136. Integrate updated WTP construction and operations schedules into the RPP Baseline and resolve all logic flaws, and then deliver the revised RPP Baseline and supporting TFC baseline information to DOE-ORP by September 1, 2001. The RPP Baseline will be maintained, revised, and updated, if needed, annually. The Contractor shall provide the supporting TFC baseline package to DOE-ORP each year on March 1st, fully integrated with the WTP contractor and supporting other Hanford contractor baseline packages. By December 15 of each year, the Contractor shall provide to DOE-ORP the appropriate allocation of funds for the next fiscal year by PBS and by line item.

(3) Translate specific fiscal year guidance from the Contracting Officer into direction for updating project baselines. DOE-ORP must approve the baselines and the supporting documentation before the Contracting Officer authorizes the commencement of work.

(b) Management System

The Contractor is responsible to have systems which are managerially and financially in control for its own and other Hanford Site work as required by DOE. In furtherance of this, the Contractor shall:

(1) Establish and maintain management systems to ensure that the Contract work is managed in a business-like manner to promote integration, enhance customer and stakeholder confidence, provide accurate and timely information for proactive decision-making, and ensure worker and public safety and protection of the environment. Systems and methodologies shall be established to identify, evaluate, and manage risks, and establish priorities based on project life-cycle considerations.

(2) Obtain, integrate, analyze, report, and maintain appropriate and accurate TFC information to support DOE in the integration and management of the Hanford Site. This information includes, but is not limited to, data critical to effective management of the Hanford Site such as movement of wastes on or off the site, compliance with regulatory action assignments, or utilization of site services.

(3) Develop and maintain a management system, which reflects appropriate and accurate information to control, evaluate, and integrate project/mission management. This system shall reflect the following:

(i) Management, control, and reporting of technical, schedule, cost, and financial elements of the TFC life-cycle baseline and the supporting project execution plans, as required by the Earned Value Management System clause of this contract, including:

(A) Appropriate change control processes, which ensure documentation of all monitored elements of the baseline, are maintained up-to-date. This includes the configuration baseline of all technical systems and structures, and includes revision to the baseline and critical path as appropriate upon approval of changes.

(B) Tracking and measuring tools to provide DOE-ORP continual assessment of Contractor performance against the baseline;

(C) Tools which allow the evaluation of the consequences (technical, cost, and schedule) of new information, alternative activities, and/or new financial scenarios;

(D) Estimating procedures based on proven commercial techniques, such as activity-based cost estimating and benchmarking against industry standards, providing DOE-ORP with cost estimates, which can be independently validated;

(E) Cost accounting practices used for accumulating and reporting costs shall be consistent with those used in estimating costs for work under the contract, and as such, amenable to the same validation as above;

(ii) Provide DOE-ORP with appropriate integrated financial, schedule, and critical path analysis, and activity tracking data to effectively manage the baseline(s) through automated reporting emphasizing performance measurements, change control, and trending data. This system shall support DOE ability to both control and report direct and indirect costs in a manner satisfactory to DOE.

(iii) Maintain flexible information systems compatible with DOE information systems, including reporting, budget, and financial systems, and allow efficient data interchange among site contractors and DOE. This includes compatibility with DOE Integrated Planning, Accountability, and Budgeting System-Information System.

(iv) Create the ability to accommodate electronic transfer of data between a diverse set of hardware, software, and communications platforms. Use standard data definitions, time schedules, and rules for the provision of information to the Management Information System (MIS) to ensure accuracy and consistency. All data and information provided to DOE relating to the Contractor or the subcontractors shall be prepared using common and consistent definitions, principles, and methodologies (e.g., Full-Time Equivalent [FTE] employees).

(v) Use a centralized system of reporting unusual occurrences, near misses, environmental events, safety events, etc., and ensure that lessons learned from such occurrences are provided to DOE, the Contractor, and subcontractor workforces as defined in Section C.2.(d)(1)(e).

(vi) Maintain comprehensive management and technical oversight and corrective action programs, including tracking of issues and lessons-learned program effectiveness.

(4) Establish an RPP configuration management system based on industry consensus standards, which with other management tools, such as change control, assures a sound technical basis for the TFC life-cycle baselines.

(5) Provide to DOE via a computerized file, periodic accounting entries regarding government property acquisitions, dispositions, and monthly depreciation charges. These entries shall provide consistent information and allow reconciliation of the Contractor's detailed property records.

(6) Participate in the management of interfaces between the Contractor and any other RPP or Hanford Site organization and provide ORP with information and notification on all interface activities. The Contractor shall provide the resources needed to fully participate in the interface management process for the RPP. The Contractor shall also fully participate in the preparation for interface management activities that may occur beyond the period of contract performance.

Interface Documents will specifically be developed and maintained to define interface agreements among the parties involved with the interfaces. The Contractor shall comply with the interface agreements reached with them and shall utilize the approved change control processes to obtain changes to the interface documents. The Contractor shall recognize the DOE role as owner and as the final decision authority for any interface issues that are not resolved between the parties. Applicable Interface Document requirements associated with these agreements will also be incorporated into the TFC baseline.

(7) Participate in the development of interfaces between the Contractor and WTP contractor to: 1) establish the physical and administrative interfaces, 2) develop any delivery requirements and acceptance criteria at the point of transition, 3) provide the necessary Contractor contributions to all Interface Control Documents that control each interface, and 4) provide necessary services and utilities.

(c) <u>Manage and Integrate Resources</u>

The Contractor shall manage and integrate its resources for optimal achievement of outcomes set forth in Section C.1 above. In furtherance of this, the Contractor shall:

(1) Support the annual budget submission process by working with DOE and other prime contractors to develop budget formulation documentation. The Contractor shall prepare documentation for its own work activities. Support to DOE during this process shall include but is not limited to assisting DOE to:

(i) Develop project budget data.
(ii) Prepare budget justification analyses and budget scenario studies.
(iii) Provide support to all crosscutting budget formulation documents (i.e., ESH&Q, Information Resources Management, etc.).
(iv) Obtain regulator and other stakeholder participation in budget development, including assistance in response to stakeholder and regulator inquiries.

(2) Provide leadership, project, and personnel management skills necessary to ensure compliance with the RPP goals and the *Hanford Federal Facility Agreement and Consent Order* (also known as the Tri-Party Agreement or TPA), and to motivate the workforce to:

(i) Achieve quality work performance;
(ii) Mandate attention to worker and public safety and health, environmental protection, and the tenets of Conduct of Operations; and,
(iii) Be fiscally and ethically responsible in the management of government and public resources, including property, equipment, funds, and time.

(3) Use the existing "People Core" system at the Hanford Site to enhance human resources functions sitewide.

(4) Continually "right-size" its own workforce and that of its subcontractors to have the size of workforce equal to that necessary to accomplish the authorized workscope.

(5) Resolve employee concerns (including complaints on harassment, intimidation, retaliation, and discrimination) at the appropriate level. The Contractor shall support and provide cooperative membership in an approved “appeals avenue/forum” for resolving significant employee concerns (i.e., environmental, safety, health, and quality). The Contractor shall review and make recommendations to DOE to make the charter/process consistent with this Contract. The continued need for the “appeals avenue/forum” shall be reviewed annually and a recommendation submitted to DOE for discussion.

(6) Continually promote diversity in all aspects of the work under this Contract. An updated revision to the Diversity Plan, as set forth in Section J, Appendix G, *Guidance for Preparation of Diversity Plan*, shall be submitted to DOE-ORP for review and approval by February 1, 2001, and will be updated annually, thereafter.

(7) Provide an independent internal audit capability to review its activities and those of its subcontractors. An updated revision to the Internal Audit Plan as set forth in Section J, Appendix E, *Guidance for Other Required Plans* shall be submitted to ORP for approval by February 1, 2001, and updated annually thereafter.

(d) <u>Environment, Safety, Health and Quality (ESH&Q)</u>

(1) The Contractor shall establish an Integrated Safety Management System (ISMS), in compliance with the Section I Clauses entitled, *Integration of Environment, Safety and Health into Work Planning and Execution*, and *Conditional Payment of Fee, Profit or Incentives*, that clearly communicates the roles, responsibilities, and authorities of line managers; holds line managers accountable for the performance of work in a manner ensuring protection of workers, the public, and the environment; and ensures quality work and products.

The Contractor shall:

(i) Establish effective management systems to identify deficiencies and resolve them in a timely manner; ensure that corrective actions are implemented that address the extent of conditions, root causes, and measures to prevent recurrence; and prioritize and track commitments and actions as well as identify and implement lessons learned from other DOE sites, contractors, or commercial activities. The Contractor shall have and maintain an effective Lessons Learned Program to capture lessons learned from both internally and externally identified deficiencies and good practices. The Lessons Learned Program shall be rigorous and comprehensive such that the Contractor can demonstrate actions taken to address significant occurrences from both inside and outside of

the DOE complex. Lessons learned information should be targeted and made available to the personnel in the Contractor's organization actually conducting the type of work involved and most able to benefit from the information.

(ii) Establish a structured, standards-based approach to planning and control of work including identification, management and implementation of ESH&Q standards and requirements that are appropriate for the work to be performed and for controlling related hazards, while facilitating the effective and efficient delivery of work. The Contractor shall implement the requirements identified in the Section I Clause entitled, *Laws, Regulations and DOE Directives*.

(iii) Establish an organization that supports effective ESH&Q management by ensuring appropriate levels of staffing and competence.

(iv) Establish disciplined self-assessment, feedback, continuous improvement processes, and conduct of operations discipline in the performance of all work.

(v) Implement a program to track and address environmental compliance issues and implement requirements (including but not limited to permitting, environmental reporting, Consent Decrees, Tri-Party Agreement reporting/management, NEPA, pollution prevention, waste minimization), and comply with all aspects of the Section H Clause entitled, *Environmental Responsibility*.

(vi) Recommend and implement ESH&Q performance measures to monitor the effectiveness of the implementation of ESH&Q programs.

(vii) The Hanford Environmental Health Foundation (HEHF) currently provides occupational Health Services to the Hanford Site. The Contractor shall obtain for itself and require all subcontractors performing work on the Hanford Site to obtain the following services from HEHF: occupational medical evaluations including return to work evaluations and work restriction reviews, medical surveillance evaluations, occupational primary care, health care centers/first aid, work conditioning, case management, work site health programs including blood-borne pathogens and immunizations, and behavioral health services including employee assistance programs, and health information services such as medical records and medical scheduling. The Contractor shall coordinate with HEHF and reach agreement regarding service requirements and delivery, including data gathering and sharing. The agreement should emphasize a comprehensive public health approach as being integral to a well-run health and safety program and address cost and resources effectiveness. This agreement shall be subject to approval and validation by DOE-ORP.

(viii) Maintain, implement and improve the TFC nuclear safety authorization basis in support of safe, effective, and efficient work accomplishment.

(ix) In accordance with the ISMS, Authorization Agreements (AAs) will be developed, mutually agreed to, and executed between the Contractor and DOE-ORP. The Contractor will maintain the AAs. The AAs are to serve as a mechanism whereby DOE-ORP, and the Contractor, jointly clarify and agree to the key conditions for conducting work safely, effectively and efficiently for Hazard Category 1 and 2 nuclear facilities. They are to be updated annually, or as required to reflect changing conditions and contractor responsibilities.

(x) Establish annual safety goals with performance indicators, such as worker radiation exposure, lost workdays, restricted work days, etc.

(2) The safety and health of workers and the public, protection and restoration of the environment, and implementation of quality assurance programs are fundamental responsibilities of the Contractor. Accordingly, the Contractor shall:

(i) Take necessary actions to prevent serious injuries/illnesses and /or fatalities and prevent radiological or chemical exposures to workers and environmental releases in excess of established limits;

(ii) Establish clear environmental, safety, health and quality plans and priorities and manage activities in proactive ways, including visible management field presence, that effectively and efficiently protect the environment, public and worker safety and health, and ensure the quality of work and work products;

(iii) Carry out all activities in a manner that complies with human health, safety, environmental, and quality regulations; minimizes the generation of wastes, releases or emissions into the atmosphere, and releases to soil and surface or groundwater; and complies with applicable regulatory requirements and DOE directives;

(iv) Empower workers through the use of committees, employee involvement and the tenants of the DOE Voluntary Protection Program (VPP);

(v) Engender a “Safety Conscious Work Environment” in which safety issues are promptly identified and effectively resolved, and in which employees feel free of recrimination, harassment, intimidation, or other actions that induce peer pressure to not raise safety issues or otherwise create an environment where safety issues are not identified and resolved.

(e) <u>Economic Transition and Outsourcing</u>

The Contractor shall:

(1) Be responsible for the performance of the work under this Contract in a manner that helps the community establish a stable economic base over the long term. This shall be accomplished through appropriate private sector participation in cleanup, making available for effective private use DOE assets no longer required or under-utilized by the Government, and investment of private resources in the community.

(2) The Contractor shall:

(i) Recommend to DOE-ORP the use (by the Contractor, subcontractors, or other private entities) of Government-owned assets (equipment, facilities, or land) on a non-interfering basis to promote, assist, or otherwise foster creation of new private sector jobs.

(ii) Accomplish changes in the workforce in a way that minimizes social and economic impacts and complies with Section 3161 of Public Law 102-484.

(f) Technology Management

The Contractor shall implement the DOE-established technology management process to identify TFC project-specific technology needs and effective, acceptable solutions. For each area of technology needs the Contractor shall work with the best-in-class within the DOE National Laboratories to identify the areas of highest technical risk and uncertainty, align technology investments with the areas of highest risk, and seek and apply innovative technical solutions. The Contractor shall work with Pacific Northwest National Laboratory (PNNL) to provide linkages with the national science and technology programs. Specific technology tasks shall include:

(1) Coordinate and conduct science and technology assessments to identify and quantify the areas of high technical risk/uncertainty for the RPP life cycle.

(2) Develop near and long-term mitigation plans (e.g., technology roadmaps, technology plans, technology insertion points, etc.) and links these plans with project baselines.

(3) Seek innovative technical solutions and make appropriate investments to buy-down areas of highest risk consistent with mitigation plans.

(4) Communicate and cooperate with appropriate Hanford Site and National Technology Development teams and build partnerships with the science and technology community.

(g) External/Internal Communications

(1) The Contractor shall participate in the DOE-ORP external/internal communications program to ensure that the full range of stakeholders receive information in a timely, accurate, complete, and professional manner. Contractor external communications actions shall comply with the DOE Openness Initiatives and Public Involvement Policy and will be approved in advance by DOE-ORP.

(2) The Contractor shall work with DOE to ensure that external/internal communications activities represent a singular and consistent DOE source of information about the DOE-ORP mission and its relationship to the Hanford Site.

(3) Contractor external/internal communications efforts and/or corporate communications not directly related to the DOE-ORP mission at Hanford, and/or approved by DOE-ORP, are not allowable costs under this Contract.

(4) The Contractor shall keep the Hanford Site workforce related directly to the work performed by the Contractor and subcontractors under this contract informed in a timely manner of all significant issues that could impact those workers.

(5) At DOE-ORP direction, the Contractor shall:

(i) Provide timely and consistent support for inter-Governmental liaison activities, including activities with Federal, State, local and Native American Governments.

(ii) Provide logistical support for the Hanford Advisory Board and other public meetings.

(iii) Respond in a timely fashion with information as requested by DOE-ORP in support of *Freedom of Information Act* and/or *Privacy Act* requests.

(6) External/internal communications activities shall include, but not be limited to:

(i) Public Information

(ii) Public Involvement

(iii) Emergency Communications Activities

(iv) Media Relations

(v) Site Tours, including transportation for tours

(vi) Preparation/Maintenance of public information Audio/Video Products and Printed Materials

(h) Training

The Contractor shall coordinate training needs through the Hazardous Materials Management and Emergency Response facility (HAMMER) and the Hanford Site-training program as applicable.

(i) Emergency Preparedness

The Contractor shall provide an emergency response capability for facilities under its control that implements the Hanford Emergency Management Plan (DOE/RL-94-02, Revision 2), as modified from time to time. Because of the potential for the Contractor to become the Event Contractor as defined in the Hanford Emergency Management Plan, implementation includes, but is not limited to, maintaining a 24 hour per day, 7 days per week, capability to adequately staff the required Hanford Site and Tank Farms specific Emergency Response organization positions within 60 minutes of receipt of notification from the Occurrence Notification Center of a Hanford Site emergency.

(j) Environmental Monitoring

The Contractor shall manage its facilities and operable units to assure compliance with environmental requirements and agreements. The Contractor shall work with the PHMC in providing legally and regulatory required air and liquid effluent and near facility environmental monitoring. The Contractor shall collect, compile, and/or integrate air and liquid effluent monitoring data from operations and activities under their control. The Contractor shall compare the monitoring data with regulatory and/or permit standards applicable to their activities and/or operations and provide the data and analyses to the Project Hanford Management Contractor (PHMC) for use in preparing the mandatory State and Federal environmental reports for the Hanford Site.

PNNL monitors the Hanford environment to protect public safety and Hanford Site ecological and cultural resources. This includes providing real time localized weather information for routine safety operations and emergency response, performing Hanford Site and off-site environmental monitoring, as well as determining radiological exposure to the public and the environment. The Contractor shall provide appropriate environmental data for its facility and operable units to support Hanford Site assessments and preparation of the Hanford Site Environmental Report.

PNNL is responsible for Hanford Site groundwater monitoring. The Contractor will be knowledgeable of actions PNNL completes to develop monitoring plans for Contractor facilities and operable units. The Contractor shall maintain regulatory oversight capability to ensure that compliance for their facility and operable units is maintained, for the groundwater-monitoring program by PNNL.

The Contractor will perform vadose zone characterization around the Tank Farms in accordance with TPA and other regulatory requirements. This effort will be integrated with the PNNL groundwater monitoring effort and DOE-ORP *Resource Conservation and Recovery Act of 1976* (RCRA) Facility Investigation/Corrective Measures Studies.

C.3 RIVER PROTECTION PROJECT

(a) Technical Scope of the Contract

The River Protection Project (RPP) scope of this Contract encompasses activities identified in the August 4, 2000, Tank Farm Contract River Protection Project Baseline (hereafter "Tank Farm Contract River Protection Project Baseline" or "Baseline") as amended by approved Baseline Change Requests (BCRs) through December 15, 2000, and as supplemented by Contractor proposed baseline adjustments in support of the extension of the current Contract (Contractor's proposed baseline adjustments are set forth in Technical Exhibit A attached hereto), needed to: (1) safely store, operate and interim stabilize tank waste within an approved authorization basis for such operations applying appropriate life cycle asset management; (2) retrieve waste from single shell tanks consistent with the M-45-00-01A Proposed TPA Change dated August 30, 2000, and retrieve waste from double shell tanks, including completion of upgrades and waste retrieval and transfer systems; (3) construct, operate, and maintain facilities necessary for storage/disposal of immobilized waste, including balance of plant construction; (4) stabilize facilities and preparation of tank closure plans for SSTs as contemplated in the M-45-00-01A Proposed TPA Change dated August 30,2000; (5) execute supporting project management responsibilities including strategic analysis, baseline management, contracting functions, compliance, finance and administration; and (6) perform decommissioning and decontamination to support improved long term operational efficiencies, as set forth in the following sections:

(1) Safe Tank Waste Storage

(i) General Description

Contractor shall provide an adequate, comprehensive, and reliable safety basis for the management and storage of waste managed by Contractor under the scope of this contract. This will be accomplished by developing, operating to and maintaining an integrated Authorization Basis (AB), and by resolving outstanding safety issues and unreviewed safety questions to ensure safe storage and retrieval of waste. Proposals to modify the AB shall be made as appropriate to provide a cost effective AB for safe and reliable waste retrieval, feed delivery, and immobilized product storage. Waste sampling and characterization will be performed as required to assure safe storage conditions. Waste monitoring, characterization, treatment, disposal and reporting will be performed as required to meet regulatory requirements. HLW within the waste acceptance criteria will be received into the double-shell tank (DST) system from Hanford Site facilities as required to support the Hanford Site cleanup mission. The Contractor shall provide a basis for the recommended removal of all tanks from the Watch List established by Public Law 1010-510, Section 3137.

The Contractor will also adequately perform operations and maintenance; effectively manage, plan, and utilize resources; and implement an approved life-cycle asset management system.

(ii) Tank Farm Upgrades

Contractor shall upgrade tank farms to support safe and reliable operation and tank waste retrieval, staging and delivery efforts. This includes performing waste transfer system upgrades necessary to provide a compliant system to support waste feed delivery to the WTP and will include completion of additional waste system upgrades contained in the Baseline. The Contractor will comply with all regulations; and improve infrastructure reliability, operability and maintainability (including upgrades to transfer systems, instrumentation and control systems, electrical distribution and ventilation systems).

(iii) Interim Stabilization

The Contractor shall remove pumpable liquids from the single-shell tanks (SSTs) and transfer to DSTs to reduce environmental risk. The criteria and milestones in the Interim Stabilization Consent Decree shall be met. Entry points into stabilized SSTs shall be capped or plugged as required such that waste and water will not re-enter the tank.

(iv) Completion Criteria

The following key performance objectives and interim milestones will be used in evaluating the Contractors performance as specified in Section J, Appendix D, *Performance Based Incentives*.

(A) Key Performance Objectives

- Manage and maintain tank farm equipment and infrastructure to meet current and future operational use needs in accordance with DOE Order 430.1A; and
- Complete Interim Stabilization of SSTs.

(B) Interim Milestones:

<u>FY2001</u>

- Provide technical basis to close Flammable Gas Safety issues.
- Adjust DST waste pH to meet operational specifications.
- Complete Interim Stabilization of three SST in accordance with the Interim Stabilization Consent Decree (ISCD), CT-99-5076-EFS.
- Start Saltwell pumping of 8 SSTs in accordance with ISCD.
- Reduce Organic Complexed Pumpable Liquids to 5% of Total Volume in accordance with ISCD.
- Submit DST System integrity plans and tests in accordance with tank integrity Administrative Orders (TIAO) 00NWPKW-1250 and –1251.

<u>FY2002</u>

- Reduce SST Liquids to 18% total volume in accordance with ISCD.
- Submit ultrasonic test reports for 4 DSTs in accordance with TIAO.
- Start Saltwell pumping of 9 SSTs in accordance with ISCD.

- Complete Saltwell pumping of 4 SSTs in accordance with ISCD.

FY2003

- Reduce SST liquid to 2% of total volume.
- Complete Saltwell pumping of 200 East Area tanks in accordance with ISCD.
- Complete Saltwell pumping of 200 West Area Tanks in accordance with ISCD.
- Submit ultrasonic test reports for 4 DSTs in accordance with TIAO.

FY2004

- Submit ultrasonic test reports for 4 DSTs for transmittal to Washington State Department of Ecology.
- Complete Interim Stabilization of SSTs.

FY2005

- Complete SST intrusion prevention.
- Complete 242A Evaporator upgrade construction.
- Submit ultrasonic test reports for 4 DSTs in accordance with TIAO.

FY2006

- Submit DST integrity assessment report in accordance with TIAO.
- Submit ultrasonic test reports for 2 DSTs.

(2) Waste Retrieval

(i) General Description

Contractor shall in an environmentally sound, safe, secure, and cost-effective manner:

- Retrieve wastes from SSTs, DSTs, and designated miscellaneous underground storage tanks (MUSTs); and
- Provide waste to the WTP contractor for processing.

The waste retrieval and feed delivery workscope will be projectized to assure required deliverables are met. Contractor shall establish the functions and requirements and install the equipment needed to reliably deliver the proper waste feed on schedule to the WTP contractor for Phase I waste treatment as defined in the WTP Contract.

The *Tank Waste Remediation System (TWRS) Environmental Impact Statement Record of Decision* calls for retrieval of wastes from all 149 SSTs, 28 DSTs, and MUSTs. Until all waste is retrieved, the DSTs must function to store and prepare waste retrieved from SSTs and MUSTs for waste treatment facilities while optimizing utilization of DST space.

(ii) Single Shell Tank Retrieval

Contractor shall develop methods, systems and requirements for retrieving wastes from the Single Shell Tanks to the extent needed to close them in accordance with RCRA and the *Atomic Energy Act of 1954* (AEA). SST retrieval methods and requirements shall support SST retrieval demonstrations.

Single shell tank retrieval demonstration objectives include developing technologies to retrieve salt cake, hard heel, and other wastes from SSTs; determining technology limitations, retrieval efficiencies, safety and environmental concerns, and cost impacts for SST retrieval systems; evaluating alternative retrieval technologies for SSTs that have leaked or may leak; and supporting the transition and closure of SSTs and tank farms.

(iii) Double Shell Tank Retrieval and Waste Feed Delivery

Contractor shall design, construct, install and test systems for retrieving wastes from the DSTs to meet the waste feed requirements of the WTP. The Contractor will also maintain these systems to be operational when required to deliver waste. This will require providing DST waste retrieval systems that can supply waste feed in composition sufficient to meet waste feed delivery in quantities and rates sufficient to support the WTP processing capacities. This shall also include providing tank characterization and waste samples to support WTP planning and testing requirements, as identified in the Baseline. Also included is support for the development of the RPP flowsheet and planning inclusive of all major process steps and/or systems including but not limited to: SSTs, DSTs, pre-treatment, immobilization, immobilized product storage and disposal, as identified in the Baseline. Development of the RPP flowsheet includes improving the quality of input data, developing flowsheet assumptions, identifying inputs and outputs at each step, and developing constraints/requirements at each step.

(iv) Completion Criteria

The following Key performance objectives and interim milestones will be used in evaluating the Contractors performance as specified in Section J, Appendix D, *Performance Based Incentives*. Construction completion must meet the criteria in the Project Design Requirements Document and be complete in accordance with design drawings and procurement specifications including all DOE-ORP directed changes to such documents.

(A) Key Performance Objectives:

- Complete W-314 Tank Farm upgrades.
- Retrieve S-112 in accordance with proposed M-45-00-01A TPA change.
- Retrieve S-102 in accordance with proposed M-45-00-01A TPA change.
- Complete construction of tank C-104 retrieval system in accordance with proposed M-45-00-01A TPA change
- Complete construction and staging of 1st ILAW tank.
- Complete construction and staging of 1st HLW tank.

(B) Interim Milestones

FY2001
- Submit Functions and Requirements Document for tank S-112 in accordance with proposed TPA M-45-00-01A change.
- Submit Functions and Requirements Document for tank C-104 in accordance with proposed TPA M-45-00-01A change.

FY2002
- Submit Functions and Requirements Document for tank S-102 in accordance with proposed TPA M-45-00-01A change.
- Complete W-314 construction of AW, AY and AZ Master Pump Shutdown system.
- Complete W-211 construction of control building upgrades and AN Caustic Dilution System.

FY2003
- Complete S-112 Saltcake waste retrieval demonstration design.
- Complete W-314 Construction of Phase 2 upgrades for AZ Tank Farm.
- Complete W-314 Construction of Phase 2 upgrades for AY Tank Farm.

FY2004
- Complete W-211 Construction of AZ 101 Retrieval System.
- Complete W-314 Construction of Phase 2 upgrades for AP Tank Farm.
- Complete AP-101 Transfer pump replacement.
- Complete Cold Demonstration for Tank C-104 in accordance with proposed TPA M-45-00-01A change.

FY2005
- Complete S-112 Saltcake waste retrieval demonstration in accordance with proposed TPA M-45-00-01A change.
- Complete W-314 Construction of Phase 2 upgrades for AN, AW, and SY Tank Farm.
- Complete Project W-314 meeting TPA milestone M-43-00, *Complete Tank Farm Upgrades*.

FY2006
- Complete S-102 Initial retrieval in accordance with proposed TPA M-45-00-01A.
- Complete Construction of Tank C-104 retrieval system in accordance with proposed TPA M-45-00-01A change.
- Complete C-Farm upgrades to support tank C-104 retrieval.
- Complete design of additional SST retrieval system in accordance with proposed TPA M-45-00-01A change.

(3) Treat Waste - Support

(i) General Description

Contractor shall design, procure, construct and operate infrastructure sufficient to enable the WTP facilities to be constructed and operated in accordance with the WTP contract, and consistent with the Interface Control Documents for infrastructure activities. Infrastructure shall be designed and constructed to support the addition of infrastructure needed to increase the WTP operations capacities consistent with the expandability requirements of the Contract.

(ii) Completion Criteria

The following key performance objectives and interim milestones will be used in evaluating the Contractors performance as specified in Section J, Appendix D, *Performance Based Incentives*.

(A) Key Performance Objectives

- Complete Infrastructure upgrades in accordance with WTP Interface Control Documents; and
- Provide services and utilities to support the WTP in accordance with the WTP Interface Control Documents.

(4) Storage/Disposal

(i) General Description

The Contractor shall provide safe storage and final near-surface disposal on the Hanford Site for ILAW and failed or decommissioned melters from the WTP. Safe interim storage for IHLW shall also be provided.

The ILAW Disposal Project shall be complete when the ILAW is disposed of on the Hanford Site, long-term surveillance and monitoring of the ILAW disposal site is ongoing, and interim storage facilities have been decontaminated and decommissioned. The ILAW Storage and Disposal facilities will receive accepted immobilized low activity tank waste from WTP contractor. The ILAW waste packages will be placed in near surface storage and disposal facilities. The near surface disposal systems along with the waste packages shall meet regulatory requirements for transportation and near-surface disposal of low-level waste.

The IHLW Interim Storage Facility will receive accepted IHLW, and transport these products to a Canister Storage Building (CSB), where the product will be stored until shipped to a geologic repository. Storage of the Phase I product in the CSB will consolidate the high level waste in one area and provide a safe, environmentally sound storage of the IHLW product. HLW Interim Storage will provide additional storage capacity during Phase II treatment. In addition HLW Interim Storage will provide loadout capability for shipment of IHLW canisters to a geologic repository.

(ii) Completion Criteria

The following key performance objectives and interim milestones will be used in evaluating the Contractors performance as specified in Section J, Appendix D, *Performance Based Incentives*.

(A) Key Performance Objectives

- Start Construction – W-464; and
- Start Construction – W-520.

(B) Interim Milestone

FY2003

- Submit ILAW disposal Part B permit application.
- Submit Canister Storage Building Part B permit application.
- Complete W-464 PSAR.

FY2004

- Start W-520 ILAW disposal facility design.
- Start W-464 IHLW storage facility design.

FY2005

- Complete IHLW failed melter transport system design.
- Complete ILAW failed melter disposal trench and transport system design.
- Complete W-464 design.
- Start W-520 construction.
- Start W-464 construction.

FY2006

- Complete procurement of ILAW and IHLW sample transport systems.

(5) Close Facilities

(i) General Description

Contractor shall undertake facilities stabilization preparatory for the transition of such facilities for deactivation and decommissioning. Contractor shall develop closure plans in conformance with NEPA analysis developed to support tank closure and applicable RCRA requirements. The plans shall provide closure definition, system design, authorization basis, work plans, approvals and other information necessary for closing the SSTs in accordance with the closure requirements of DOE Manual 435.1-1 and TPA Milestone M 45-00.

(ii) Completion Criteria

The following Key performance objectives and interim milestones will be used in evaluating the Contractors performance as specified in Section J, Appendix D, *Performance Based Incentives*.

(A) Key Performance Objectives

- 244 CR Vault Stabilization; and
- 244 AR Vault Stabilization.

(B) Interim Milestones

FY2002

- Submit Tank Farm Closure/Post-Closure Work Plan Update in accordance with proposed TPA M-45-00-01A change.

FY2003

- Complete 244AR Vault stabilization.

FY2004

- Complete 244CR Vault stabilization.
- Submit Tank Farm Closure/Post-Closure Work Plan Update in accordance with proposed TPA M-45-00-01A.

FY2006

- Submit Tank Farm Closure/Post-Closure Work Plan Update in accordance with proposed TPA M-45-00-01A.

(6) Manage Projects

(i) General Description

Contractor shall establish and maintain necessary systems and organizational components necessary to execute the technical work scope set forth in this section of the Contract. This includes but is not limited to organizational components responsible for strategic analysis and integration; business management; contracts; compliance; finance and administration, consistent with the WBS descriptions in the DOE Mission Analysis Report.

(ii) Completion Criteria

The following Key performance objectives and interim milestones will be used in evaluating the Contractor's performance as specified in Section J, Appendix D, *Performance Based Incentives*.

(A) Key Performance

- Revise integrated baseline to include and support, without delays to, WTP design, construction and operations schedule.

(b) Required Investment by DOE – (Government Furnished Services/Items)

DOE and the Contractor both recognize that the successful execution of the Scope of Work of this contract will require cooperative efforts by both parties to minimize non-value added transactions. Within this recognition there are certain commitments and actions required on the part of the Government to achieve the desired performance within the level funding assumptions underlying the Baseline.

C.4 INTERIM DESIGN/OPERATIONS OF WASTE TREATMENT PROJECT

The Contractor shall also be responsible for WTP interim responsibilities consistent with DOE-ORP direction in the four letters listed below. All interim responsibility will conclude upon the program transition to the new WTP contractor, which is expected to be completed 45 days after the projected WTP contract award date of January 15, 2001. If any of the letters below imply that the operations/design work shall continue beyond the transition, then this work statement supercedes such implications. However, the Contractor may perform operability oversight of the WTP after the transition as specifically directed by DOE-ORP.

00-AMSA-36	"Clarification of Scope for Interim Design of the Waste Treatment and Immobilization Plant (WTP)" dated September 6, 2000.
00-ORP-082	"Radiological and Nuclear Safety Workscope Guidance" dated August 31, 2000.
00-ORP-035	"Realignment of Responsibilities for the Hanford Waste Treatment and Immobilization Plant and Tasking for Interim Design Responsibilities" dated June 28, 2000.
00-BMA-070	"Operation of the Waste Treatment Plant (WTP)" dated June 8, 2000.

C.5 SUPPORT FOR WASTE TREATMENT PROJECT CONTRACTOR

The Contractor shall be responsible for providing support to the Hanford Waste Treatment Complex Project. Part of the RPP mission is to separate the Hanford Site tank waste into LAW and HLW fractions and to immobilize and dispose of them in an environmentally sound, safe, and cost-effective manner.

The Contractor shall be responsible for coordinating the WTP contractor's requirements for infrastructure, utility, and service support with the PHMC, who shall provide such support as specified in RPP Interface Control Documents. Required services include waste sampling and characterization.

C.6 CROSS-CUTTING SERVICES

The Contractor shall obtain samples from high-level waste tanks for WTP, and the PHMC and its subcontractors at the Hanford Site. The sampling techniques may include grab sampling for liquids, core sampling for liquids and solids, and vapor sampling. Contractor will also provide coordination of laboratory analysis and data interpretation.

The Contractor shall receive liquid radioactive wastes that meet Contractor tank waste acceptance criteria from other site-wide facilities for storage in the DST systems and eventual immobilization and disposal.

The Contractor shall provide support for groundwater/vadose zone integration activities consistent with DOE-ORP approved interface management agreements.

The Contractor shall provide sitewide ventilation and balance services.

C. 7 INTERACTIONS WITH OTHER PRIME CONTRACTORS

The Contractor may, from time to time, provide services to and receive services from other Hanford Site DOE prime contractors by memoranda of agreement or other subcontract arrangements. The Contractor is encouraged to utilize the specified expertise of the PHMC, PNNL, the Site Occupational Medical Contract (SOMC), the Environmental Restoration Contractor (ERC), and the Energy Savings Performance Contractor (ESPC) to accomplish the TFC mission. In the event the Contractor determines that services may be obtained from more cost effective sources of supply, Contractor shall notify DOE of its proposal to utilize other sources and provide Contractor's cost/benefit analysis to DOE. The Contractors shall work with each other in identifying yearly requirements for services. DOE approval will be obtained prior to changing service providers.

Technical Exhibit A
(Dollars in Thousands)

PBS	"UNIT OF ANALYSIS"	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
TW01	RPP CHAR'ZN -SUPPT TO MIN SAFE OPS	4,616	4,409	10,306	11,787	4,768	12,047
TW01	RPP CHAR'ZN - SUPPORT TO FLAMMABLE GAS	0	0	0	0	0	0
TW01	RPP CHAR'ZN - SUPPORT TO EVAPORATOR	836	2,285	2,956	2,379	1,632	1,095
TW01	RPP CHAR'ZN - SUPPORT TO ORP	0	~~128~~	~~130~~	~~133~~	~~135~~	~~138~~
TW01	RPP CHAR'ZN - SUPPORT TO ORP		0	0	0	0	0
TW01	RPP CHAR'ZN (SUPPORT TO TANK PUMPING)	1,625	3,208	0	0	0	0
TW01	RPP CHAR'ZN - SUPPT TO RETRIEVAL / PRIVATIZATION	18,090	17,868	13,778	7,858	18,571	6,044
TW01	RPP CHAR'ZN - SUPPORT TO SAFETY SCREENING	0	0	0	0	0	0
	Subtotal Baseline	**25,167**	**27,898**	**27,170**	**22,156**	**25,107**	**19,324**
	Subtotal CHG Proposal	**25,167**	**27,771**	**27,040**	**22,023**	**24,971**	**19,186**
TW02	RPP FLAMMABLE GAS MINIMUM SAFE OPERATIONS	3,328	2,221	2,200	1,798	1,611	1,588
TW02	RPP SAFETY, USQ, AUTHORIZATION BASIS	6,443	5,537	5,923	5,793	6,161	6,036
TW02	RPP SY 101 USQ LEVEL GROWTH	5,506	0	0	0	0	0
TW02	RPP SAFETY - SUPPORT TO ORP	~~5,161~~	~~587~~	~~598~~	~~610~~	~~622~~	~~635~~
TW02	RPP SAFETY - SUPPORT TO ORP	0	0	0	0	0	0
TW02	RPP ORGANIC OPERATIONS	0	0	0	0	0	0
TW02	RPP FLAMMABLE GAS ADDIT'L MONIT'G UPGRADES	0	0	0	0	0	0
	Subtotal Baseline	**20,438**	**8,344**	**8,720**	**8,202**	**8,394**	**8,258**
	Subtotal CHG Proposal	**15,277**	**7,757**	**8,122**	**7,591**	**7,772**	**7,623**
TW03	RPP DST MINIMUM SAFE OPERATIONS	50,252	55,721	53,657	53,973	48,291	48,660
TW03	RPP SST MINIMUM SAFE OPERATIONS	10,182	9,862	9,813	9,922	8,709	8,851
TW03	RPP TRANSFERS & WASTE STAGING	1,171	1,424	2,749	1,411	2,160	832
TW03	RPP ECN INCORPORATION	379	355	363	370	188	191
TW03	RPP EMERG. PREPAREDNESS DRILL REQ'TS	267	272	279	283	290	296
TW03	RPP CONFIGURATION / ALARM MGMT.	3,525	2,097	2,138	2,182	2,146	1,866
TW03	RPP WDOE ENVIRONMENTAL RECORDS	68	69	71	72	58	61
TW03	RPP AIR OPERATING PERMIT IMPLEMENTATION	623	575	619	628	434	442
TW03	RPP AS-BUILT DRAWINGS AND COMPONENT LABELING	1,674	709	0	62	438	1
TW03	RPP INTEGRATED SAFETY MGMT SYSTEM	77	79	52	53	3	3
TW03	RPP 702 AZ UPGRADES	1,006	125	420	326	331	338
TW03	RPP PROCESS SYSTEMS UPGRADE	0	0	0	0	0	0
TW03	RPP CAM REPLACEMENT	83	0	0	0	0	0
TW03	RPP TMACS AND ENRAF	2,151	1,876	2,235	0	0	0
TW03	RPP DST RCRA PART B APPLICATION	225	37	0	0	0	0
TW03	RPP WASTE ACCEPTANCE PROGRAM	21	21	22	22	8	8
TW03	RPP OPERATIONS - SUPPORT TO ORP	~~2,030~~	~~2,257~~	~~1,860~~	~~934~~	~~905~~	~~921~~
TW03	RPP OPERATIONS - SUPPORT TO ORP	0	0	0	0	0	0
TW03	RPP ROVER PATROL / SAFEG. & SECURITY (SAS)	~~5,648~~	~~5,764~~	~~5,874~~	~~5,994~~	~~5,968~~	~~6,115~~
TW03	RPP ROVER PATROL / SAFEG. & SECURITY (SAS)	0	0	0	0	0	0
TW03	RPP PAAA COMPLIANCE	669	682	697	711	701	712
TW03	RPP FIRE HAZARD ANALYSIS	74	75	77	79	81	83
TW03	RPP INTEGRITY INSPECTION	2,949	2,997	3,067	3,128	3,194	3,282
TW03	RPP INTERIM STAB'N & ISOLATION	27,621	23,203	17,852	5,381	6,915	0
TW03	RPP INTERIM STAB'N: PUMPING	0	0	0	0	0	0
TW03	RPP W-314: TF RES & SAFE OPS	4,602	8,595	4,331	5,956	3,521	629
TW03	RPP W-314: TF RES & SAFE OPS -LI	42,899	40,877	27,429	39,537	11,187	0
TW03	RPP TF RES & SAFE OPS (W-314) - PHASE 2	0	0	0	0	0	0
TW03	RPP TF RES & SAFE OPS (W-314) - LI - PHASE 2	0	0	0	0	0	0
TW03	RPP RAW WATER FLOW TOTALIZERS INSTALL'N	129	0	134	0	0	0
TW03	RPP TRANSFER PUMP REPLACEMENT 104-AW	2,587	0	0	0	0	0
TW03	DRAWINGS/ DOC'N FOR INACTIVE SYSTEMS	10	7	7	7	0	0
TW03	NATURAL PHENOMENON HAZARD MITIG'N	117	0	0	0	0	0
TW03	RPP CASS CLOSURE	535	0	0	0	0	0
TW03	TANK PH ISSUE RESOLUTION	0	403	3,641	466	505	277
TW03	FACILITY DEACTIVATION	4,399	4,588	1,766	102	9,137	1,347
TW03	DST SSC ANALYSIS & DESIGN RECONSTITUTION	277	0	1,650	111	114	147
TW03	SST SSC ANALYSIS & DESIGN RECONSTITUTION	0	0	1,207	56	57	59
TW03	RPP TANK ISOLATION & ABANDONED EQUIP	0	0	2,087	0	517	0
TW03	REMOVE INACTIVE SYSTEMS FROM OPERATIONS	236	253	258	263	282	0
TW03	TANK STRUCTURAL ISSUE RESOL'N	833	0	629	36	0	0
TW03	UPGRADE DST HARDWARE & TECH. BASELINE	654	0	29	30	30	31
TW03	UPGRADE SST HARDWARE & TECH. BASELINE	77	0	63	65	66	67
TW03	LOW INSTALLATIONS	0	0	0	623	1,057	691
TW03	METRIFICATION PROGRAM	0	0	41	0	0	0
TW03	RPP W-420 STACK MONITORING	909	2	0	0	0	0
	Subtotal Baseline	**168,959**	**162,926**	**145,117**	**132,783**	**107,294**	**75,909**
	Subtotal CHG Proposal	**161,281**	**154,905**	**137,384**	**125,856**	**100,421**	**68,873**

Technical Exhibit A
(Dollars in Thousands)

PBS	"UNIT OF ANALYSIS"	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
TW04	RPP SST (C-106) RETRIEVAL OPERATIONS	0	0	0	0	0	0
TW04	RPP DISPOSAL - SUPPORT TO ORP	~~267~~	~~762~~	~~3,346~~	~~3,427~~	~~3,481~~	~~3,537~~
TW04	RPP DISPOSAL - SUPPORT TO ORP	0	0	0	0	0	0
TW04	RPP VADOSE ZONE CHARACTERIZATION	~~9,537~~	~~9,344~~	~~8,943~~	~~9,739~~	~~10,333~~	~~9,621~~
TW04	RPP VADOSE ZONE CHARACTERIZATION	9,037	8,834	8,423	9,208	9,792	9,069
TW04	RPP TANK FARM CLOSURE	0	0	0	~~1,024~~	~~1,071~~	~~840~~
TW04	RPP TANK FARM CLOSURE				0	0	0
TW04	RPP W-211: INITIAL TK RETRIEVAL SYS (ITRS) DST	769	~~871~~	~~387~~	~~396~~	~~403~~	~~408~~
TW04	RPP W-211: INITIAL TK RETRIEVAL SYS (ITRS) DST		871	1,000	1,000	1,000	1,000
TW04	RPP W-211: INITIAL TK RETRIEVAL SYS DST -LI	5,476	~~10,082~~	~~20,063~~	~~18,362~~	~~14,804~~	~~15,854~~
TW04	RPP W-211: INITIAL TK RETRIEVAL SYS DST -LI		10,082	9,918	6,000	11,000	16,342
TW04	RPP W-521 WASTE FEED DELIVERY SYSTEMS	1,339	818	1,646	1,908	901	1,081
TW04	RPP W-521 WASTE FEED DELIVERY SYSTEMS - L.I.	9,174	~~33,412~~	~~27,104~~	~~20,590~~	~~25,046~~	~~38,802~~
TW04	RPP W-521 WASTE FEED DELIVERY SYSTEMS - L.I.		4,000	9,000	4,000	12,000	15,000
TW04	RPP DST WASTE RETRIEVAL	12,810	14,875	~~21,500~~	~~33,390~~	~~20,205~~	19,444
TW04	RPP DST WASTE RETRIEVAL			18,300	25,690	15,906	
TW04	RPP W-522: DST WASTE RETRIEVAL -LI	0	0	0	0	0	0
TW04	RPP HIGH-LEVEL WASTE SUPPORT PHASE 1	1,954	1,833	2,052	2,122	2,621	1,960
TW04	RPP W-525: TANK FARM UPGRADES	0	326	0	0	0	0
TW04	RPP W-525: TANK FARM UPGRADES - LI	0	6	1,594	~~10,131~~	~~18,565~~	~~20,360~~
TW04	RPP W-525: TANK FARM UPGRADES - LI				7,000	19,000	19,650
TW04	PRR SST PROGRAM DEFINITION	2,536	2,107	1,867	1,810	1,839	2,105
TW04	RPP W-523: SST HLW RETRIEVAL SYS - PHASE 1	4,487	4,756	3,067	5,123	3,898	2,530
TW04	RPP W-523: SST HLW RETRIEVAL SYS - PHASE 1-LI	0	2,547	5,835	24,315	21,035	10,881
TW04	RPP SST LAW RETRIEVAL SYSTEMS - PHASE 1	0	26	168	0	2,312	2,884
TW04	RPP SST LAW RETRIEVAL SYSTEMS - PHASE 1-LI	0	0	0	0	0	9,617
TW04	RPP SST TECHNOLOGY TEST & DEPLOYM'T PHASE 1	11,867	24,549	24,272	29,081	22,321	14,129
TW04	RPP 241-C-106 OPERAT'L CLOSURE-PHASE 1	422	0	0	0	0	0
TW04	RTP RISK ALLOWANCE :TW04	0	0	19,704	17,314	6,730	11,910
TW04	RPP HANFORD TANKS INIT'VE: EM-30	0	0	0	0	0	0
TW04	RPP SST RETRIEVAL TO DST AVAILABLE SPACE	0	0	0	0	0	0
TW04	RPP SST RETRIEVAL TO DST AVAILABLE SPACE-LI	0	0	0	0	0	0
TW04	RPP SST TECH. TEST/DEPLOYM'T -DST BACKFILL-LI	0	0	0	0	0	0
TW04	RPP SST PRIVATIZED RETRIEVAL ACTIV'S-PHASE 2	0	0	0	2,324	3,342	7,162
TW04	RPP SST PROGRAM DEVELOPMENT/RETRIEVAL	0	0	0	0	0	0
TW04	RPP SST PROGRAM DEVELOPMENT/RETIEVAL - LI	0	0	0	0	0	0
TW04	DST WASTE RETRIEVAL-PHASE 2	0	0	0	0	0	0
TW04	RPP SST PROGRAM DEVELOPMENT	0	0	0	0	0	0
TW04	RPP SST PROGRAM DEVELOPMENT-LI	0	0	0	0	0	0
	Subtotal Baseline	**69,460**	**112,473**	**148,506**	**187,029**	**165,128**	**179,261**
	Subtotal CHG Proposal	**68,693**	**81,788**	**113,804**	**142,868**	**139,919**	**150,899**
TW05	RPP PRIVATIZATION PROGRAM MGMT (WIT) PHASE 1	0	~~6,120~~	~~6,240~~	~~6,366~~	~~6,492~~	~~6,624~~
TW05	RPP PRIVATIZATION PROGRAM MGMT (WIT) PHASE 1		0	0	0	0	0
TW05	RPP M & I VENDOR INTERFACE	1,068	1,452	1,401	1,436	1,457	1,482
	Subtotal Baseline	**1,068**	**7,572**	**7,641**	**7,802**	**7,949**	**8,106**
	Subtotal CHG Proposal	**1,068**	**1,452**	**1,401**	**1,436**	**1,457**	**1,482**
TW08	RPP W-519 PRIV'ZN INFRASTRUCTURE PROJECT	496	416	30	16	0	0
TW08	RPP W-519 PRIV'ZN INFRASTRUCTURE PROJECT-LI	10,801	1,098	0	0	0	0
TW08	RPP UTILITY & OPERATIONS: PHASE 1 SUPPORT	552	2,397	4,196	4,281	4,230	4,299
TW08	RPP INFRASTRUCTURE PROGRAM ADMIN / SYS. DEF'N	923	940	958	981	715	288
TW08	RPP WASTE MANAGEMENT PRIV. INFRAST. PH 1 SUPPO	1,634	623	384	1,924	2,781	0
TW08	RPP 106/108AP TURNOVER (PROC/ENGRG/ADMIN)	0	0	0	0	0	0
TW08	SOLID WASTE SUPPORT	0	0	0	0	0	0
TW08	RPP PRIVATIZATION INFRASTRUCTURE (PHASE II)	0	0	2,130	8,321	3,033	997
TW08	RPP PRIV'ZN INFRASTRUCTURE (PHASE II)-LI	0	0	0	0	0	0
	Subtotal Baseline	**14,406**	**5,475**	**7,698**	**15,523**	**10,758**	**5,584**
	Subtotal CHG Proposal	**14,406**	**5,475**	**7,698**	**15,523**	**10,758**	**5,584**

Technical Exhibit A
(Dollars in Thousands)

PBS	"UNIT OF ANALYSIS"	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
TW09	RPP IMMOBILIZATION WASTE - RL SUPPORT	~~102~~	~~102~~	~~106~~	~~108~~	~~110~~	~~112~~
		0	0	0	0	0	0
TW09	RPP IHLW - PROGRAM, SYSTEMS DEF'N/OPS	1,163	1,080	1,294	1,858	1,917	5,356
TW09	RPP IHLW - PROGRAM, SYS DEF'N/OPS-LI	0	0	0	0	0	0
TW09	RPP W-464, IHLW INTERIM STG FACILITY	1,190	~~1,374~~	~~1,063~~	~~1,546~~	~~2,096~~	~~2,465~~
TW09	RPP W-464, IHLW INTERIM STG FACILITY		1,012	1,476	394	1,306	4,575
TW09	RPP W-464, IHLW INTERIM STG FACILITY - LI		2,796	4,481	2,466	18,132	36,246
TW09	RPP ILAW PROGRAM, SYSTEMS DEF'N / OPER'NS	4,199	4,039	5,206	6,330	8,512	8,426
TW09	RPP ILAW PROGRAM, SYSTEMS DEF'N / OPER'NS-LI	0	0	0	0	0	0
TW09	RPP W-529 ILAW PA Borehole #2	267	0	0	0	0	0
TW09	RPP W-529 ILAW PA Borehole #2 - LI	0	0	0	0	0	0
TW09	RPP W-465 ILAW INTERIM STG FACILITY	0	0	0	0	0	0
TW09	RPP W-465 ILAW INTERIM STG FACILITY - LI	0	0	0	0	0	0
TW09	RPP W-520 ILAW DISPOSAL COMPLEX	1,335	~~617~~	~~620~~	~~850~~	~~1,192~~	~~1,243~~
TW09	RPP W-520 ILAW DISPOSAL COMPLEX		754	610	714	786	521
TW09	RPP W-520 ILAW DISPOSAL COMPLEX-LI	0	~~0~~	~~525~~	~~4,799~~	~~14,519~~	~~24,275~~
TW09	RPP W-520 ILAW DISPOSAL COMPLEX-LI			2,514	5,323	13,874	22,330
	Subtotal Baseline	**9,531**	**10,614**	**16,941**	**35,087**	**64,228**	**59,422**
	Subtotal CHG Proposal	**9,429**	**9,682**	**15,582**	**17,086**	**44,527**	**77,454**
TW10	RPP MGMT SUPPT-ENV. SAFETY QUAL ASSMT & HEALT	2,914	2,846	2,902	3,074	3,020	3,021
TW10	RPP MGMT SUPPT - ENGINEERING MGMT & ADMIN	1,533	1,525	1,566	1,587	1,618	1,600
TW10	RPP GENERAL & ADMINISTRATIVE	10,868	10,841	11,552	11,531	11,759	11,986
TW10	RPP DOH	8,792	8,969	9,145	9,329	9,514	7,856
TW10	RPP SITE SERVICES	19,034	25,741	29,154	28,292	30,172	33,257
TW10	RPP MANAGEMENT SUPPORT - FEE	~~16,103~~	~~16,206~~	~~18,312~~	~~18,945~~	~~18,078~~	~~17,382~~
TW10	RPP MANAGEMENT SUPPORT - FEE	17,364	17,100	17,288	17,288	17,288	17,288
TW10	RPP MGMT SUPPT - SUPPORT TO ORP	~~2,530~~	~~818~~	~~834~~	~~853~~	~~168~~	~~169~~
TW10	RPP MGMT SUPPT - SUPPORT TO ORP	0	0	0	0	0	0
TW10	RPP MGMT. SUPPORT-PROJ PLNG INTG & CONTROL	12,317	11,182	12,378	11,970	13,535	12,366
TW10	PAYMENT -IN-LIEU OF TAXES (PILT)	0	1,067	1,088	1,110	1,132	1,150
TW10	TRAINING & RECRUITMENT COSTS	278	460	467	3,405	0	0
TW10	RPP PROJ. INTEGRAT'N OFFICE (PIO)	4,516	3,475	3,584	3,757	3,791	3,853
TW10	RPP MGMT. SUPPORT-SYS ENGRG	1,755	1,791	1,826	1,862	1,901	1,811
TW10	RPP MANAGEMENT SUPPORT-WORK MANAGEMENT	0	0	0	0	0	0
TW10	RPP MGMT - RESERVE	0	0	0	0	0	0
	Subtotal Baseline	**80,640**	**84,920**	**92,809**	**95,715**	**94,687**	**94,451**
	Subtotal CHG Proposal	**79,371**	**84,996**	**90,950**	**93,205**	**93,729**	**94,187**

SUBTOTAL (TFC Baseline)	**389,669**	**420,222**	**454,601**	**504,296**	**483,546**	**450,315**
SUBTOTAL (CHG Proposal)	**374,692**	**373,826**	**401,981**	**425,588**	**423,556**	**425,288**
Identified Changes Through 12/19/00	**4,315**	**11,854**	**(1,525)**	**(1,053)**	**(155)**	**(255)**
TOTAL Tank Farm Contract (CHG Proposal)	**379,007**	**385,680**	**400,456**	**424,535**	**423,401**	**425,033**

Waste Treatment Plant	**56,500**						**Total**
Total Revised CHG Proposal	**435,507**	**385,680**	**400,456**	**424,535**	**423,401**	**425,033**	**2,494,612**

PART I - THE SCHEDULE
SECTION D
PACKAGING AND MARKING

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D.2	Marking	1

PART I - THE SCHEDULE
SECTION D
PACKAGING AND MARKING

D.1 PACKAGING

Preservation, packaging, and packing for shipping or mailing all work delivered hereunder shall be in accordance with good commercial practices and adequate to ensure acceptance by common carrier and safe transportation at the most economical rate(s).

D.2 MARKING

(a) Each package, report or other deliverable shall be accompanied by a letter or other document which:

(1) Identifies the applicable Contract number for the item being delivered; and

(2) Identifies the deliverable item number or report requirement that requires the delivered item(s).

(b) For any package, report or other deliverable being delivered to a party other than the Contracting Officer, a copy of the document required in paragraph (a) above shall be simultaneously provided to the office administering the Contract, as identified in Section G, *Contract Administration Data*, of this Contract.

PART I - THE SCHEDULE
SECTION E
INSPECTION AND ACCEPTANCE

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E.2	FAR 52.246-5 Inspection of Services--Cost-Reimbursement (APR 1984)	3
E.3	Acceptance	3

PART I - THE SCHEDULE
SECTION E
INSPECTION AND ACCEPTANCE

E.1 FAR 52.246-3 INSPECTION OF SUPPLIES--COST-REIMBURSEMENT (APR 1984)

(a) *Definitions.*

"Contractor's managerial personnel," as used in this clause, means any of the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of--

(1) All or substantially all of the Contractor's business;

(2) All or substantially all of the Contractor's operation at a plant or separate location at which the contract is being performed; or

(3) A separate and complete major industrial operation connected with performing this contract. "Supplies," as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, lots of supplies, and, when the contract does not include the Warranty of Data clause, data.

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

(c) The Government has the right to inspect and test the contract supplies, to the extent practicable at all places and times, including the period of manufacture, and in any event before acceptance. The Government may also inspect the plant or plants of the Contractor or any subcontractor engaged in the contract performance. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) Unless otherwise specified in the contract, the Government shall accept supplies as promptly as practicable after delivery, and supplies shall be deemed accepted 60 days after delivery, unless accepted earlier.

(f) At any time during contract performance, but no later than 6 months (or such other time as may be specified in the contract) after acceptance of the supplies to be delivered under the contract, the Government may require the Contractor to replace or correct any supplies that are nonconforming at time of delivery. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. Except as otherwise provided in paragraph (h) below, the cost of replacement or correction shall be included in allowable cost, determined as provided in the Allowable Cost and Payment clause, but no additional fee shall be paid. The Contractor shall not tender for acceptance supplies required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken.

(g) (1) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, the Government may--

(i) By contract or otherwise, perform the replacement or correction and charge to the Contractor any increased cost or make an equitable reduction in any fixed fee paid or payable under the contract;

(ii) Require delivery of undelivered supplies at an equitable reduction in any fixed fee paid or payable under the contract; or

(iii) Terminate the contract for default.

(2) Failure to agree on the amount of increased cost to be charged to the Contractor or to the reduction in the fixed fee shall be a dispute.

(h) Notwithstanding paragraphs (f) and (g) above, the Government may at any time require the Contractor to correct or replace, without cost to the Government, nonconforming supplies, if the nonconformances are due to--

(1) Fraud, lack of good faith, or willful misconduct on the part of the Contractor's managerial personnel; or

(2) The conduct of one or more of the Contractor's employees selected or retained by the Contractor after any of the Contractor's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.

(i) This clause applies in the same manner to corrected or replacement supplies as to supplies originally delivered.

(j) The Contractor shall have no obligation or liability under this contract to replace supplies that were nonconforming at the time of delivery, except as provided in this clause or as may be otherwise provided in the contract.

(k) Except as otherwise specified in the contract, the Contractor's obligation to correct or replace Government-furnished property shall be governed by the clause pertaining to Government property.

(End of clause)

E.2 FAR 52.246-5 INSPECTION OF SERVICES--COST-REIMBURSEMENT (APR 1984)

(a) *Definition.* "Services," as used in this clause, includes services performed, workmanship, and material furnished or used in performing services.

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

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

(d) If any of the services performed do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, for no additional fee. When the defects in services cannot be corrected by reperformance, the Government may--

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce any fee payable under the contract to reflect the reduced value of the services performed.

(e) If the Contractor fails to promptly perform the services again or take the action necessary to ensure future performance in conformity with contract requirements, the Government may--

(1) By contract or otherwise, perform the services and reduce any fee payable by an amount that is equitable under the circumstances; or

(2) Terminate the contract for default.

(End of clause)

E.3 ACCEPTANCE

The Contracting Officer or any other duly authorized representative shall accomplish acceptance for all work and effort under this Contract.

PART I - THE SCHEDULE
SECTION F
DELIVERIES OR PERFORMANCE

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PART I - THE SCHEDULE
SECTION F
DELIVERIES OR PERFORMANCE

F.1 PERIOD OF PERFORMANCE

The period of performance for the work specified in Section C, *Statement of Work*, of this Contract commenced October 1, 1999, and shall continue through September 30, 2006, unless sooner terminated as provided for in other provisions of this Contract.

F.2 PRINCIPAL PLACE OF PERFORMANCE

The principal place of performance of this contract shall be the Hanford Site, near Richland, Washington and other facilities as directed by the Contracting Officer.

F.3 REPORTING REQUIREMENTS

(a) The Contractor shall provide a reporting system capable of management information in the form of electronic databases and will report program performance on the technical work, schedule, and cost profile defined in the River Protection Project Baseline. Additional reporting requirements are found in the Section H Clause entitled, *Project Controls*.

(b) The Contractor's databases and reporting shall be available to the U.S. Department of Energy Office of River Protection (DOE-ORP) no later than 10 working days after the close of the reporting period.

(c) The Contractor shall provide the information necessary to support DOE-ORP in the preparation of reports required by regulatory agreements, such as, the *Hanford Federal Facility Agreement and Consent Order* (also known as the Tri-Party Agreement (TPA)) and legislative mandates or DOE Headquarters required specific data (e.g., Integrated Planning and Budgeting System (IPABS)), which must be supported by the reporting system.

(d) The monthly Contract Funds Status Report shall indicate cumulative-to-date amounts for budget authority (BA) allotted, obligated, and committed. Cost and funds data shall be in work breakdown structure (WBS) format, and also the DOE budget and reporting (B&R) classification structure, (e.g., project breakdown structure (PBS), User's Accountability System (UAS)) unless otherwise directed by the Contracting Officer.

(e) Minimum reporting requirements and the frequency of submission are provided in Table C-1. The Project Hanford Management Contractor (PHMC) on the Contractor's behalf shall provide some of the reports. The Contractor shall provide written notification of provider or changes in provider to the Contracting Officer at a minimum annually. Table C-1 is not complete and is subject to change at the discretion of the Contracting Officer as provided to the Contractor in writing. In addition, Table C-1 does not include reports that may be required by other terms of this Contract or by DOE directives that are applicable to this Contract. The Contracting Officer will determine content, format and distribution.

Table F-1
Minimum Reporting Requirements and Frequency

Report Name
Frequency

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Critical Path Analysis Report
M

Work Breakdown Structure (WBS)
A

WBS Description
A

PBS Submittal
Y,C

Monthly Performance Overview
M,

Integrated Planning, Accountability, and Budgeting System-Information System
http:\\www.em.doe.gov\ipabs\hand.html
M,

Contract Funds Status Report
M

Financial Statements Reporting Requirements Letter
Y

Functional Support Cost Report
S

Report of Compensation
Y

Report of Contractors Earning and Supplementary Compensation

PART I - THE SCHEDULE
SECTION G
CONTRACT ADMINISTRATION DATA

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G.2	Billing Instructions.	1
G.3	Government Property	2

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PART I - THE SCHEDULE
SECTION G
CONTRACT ADMINISTRATION DATA

G.1 CORRESPONDENCE PROCEDURES.

To promote timely and effective administration under this Contract, the Contractor shall be subject to the following procedures:

(a) Technical and Administrative Correspondence/Matters. Technical and administrative correspondence concerning performance of this Contract shall be addressed to the responsible officials designated in U.S. Department of Energy Office of River Protection (DOE-ORP) Manual 411.1-1, *Office of River Protection Functions, Responsibilities, and Authorities Manual (FRAM)*, using the latest published edition.

(b) Contractual Correspondence/Matters. Correspondence involving contractual matters shall be addressed to the Contracting Officer. The primary Contracting Officer responsible for administration of this Contract is Jewel J. Short, II, Procurement Division. This individual shall be primarily responsible for all contractual actions required to be taken by the Government under the terms of this Contract.

Notwithstanding the above, in the event that the above named individual is absent for an extended period or an urgent action is required, any other duly appointed Contracting Officer assigned to DOE-ORP shall be authorized to take the required contractual action(s) within the limits of his/her authority.

(c) DOE Contracting Office. The Contracting Officer's address is:

Procurement Division
U.S. Department of Energy
Office of River Protection
Post Office Box 450/2440 Stevens Center
Richland, WA 99352-0450

(d) All correspondence sent to the Contracting Officer shall contain a subject line commencing with the contract number as illustrated below:

SUBJECT: CONTRACT NO. DE-AC27-99RL14047

A copy of all correspondence addressed to the Contracting Officer shall be provided to the Manager, ORP at the address stated in paragraph (c) above.

G.2 BILLING INSTRUCTIONS.

(a) The Contractor shall provide periodic electronic invoices (or data supporting letter of credit drawdowns) and cost accrual and accrual reversal records to DOE-ORP. Within the electronic invoice submission, the Contractor shall provide all invoice data elements required to: (1) ascertain all goods and services provided by the Contractor were allowable and reasonable per the terms and conditions of the contract, and (2) properly record all contract costs and payments in the DOE accounting system. This includes, but is not limited to: work breakdown structure (WBS) numbers, budget and reporting (BNR) numbers, fund-type, project baseline summaries (PBS) numbers, the fiscal year the funds were provided, DOE-ORP project/task number, object classes, cost elements, resource types, and plant and equipment line item number (if applicable).

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(b) Upon request, the Contractor shall also provide the Contracting Officer written documentation to support the electronic invoices at the address identified herein.

G.3 GOVERNMENT PROPERTY

The point of contact for contract administration relating to Government property is as follows:

U.S. Department of Energy
Richland Operations Office
Organizational Property Management Officer
Office of Training and Asset Transition MSIN A2-45
P.O. Box 550 or 825 Jadwin Avenue
Richland, WA 99352

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G.4 DEFECTIVE OR IMPROPER INVOICES ¶
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Invoices not conforming to paragraph (a)(4) of contract clause FAR 52.232-25, Prompt Payment of Part II, Section I, of this contract, shall be deemed improper and thus defective. The Contractor shall provide the name or names (where practicable), title, phone number, office name, and complete mailing address of officials of the Contractor to be notified when the Government receives a defective or improper invoice below:¶
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¶

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¶
G.6 CONTRACTING OFFICER'S REPRESENTATIVE (COR) TECHNICAL DIRECTION - NOTIFICATION OF CHANGES ¶
¶
(a) Notice. The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers constituting a change to this contract. ¶
¶
(b) Performance of the work under this contract shall be subject to the technical direction of the COR. The COR will be designated in writing by the Contracting Officer. The designation letters will include the COR's authority, responsibility, and limitations. The term "technical direction" is defined to include, without limitation: ¶
¶
(1) Directions to the Contractor that redirect the contract effort (change control), shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details, or otherwise serve to accomplish the contractual Statement of Work.¶ ...

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PART I – THE SCHEDULE
SECTION H
SPECIAL PROVISIONS

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PART I – THE SCHEDULE
SECTION H
SPECIAL PROVISIONS

H.1 PERFORMANCE BASED INCENTIVES, FEE DISTRIBUTION AND FEE POOL

(a) Establishment of Performance Based Incentives (PBIs)

Performance Based Incentives (PBIs), set forth agreed upon performance expectations and the requirements, criteria and/or specifications for acceptable performance of the expectations. The PBI format is included in Section J, Appendix D, *Performance Based Incentives*.

PBIs and related fee distribution for the term of the contract shall be established based on the work activities set forth in the Baseline, (as defined in the Section H Clause entitled, *Project Controls*), and Section C, *Statement of Work*. PBI completion criteria will be derived from Section C, *Statement of Work*, as applicable. The PBIs and related fee distribution will be incorporated into the Contract in Section J, Appendix D, *Performance Based Incentives*.

PBIs and fee distribution will emphasize completion of mission scope set forth in the Baseline. A corporate performance incentive may be established to incentivize overall management initiatives during the term of the Contract.

PBIs including the corporate performance incentive shall be mutually agreed upon at the beginning of the Contract term. PBIs may be updated as necessary and new PBIs may be created during the Contract term. The U.S. Department of Energy (DOE) shall incorporate the agreed to PBIs into the Contract.

If agreement on the PBIs cannot be reached, the Contracting Officer may make the final determination of PBIs and related fee distribution, and may unilaterally incorporate into the Contract. However, if the Contractor disagrees with the DOE established PBIs and related fee distribution, the Contractor may appeal to the Head of Contracting Activity (HCA), who shall unilaterally decide the issue.

(b) Interference

In the event that the Contractor believes that DOE has interfered with its ability to meet specific performance expectations, it may present evidence to support this position along with a proposed adjustment to the HCA. The HCA shall make a unilateral determination and shall provide a copy of that determination to the Contractor.

(c) Positive and Negative Incentives

The performance expectations defined in the PBIs may have fee directly assigned to their accomplishment or have a negative deduction from earned fee for failure to accomplish.

If fee is assigned to individual expectations defined in a PBI, then in order to earn the individually assigned fee, all defined performance requirements supporting the individual expectation must be met.

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If a negative fee deduction is assigned to an individual expectation defined in a PBI, and if the performance requirements supporting the individual expectation are not met, no fee will be paid for the expectation, and the defined negative deduction will be made from other fees earned. However, in no event would the aggregate of all negative deductions arising from negative fee PBIs exceed 20 percent of the total available fee under the contract.

(d) PBI/SSPBI Cost and Schedule Constraints

(1) In order for any PBI expectation to be considered performed, not only must it meet the PBI performance requirements, but the work must be accomplished within the funding thresholds specified in this Contract, and as follows:

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The cost and/or schedule variance as measured at Level 4 of the WBS (except for interim stabilization and characterization, which are measured at WBS Level 3), shall not exceed an unfavorable cost variance of 5% or an unfavorable schedule variance of 7.5%. The above cost/schedule variance will be measured at the PBS level until such time as the revised WBS is implemented. This implementation shall take place by September 30, 2001. This applies to the work authorized and funded (including stretch goals, but excluding Superstretch performance incentives). Any cost or schedule variance for Superstretch Performance Based Incentive (SSPBI) work shall not be used in determining cost variance and schedule variance for funded work.

(2) For SSPBIs, the aggregate sum of actual cost and earned fee for all Superstretch incentives will be less than or equal to DOE approved savings as recorded in the Contractor's Management Reserve account (i.e., savings from work efficiencies and deletions) at fiscal year end.

(e) Fee Re-Allocation due to Cancellation or Changes

If, for any reason, DOE cancels an expectation defined in a PBI, DOE and Contractor shall seek to mutually agree to any partial fee payable to Contractor for partial completion of the cancelled PBI. Any unpaid fee attached to that expectation of the cancelled PBI shall be reallocated to a new PBI expectation, or to existing other PBI expectations, or to both new and existing PBI expectations. The Contracting Officer shall make the reallocation decision and the final determination of entitlement to partial fee. However, if the Contractor disagrees with the Contracting Officer's decision, the Contractor may appeal to the HCA, who shall unilaterally decide the issue.

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(f) Fee Determinations

PBIs may be either annual or multi-year in duration and include annual or multi-year end points. When a PBI expectation is completed, DOE will make final fee determination. The final determination on the acceptability of the work performed by the Contractor under this provision and incentive fee determination shall be made solely at the unilateral discretion of the HCA.

(g) Superstretch Performance Based Incentives (SSPBIs)

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This incentive provision is established to challenge the Contractor to accomplish significant and mission critical work activities that are in the baseline but not currently funded or which significantly accelerate workscope. SSPBIs should be developed and agreed to prior to the beginning of the fiscal year, but may be developed and implemented during the term of the Contract. The SSPBIs will be incorporated into the contract in Section J, Appendix D, *Performance Based Incentives*.

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When the Contractor is ready to activate one of the SSPBIs and after the associated BCWS and fee have been negotiated, it will submit a Baseline Change Request (BCR), if required, to the Contracting Officer. The BCR shall document the scope, cost, and funding source necessary to incorporate the SSPBI workscope into the contract period baseline. The Contracting Officer will notify the Contractor within 20 business days of receipt of the BCR whether or not to proceed with the SSPBI. Failure by the Contracting Officer to provide negative notice within 20 business days of Contractor submission of the BCR to the DOE Change Board shall constitute BCR approval. Upon approval, the Contractor may process the BCR and start work associated with the SSPBI. Should the Contracting Officer disapprove the SSPBI BCR, the Contractor shall be allowed to substitute other SSPBIs of equivalent value. When the work is complete, a package documenting completion of the work will be prepared and submitted to the Contracting Officer for approval. Approval of the completion package by the Contracting Officer will authorize payment to the Contractor of the fee earned.

The funds for accomplishment of SSPBIs will be obtained from cost savings realized through efficiencies and/or workscope deletions and not deferrals. The Contracting Officer shall approve workscope deletions prior to their use as a source of funding for SSPBIs. The SSPBIs must be performed in accordance with the cost and schedule criteria defined in the Contract.

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The fee for accomplishment of SSPBIs will be paid from a share of the cost of the designated work and will be outside the fee pool identified in the Section B Clause entitled, *Estimated Cost and Fee*. SSPBI fee may be up to 20 percent of the agreed to budgeted cost of work scheduled (BCWS) of the designated workscope. The fee payments from accomplishment of SSPBIs will be separate from and not subject to or impact the provisional payment of fee limitations described in the Section H Clause entitled, *Provisional Payments of Fee*.

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(h) Multi-Year Performance Based Incentives

A multi-year performance based incentive is any PBI in which the requirements are established in one fiscal year but the final completion date extends into a future fiscal year.

(i) Fee Pool:

It is the intent of the parties that the entire fee pool identified in the Section B Clause entitled, *Estimated Cost and Fee*, will be allocated and made available during the contract term by assigning fee to the Corporate, annual, or multi-year PBIs. However, an "unallocated" pool of fee will be maintained which has not been assigned to the Corporate, annual, or multi-year PBIs. The Contracting Officer shall allocate the unallocated fee to meaningful work efforts during the term of the contract. The allocation is at the unilateral discretion of the Contracting Officer. However, if the Contractor disagrees with the Contracting Officer's decision, the Contractor may appeal to the HCA, who shall unilaterally decide the issue.

Fee from the Corporate, annual, and multi-year PBIs, which is unearned for failure to meet PBI requirements, is forfeited, shall not be returned to the unallocated fee pool, and may be applied by the Contracting Officer to perform other baseline work.

The total estimated fee pool may be adjusted in accordance with the Section B Clause entitled, *Estimated Cost and Fee*.

H.2 PROVISIONAL PAYMENTS OF FEE

(a) If interim payments of fee are paid before the final determination of fee, those payments shall be provisional pending that final determination as described in the individual Performance Based Incentives. Such provisional payments may be made at the discretion of the Contracting Officer on a monthly basis up to a maximum amount for the fiscal year not-to-exceed 70 percent of the total available performance fee.

(b) The U.S. Department of Energy (DOE) agrees to pay to the Contractor, at the discretion of the Contracting Officer, on a provisional basis an amount up to 10 percent of the annual performance fee pool in each of the first two calendar months of each fiscal year and 5 percent in each calendar month thereafter. The Contractor shall submit to the Contracting Officer at the beginning of each month the provisional fee for that month. DOE agrees to authorize payment of the provisional fee no later than the 10th working day of the following month.

(c) The Contracting Officer or the Head of the Contracting Activity will make the final fee determination, as appropriate, in accordance with the fee clauses of this Contract. In the event that overpayment results from the payment of fee on a provisional basis, the Contractor shall reimburse such overpayment to DOE upon demand; payable with interest in accordance with the Section I Clause entitled, *Interest*.

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Deleted: up to a maximum payment of 70% of the available performance fee.

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H.3 MODIFICATION AUTHORITY

Not withstanding any of the other provisions of this contract, the Contracting Officer shall be the only individual on behalf of the Government authorized to:

(a) Accept non-conforming work;

(b) Waive any requirement of this Contract; or

(c) Modify any term or condition of this Contract.

H.4 GUARANTEE OF PERFORMANCE

The Contractor or the Contractor's parent organization(s) has (have) provided a Guarantee of Performance in a manner and form acceptable to the Contracting Officer assuring the performance, duties, and responsibilities of the Contractor, including repayment of unearned provisional fee, will be satisfactorily fulfilled. The Guarantee of Performance submitted on the date of this Contract modification is incorporated herein by reference and made part of this Contract.

H.5 RESPONSIBLE CORPORATE OFFICIAL

The Contractor shall guarantee performance as evidenced by the Guarantee of Performance referred to in Section H Clause entitled, *Guarantee of Performance*. If a separate business entity is established for this Contract, the Contractor's parent company shall guarantee performance as evidenced by the Guarantee of Performance referred to in Section H Clause entitled, *Guarantee of Performance*. If the Contractor is a joint venture or other similar entity where more than one company is involved, the parent companies shall assume joint and several liability for the performance of the Contractor. In the event that any of the signatories to the Guarantee of Performance enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Contracting Officer. Notwithstanding the provisions of this Clause, the Government may contact, as necessary, the single responsible corporate official identified below, who is at a level above the Project Manager for the Contractor and who is accountable for the performance of the Contractor, regarding Contractor performance issues. Should the responsible corporate official change during the period of the

Contract, the Contractor shall promptly notify the Contracting Officer in writing of the change in the individual to Contract.

Name:	Ralph Peterson
Position/Company:	President and CEO, CH2M HILL, LTD.
Position/Organization:	Chairman, Board of Directors, CH2M HILL Hanford Group, Inc.
Address:	6060 S. Willow Drive, Greenwood Village, CO 80111-5142
Phone:	(303) 713-2522
Facsimile:	(303) 220-5106
E-mail:	rpeterso@ch2m.com

H.6 REPRESENTATIONS AND CERTIFICATIONS

The Representations and Certifications, (Section K) submitted by the Contractor dated November 14, 2000, are hereby incorporated into this Contract by reference.

H.7 PROJECT CONTROLS

H.7.01 Project Control System Requirements

(a) In the performance of this contract, the Contractor shall establish, maintain and use a project control system meeting the requirements specified in the Contract, in the following paragraphs titled “Baseline Development,” “Baseline Performance,” and “Baseline Change Management” of this Section. The Contractor may use a pre-existing project control system if such system satisfactorily addresses the system requirements defined below.

(b) The project control system must meet the requirements of the following DOE guidance:

(1) DOE Order 430.1A, *Life-Cycle Asset Management (LCAM)*, October 14, 1998;
(2) *Integrated Planning, Accountability, and Budgeting System – Information Systems (IPABS-IS) Data Requirements*, December 18, 1998;
(3) *Integrated Planning, Accountability, and Budgeting System (IPABS) Handbook*, February 16, 1999;
(4) *HQ Baseline Change Control Charter*, Office of Environmental Management, Rev. 0, June 23, 1999; and
(5) DOE Order 413.3, *Program and Project Management for the Acquisition of Capital Assets*.

(c) The Contractor shall provide the Contracting Officer with a detailed written description of the proposed project control system for review and approval within thirty (30) days after award of the Contract.

(d) Upon system approval by the Contracting Officer, the Contractor shall fully implement the project control system. The Contractor shall not make any significant changes to the approved system without the prior written approval of the Contracting Officer.

(e) Contractor and DOE will agree within sixty (60) days after execution of this Contract extension to the appropriate reporting level at which the project controls system shall be predicated (the Reporting Level). However, DOE or designated representatives shall be provided with access to all pertinent records, data, and plans for purposes of initial approval, approval of proposed changes and ongoing operation of the project control system, approval of costs, and approval of fee.

H.7.02 Baseline Development

(a) Tank Farm Contract River Protection Project Baseline

(1) Work Breakdown Structure. The Work Breakdown Structure (WBS) shall provide the framework for all project control system components, including estimating, scheduling, budgeting, performing, managing, and reporting, as required under this contract.

(2) Baseline. The workscope of this Contract is detailed in the Baseline. The Baseline shall be established and maintained in a manner that ensures identification and accomplishment of work, performance can be objectively measured, and its configuration is controlled and changes managed by formal processes. The Reporting Level of the WBS is the fundamental grouping of work at which the Contracting Officer will receive routine status reports, evaluate and measure project performance, and exercise change control authority. However, the Contracting Officer may request reports at a lower level of the WBS.

(b) Roles and Responsibilities

WBS Manager Responsibilities. The WBS manager shall have the responsibility and authority to plan and budget the work, and control the resources and work activities within the approved technical, schedule, and cost baselines. The WBS manager is also responsible to report status to allow complete project rollup of technical, schedule, and cost performance for current period, cumulative to-date, and at-completion.

(c) Cost Estimating

(1) Estimating Methodologies. Estimates shall be integrated with the WBS and use estimating methodologies that are consistent with DOE Order 430.1A, *Life-Cycle Asset Management*.

(2) Estimate Preparation. Estimates shall be prepared consistent with the established project baseline and can be identified by each WBS element and rolled up to the total Baseline.

(d) Planning and Scheduling

(1) Planning Constraints. A planning process shall be established and maintained throughout the project life that identifies programmatic, operational, legislative, institutional, and other requirements, constraints, and assumptions that may affect work scope, schedule, and cost. Potential impacts are identified and considered in managing the Baseline through contingency planning and management.

(2) Project Risk Management. A Risk Management Plan shall be developed that identifies the various internal and external risks to achieving the Baseline. The Risk Management Plan will include possible alternatives to mitigate impacts, select and definitize specific alternatives, including cost and implementation schedules for each alternative, and provide for routine reporting and updating of the Plan at least quarterly.

(3) Schedule Development. Schedules shall be developed that integrate with the WBS and cost estimates, and represent all project work scope regardless of funding source. Certain non-project level of effort work scope may be excluded. Each activity will have assigned duration representing work scope accomplishment. Activity logic links shall depict all work scope constraints and decision points and shall be integrated into a total project network schedule. Work scope critical path network schedules are required for the total project and each WBS element that exceed $5 million in life-cycle cost.

(4) Schedule . The Contractor's schedule including construction projects shall clearly depict critical path activities and milestones from which actual performance for activities and milestones can be compared, and from which performance forecasts can be derived.

(5) Intermediate Schedules. The project schedule shall be developed in a manner that allows extraction of intermediate and detail level schedules, for individual WBS elements. Milestones shall be identified and maintained as part of the schedules.

(e) Cost

(1) Cost Accounts. A cost account structure shall be integrated with the WBS and facilitate collection of cost by WBS element. All work scope for each WBS element shall be identified and a budget for that work developed. Budget projections shall be time-phased consistent with the schedule and anticipated resources, and shall be reconcilable with the cost estimate. The Contractor shall notify DOE thirty (30) days prior to the use of project contingencies. The Contractor may use contingency up to the levels established for each phase of work execution, but contingency use requires approval by the cognizant Contracting Officer's Representative.

(2) Total Value of Accounts. All work shall be represented in the WBS structure and the sum of the WBS budgets, plus contingency and management reserve and fee, equals the Baseline

(3) Managing Cost Accounts. A practical and effective method for controlling and measuring performance of the cost accounts shall be used, that is verifiable and consistent with schedule performance management. The Contractor shall exercise specific control and decision authority at the reporting level.

H.7.03 Baseline Performance

(a) Funds Management

(1) Funding Limits. Baseline commitment and expenditures shall not exceed funding limits in accordance with the Section I Clause entitled, *Obligation of Funds*. Funding controls as established in the Contractor's control system shall provide early warning before funding limits are exceeded.

(2) Funding Changes. The Contractor shall analyze DOE proposed or directed funding changes for their impact on work scope, schedule, and cost elements of the Baseline. Baseline changes to adjust for significant funding changes may be proposed consistent with Change Control procedures.

(3) Funding. An ability to forecast funding requirements to execute remaining baseline work shall be maintained on a monthly basis by the Contractor. Analysis of the variance between currently authorized funds and estimated costs at completion shall be used by the Contractor to make adjustments to budgets or release contingency funds to WBS Managers as appropriate.

(b) Accounting

(1) Recording Costs. All actual costs, both direct and indirect, incurred in the performance of work shall be recorded on a timely basis each month. Cost assignments shall be made in accordance with an established and auditable system that conforms to Generally Accepted Accounting Principles and Cost Accounting Standards. Actual costs incurred must be recorded in the same accounting period that performance is measured and recorded.

(2) Collecting Costs. Costs shall be collected at the Cost Account level of the WBS or lower. Costs shall also be summarized by Project Baseline Summary (PBS). Managers shall be provided appropriate reports and information to analyze monthly charges and are held responsible for the validity of charges to their cost account.

(c) Work Authorization

(1) Work Authorization. Approval of this Contract provides authorization for the Contractor to complete the full scope of work in the Contract. Any Contractor requested changes or DOE directed changes shall be addressed through the established Change Control process.

(2) Contract Funding. The Integrated Baseline with any approved revisions provides the basis for authorization of funds to the Contractor for each fiscal year. The Manager of the U.S. Department of Energy, Office of River Protection (DOE-ORP) will under normal conditions obligate to the contract the full annual baseline funding per the profile set forth in the Section B Clause entitled, *Estimated Cost and Fee*, when the funds become available to DOE-ORP for obligation to the Contract. Contract funding under this contract shall be subject to the administrative controls as described below:

Annual Work Analysis. Prior to the release of funds for each fiscal year, the DOE will analyze the technical, schedule, and cost baseline for that upcoming fiscal year. By May 31st each year the DOE will provide an estimate of any budget restrictions, or specific technical or schedule guidance for the upcoming fiscal years through the remainder of the contract term. The Contractor shall prepare a project performance forecast for all upcoming fiscal years from the approved Baseline and the DOE guidance. By July 31st each year the Contractor shall submit to the Contracting Officer or designee a comprehensive analysis of total project status, including impacts to work scope, schedule, and cost elements of the Baseline and the projected budget allocations to WBS elements with a focus to activities described in the baseline for the upcoming fiscal year. This deliverable is known as the Annual Work Analysis (AWA), as derived from the Baseline. Variations from the Baseline described in the AWA, which exceed established thresholds, shall be addressed through established change control procedures and if necessary, incorporated into the contract by modification.

(3) Resolving Conflicts. In the event there is a conflict between the requirements of this Clause and the referenced DOE Orders and guidance, the Contractor shall obtain guidance from the DOE Contracting Officer.

(d) Performance Analysis

(1) Project Performance. Differences between planned and actual performance, shall be analyzed and reviewed monthly against the Baseline for the current fiscal year portion of the total project. Performance analysis techniques shall be commercially accepted and documented, and shall utilize earned-value methods and shall be reported to DOE at the Reporting level of the WBS. Objective measures are preferred for measurement of all technical work scope. For variances between planned and actual that exceed thresholds established by the Contracting Officer, the analysis shall describe the causes for variance, impact on other cost accounts and WBS elements, and corrective action required.

(2) Project Risk and Contingency Management. The risk from project and program factors that may affect work scope, schedule, or cost aspects shall be included in the development of the Baseline. Changes in the nature of these risks due to evolving social, political, organizational, environmental or other factors shall be analyzed quarterly, and resulting impacts to the project baseline evaluated. Risk plans shall be adjusted and risk management actions taken as appropriate, including performance improvements, reallocation of budgets to cost accounts, release of contingency funds, or baseline change proposals submitted if thresholds are exceeded.

(3) Estimate at Completion. Quarterly the Estimate at Completion (EAC) for the term of the contract shall be reviewed and evaluated for consistency with observed trends in performance, emerging or resolved issues, and changes in the assessment of project risk.

(e) Reporting

(1) Periodic Plans and Reports. The Contractor shall submit periodic plans and reports in such form and substance as required by the Contracting Officer. These periodic plans and reports shall address general management, schedule/labor/cost, performance measurement, financial incentives, and other technical information relating to performance under the Contract. Section F, Clause entitled, *Reporting Requirements*, provides specific information regarding the required plans and reports, frequency, due dates, reporting levels, distribution, and thresholds that apply. Where specific forms are required for individual plans and reports, the Contracting Officer shall provide such forms to the Contractor.

(2) Report Consistency. Plans and reports shall be prepared in such a manner as to provide for consistency with the Contract Statement of Work, baseline, approved WBS, PBSs, and correlation of data among the various plans and reports. The reporting system established and maintained by the Contractor pursuant to this Clause shall recognize changes in work effort directed by the Contracting Officer. The Contractor's reporting system shall be able to provide for the following at reporting level and for individual construction projects:

(i) Timely incorporation of contractual changes affecting estimated cost and schedule;

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(ii) Reconciliation of estimated costs for those elements of the WBS or discrete cost accounts with current performance measurement budgets in terms of changes to the authorized work and internal replanning;

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(iii) Changes to records pertaining to work performed that will change previously reported costs for correction of errors and routine accounting adjustments;

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(iv) Revisions to the Contract estimated costs for Government-directed changes to the contractual effort.

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(3) Full Access. The Contractor shall provide the Contracting Officer, or designated authorized representatives, access to any and all information and documents comprising the Contractor's project control and reporting system.

(4) Flow-Down of Reporting. The Contractor shall include graded reporting requirements adequate to fairly evaluate performance in all subcontracts. The full requirements of this Clause shall be in all cost-reimbursement type contracts when:

(i) The value of the subcontract is greater than $2 million per year, unless specifically waived by the Contracting Officer; or,

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(ii) The Contracting Officer determines that the contract/subcontract effort is, or involves, a critical task related to the contract.

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H.7.04 Baseline Change Management

(a) Baseline Changes. The baseline (defined in Section C, *Statement of Work*) is the source document for all project control and baseline change management. Baseline changes shall be proposed when necessitated by significant workscope changes, events or other impacts.

(b) Change Thresholds. Except for capital line item projects that will meet the requirements of DOE Order 413.3, Attachment 5, *Baseline Change Control Approval Thresholds*, baseline changes to scope, schedule, and cost may be made by the Contractor at or below the reporting level provided that:

(1) There is no change to milestones defined in the Performance Based Incentives;

(2) It does not impact regulatory milestones;

(3) It does not otherwise require DOE Contracting Officer approval (e.g., Operational Readiness Reviews, critical decisions, requirement changes);

(4) It does not move an activity onto the mission summary critical path;

(5) It has no net impact to the total funding committed to this Contract, as set forth in the funding profile in Section B, *Supplies or Services and Prices/Costs*, and in accordance with EIA Standards set forth in Section H Clause entitled, *Earned Value Management System*; or

(6) It does not require changes to requirements in DOE-controlled technical documents, such as Authorization Agreement, all DOE-controlled items for each Critical Decision, Maintenance Implementation Plan, and Acceptance Inspection Plans.

DOE shall have access to all pertinent records, data, and plans as allowed by other Clauses of this Contract

(c) Funds only Changes. The change control system shall track, manage, and provide for approval of changes in funding level as an integrated part of the overall change control process. Change control records shall maintain clear distinction between approved changes in funding and baseline changes.

(d) Change Control Processing. Change proposals shall be initiated and processed in a timely fashion consistent with the requirements of this contract. The Contracting Officer will establish specific change control time frames for consideration and approval. Each change control threshold level shall accommodate emergency changes. A record of all approved changes, at any level, shall be maintained through the life of the project.

(e) An update to the baseline will be submitted consistent with provisions of Section C, *Statement of Work*.

(f) The Contractor shall have the right to implement the revised baseline subject to adjustments agreed between the parties. Any pending or approved superstretch incentives identified in the current contract period shall be unaffected by the update of the baseline during the extension period of this contract.

H.8 SMALL BUSINESS SUBCONTRACTING PLAN

(a) The Contractor shall submit a Small Business Subcontracting Plan for fiscal year (FY) 2001, and shall submit a revision to the plan within thirty (30) days of the beginning of each subsequent FY of the contract period. Once the Contracting Officer approves the plan, it will be incorporated into the Contract as Section J, Appendix I, *Small Business Subcontracting Plan*. Any revisions thereto shall be approved by the Contracting Officer and incorporated into the contract by a separate Contract modification.

(b) The subcontracting plan will identify goals as specified by the Section I Clauses entitled, *Utilization of Small Business Concerns* and *Small Business Subcontracting Plan*. The plans shall provide meaningful opportunities for local and Regional businesses.

(c) The Contractor commits to strengthen its small business subcontracting program.

(1) The Contractor's program will identify candidate work scope areas for which competitions among all categories of small businesses may be held, (categories of small businesses as defined in the Federal Acquisition Regulation (FAR) in Part 19 and elsewhere in the FAR, and as supplemented by the Department of Energy Acquisition Regulation e.g., small disadvantaged businesses, HUBZone businesses, women-owned small businesses, veteran owned small businesses, and other small businesses).

(2) The Contractor will seek to pre-qualify a pool of small businesses that are eligible for placement of task orders. The Contractor will develop placement procedures that will provide each small business (awardee) a fair opportunity to be considered for each order. The Contractor will not use any method (such as allocation or designation of any preferred awardee) that would not result in fair consideration being given to all awardees prior to placing each order. Exceptions are as follows: (a) only one awardee is capable of providing the supplies or services required at the level of quality required, because the supplies or services ordered are unique or highly specialized, (b) the order must be issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order, or (c) it is necessary to place an order to satisfy a minimum guarantee.

(3) The Contractor will designate an ombudsman for this program. The ombudsman must review complaints from the small businesses in the program and ensure they are afforded a fair opportunity to be considered, consistent with the procedures in the individual subcontracts.

H.9 SUBCONTRACTS

(a) Prior to the placement of subcontracts and in accordance with Section I Clause entitled, *Contractor Purchasing System*, the Contractor shall ensure that any required prior notice and description of the subcontract is given to the Contracting Officer and any required consent is received. Except as may be expressly set forth therein, any consent by the Contracting Officer to the placement of subcontracts shall not be construed to constitute approval of the Subcontractor or any subcontract terms or conditions, determination of the allowability of any cost, revision of this contract or any of the respective obligations of the parties thereunder, or creation of any Subcontractor privity of contract with the Government.

(b) The Contactor commits to increase the amount of subcontracting so that it equates to at least 60 percent of the obligated funds available to the Contractor under this Contract less the total available fee pool.

(c) The Contractor shall award subcontracts for conceptual and detailed design, and construction contemplated under the contract, unless prior Contracting Officer approval is obtained. The Contractor further agrees to identify its core competencies and consider these in all of its make or buy decisions. The identification of core competencies shall be submitted to the Contracting Officer within ninety (90) days of execution of this Contract.

H.10 WITHDRAWAL OF WORK

(a) The Contracting Officer reserves the right to have any of the work contemplated by Section C, *Statement of Work*, of this contract performed by either another Contractor or to have the work performed by Government employees.

(b) Work may be withdrawn: (1) in order for the Government to conduct pilot programs; (2) if the Contractor's estimated cost of the work is considered unreasonable; (3) for less than satisfactory performance by the Contractor; or (4) or any other reason deemed by the Contracting Officer to be in the best interests of the Government. The U.S. Department of Energy (DOE) reserves the right to direct the assignment of any subcontract, including lower-tier subcontracts, to DOE whenever it deems it in its best interests.

(c) If the withdrawn work has been authorized and funds obligated under Section B Clause entitled, *Obligation of Funds*, the work shall be terminated in accordance with the procedures in the Section I Clause entitled, *Termination (Cost-Reimbursement).*

(d) If the Contracting Officer withdraws any work, the Contractor agrees to fully cooperate with the new performing entity and to provide whatever support is required.

H.11 ASSIGNMENT OF DOE PRIME CONTRACTS

During the period of performance of this Contract it may become necessary for the U.S. Department of Energy (DOE) to transfer and assign to this Contract (and Contractor agrees to accept) existing or future DOE prime contracts supporting River Protection Project work. The transfer of these prime contracts will be for administration purposes and in effect the transferred contracts will become subcontracts to this Contract.

H.12 ASSIGNMENT

Neither this Contract nor any interest therein nor claim thereunder shall be assigned or transferred by the Contractor except as expressly authorized in writing by the Contracting Officer.

H.13 LEGAL MANAGEMENT PLAN

This Contract is subject to the requirements of 10 Code of Federal Regulations Part 719, expected to be published in the Federal Register in January 2001, and the Contractor agrees to comply with the requirements as published therein. The Contractor is authorized to continue operating under its DOE approved Litigation Management Plan, until the proposed rule becomes final and the new Legal Management Plan is approved.

H.14 THIRD PARTIES

Nothing contained in this Contract or its amendments shall be construed to grant, vest, or create any rights in any person not a party to this Contract. This provision is not intended to limit or impair the rights, which any person may have under applicable Federal Statutes.

H.15 EMERGENCY CLAUSE

(a) The Manager, U.S. Department of Energy, Office of River Protection (DOE-ORP), or designee shall have sole discretion to determine when an emergency situation exists as a result of facility operations within the physical boundaries defined by this contract affecting personnel, public health, safety, the environment, or security. The Manager, Richland Operations Office, or designee has the discretion to determine when an emergency condition exists elsewhere on the Hanford Site that may affect DOE-ORP employees. In the event the Manager, DOE-ORP, or designee determines such an emergency exists, the Manager, DOE-ORP, or designee will have the authority to direct any and all activities of the Contractor and subcontractors necessary to resolve the emergency situation. The Manager, DOE-ORP, or designee may direct the activities of the Contractor and subcontractors throughout the duration of the emergency.

(b) The Contractor shall include this Clause in all subcontracts at any tier for work performed at the Hanford Site.

H.16 SHUTDOWN AUTHORIZATION

(a) In the event of a specific imminent environmental, health, or safety hazard, identified by facility line management, U.S. Department of Energy (DOE) Facility Representatives, operators, or facility health and safety personnel overviewing facility operations, the individual or group identifying the specific imminent hazard situation shall immediately take actions to eliminate or mitigate the hazard. This shall be accomplished by directing the operator/implementer of the activity or process causing the imminent hazard to shutdown the activity or the facility or by initiating emergency response actions or other actions to protect the health and safety of the workers and the public and to protect DOE facilities and the environment. (DOE designated Facility Representatives provide technical oversight of operations to help line management ensure that the facilities are operated in a safe, healthful, and environmentally acceptable manner in accordance with DOE Orders and other requirements. As such, they have "Stop Work" and "Shutdown Authorization" authority.)

In the event an imminent environmental, health, or safety hazard is identified, the individual or group that identified the hazard shall coordinate with an appropriate Contractor official, who will direct as needed, broader shutdown actions or other actions, as required. Such mitigating actions shall be subsequently coordinated with the Manager, Office of River Protection, the facility/site DOE management, and the facility/site Contractor management. The shutdown direction shall be promptly confirmed in writing from the cognizant Contracting Officer.

This authority is in addition to the Section I Clause entitled, *Stop-Work Order.*

(b) In the event of a non-imminent environmental, health, or safety hazard identified by facility line managers, facility operators, health and safety personnel overviewing facility operations, or by independent oversight organizations, the individual or group identifying the potential environmental, health or safety hazard may recommend corrective action or facility shutdown. However, the recommendation must be coordinated with the Contractor management at the facility, the responsible DOE manager, and the Manager, Office of River Protection. Any written direction to shutdown operations will be issued in coordination with the Contracting Officer.

(c) After shutdown by DOE, an operation or facility may become operational only after receiving written authorization from the Manager, Office of River Protection, or his delegated authority, in coordination with the Contracting Officer.

(d) The Contractor shall provide in its purchasing system policies, practices, and procedures for flowdown of appropriate requirements of this Clause to subcontractors performing work on-site at a DOE-owned or -leased facility. Such subcontracts shall provide for the right to stop work under the conditions described herein.

H.17 PAYMENT BONDS AND PERFORMANCE BONDS

The Contractor will not be required to furnish payment bonds and performance bonds. However, all fixed-price subcontractors will be required to submit the necessary payment bonds and performance bonds as required by the *Miller Act*. Specific requirements and penal amounts can be found in Federal Acquisition Regulation (FAR) 28.102.

H.18 TRAVEL RESTRICTIONS

(a) For Contractor travel expenses incurred on or after October 1, 2000, a ceiling limitation of $450,000 (Fiscal Year 2001) shall apply to all reimbursements made for Contractor travel expenses funded by the *Energy and Water Development Appropriations Act* under this Contract. Expended funds, which exceed the established ceiling, will be unallowable unless otherwise authorized by the Contracting Officer. This ceiling will be updated annually by a letter from the Contracting Officer.

(b) Some travel costs are exempt from the ceiling, examples are:

(1) Travel performed under work for others agreements;

(2) Travel of subcontractors;

(3) Travel of non-DOE users to participate in experiments at DOE user facilities;

(4) Travel costs of travel management centers;

(5) Travel costs funded by other appropriations;

(6) Relocation costs;

(7) Costs of workshops/seminars (other than travel costs), such as, rental of meeting rooms, public address equipment, speakers' fees;

(8) Registration costs of training classes;

(9) Travel expenses within the Laboratory Directed Research and Development Program; and

(10) Travel associated with recruitment.

(c) Notwithstanding any other provisions of the Contract or the source of funding, the Contractor further agrees that none of the funds obligated under the Contract may be used to reimburse employee travel costs, which exceed the rates and amounts that apply to federal employees under subchapter I of Chapter 57 of Title 5, United States Code. Costs, which exceed these rates and amounts, will be unallowable. This restriction is in addition to those prescribed elsewhere in statute or regulation.

(d) Costs incurred for lodging, meals, and incidental expenses are considered reasonable and allowable to the extent that they do not exceed the maximum per diem rates in effect at the time of travel as set forth in:

(1) Federal Travel Regulations (FTR) for travel within the 48 states;

(2) Joint Travel Regulations (JTR) for travel in Alaska, Hawaii, the Commonwealth of Puerto Rico, and territories and possessions of the United States; or

(3) Standardized Regulations (SR) for travel allowances in foreign areas.

(e) Subparagraph (c) does not incorporate the regulations cited above in their entirety. Only the coverages in the referenced regulations addressing the maximum per diem rates, the definitions of lodging, meals, and incidental expenses, and special or unusual situations are applicable to Contractor travel.

(f) Airfare costs in excess of the lowest customary standard, coach, or equivalent airfare offered during normal business hours are unallowable except when such accommodations require circuitous routing, require travel during unreasonable hours, excessively prolong travel, result in increased cost that would offset transportation savings, are not reasonably adequate for the physical or medical needs of the traveler, or are not reasonably available to meet mission requirements. However, in order for airfare costs in excess of the above standard airfare to be allowable, the applicable condition(s) set forth above must be documented and justified.

H.19 SEPARATE BUSINESS UNIT

The work performed under this Contract by the Contractor shall be conducted by a separate corporate entity from its parent company. The separate corporate entity must be set up solely to perform this Contract and shall be totally responsible for all Contract activities.

H.20 SEGREGATION OF COSTS

(a) Whenever the Contract contains both fixed price and cost type arrangements, the Contractor shall maintain separate accounts for each unique contract type arrangement, by task order or other suitable accounting procedure, of all incurred segregable, direct costs of work, allocable to the work effort directly related to each contract arrangement.

(b) Whenever the contract contains a provision for an incentive for a portion of the work effort under the contract, the Contractor shall maintain separate accounts, by Work Authorization Directive or other suitable accounting procedure, of all incurred segregable, direct costs of work, allocable to the work effort directly related to the incentive arrangement.

(c) The Contractor shall maintain all such accounts, required pursuant to the paragraphs above, in accordance with the Section I Clauses entitled, *Ownership of Records* and *Accounts, Records and Inspection*, but, in no case, for a period of less than three (3) years following the Government's determination of the applicable incentive fee.

H.21 INDIRECT COST ALLOCATIONS

For the base contract period and any extension thereof, corporate home office costs/allocations may be allowable only when a directly causal and/or beneficial relationship to the U.S. Department of Energy program is demonstrated and approved by the Contracting Officer.

H.22 EARNED VALUE MANAGEMENT SYSTEM

(a) In the performance of this contract, the Contractor shall use an earned value management system (EVMS) that is recognized as meeting the best business practice guidelines provided in ANSI/EIA-748 Standard, *Earned Value Management System*.

(b) The Contractor shall apply the system to the contract and shall be prepared to demonstrate to the Contracting Officer that the EVMS meets the guideline referenced in paragraph (a) of this Clause.

(c) The Contracting Officer may require integrated baseline reviews. The objective of the integrated baseline review is for the U.S. Department of Energy (DOE) and Contractor to jointly assess areas, such as the Contractor's planning, to ensure complete coverage of the statement of work, logical scheduling of the work activities, adequate resourcing, and identification of inherent risks. The Contractor is responsible for evaluation of its system. This includes self-evaluation of the system, conformity with the standard, and notification to the Contracting Officer of any significant system changes.

(d) The Contractor agrees to provide access to all pertinent records and data requested by the Contracting Officer or duly authorized Contracting Officer's Representative (COR). Access is to permit Government surveillance to ensure that the EVMS complies, and continues to comply, with the criteria referenced in paragraph (a) of this Clause.

(e) The Contractor shall include a Clause similar to this in appropriate subcontracts.

H.23 FINANCIAL MANAGEMENT SYSTEM

(a) The Contractor's accounting system must have the electronic capability to generate and transmit by acceptable mode, the periodic detailed accounting information, at a minimum monthly and at year-end, to the U.S. Department of Energy (DOE) Primary Accounting System for reporting financial activity under this contract in accordance with DOE requirements.

(b) The Contractor shall maintain and administer a financial management system that (1) is suitable to provide proper accounting in accordance with Generally Accepted Accounting Principles, and Cost Accounting Standards, except as modified by DOE requirements; (2) provides accurate and reliable financial and statistical data on a timely basis; (3) ensures accountability for all assets; (4) supports financial planning and budget formulation, validation, execution, and the recasting or changing of DOE funding or task codes such as Budget and Reporting Numbers (B&R), program baseline summaries (PBS), and local projects/tasks; (5) maintains proper funding authorization; (6) provides sufficient management controls per Section I Clause entitled, *Management Controls*, and internal controls; (7) integrates and reports the financial information for subcontractors; and (8) provides all other necessary financial reports which shall include accumulating and reporting indirect and support costs by function. The Contractor will be requested, periodically, to provide certain functional cost information not normally provided to DOE on a routine basis, but should be otherwise available through query of the Contractor's accounting system.

(c) The Contractor shall submit a plan for DOE approval of any substantive change to the financial management system or subsystems at least sixty (60) days in advance of implementation. This plan must identify the cost and schedule for changing from the existing financial systems, and provide a comparison of the capabilities of the new system(s) to the existing system(s). Any new systems are subject to audit or review.

H.24 ENGINEERING STANDARDS, DESIGN CRITERIA, AND CONSTRUCTION STANDARDS

Deleted: RESERVED

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The contractor shall develop a consistent and uniform set of Engineering Standards, Design Criteria, and Construction Standards based on the requirements of the applicable DOE Directives listed in accordance with the Section I Clause entitled, *Laws, Regulations, and DOE Directives*. This set of standards and criteria will be documented, placed under configuration control, and used uniformly across projects and programs in the design, construction, and modification of facilities, structures, systems, or major components. Where an authorization basis, agreement or document governs a facility, structure, system or major component, the criteria and standards will be considered a material part of the authorization basis, agreement or document.

H.25 LEGAL AGREEMENTS (TRI-PARTY AGREEMENT AND OTHERS)

The U.S. Department of Energy (DOE), U.S. Environmental Protection Agency Region 10 (EPA), and Washington State Department of Ecology (Ecology) have entered into the *Hanford Federal Facility Agreement and Consent Order*; referred to as the Tri-Party Agreement (TPA) to ensure compliance with the *Resource Conservation and Recovery Act of 1976* (RCRA) and the *Comprehensive Environmental Response, Compensation, and Liability Act of 1989*, as amended (CERCLA). The TPA sets forth certain requirements and milestones for cleanup activities at the Hanford Site. The Contractor agrees to plan and perform the work under this contract in accordance with DOE direction concerning implementation of the TPA and achievement of current and future milestones in the TPA. TPA change requests will be prepared and processed as soon as possible to reconcile any discrepancies between the River Protection Project (RPP) baseline and the TPA.

Interim Stabilization Consent Decree: DOE and Ecology have entered into the Consent Decree (CT-99-5076-EFS). The Consent Decree sets forth certain requirements and milestones for risk reduction activities at RPP, such as interim stabilization of single-shell tanks and Waste Treatment and Immobilization Plant (WTP) contracting. The Contractor agrees to plan and perform the work under this contract in accordance with DOE direction concerning implementation of the Consent Decree and achievement of current and future milestones in the Consent Decree.

H.26 ENVIRONMENTAL RESPONSIBILITY

General**.** Contractor is required to comply with all environmental laws, regulations, and procedures applicable to the work being performed under this contract. This includes, but is not limited to, compliance with applicable Federal, State and local laws and regulations, interagency agreements such as the *Hanford Federal Facility Agreement and Consent Order* [referred to as the Tri-Party Agreement (TPA)], consent orders, consent decrees, administrative orders, and settlement agreements between the U.S. Department of Energy (DOE) and Federal and State regulatory agencies.

(a) Environmental Permits. The Contractor is responsible to DOE for operation of the treatment, storage and/or disposal (TSD) units known as the Single Shell Tank System (SST), Double Shell Tank System (DST), 204 AR Waste Unloading Station, and the Grout Treatment Facility (GTF) in compliance with the laws, regulations, etc., as stated in the paragraph above and in accordance with the terms of the environmental permits that have been certified in writing by the Contractor, and signed by DOE as "owner/operator" and by the Contractor as "co-operator."

(b) Contractor and DOE as Joint Permittees. Where appropriate, required by law, or required by applicable regulatory agencies, DOE shall sign permits as owner or co-operator with Contractor as operator or co-operator. DOE will co-sign Hazardous Waste permit applications as owner/co-operator where required by applicable law. In this scenario, the Contractor must coordinate its actions with DOE. The Contractor shall accept assignment as "co-operator" of environmental permits, permit applications, or other related documentation associated with the TSDs described in the above paragraph (a). DOE will sign Hazardous Waste and State Dangerous Waste Permit applications as "owner/operator." DOE is responsible for timely notification to the Contractor of any issues or changes in the regulatory environment that impact or may impact Contractor implementation of any permit requirement. The Contractor is responsible for timely notification to DOE of any issues or changes in the regulatory environment that impact or may impact implementation of any permit requirement.

(c) Multiple Contractors as Permittees. Where appropriate, in situations where multiple contractors are operators or co-operators of operations requiring environmental permits, DOE shall sign such permits as owner or co-operator and affected contractors shall sign as operators, or co-operators. In this scenario, the Contractor must coordinate as appropriate with DOE and other contractors affected by the permit.

(d) Permit Applications**.** The Contractor shall provide to DOE for review and comment in draft form any permit applications and other regulatory materials and permits submitted to regulatory agencies for the purposes of obtaining a permit. In the event the permit application is required to be co-signed, submitted by DOE, or is related to a permit in which DOE is a permittee, the Contractor shall provide the application for review and comment. Whenever reasonably possible, all such materials shall be provided to DOE initially not later than 90 days prior to the date they are to be submitted to the regulatory agency. Contractor shall normally provide final regulatory documents to DOE at least thirty (30) days prior to the date of submittal to the regulatory agencies for DOE's final review and signature or concurrence that shall be performed by DOE in a prompt manner. Special circumstances may require permits to be submitted in a shorter time frame.

The Tank Farms are currently being operated under a *Resource Conservation and Recovery Act of 1976* (RCRA), Part A, Interim Status permit. Application for a Part B permit covering Tank Farm operations is being prepared for submission to the Washington State Department of Ecology (Ecology). Issuance of a Part B Permit during the remaining term of this Contract, may impact the Tank Farm Contractor River Protection Project (TFCRPP) baseline cost and schedule for completion of the work set forth in Section C, *Statement of Work*, of this contract. In such event, the Contractor shall constitute a change under the Section I Clause entitled, *Changes*.

(e) Financial Responsibility. DOE agrees that if bonds, insurance, or administrative fees are required as a condition for permits obtained by Contractor under this Contract, such costs shall be allowable. In the event such costs are determined by DOE to be excessive or unreasonable, DOE shall provide the regulatory agency with an acceptable form of financial responsibility. Under no circumstances shall the Contractor or its parent be required to provide any corporate resources or corporate guarantees to satisfy such regulatory requirements.

(f) Copies, Technical Information. The Contractor shall provide DOE copies of environmental permits, authorizations, and regulatory approvals issued to the Contractor by the regulatory agencies. DOE shall provide the Contractor access to copies of environmental permits, authorizations, and approvals issued by the regulatory agencies to DOE that the Contractor may need to comply with applicable law.

The Contractor and DOE shall provide to the other copies of documentation, such as, letters, reports, or other such materials transmitted either to or from regulatory agencies relating to the Contract work.

The Contractor and DOE shall maintain all necessary technical information required to support applications for revision of DOE or other Hanford Site contractor environmental permits when such applications or revisions are related to Contractor's operations. Upon request, Contractor or DOE shall provide to the other access to all necessary and available technical information required to support applications for or revisions to permits or permit applications. The Contractor and DOE shall provide to each other a certification statement relating to such technical information in the form required by the following paragraph.

(g) Certifications. The Contractor shall provide a written certification statement attesting that information DOE is requested to sign was prepared in accordance with applicable requirements. The Contractor shall include the following certification statement in the submittal of such materials to DOE:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The individual authorized in writing by the Contractor to sign such certification statements submitted to Federal or State regulatory agencies under the applicable regulatory program shall sign the certification statement.

(h) Fines, Penalties, Allowable Costs. The Contractor shall accept, in its own name, service of proposed notices, or notices of, correction, penalty, fine, violation, administrative orders, citation, or notice of alleged violations, (e.g., NOC, NOP, NOF, PNOV, NOV, NOAV) and any similar type notices issued by Federal or State regulators to the Contractor resulting from or relating to Contractor's performance of work under this contract, without regard to liability. The Contractor shall immediately notify DOE of such receipt and shall provide copies or originals of such documents as soon as possible thereafter. The allowability of the costs associated with fines and provisions of this contract and applicable law shall govern penalties.

Liability and responsibility for civil fines or penalties arising from or related to violations of environmental requirements shall be borne by the party that caused, by its acts or failure to act, the violation irrespective of the fact that the cognizant regulatory authority may assess any such fine or penalty upon either party or both parties without regard to the allocation of responsibility or liability under this Contract. This contractual allocation shall be based upon the degree to which a party's negligence or willful misconduct lead or contributed to the imposition of the civil fine or penalty. This contractual allocation of liability for any such fine or penalty is effective regardless of which party signs permit applications, manifests, reports or other required documents, is a permittee, or is the named subject of an enforcement action or assessment of a fine or penalty. Nothing in subsection (h) shall be interpreted to limit or otherwise alter the obligation of the DOE to reimburse the Contractor in accordance with the Section I Clause entitled, *Pre-existing Conditions*, of this Contract.

(i) Negotiations. DOE may in its discretion choose to be in charge of, and direct, all negotiations with regulatory agencies regarding permits, fines, penalties, and any other proposed notice, notice, administrative order, and any similar type of notice as described in paragraph (h) above. As directed or required by DOE, the Contractor shall participate in negotiations with regulatory agencies; however, the Contractor shall not make any commitments or offers to regulators purporting to bind or binding the Government in any form or fashion, including monetary obligations, without receiving written authorization or concurrence from the Contracting Officer or his/her authorized representative prior to making such offers/commitments. Failure to obtain such advance written approval may result in otherwise allowable costs being declared unallowable and/or the Contractor being liable for any excess costs to the Government associated with or resulting from such offers/commitments. In the event DOE chooses to allow the Contractor to conduct such negotiations without direct DOE participation, the Contractor shall keep DOE fully advised as to the progress of such negotiations. It is recognized that the challenges posed by this contract, require that the Contractor actively participate with DOE in setting the long-term strategy for the Tank Farm work activities and participate with DOE in meetings with the regulators affecting the work scope of this contract. Contractor personnel will work closely with DOE environmental staff to assure that the proper preparations are made for meetings with the regulators and that strategies are developed and implemented that allow the Hanford Waste Treatment Complex to succeed at meeting regulatory and programmatic obligations for the least cost. DOE specifically recognizes that there may be instances where it would be preferable for the Contractor to take the lead in negotiations with the regulators, in particular where it may be necessary to obtain regulatory relief to insure that work scope and the Baseline are in compliance with Federal, State, and local regulatory requirements. DOE and Contractor shall work cooperatively to determine and agree when the best interests of the parties are served for the Contractor to take the lead in resolving and negotiating a particular regulatory matter.

(j) Termination, Expiration, Permit Transfer. In the event of expiration or termination of this contract, DOE may require the Contractor on an allowable cost basis to take all necessary steps to transfer to DOE some or all environmental permits held by the Contractor. DOE will assume responsibility for such permits, with the approval of the regulating agency, and the Contractor shall be relieved of all liability and responsibility to the extent that such liability and responsibility results from the acts or omissions of a successor Contractor, DOE, or their agents, representatives, or assigns. The Contractor shall remain liable for all unresolved costs; claims, demands, fines and penalties, including reasonable legal costs arising prior to the date such permits are transferred to another party. Contractor shall not be liable for any such claims occurring after formal transfer of this contract unless said claims result from Contractor's action or inaction

(k) Miscellaneous**.** The Contractor shall accept as co-operator assignment or transfer of permits currently held by DOE and its existing contractor. The Contractor may submit for DOE's consideration, requests for alternate review, comment, or signature schedules for environmental permit applications or other regulatory materials covered by this Clause. Any such schedule revision shall be effective only upon written approval from the Contracting Officer. In the case of permit applications that are cosigned by DOE with the Contractor, DOE may sign the application through either the Manager of the Richland Operations Office or the Manager of the Office of River Protection, or the Managers' authorized designees, as determined by DOE in its sole discretion.

H.27 CONTRACTOR DELIVERABLES FOR EXTERNAL REGULATORS OR AGENCIES

Unless otherwise specified all Contractor deliverables for external regulators or agencies will be provided to the U.S. Department of Energy (DOE) at least one (1) month prior to the date it is due to the external regulator or agency. DOE will provide comments to the submittal within ten (10) days of delivery. The Contractor will resolve comments and resubmit the revised deliverable at least five (5) working days prior to the required delivery date. This provision does not modify the requirements provided in Section H Clause entitled*, Permit Applications.*

H.28 HAZARDOUS MATERIALS

In implementation of the Section I Clause entitled, *Hazardous Material Identification and Material Safety Data*, the Contractor shall obtain, review and maintain a Material Safety Data Sheet (MSDS) in a readily accessible manner for each hazardous material (or mixture containing a hazardous material) ordered, delivered, stored, or used; and maintain an accurate inventory and history of use of hazardous materials at each use and storage location. After Contract award, the Offeror shall submit the information required by paragraph (b) of the Section I Clause referenced above. The MSDS shall conform to the requirements of 29 Code of Federal Regulations Part 1910.1200 (g). The MSDS shall be readily accessible during each work shift to employees when they are in their work areas.

H.29 PRESERVATION OF ANTIQUITIES AND LAND AREAS

Federal law provides for the protection of antiquities located on land owned or controlled by the U.S. Department of Energy (DOE). Antiquities include Indian graves or campsites, relics, and artifacts. The Contractor shall control the movements of its personnel and its subcontractors' personnel at the job site and provide appropriate training to ensure that any existing antiquities discovered thereon will not be disturbed or destroyed by such personnel. It shall be the duty of the Contractor to report to the Contracting Officer the existence of any antiquities so discovered. The Contractor shall also preserve all vegetation except where such vegetation must be removed for survey or construction purposes. Any removal of vegetation shall be in accordance with the terms of applicable habitat mitigation plans and permits.

H.30 QUALITY ASSURANCE SYSTEM

The Contractor shall develop and implement a company specific Quality Assurance Program (QAP), supported by documentation that describes its overall implementation of Quality Assurance (QA) requirements. The documentation shall identify the procedures, instructions, and manuals that will be used to implement the Contractor's QA Program within the Contractor's scope of work. The Contractor's documentation shall be submitted to the U.S. Department of Energy, Office of River Protection (DOE-ORP) for review and approval within one hundred eighty (180) days of contract execution.

The Contractor shall utilize a technically defensible "graded approach" to develop the Contractor's QA Program, based on the requirements of 10 Code of Federal Regulations (CFR) Part 830.120 (10 CFR 830.120) for all nuclear facilities and projects within the scope of that document and the Contractor's scope of work, based on DOE Order O 414.1A, *Quality Assurance*, requirements for facilities and projects not within the scope of 10 CFR 830.120, and based on the requirements of the Office of Civilian Radioactive Waste Management (OCRWM) Quality Assurance Requirements and Description (QARD), DOE/RW-0333P, for those elements of the Contractor's scope of work that involve the interim storage, and on-site transportation of Immobilized High Level Waste. The Contractor shall determine within one hundred eighty (180) days of Contract execution, and subject to DOE-ORP approval, if a Sampling and Analytical QA standard is applicable that the Contractor shall use at the waste feed interface between the Contractor and the Waste Treatment and Immobilization Plant (WTP) contractor.

H.31 SUBCONTRACTOR ENVIRONMENT, SAFETY, QUALITY, AND HEALTH REQUIREMENTS

The U.S. Department of Energy (DOE) and the Contractor are committed to zero accidents on the Hanford Waste Treatment Complex (HWTC). To that end, unless expressly approved by the Contracting Officer's Representative or the Head of Contracting Activity (HCA), the Contractor is required to evaluate, prior to subcontracting whether the subcontractor has an acceptable Environmental, Safety, Quality, and Health (ESQ&H) program and that satisfies the following minimum requirements:

(a) An ESQ&H program that is compliant with applicable local, State, Federal and DOE regulatory requirements;

(b) Employees are properly trained and equipped to perform their assigned work. The subcontractor has established an orientation program for new hires, which includes ESQ&H;

(c) Policies and procedures are in place to eliminate accidents, injuries/illnesses, and damage to property and equipment;

(d) ESQ&H records are adequately and properly maintained;

(e) Accidents/incidents are investigated promptly and required reports are generated. If the investigation discovers inadequacies in either the work process or the policies and procedures, the appropriate processes are put in place to avert the accident/incident in the future and personnel are provided proper training;

(f) Hazards are identified and appropriate measures are taken to ensure that personnel and equipment are adequately protected as a result of identified hazards;

(g) Employees have the right to report unsafe conditions and to interrupt or stop work without fear of reprisal;

(h) The frequency of ESQ&H meetings with employees to discuss the work to be performed and the hazards associated with the work is based on the scope of work and commensurate with the work hazards;

(i) ESQ&H inspections/audits are conducted to evaluate effectiveness of the program;

(j) The subcontractor has an average Experience Modification Rate (EMR), Occupational Safety and Health Administration (OSHA) Recordable, and Lost Workday case rate(s) of (1.0, 3.2, and 0.64), respectively, or less, for the previous three (3) years and shows an improving trend in safety performance; however, for construction subcontractors the values shall be less than 1.0, 3.2, and 3.0.

(k) The subcontractor has an established written Hazard Communication Program and a system within the program to maintain Material Safety Data Sheets (MSDS);

(l) The subcontractor has had no significant willful citations from OSHA or other regulatory organizations during the previous three (3) years;

(m) The subcontractor has received no fines for Nuclear Regulatory Commission non-compliances during the previous three (3) years.

The Contractor shall flow down all applicable ESQ&H program criteria to the lowest tier subcontractor performing construction, equipment fabrication or commissioning.

H.32 LABOR RELATIONS

(a) The Contractor, and its major subcontractors, will respect the rights of employees, (1) to organize, form, join, or assist labor organizations; bargain collectively through representatives of the employees own choosing; and engage in other protected concerted activities for the purpose of collective bargaining, or (2) to refrain from such activities.

(b) To the extent required by law, the Contractor and its major subcontractors shall give notice to any lawfully designated representative of its employees for purposes of collective bargaining and, upon proper request, bargain to good faith impasse or agreement, or otherwise satisfy applicable bargaining obligations.

(c) The Contractor shall promptly advise the Contracting Officer of, and provide all appropriate documentation regarding, any labor relations developments at the prime or subcontract level that involve or appear likely to involve:

(1) Possible strike situations affecting the facility;

(2) Referral to the Energy Labor-Management Relations Panel;

(3) Referral to the National Labor Relations Board at any level;

(4) Recourse to procedures under the *Labor-Management Act of 1947*, as amended, or any other Federal or state labor law; and

(5) Any grievance that may reasonably be assumed to be arbitrated under a Collective Bargaining Agreement.

Cost of wages and fringe benefits, to employees represented by collective bargaining units, not in excess of those in appropriate collective bargaining agreements including the Hanford Site Stabilization Agreement, shall be allowable. The costs associated with grievance processing and settlements, arbitration, and arbitration awards shall be allowable in accordance with the provisions of the Contract Section I Clause entitled, *Insurance – Litigation and Claims*.

H.33 ADVANCE UNDERSTANDING ON PERSONNEL COSTS, POLICIES AND PROCEDURES

The U.S. Department of Energy (DOE) has reached an advance understanding with the Contractor on certain personnel costs, related expenses, policies, and procedures. These costs are those associated with personnel policies and procedures, which the Contractor will apply to work under this Contract.

Advance review by DOE and written approval by the Contracting Officer of such personnel policies and procedures is required. Any exceptions noted in the Contracting Officer's written approval will govern the Contractor's application of the personnel policies and procedures under this contract. Any deviation from the personnel policies and procedures so approved must have DOE approval before costs occasioned thereby will be considered allowable (either direct or indirect) under the subject contract. In addition, DOE approval will be required for total annual compensation paid to each person designated as Key Personnel and identified in the Section I Clause entitled, *Key Personnel*, exclusive of bonus or incentive compensation pay which will not be an allowable cost under this contract. The Advance Understanding will be part of this Contract and included in Section J, *List of Documents, Exhibits, and Other Attachments*.

H.34 DETERMINATION OF APPROPRIATE LABOR STANDARDS

The U.S. Department of Energy (DOE) shall determine the appropriate labor standards in accordance with the *Davis-Bacon Act*, which shall apply to work performed under this contract. Where requested by DOE, the Contractor shall provide such information in the form and timeframe required by DOE, as may be necessary for DOE to make such labor standards determinations. The Contractor will then be responsible for ensuring that the appropriate labor standards provisions are included in subcontracts.

H.35 SERVICE CONTRACT ACT (SCA) WAGE DETERMINATION

For any subcontract subject wholly or in part to the provisions of the *McNamara-O'Hara Service Contract Act* (SCA), the Contractor shall require the subcontractor to pay service employees employed thereunder no less than the minimum wage and fringe benefits set forth in the applicable currently effective wage determination(s). Prior to the beginning of each contract year/option period, the agency Contracting Officer shall file a request for a revised wage determination with the U.S. Department of Labor. Any revised wage determination received shall be incorporated into the affected subcontract by modification.

H.36 IMPLEMENTATION OF THE HANFORD SITE STABILIZATION AGREEMENT

(a) The Site Stabilization Agreement for all construction work for the U.S. Department of Energy (DOE) at the Hanford Site, consists of a Basic Agreement dated September 10, 1984, plus an Appendix A. (The Site Stabilization Agreement is available in the DOE Public Reading Room. The Site Stabilization Agreement will be made a part of this Contract by reference upon award. The Contractor shall be required to comply with the most current Site Stabilization Agreement, and as modified throughout performance of the Contract.)

(b) This Clause applies to employees performing work under U.S. Department of Energy Office of River Protection (DOE-ORP) contracts or subcontracts subject to the *Davis-Bacon Act*, in the classifications set forth in the Site Stabilization Agreement for work performed at the Hanford Site.

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(c) Contractors and subcontractors at all tiers who are parties to an agreement(s) for construction work with a Local Union having jurisdiction over DOE-ORP construction work performed at the Hanford Site, or who are parties to a national labor agreement for such construction work, shall become signatory to the Site Stabilization Agreement and shall abide by all of its provisions, including Appendix A. Subcontractors at all tiers who have subcontracts with a signatory contractor or subcontractor shall become signatory to the Site Stabilization Agreement and shall abide by all of its provisions, including its Appendix A.

(d) Contractors and subcontractors at all tiers who are not signatory to the Site Stabilization Agreement and who are not required under paragraph (c) above to become signatory to the Site Stabilization Agreement, shall pay not less and no more than the wages, fringe benefits, and other employee compensation set forth in Appendix A and shall adhere, except as otherwise directed by the Contracting Officer, to the following provisions of the Site Stabilization Agreement:

(1) Article VII, Employment, Section 2 only

(2) Article XII, Non-Signatory Contractor Requirements

(3) Article XIII, Hours of Work, Shifts, and Overtime

(4) Article XIV, Holidays

(5) Article XV, Wage Scales and Fringe Benefits, Sections 1 and 2 only

(6) Article XVII, Payment of Wages - Checking In and Out, Section 3 only

(7) Article XX, General Working Conditions

(8) Article XXI, Safety and Health

(e) The Contractor agrees to make no contributions in connection with this Contract to industry Promotion funds, or similar funds, except with the prior approval of the Contracting Officer.

(f) The obligation of the Contractor and its subcontractors to pay fringe benefits shall be discharged by making payments required by this Contract in accordance with the provisions of the amendments to the *Davis-Bacon Act* contained in the Act of July 2, 1964 (Public Law 88-349-78, Statutes 238-239), and the U.S. Department of Labor regulations in implementation thereof (29 Code of Federal Regulations (CFR) Parts 1, 3, 5).

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(g) The Contracting Officer may direct the Contractor to pay amounts for wages, fringe benefits, and other employee compensation if the Site Stabilization Agreement, including its Appendix A, is modified by the involved parties.

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(h) (1) In the event of failure to comply with paragraphs (c), (d), (e), (f), and (g) above, or failure to perform any of the obligations imposed upon the Contractor and its subcontractors, the Contracting Officer may withhold any payments due to the Contractor and may terminate the Contract for default.

(2) The rights and remedies of the Government provided in this paragraph (1) above shall not be exclusive and are in addition to any other rights and remedies of the Government provided by law or under this Contract.

(i) The requirements of this paragraph are in addition to, and shall not relieve the Contractor of any obligation imposed by other clauses of the Contract, including those entitled, *Davis Bacon Act, Contract Work Hours and Safety Standards Act-Overtime Compensation, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Withholding of Funds,* and *Contract Termination-Debarment*.

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(j) The Contractor agrees to maintain its bid or proposal records showing rates and amounts used for computing wages and other compensation, and its payroll and personnel records during the course of work subject to this paragraph, and to preserve such records for a period of three (3) years thereafter, for all employees performing such work. Such records will contain the name, address, social security number of each such employee, correct classification, rate of pay, daily and weekly number of hours worked, and dates and hours of the day within which work was performed, deductions made, and amounts for wages and other compensation covered by paragraphs (c), (d), (e), (f), and (g) of this Contract Clause. The Contractor agrees to make these records available for inspection by the Contracting Officer and will permit employee interviews during working hours on the job.

(k) The Contractor agrees to insert this Clause, including this paragraph (k), in all subcontracts for the performance of work subject to the *Davis-Bacon Act*.

H.37 WORKERS COMPENSATION

The Section I Clause entitled, *Insurance-Litigation and Claims* is implemented as follows with respect to Workers Compensation:

Pursuant to State of Washington Revised Code (RCW) Title 51, Section 51.04.130 Industrial Insurance Coverage for Hanford Worker - Special Agreements, the U.S. Department of Energy (DOE) Office of River Protection (DOE-ORP) is a group self-insurer for purposes of workers' compensation coverage. The coverage afforded by the workers' compensation statutes shall, for performance of work under this Contract at the Hanford Site, be subject to the following:

(a) The Contractor shall be relieved of all obligations to pay premiums for such coverage, DOE having agreed, under the terms of a Contract with the U.S. Department of Labor and Industries of the State of Washington (L&I) to bear the actual cost of such coverage.

(b) The Contractor shall submit to DOE (or other party as designated by DOE), for transmittal to the L&I, such payroll records as are required by the said statutes.

(c) The Contractor shall submit to DOE (or other party as designated by DOE), for transmittal to DOE, the accident reports provided for by RCW Title 51, Section 51.28.010.

(d) The Contractor shall take such action, and only such action, as DOE requests in connection with any accident reports, including assistance in the investigation and disposition of any claim thereunder and, subject to the direction and control of DOE, the conduct of litigation in the Contractor's own name in connection therewith.

(e) The Contractor shall be responsible for making all payments and submitting all reports required by RCW Title 51, Section 51.32.073.

H.38 INFORMATION

(a) Release of Information

(1) The Contractor shall be responsible for developing, planning, and coordinating proactive approaches to timely dissemination of information regarding U.S. Department of Energy (DOE) unclassified activities onsite and offsite as directed by the Contracting Officer.

(2) The Contractor shall be responsible for following DOE guidelines and/or procedures for all oral, written and audio/visual information material prepared for public use, including technical information.

(b) Unclassified, Controlled, Nuclear Information (UCNI): Documents originated by the Contractor or furnished by the Government to the Contractor, in connection with this contract, may contain Unclassified, Controlled, and Nuclear Information as determined pursuant to Section 148 of the *Atomic Energy Act of 1954*, as amended. The Contractor shall be responsible for protecting such information from unauthorized dissemination in accordance with DOE regulations and directives, and Section I Clauses entitled, *Security* and *Classification/Declassification*.

(c) Confidentiality of Information: To the extent that the work under this contract requires that the Contractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Contractor shall, after receipt thereof, treat such information as confidential and agrees not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by the Contracting Officer in writing. The foregoing obligations, however, shall not apply to:

(1) Information which, at the time of receipt by the Contractor, is in the public domain;

(2) Information that is published after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;

(3) Information that the Contractor can demonstrate was in its possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies;

(4) Information that the Contractor can demonstrate was received by it from a third party that did not require the Contractor to hold it in confidence.

The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, of each employee permitted access to such information, whereby the employee agrees that he will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the contract.

The Contractor agrees, if requested by the Government, to sign an agreement identical, in all material respects, to the provisions of this subparagraph (d), with each company supplying information to the Contractor under this contract, and to supply a copy of such agreement to the Contracting Officer. From time to time upon request of the Contracting Officer, the Contractor shall supply the Government with reports itemizing information received as confidential or proprietary and setting forth the company or companies from which the Contractor received such information.

The Contractor agrees that upon request by DOE, it will execute a DOE-approved agreement with any party whose facilities or proprietary data it is given access to or is furnished, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by DOE, Contractor personnel shall also sign such an agreement.

(d) The Government reserves the right to require the Contractor to include this Clause or a modified version of this Clause in any subcontract as directed in writing by the Contracting Officer.

H.39 LOBBYING RESTRICTIONS (*ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2001)*

The Contractor or awardee agrees that none of the funds obligated on this award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 United States Code 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

H.40 LOBBYING RESTRICTIONS (*DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2001*)

The Contractor agrees that none of the funds obligated on this award shall be made available for any activity of the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete. This restriction is in addition to those prescribed elsewhere in statute and regulation.

H.41 AGREEMENT REGARDING PROPOSED CLAUSES

This contract modification includes clauses that have not been finalized through the formal rule making process (e.g., Section I Clause entitled, *Conditional Payment of Fee, Profit, or Incentives*, etc.). The U.S. Department of Energy (DOE) anticipates promulgation of formal clauses, or revisions to the clauses, contained in this contract modification prior to, or shortly after, the effective date of this modification. Subsequent to such promulgation, the Contractor agrees to negotiate, in good faith, the substitution of these revised clauses for the corresponding existing contract clauses. Absent material changes to the above clauses in the Final Rule(s) promulgating the clauses that would substantially increase the Contractor's financial or corporate risk, the Contractor agrees to accept the final DOE versions of these Clauses.

H.42 USE OF DOE FACILITIES

The Contractor may conduct programs of local community assistance to mitigate adverse impacts of closure or reconfiguration of U.S. Department of Energy (DOE) facilities. Such programs may provide for the lease or transfer of DOE property at less than fair market value in accordance with the *Hall Amendment* (Public Law 103-160, Section 3154 and 3155). Any lease or transfer of DOE property must be prior-approved in writing by the Contracting Officer.

H.43 SHARING EARNED FEES WITH EMPLOYEES

The Contractor will establish an employee fee-sharing program under this contract. The Contractor shall set aside at least five (5) percent of its earned fee to be shared with its employees consistent with the performance objectives set by its Board of Directors. The fee sharing process and percentage of earned fee to be shared will be described in its procedures.

H.44 PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS-SENSE OF CONGRESS

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-Made.

PART II – CONTRACT CLAUSES
SECTION I
CONTRACT CLAUSES

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (See FAR 52.104(d))
I.1	FAR 52.201-1	Definitions (OCT 1995)	None
I.2	FAR 52.203-3	Gratuities (APR 1984)	None
I.3	FAR 52.203-5	Covenant Against Contingent Fees (APR 1984)	None
I.4	FAR 52.203-6	Restrictions on Subcontractor Sales to the Government (JUL 1995)	None
I.5	FAR 52.203-7	Anti-Kickback Procedures (JUL 1995)	None
I.6	FAR 52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (JAN 1997)	None
I.7	FAR 52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997)	None
I.8	FAR 52.203-12	Limitation on Payments to Influence Certain Federal Transactions (JUN 1997)	None
I.9	FAR 52.204-4	Printing/Copying Double-Sided on Recycled Paper (JUN 1996)	None
I.10	FAR 52.209-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (JUL 1995)	None
I.11	FAR 52.211-5	Material Requirements (OCT 1997)	None
I.12	FAR 52.215-2	Audit and Records – Negotiation (JUN 1999)	None
I.13	FAR 52.215-8	Order of Precedence – Uniform Contract Format (OCT 1997)	None
I.14	FAR 52.215-11	Price Reduction for Defective Cost or Pricing Data – Modifications (OCT 1997)	None
I.15	FAR 52.215-13	Subcontractor Cost or Pricing Data – Modifications (OCT 1997)	None
I.16	FAR 52.215-15	Pension Adjustments and Asset Reversions (DEC 1998)	None
I.17	FAR 52.215-17	Waiver of Facilities Capital Cost of Money (OCT 1997)	None
I.18	FAR 52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (OCT 1997)	None
I.19	FAR 52.215-19	Notification of Ownership Changes (OCT 1997)	None
I.20	FAR 52.216-7	Allowable Cost and Payment (MAR 2000)	None
I.21	FAR 52.219-8	Utilization of Small Business Concerns (OCT 2000)	None
I.22	FAR 52.219-9	Small Business Subcontracting Plan (OCT 2000) – Alternate II (JAN 1999)	None
I.23	FAR 52.219-16	Liquidated Damages – Subcontracting Plan (JAN 1999)	None
I.24	FAR 52.222-1	Notice to the Government of Labor Disputes (FEB 1997)	None
I.25	FAR 52.222-3	Convict Labor (AUG 1996)	None
I.26	FAR 52.222-4	Contract Work Hours and Safety Standards Act – Overtime Compensation (SEP 2000)	None
I.27	FAR 52.222-21	Prohibition of Segregated Facilities (FEB 1999)	None
I.28	FAR 52.222-26	Equal Opportunity (FEB 1999)	None
I.29	FAR 52.222-35	Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (APR 1998)	None
I.30	FAR 52.222-36	Affirmative Action for Workers with Disabilities (JUN 1998)	None
I.31	FAR 52.222-37	Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (JAN 1999)	None
I.32	FAR 52.222-41	Service Contract Act of 1965, as Amended ((MAY 1989)	None
I.33	FAR 52.222-47	SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA) (MAY 1989)	None
I.34	FAR 52.223-3	Hazardous Material Identification and Material Safety Data (JAN 1997) – Alternate I (JUL 1995)	(b) None

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (See FAR 52.104(d))
I.35	FAR 52.223-5	Pollution Prevention and Right-to-Know Information (APR 1998)	None
I.36	FAR 52.223-6	Drug-Free Workplace (JAN 1997)	None
I.37	FAR 52.223-10	Waste Reduction Program (OCT 1997)	None
I.38	FAR 52.223-12	Refrigeration Equipment and Air Conditioners (MAY 1995)	None
I.39	FAR 52.223-14	Toxic Chemical Release Reporting (OCT 2000)	None
I.40	FAR 52.224-1	Privacy Act Notification (APR 1984)	None
I.41	FAR 52.224-2	Privacy Act (APR 1984)	None
I.42	FAR 52.225-13	Restrictions on Certain Foreign Purchases (JUL 2000)	None
I.43	FAR 52.226-1	Utilization of Indian Organizations and Indian-Owned Economic Enterprises (FEB 2000)	None
I.44	FAR 52.227-1	Authorization and Consent (JUL 1995)	None
I.45	FAR 52.227-2	Notice and Assistance Concerning Patent and Copyright Infringement (AUG 1996)	None
I.46	FAR 52.227-3	Patent Indemnity (APR 1984)	None
I.47	FAR 52.230-2	Cost Accounting Standards (APR 1998)	None
I.48	FAR 52.230-6	Administration of Cost Accounting Standards (NOV 1999)	None
I.49	FAR 52.232-17	Interest (JUN 1996)	None
I.50	FAR 52.232-22	Limitation of Funds (APR 1984)	None
I.51	FAR 52.232-24	Prohibition of Assignment of Claims	None
I.52	FAR 52.232-25	Prompt Payment (JUN 1997)	None
I.53	FAR 52.233-1	Disputes (DEC 1998) – Alternate I (DEC 1991)	None
I.54	FAR 52.233-3	Protest After Award (AUG 1996) – Alternate I ((JUN 1985)	None
I.55	FAR 52.236-8	Other Contracts (APR 1984)	None
I.56	FAR 52.237-2	Protection of Government Buildings, Equipment, and Vegetation (APR 1984)	None
I.57	FAR 52.237-3	Continuity of Services (JAN 1991)	None
I.58	FAR 52.242-1	Notice of Intent to Disallow Costs (APR 1984)	None
I.59	FAR 52.242-3	Penalties for Unallowable Costs (OCT 1995)	None
I.60	FAR 52.242-4	Certification of Final Indirect Costs (JAN 1997)	None
I.61	FAR 52.242-13	Bankruptcy (JUL 1995)	None
I.62	FAR 52.242-15	Stop-Work Order (AUG 1989) – Alternate I (APR 1984)	None
I.63	FAR 52.243-2	Changes-Cost Reimbursement (AUG 1987) – Alternate II (APR 1984)	None
I.64	FAR 52.243-6	Change Order Accounting (APR 1984)	None
I.65	FAR 52.243-7	Notification of Changes (APR 1984)	(b) 10 days. (d) 30 days.
I.66	FAR 52.244-2	Subcontracts (AUG 1998) – Alternate II (AUG 1998)	(e) None
I.67	FAR 52.244-5	Competition in Subcontracting (DEC 1996)	None
I.68	FAR 52.244-6	Subcontracts for Commercial Items and Commercial Components (OCT 1998)	None
I.69	FAR 52.246-25	Limitation of Liability – Services (FEB 1997)	None
I.70	FAR 52.247-1	Commercial Bill of Lading Notations (APR 1984)	(a) U.S. Department of Energy…(b) U.S. Department of Energy…Contract No. DE-AC27-99RL14047…U.S. Department of Energy, Office of River Protection, Office of Business Management and Administration, H6-60, P.O. Box 450, Richland, WA 99352
I.71	FAR 52.247-67	Submission of Commercial Transportation Bills to the General Services Administration for Audit (JUN 1997)	None
I.72	FAR 52.249-6	Termination (Cost Reimbursement) (SEP 1996)	None
I.73	FAR 52.249-14	Excusable Delays (APR 1984)	None

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (See FAR 52.104(d))
I.74	FAR 52.251-1	Government Supply Sources (APR 1984)	None
I.75	FAR 52.251-2	Interagency Fleet Management System Vehicles and Related Services (JAN 1991)	None
I.76	FAR 52.252-2	Clauses Incorporated by Reference (FEB 1998)	http://www.arnet.gov/far; http://www.pr.doe.gov/dear.html
I.77	FAR 52.252-6	Authorized Deviations in Clauses (APR 1984)	(b) The use in this contract of any Department of Energy Acquisition Regulation (48 CFR Part 9) Clause with an authorized deviation is indicated by the addition of "(DEVIATION)' after the name of the regulation
I.78	FAR 52.253-1	Computer Generated Forms (JAN 1991)	None
		DEAR 952 CLAUSES	
I.79	DEAR 952.202-1	Definitions (JAN 1997)	None
I.80	DEAR 952.203-70	Whistleblower Protection for Contractor Employees (DEC 2000)	None
I.81	DEAR 952.204-2	Security (SEP 1997)	None
I.82	DEAR 952.204-70	Classification/Declassification (SEP 1997)	None
I.83	DEAR 952.204-71	Sensitive Foreign Nations Controls (APR 1994)	None
I.84	DEAR 952.204-72	Disclosure of Information (APR 1994)	None
I.85	DEAR 952.204-73	Foreign Ownership, Control, or Influence Over Contractor (Representation) (JUL 1997)	None
I.86	DEAR 952.204-74	Foreign Ownership, Control, or Influence Over Contractor (APR 1984)	(c) Submit Questionnaire Prior to Award
I.87	DEAR 952.204-75	Public Affairs (DEC 2000)	None
I.88	DEAR 952.208-7	Tagging of Leased Vehicles (APR 1984)	None
I.89	DEAR 952.208-70	Printing (APR 1984)	None
I.90	DEAR 952.209-72	Organizational Conflicts of Interest (JUN 1997) – Alternate I	None
I.91	DEAR 952.215-70	Key Personnel (DEC 2000)	Section J, Appendix A
I.92	DEAR 952.217-70	Acquisition of Real Property (APR 1984)	None
I.93	DEAR 952.223-75	Preservation of Individual Occupational Radiation Exposure Records ((APR 1984)	None
I.94	DEAR 952.224-70	Paperwork Reduction Act (APR 1994)	None
I.95	DEAR 952.226-74	Displaced Employee Hiring Preference (JUN 1997)	None
I.96	DEAR 952.227-9	Refund of Royalties (FEB 1995)	None
I.97	DEAR 952.227-13	Patent Rights-Acquisition by the Government (SEP 1997)	None
I.98	DEAR 952.242-70	Technical Direction (DEC 2000)	None
I.99	DEAR 952.247-70	Foreign Travel (DEC 2000)	None
I.100	DEAR 952.250-70	Nuclear Hazards Indemnity Agreement (JUN 1996)	None
I.101	DEAR 952.251-70	Contractor Employee Travel Discounts (DEC 2000)	None
		DEAR 970 CLAUSES	
I.102	DEAR 970.5203-1	Management Controls (DEC 2000)	None
I.103	DEAR 970.5203-2	Performance Improvement and Collaboration (DEC 2000)	None
I.104	DEAR 970.5203-3	Contractor's Organization (DEC 2000)	None
I.105	DEAR 970.5204-1	Counterintelligence (DEC 2000)	None
I.106	DEAR 970.5204-2	Laws, Regulations, and DOE Directives (DEC 2000)	None
I.107	DEAR 970.5204-3	Access to and Ownership of Records (DEC 2000)	None
I.108	DEAR 970.5215-1	Total Available Fee: Base Fee Amount and Performance Fee Amount (DEC 2000)	(a) (base fee is zero)
I.109	DEAR 970.5215-2	Make-or-Buy Plan (DEC 2000)	None

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (See FAR 52.104(d))
I.110	DEAR 970.5215-3	Conditional Payment of Fee, Profit, or Incentives (DEC 2000) – Alternate I (DEC 2000)	None
I.111	DEAR 970.5215.4	Cost Reduction (DEC 2000)	None
I.112	DEAR 970.5222-1	Collective Bargaining Agreements Management and Operating Contracts (DEC 2000)	None
I.113	DEAR 970.5222-2	Overtime Management (DEC 2000)	None
I.114	DEAR 970.5223-1	Integration of Environment, Safety, and Health into Work Planning and Execution (DEC 2000)	None
I.115	DEAR 970.5223-2	Acquisition and Use of Environmentally Preferable Products and Services (DEC 2000)	None
I.116	DEAR 970.5223-4	Workplace Substance Abuse Programs at DOE Sites (DEC 2000)	None
I.117	DEAR 970.5226-1	Diversity Plan (DEC 2000)	None
I.118	DEAR 970.5226-2	Workforce Restructuring Under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (DEC 2000)	None
I.119	DEAR 970.5226-3	Community Commitment (DEC 2000)	None
I.120	DEAR 970.5227-1	Rights in Data – Facilities (DEC 2000)	None
I.121	DEAR 970.5227-4	Authorization and Consent (DEC 2000)	None
I.122	DEAR 970.5227-5	Notice and Assistance Regarding Patent and Copyright Infringement (DEC 2000)	None
I.123	DEAR 970.5227-6	Patent Indemnity – Subcontracts (DEC 2000)	None
I.124	DEAR 970.5227-7	Royalty Information (DEC 2000)	None
I.125	DEAR 970.5227-8	Refund of Royalties (DEC 2000)	None
I.126	DEAR 970.5228-1	Insurance – Litigation and Claims (DEC 2000)	None
I.127	DEAR 970.5229-1	State and Local Taxes (DEC 2000)	None
I.128	DEAR 970.5231-4	Preexisting Conditions (DEC 2000)	(a) September 30, 1999
I.129	DEAR 970.5232-1	Reduction or Suspension of Advance, Partial, or Progress Payments (DEC 2000)	None
I.130	DEAR 970.5232-2	Payments and Advances (DEC 2000) – Alternate II (DEC 2000) and Alternate IV (DEC 2000)	(c) “Appendix K”
I.131	DEAR 970.5232-3	Accounts, Records, and Inspection (DEC 2000)	None
I.132	DEAR 970.5232-4	Obligation of Funds (DEC 2000)	(a) See Section B, Clause B.2 for amount
I.133	DEAR 970.5232-5	Liability with Respect to Cost Accounting Standards (DEC 2000)	None
I.134	DEAR 970.5232-6	Work for Others Funding Authorization (DEC 2000)	None
I.135	DEAR 970.5232-7	Financial Management System (DEC 2000)	None
I.136	DEAR 970.5236-1	Government Facility Subcontract Approval (DEC 2000)	None
I.137	DEAR 970.5237-2	Facilities Management (DEC 2000)	None
I.138	DEAR 970.5244-1	Contractor Purchasing System (DEC 2000)	None
I.139	DEAR 970.5245-1	Property (DEC 2000)	None
		CONSTRUCTION CLAUSES	
I.140	FAR 52.202-1	Definitions (OCT 1995) – Alternate I (APR 1984)	See Note
I.141	FAR 52.211-10	Commencement, Prosecution and Completion of Work (APR 1984) – Alternate I (APR 1984)	See Note
I.142	FAR 52.211-12	Liquidated Damages – Construction (SEP 2000)	See Note
I.143	FAR 52.216-9	Fixed Fee – Construction (MAR 1997)	See Note
I.144	FAR 52.222-6	Davis-Bacon Act (FEB 1995)	See Note
I.145	FAR 52.222-7	Withholding of Funds (FEB 1988)	See Note
I.146	FAR 52.222-8	Payrolls and Basic Records (FEB 1988)	See Note
I.147	FAR 52.222-9	Apprentices and Trainees (FEB 1988)	See Note
I.148	FAR 52.222-10	Compliance with Copeland Act Requirements (FEB 1988)	See Note
I.149	FAR 52.222-11	Subcontracts (Labor Standards) (FEB 1988)	See Note
I.150	FAR 52.222-12	Contract Termination – Debarment (FEB 1988)	See Note
I.151	FAR 52.222-13	Compliance with Davis-Bacon and Related Act Regulations (FEB 1988)	See Note

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (See FAR 52.104(d))
I.152	FAR 52.222-14	Disputes Concerning Labor Standards (FEB 1988)	See Note
I.153	FAR 52.222-15	Certification of Eligibility (FEB 1988)	See Note
I.154	FAR 52.222-20	Walsh-Healey Public Contracts Act (DEC 1996)	See Note
I.155	FAR 52.222-22	Previous Contracts and Compliance Reports (FEB 1999)	See Note
I.156	FAR 52.222-23	Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity for Construction (FEB 1999)	See Note
I.157	FAR 52.222-27	Affirmative Action Compliance Requirements for Construction (FEB 1999)	See Note
I.158	FAR 52.225-11	Buy American Act – Balance of Payments Program – Construction Materials under Trade Agreements (FEB 2000)	See Note
I.159	FAR 52.225-12	Notice of Buy American Act/Balance of Payments Program Requirement-Construction Materials Under Trade Agreements (FEB 2000)	See Note
I.160	FAR 52.225-13	Restrictions on Certain Foreign Purchases (FEB 2000)	See Note
I.161	FAR 52.227-4	Patent Indemnity-Construction Contracts (APR 1984)	See Note
I.162	FAR 52.229-4	Federal, State, and Local Taxes (Noncompetitive Contracts) (JAN 1991)	See Note
I.163	FAR 52.232-5	Payments Under Fixed-Price Construction Contracts (MAY 1997)	See Note
I.164	FAR 52.232-27	Prompt Payment for Construction Contracts (JUN 1997)	See Note
I.165	FAR 52.236-1	Performance of Work by the Contractor (APR 1984)	See Note
I.166	FAR 52.236-2	Differing Site Conditions (APR 1984)	See Note
I.167	FAR 52.236-3	Site Investigation and Conditions Affecting the Work (APR 1984)	See Note
I.168	FAR 52.236-4	Physical Data (APR 1984)	See Note
I.169	FAR 52.236-5	Material and Workmanship (APR 1984)	See Note
I.170	FAR 52.236-6	Superintendence by the Contractor (APR 1984)	See Note
I.171	FAR 52.236-8	Other Contracts (APR 1984)	See Note
I.172	FAR 52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements (APR 1984)	See Note
I.173	FAR 52.236-10	Operations and Storage Areas (APR 1984)	See Note
I.174	FAR 52.236-11	Use and Possession Prior to Completion (APR 1984)	See Note
I.175	FAR 52.236-12	Cleaning Up (APR 1984)	See Note
I.176	FAR 52.236-13	Accident Prevention (NOV 1991)	See Note
I.177	FAR 52.236-14	Availability and Use of Utility Services (APR 1984)	See Note
I.178	FAR 52.236-17	Layout of Work (APR 1984)	See Note
I.179	FAR 52.236-18	Work Oversight in Cost-Reimbursement Construction Contracts (APR 1984)	See Note
I.180	FAR 52.236-19	Organization and Direction of the Work (APR 1984)	See Note
I.181	FAR 52.236-21	Specifications and Drawings for Construction (FEB 1997)	See Note
I.182	FAR 52.242-14	Suspension of Work (FEB 1984)	See Note
I.183	FAR 52.243-2	Changes – Cost Reimbursement (AUG 1987) – Alternate III (APR 1984)	See Note
I.184	FAR 52.243-4	Changes (AUG 1987)	See Note
I.185	FAR 52.245-2	Government Property (Fixed-Price Contracts) (DEC 1989)	See Note
I.186	FAR 52.245-3	Identification of Government-Furnished Property (APR 1984)	See Note
I.187	FAR 52.245-18	Special Test Equipment (FEB 1993)	See Note
I.188	FAR 52.249-2	Termination for Convenience of the Government (Fixed-Price) (SEP 1996) – Alternate I (SEP 1996)	See Note
I.189	FAR 52.249-10	Default (Fixed-Price Construction) (APR 1984)	See Note

Note: The Construction Clauses shall apply WHEN APPLICABLE to construction work performed under this Contract whether performed by the Contractor or a subcontractor.

PART III - LIST OF DOCUMENTS EXHIBITS, AND OTHER ATTACHMENTS
SECTION J
LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS

Appendix	**Title**
A	Key Personnel
B	Advance Understanding on Personnel Costs, Policies and Procedures
C	DOE Directives
D	Performance Based Incentives
E	Guidance for Other Required Plans
F	Environment, Safety, and Health Budget Planning And Execution
G	Guidance for Preparation of Diversity Plan
H	Reserved
I	Small Business Subcontracting Plan (See Modification No. M021)
J	Wage Determinations under the Service Contract Act (See Modification No. M023)
K	Special Bank Account Agreement (See Modification No. M028)

APPENDIX A - KEY PERSONNEL

Name	Title
M. P. DeLozier	President and General Manager, CH2M HILL Hanford Group, Inc.
A. M. Parker	Executive Vice President, CH2M HILL Hanford Group, Inc.
M. A. Payne	Senior Vice President, CH2M HILL Hanford Group, Inc.
D. I. Allen	Senior Vice President, CH2M HILL Hanford Group, Inc.

Deleted: W.T. Dehn - Executive Vice President, River Protection Project¶
¶

APPENDIX B - ADVANCE UNDERSTANDING ON PERSONNEL COSTS POLICIES AND PROCEDURES

JB.1 INTRODUCTION

This Advance Understanding sets forth the basis for determining the allowability of Contractor human resource management policies and related expenses that have cost implications under the Contract. This agreement is intended to cover the majority of the human resources costs incurred by the Contractor for work performed by employees assigned to work tasks authorized by the U.S. Department of Energy (DOE), Office of River Protection (DOE-ORP) in accordance with this Contract. Costs not specifically addressed in this advance understanding will be treated in accordance with applicable Federal Acquisition Regulation (FAR) cost principles.

The Contractor shall select, employ, manage, and direct the work force, and apply the policies set forth herein in general conformity with the methods used in the Contractor's private operations insofar as those methods are consistent with this Contract. The Contractor shall use effective management review procedures and internal controls to assure that the allowable costs set forth herein are not exceeded, and that areas which require prior approval of the DOE Contracting Officer or designated representative are reviewed and approved prior to incurrence of costs.

The Contractor shall promptly furnish all reports and information required or otherwise indicated in this Appendix to the Contracting Officer or designated representative. The Contractor recognizes that other data requests may be made from time to time and the Contractor agrees to cooperate in meeting such requests.

JB.2 GENERAL

Subject to the specific limitations, conditions, and exclusions of FAR Subpart 31.2 as supplemented by Department of Energy Regulation (DEAR) 931.2, and to the special conditions set forth below, personnel and related costs incurred for work under this contract by the Contractor in accordance with the Contractor's corporate-wide policies consistently and uniformly applied throughout the corporation's domestic operations, and approved by DOE-ORP, are allowable. Such policies will be summarized and submitted in the form of a Personnel Policies Manual applicable to this Contract by January 31, 2001.

Revisions to corporate-wide or contract-only policies and employee benefit plans which increase costs will be provided to DOE-ORP for review for allowability prior to incurrence of costs.

JB.3 DEFINITIONS

(a) Contractor – CH2M HILL Hanford Group, Inc.

(b) Credited Service – Length of service for employees shall mean employment with the Contractor or Major Subcontractors including recognized credited service with predecessor DOE Hanford Contractors. Service credit will be applied in accordance with this Contract and the Contractor's service credit policies regarding leave accrual, severance pay, and other benefit programs.

(c) FAR – Federal Acquisition Regulation

(d) Work Week – The basic (or regular) work week shall be 40 hours. Alternative work weeks may be established with the approval of the Contracting Officer. Submit all Proposed Alternative work weeks to the Contracting Officer for approval by April 1, 2001.

JB.4 DIRECT COMPENSATION

The Contractor shall submit its Compensation Program applicable to work under this Contract to the Contracting Officer for initial approval by April 1, 2001. Proposed Compensation Program design changes, which affect costs, will also be submitted for review and approval by the Contracting Officer.

(a) Administration of Wages and Salaries of Nonrepresented Employees

Administration of Wages and Salaries of Nonrepresented Employees shall be carried out in accordance with sound wage and salary administration principles and in a manner which shall provide for equitable treatment of personnel on a definitive, systematic basis consistent with economic business practices and judicious expenditure of public funds and which shall result in payment of total compensation to individual employees conforming to the standards of reasonableness as contemplated by FAR Subpart 31.205-6.

(1) Compensation Increase Plan – Prior to each salary program year, the Contractor will develop and justify, in a manner prescribed by the Contracting Officer, a Compensation Increase Plan for exempt employees and a Compensation Increase Plan for non-exempt.

Non-bargaining employees for review and approval. The funds are calculated as a percentage of exempt and non-exempt, non-bargaining base payroll at the end of the prior salary year, expressed as an annualized amount. The plans will include a separate fund for retention and recruitment incentives as defined in the FAR.

All increases are charged to the fund on an annualized basis. Once an individual's salary increase is charged to the fund, reuse of that amount, i.e., recovery, for any other purpose during the salary year is unallowable. If an individual terminates before receiving an increase, the portion of the fund allocated for that increase might remain in the fund.

The Contractor shall also provide a copy of the annually developed salary guidelines prepared for supervisory use, indicating the parameters for granting various increases based on employee performance and current salary.

The dollar amounts of the funds shall be subject to review and adjustment by the Contracting Officer upon a significant reduction in Contractor employment levels, as in a reduction-in-force.

(2) Individual Employee Salary Approval – The base annual salary costs for employees of the Contractor designated as Key Personnel are reimbursable only to the extent each such salary has been approved on DOE Form 3220.5, *Application for Contractor Compensation Approval*, or other approved form, by the Contracting Officer.

The Contractor will provide supporting information with DOE Form 3220.5 (or other approved form) on all such compensation actions in advance of the effective date.

(3) Incentive Compensation, Bonuses and Project Assignment Allowances will not be allowable costs under this Contract unless specifically approved in advance by the Contracting Officer.

(4) Salary Structures – The Contractor shall establish separate salary structures containing position grades, classifications, and salary ranges for exempt and for non-exempt, non-bargaining employees who are assigned to work on the Contract. The structures shall be submitted to the Contracting Officer for review and approval in advance of incurrence of costs and no later than January 31, 2001. No salary above the maximum of the salary range shall be allowable except in those cases where the Contracting Officer authorizes a "red circle" rate.

(5) Overtime Control Plan – The Contractor shall submit to the Contracting Officer for approval an annual overtime control plan that includes at a minimum (1) an overtime premium fund (maximum dollar amount); (2) specific controls for casual overtime for nonexempt employees; and (3) an evaluation of alternatives to the use of overtime.

The Overtime Control Plan shall also include the following historical data for non-exempt and exempt employees:

(i) Total cost of overtime;
(ii) Total cost of straight-time;
(iii) Overtime cost as a percentage of straight-time cost;
(iv) Total overtime hours;
(v) Total straight-time hours; and
(vi) Overtime hours as a percentage of straight-time hours.

Exempt employees are not eligible for overtime pay except as approved by the Contracting Officer.

The Contractor shall submit to the Contracting Officer for approval any additional overtime premium funds or plan changes based on mission requirements.

The Contractor shall submit any request for an extended workweek to the Contracting Officer for approval. An extended workweek is a workweek regularly scheduled and established in excess of the basic workweek of 40 hours and for a period of more than four consecutive weeks.

Overtime pay shall be based on a 40-hour workweek.

Overtime work performed by employees of affiliate companies of the Contractor assigned to Contract work on a temporary basis, will be administered and paid in accordance with the policies of the affiliate.

(6) Premium Pay - The Compensation Program shall contain provisions for any established premium payments to employees, such as overtime, shift differential and special qualification or certification pay.

(7) Compensation Reports - The Contractor shall submit reports and information relating to the administration of wages, salaries and benefits as the Contracting Officer may require from time-to-time to evaluate the reasonableness of the Contractor's total compensation program.

(b) Compensation - Employee Welfare and Other Benefit Plans

(1) General

Net costs of employer payments for the following non-statutory employee benefit plans, as related to work under this Contract, are allowable subject to the limitations and conditions set out in FAR 31.2. The initial terms and conditions of the plans shall be submitted to and must be approved by the Contracting Officer. Copies of employee communications, such as Summary Plan Descriptions, shall be provided to DOE when issued. Costs incurred in the administration of the following plans are allowable:

(i) Life Insurance (Basic, AD&D, Personal Accident, Dependent, other)
(ii) Disability Plans (Short Term and Long Term)
(iii) Medical Insurance Plan (Indemnity, HMO, PPO, other)
(iv) Dental Insurance Plans
(v) Vision Plan
(vi) Retiree Medical and Life Insurance Plans

Other Benefit Plans

(vii) Flexible Spending Account(s) and similar programs (e.g., VEBAs)
(viii) Employee Assistance Program
(ix) Other supplemental employee paid plans such as Group Universal Life, Long Term Care

(2) Separation Pay

(i) The cost of separation pay allowances for employees with one (1) or more years of continuous service, who are involuntarily separated, will be allowable in accordance with the Contractor's policy. The initial policy, and any changes thereto which increase costs, require the approval of the Contracting Officer.

(ii) In the event that responsibility for performance of work and services or operation of part or all of the government-owned facilities under this Contract (including standby protection and maintenance functions) is assumed by another Contractor or Government agency, employees who are transferred to the employ of, or who are offered employment within their same classification or at positions of comparable responsibility by such Contractor or agency, which employment will commence within thirty (30) days after being laid off, will not be paid any separation pay allowance.

(3) FAS 106 Valuation – The Contractor will provide a copy of the FAS 106 Valuation to the DOE.

(c) Group Pension Plans

(1) General – Costs of the Contractor's participation with other Hanford Site Contractors in the Operations and Engineering Pension Plan, and the Hanford Contractors Multi-Employer Pension Plan for Hanford Atomic Metal Trades Council (HAMTC) Represented Employees, or identical plans as approved by the Contracting Officer, will be allowable for the purpose of providing retirement benefits only to employees under the Contract, and former employees of predecessor Hanford Contractors, who are eligible to participate in one or the

other of the Plans in accordance with their terms. The Plans must be established and maintained as qualified defined benefit plans under the regulations of the Internal Revenue Code Service. The Plan and Trust documents and any amendments thereto which effect substantive changes or increase costs are subject to the approval of DOE. With respect to each of the plans, the parties agree as follows:

(2) Administration of the Plans

(i) Costs of employer contributions incurred under the terms of said plans and costs incurred in the course of their administration are allowable to the extent approved by the Contracting Officer. At DOE request, the Contractor shall provide an itemization of costs incurred for administration. The plan fund, not the Contractor, shall be liable for costs incurred in the course of administration.

(ii) The Contractor will provide to DOE copies of the following annual reports:

(A) Accounting reports and annual actuarial valuations. The reports and valuations will include at least the information specified in DOE Order 350.1, Chapter VI.

(B) DOL Form 5500 with schedules and attachments, as submitted to the Department of Labor each year.

(C) Financial Accounting Standards Board (FASB) Statement 87 Report. A copy of the FASB 87 report is prepared each year to satisfy the expense-reporting requirement of the Office of Management and Budget.

The final accounting period shall end with the effective date of Contract termination or expiration.

(iii) Actuarial gains and losses developed by annual valuations will be taken into account for purposes of establishing contributions to the Plan as soon as reasonably possible and consistent with requirements of the Employee Retirement Income Security Act of 1974, amendments thereto, and any other applicable laws.

(iv) The aggregate annual contribution to the pension fund may range from the minimum specified by the Internal Revenue Code (IRC) Section 412(b) to the amount necessary to fully fund the year-end expected current liability. However, the aggregate annual contribution to each plan shall be no less than the minimum specified by IRC Section 412(b) nor greater than the tax-deductible limit specified by the IRC Section 404. All contributions to each pension fund shall equal the total amount currently attributable to participants in the plans. These contributions will be based on the actuarial valuation, as determined by the *Employee Retirement Income Security Act of 1974* (ERISA), as amended valuation for the most recent plan year. The fund shall be a trust.

(v) If requested by DOE to do so, the Contractor will participate in pension plans established on a multiple or multi-employer basis applicable to some or all DOE prime cost-type Contractors on the Hanford Site.

The Contractor will take no action concerning the termination, merger, or spin-off or other action affecting the status of the plans as separate contract-only plans without the approval of the Contracting Officer.

(vi) Unless otherwise required by federal law or resulting from the collective bargaining process, no amendment to any of the pension plans shall result in allowable costs under this contract if the adoption date of such amendment is later than twelve (12) months before the termination or expiration date of the Contract.

(3) Actions Required at Contract Termination or Expiration

(i) No Replacement Contractor - In the event that the Contract expires or is terminated without a replacement contractor; all employee-accrued benefits are to become 100 percent vested immediately irrespective of the Plan's vesting schedule. All employees would receive benefits equivalent to the value of their vested portion consistent with ERISA, as amended.

(ii) Replacement Contractor Situation - In the event of reassignment of all or a portion of the Contractor's work under this contract to a replacement Contractor(s) or upon termination or expiration of said contract followed by a replacement Contractor(s) the Contractor will assist DOE in the necessary arrangements for the replacement Contractor(s) to take over the plans, plan assets and plan liabilities. Such arrangements shall include preserving for these employees their accrued pension benefit and vesting service time under the Contract by carrying forward Contractor pension service time to the replacement Contractor. Granting of such service credits shall not result in duplicate benefits for the same service time.

(iii) Change of Plan Sponsor - The DOE shall have the unilateral right to change a plan sponsor upon termination or expiration of the Contract.

(iv) Determination of Contract Service Pension Plan Assets and Liabilities

(A) Contract Service Assets - Contract Service Assets shall be determined in accordance with paragraph JB.4(c)(2)(ii)(A) above and shall include all assets attributable to DOE-funded employer contributions (including investment earnings thereon) and the employee accumulations (including investment earnings thereon) determined at current market value until the date of payment or transfer.

(B) Liabilities for Present and Future Benefits - The Contractor's actuary shall quantify liabilities for employee plan benefits as of the contract termination or expiration date.

(4) Financial Requirements – Funds to be paid or transferred to any party as a result of settlements relating to pension plan termination or spin-off shall be placed in short-term investment funds from a date stipulated by the Contracting Officer until the actual date of funds transfer. The Contractor shall actively manage any DOE-reimbursed assets awaiting transfer to a successor trustee or to DOE until the successor trustee or DOE is able to assume stewardship of those assets.

(5) Special Programs – The Contractor shall request DOE prior approval for each early-out program, window benefit, disability program, plan-loan feature, employee contribution refund, asset reversion, or incidental benefit. Such costs are unallowable until specifically approved by the Contracting Officer.

(d) Group Savings Plans

The Contractor will maintain two savings plans for employees who are eligible to participate in accordance with their terms; one plan for bargaining unit employees and one plan for non-bargaining employees (exempt and nonexempt). The plans must be established and maintained as qualified defined contribution plans under the regulations of the IRC. The plan and trust documents and any amendments thereto which effect substantive changes or increase costs are subject to the approval of the Contracting Officer. With respect to the Plans, the parties agree as follows:

(1) Costs of employer matching contributions incurred and accrued under the terms of the plans are allowable. The plan fund, not the Contractor, shall be liable for the costs incurred in the course of its administration.

(2) The Contractor will provide DOE with annual accounting reports within seven months after the close of a plan year. In addition, a copy of IRS Form 5500 will be provided to DOE each year when prepared by the Contractor.

(3) Employee forfeitures of accrued benefits shall be in accordance with the terms of the Plan and such forfeitures shall be used to reduce Contractor contributions made on behalf of remaining participating employees.

(4) In the event of Contract expiration or termination, the Contractor, if requested by DOE to do so, will transfer to a replacement Contractor the Plan, plan assets and plan liabilities.

(5) The Contractor will take no action concerning termination, merger, spin-off, or other action affecting the status of the plans as separate, contract-only plans without the approval of DOE.

(e) Paid Absences

(1) Personal Time Off – A Personal Time Bank (PTB) is established for eligible employees. Absences for leisure time off, personal time off, facility closure days (holidays), time away from work due to illness or injury, family emergencies or medical/dental appointments will be charged to the employee's PTB account if the employee wishes to receive pay for the absence.

(i) Eligible Employee: Regular full-time or part-time exempt and salaried non-exempt employees.

(ii) Pay Rate: Hours taken as time off will be paid at the employee's base salary rate in effect at the time of absence.

(iii) Composition: Accrual rates will include the following:

(iv) Vacation:

0-5 years service	80 hrs/yr
>5 years service	120 hrs/yr
>10 years service	160 hrs/yr
>20 years service	200 hrs/yr

(v) Holidays: 72 hours designated as facility closure
Days 8 hours designated by employee as floater

The facility closure days include New Year's Day, President's Day*, Memorial Day*, July 4th, Labor Day, Thanksgiving Day, Friday After Thanksgiving, December 24, and Christmas Day.

*These days are observed on the day specified by Federal Law

(vi) Sick/Personal:

Exempt	40 hrs/yr
Salaried non-exempt	56 hrs/yr

(vii) Time Not Included: Absences for the following will not be taken from an employee's PTB account: Death in the family (up to 5 days per event), excused absence (EA) time (8 hours per year for employees who work north of the Wye Barricade), jury duty, military, road conditions, plant injury, volunteerism, and miscellaneous absences as defined in the PTB Policy.

(viii) Cash Out Provision: During periods of active service, eligible employees may request partial cash out of accrued PTB hours.

(A) Employees will be allowed one cash out in a calendar year except in those cases where the employee is terminating.

(B) At least 120 hours must remain in the employee's account after the cash out.

(C) The maximum hours which may be cashed out in a calendar year are 120 hours in 2000 and thereafter.

(D) The rate of cash out will be at the base salary at the time of cash out. Cash out will be in one-hour increments.

(E) Employees may opt to put the cash directly into their after-tax Savings Plan account.

(ix) Maximum PTB Hours: An employee may accumulate up to a maximum number of PTB hours as follows:

(A) In 2001 and thereafter – 1000 hours

(2) EXEMPT ACCRUALS (hours per biweekly pay period)

	2000 and thereafter
0-5 years of service	7.69
5-10 years of service	9.23
10 to 20 years of service	10.77
More than 20 years of service	12.31

(3) SALARIED NONEXEMPT ACCRUALS (hours per biweekly pay period)

	2000 and thereafter
0-5 years of service	8.31
5-10 years of service	9.85
10-20 years of service	11.38
More than 20 years of service	12.92

(f) Corporate Employees

Certain employees of the Contractor transferred from an affiliate to work under the Contract may continue to participate in their corporate group insurance, pension and savings, and severance pay plans. Costs for such continued participation while assigned to work under the Contract shall be billed to the Contract pursuant to applicable FAR cost principles and/or Cost Accounting Standards. DOE shall have no further obligation for costs incurred by the parent organizations on behalf of such employees after reassignment or termination from Contract work.

JB.5 TRAVEL AND RELOCATION COSTS

Necessary and reasonable expenses incurred by employees and prospective employees for travel and relocation at the request of the company in connection with work under this Contract are allowable, subject to applicable provisions of FAR Subpart 31.2. Project Assignment Allowances and outbound relocation costs upon termination or expiration are unallowable. In accordance with these regulations, Contractor employees transferred from corporate entities will be administered under the Contractor's common Relocation and Travel policies, which are subject to the review and approval of the Contracting Officer.

JB.6 COLLECTIVE BARGAINING AGREEMENTS

The Contractor will consult with DOE on all parameters before and during negotiations.

JB.7 WORK FORCE RESTRUCTURING

The Contractor will comply with the requirements of the applicable Hanford Site Work Force Restructuring Plan, which implements Section 3161 of the *National Defense Authorization Act for Fiscal Year 1993*. Costs associated with the implementation shall be allowable for those activities described in the applicable Plan

JB.8 EMPLOYEE MORALE, RECREATION, SERVICE AWARDS, AND WELFARE PROGRAMS

Costs incurred for such programs are allowable in an amount not to exceed thirty-five dollars ($35.00) per employee per year.

APPENDIX C - DOE DIRECTIVES

Federal Regulations and applicable Washington Administrative Code (i.e., WAC 173-303, etc.) governing DOE activities, and the following directives as revised are applicable to work and activities conducted/accomplished by contractors at the Hanford Site. The applicability of given Environment, Safety, and Health (ES&H) directives to a specific facility or work activity/project may be determined through the Standards/Requirements Identification Document (S/RID) process, as approved by the appropriate DOE authority. Upon approval of an S/RID, that set of requirements is the ES&H directive/requirements set applicable to the facility, work/activity or project and supersedes the ES&H directives included in this list of directives.

DOE ORDERS AND NOTICES

ORDER NUMBER/CHANGES	TITLE
DOE O 110.3	Conference Management
DOE O 130.1	Budget Formulation Process
DOE M 140.1-1A	Interface with the Defense Nuclear Facilities Safety Board
DOE N 142.1	Unclassified Foreign Visits and Assignments
DOE O 151.1/1&2	Comprehensive Emergency Management System
DOE N 205.1	Unclassified Cyber Security Program
DOE O 210.1/1&2	Performance Indicators and Analysis of Operations Information
DOE O 224.1	Contractor Performance-Based Business Management Process
DOE O 225.1A	Accident Investigations
DOE O 231.1	Environment, Safety, and Health Reporting
DOE O 232.1A	Occurrence Reporting and Processing of Operations Information
DOE M 232.1-1A	Occurrence Reporting and Processing of Operations Information
DOE O 241.1	Scientific and Technical Information Management
DOE O 251.1A	Directives System Order
DOE O 311.1A	Equal Opportunity and Diversity Program
DOE O 350.1	Contractor Human Resources Management Programs
DOE O 413.1	Management Control Program
DOE O 413.3	Program and Project Management for the Acquisition of Capital Assets
DOE O 414.1A	Quality Assurance
DOE O 420.1/2	Facility Safety
DOE O 425.1A	Startup and Restart of Nuclear Facilities
DOE O 434.1 CRD	Accounting
DOE O 430.1A	Life-Cycle Asset Management
DOE O 435.1	Radioactive Waste Management
DOE O 440.1A	Worker Protection Management for DOE and Contractors
DOE O 440.2/1&2	Aviation
DOE M 440.2	Aviation Manual
DOE O 442.1	Department of Energy Employee Concerns Program
DOE P 450.5	Line Environment, Safety and Health Oversight
DOE O 451.1A	National Environmental Protection Act Compliance Program
DOE O 460.1A	Packaging and Transportation Safety
DOE O 460.2/1	Departmental Materials Transportation and Packaging Management
DOE O 460.2 CRD	Departmental Materials Transportation and Packaging Management
DOE O 470.1/1	Safeguards and Security Program
DOE O 470.2A	Safeguards and Security Independent Oversight Program
DOE O 471.1A	Identification and Protection of Unclassified Controlled Nuclear Information

Deleted: DOE M 200.1-1 . Telecommunications Security Manual (Except Chapter 2)¶

Deleted: 2

Deleted: DOE C 420.1 CRD . . Facility Safety¶

Deleted: DOE O 440.1A . Worker Protection Management for DOE and Contractors¶
DOE O 440.1A CRD . Worker Protection Management for DOE and Contractors¶

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Deleted: DOE O 470.1 CRD . . Safeguards and Security Program¶

DOE M 471.1-1	Identification and Protection of Unclassified Controlled Nuclear Information Manual
DOE O 471.2A	Information Security Program
DOE M 471.2-1B	Classified Matter Protection and Control Manual
DOE O 472.1B	Personnel Security Activities
DOE O 474.1	Control and Accountability for Nuclear Materials
DOE M 474.1-2/1&2	Nuclear Materials Management and Safeguards System Reporting and Data Submission
DOE M 475.1/1	Identifying Classified Information
DOE O 481-1	Work for Others (Non Department of Energy Funded Work)
DOE M 481.1-1	Reimbursable Work for Non-Federal Sponsors Process Manual
DOE O 534.1	Accounting
DOE O 551.1A	Official Foreign Travel
DOE 1220.1A/1	Congressional and Intergovernmental Affairs
DOE 1230.2	American Indian Tribal Government Policy
DOE 1270.2B	Safeguards Agreement with the International Atomic Energy Agency
DOE 1340.1B	Management of Public Communications Publications and Scientific, Technical and Engineering Publications
DOE 1450.4	Consensual Listening-In To or Recording Telephone/Radio Conversations
DOE 1800.1A/1	Privacy Ac
DOE 2030.4B	Reporting Fraud, Waste, and Abuse to the Office of Inspector General
DOE 2100.8A	Cost Accounting, Cost Recovery, & Interagency Sharing of Information Technology Facilities
DOE 2110.1A/1&2	Pricing of Departmental Materials and Services
DOE 2300.1B	Audit Resolution and Follow-Up
DOE 2320.1C	Cooperation with the Office of the Inspector General
DOE 2320.2B	Establishment of Departmental Position on Inspector General Reports
DOE 4330.2D	In-House Energy Management
DOE 4330.4B	Maintenance Management
DOE 5400.1	General Environmental Protection Program
DOE 5400.5/1&2	Radiation Protection of the Public and the Environment
DOE N 5400.9	Sealed Radioactive Source Accountability
DOE 5480.10	Contractor Industrial Hygiene Program
DOE 5480.11/1-3	Radiation Protection for Occupational Workers
DOE N 5480.11	Extension of Radiological Control Manual, Rev. 1
DOE 5480.19/1	Conduct of Operations Requirements for DOE Facilities
DOE 5480.20A	Personnel Selection, Qualifications, and Training Requirements for DOE Nuclear Facilities
DOE 5480.21	Unreviewed Safety Questions
DOE 5480.22/1&2	Technical Safety Requirements
DOE 5480.23/1	Nuclear Safety Analysis Reports
DOE 5480.4/1-4	Environmental Protection, Safety, and Health Protection Standards
DOE 5530.1A	Accident Response Group
DOE 5530.2	Nuclear Emergency Search Team
DOE 5530.3/1	Radiological Assistance Program
DOE 5530.4	Aerial Measuring System
DOE 5530.5/1	Federal Radiological Monitoring and Assessment Center
DOE 5560.1A	Priorities and Allocations Program
DOE 5610.13	Joint Department of Energy/Department of Defense Nuclear Weapon Safety, Security, and Control Activities
DOE 5610.2/1	Control of Weapon Data
DOE 5632.1C	Protection and Control of Safeguards and Security Interests
DOE M 5632.1C-1/1	Manual for Protection and Control of Safeguards and Security Interests (Except Chapter III, paragraphs 1, 2, and 4 through 9)
DOE 5660.1B	Management of Nuclear Materials

Deleted: DOE N 471.1 Extension of DOE O 471.1¶

Deleted: DOE O 434.1 CRD Accounting¶

Deleted: DOE 1300.2A Department of Energy Technical Standards Program¶
DOE 1300.3 Policy on the Protection of Human Subjects¶
DOE 1324.5B/1 Records Management ProgramDOE 1330.1D Computer Software Management¶

Deleted: DOE 1350.1/1 Audiovisual and Exhibits Management¶
DOE 1410.2 Mail Management¶
DOE 1450.3A/1 Call Control/Verification Programs and Authorized Use of Government Telephone Systems¶

Deleted: DOE 1500.3/1-7 Foreign Travel AuthorizationsDOE 1700.1/1-4 Freedom of Information Program

Deleted: DOE 5300.1C Telecommunications

Deleted: DOE 5480.17 Site Safety Representatives

Deleted: DOE 5481.1B Safety Analysis and Review System

Deleted: DOE 5610.14 Transportation Safeguards System Program Operations

DOE 5670.1A	Management and Control of Foreign Intelligence
DOE 5670.3	Counterintelligence Program
DOE 5820.2A	Radioactive Waste Management
DOE 6430.1A	General Design Criteria
DOE/RW-0333P	Rev. 8, Quality Assurance Requirements and Descriptions
SEN-22-90	DOE Policy an Signatures of RCRA Permit Applications
SEN-35-91	Nuclear Safety Policy

DOE Accounting Practices and Procedures Handbook (APPH), Chapter X, Product Cost Accounting, dated June 30, 1980.

Deleted: SEN-39-92 . Department of Energy Occupational Safety and Health (OSH) Incentives Program

S/RIDS

DOC. NUMBER	REVISION	TITLE
HNF-SD-MP-SRID 001	2	River Protection Project Standards/Requirements Identification Document

RL/DOE-ORP DIRECTIVES

DOC. NUMBER	TITLE
HSL&T-1	Hanford Site Lock and Tag Standard, DOE-RL-SOD-INST-L&T.001
ORPID 110.1A	ORP Facility Representative Program
DOE-0223	RL Emergency Implementing Procedures
DOE-0225	Hanford Emergency Assessment Resource Manual (HEARM)
HFID 232.1B	Notification, Reporting, and Processing Operations Information
RLID 430.1	Systems Engineering Criteria Document and Implementing Directive
RLPD 430.1	Hanford Site Systems Engineering Policy
RLPD 450.1	Hanford Environment, Safety and Health Policy
RLID 470.1	Safeguards and Security Corrective Action Management System
RLID 470.2	Facility Approval and Registration of Activities
RLID 471.2B	Information Security Program
RLID 473.1	Protection of Safeguards and Security Interests
RLID 473.2	Hanford Site Access Eligibility
RLIPP 1322.1B	RL Forms Management
RLID 1360.2B	Unclassified Computer Security Program
RLID 5000.1	Baseline Execution and Management Process
RLPD 5000.1	Richland Operations Office Site Management System
RLID 5000.2	Long Range Planning Process
HNF-5183	Tank Farm Radiological Control Manual
RLID 5480.19	Conduct of Operations Requirements for RL
RLID 5480.29	RL Employee Concerns Program
RLID 5480.31	Startup and Restart of Facilities Operational Readiness Review and Readiness Assessment
RLIP 5484.1A	Environmental Protection, Safety, and Health Protection Information Reporting Requirements
RLID 5633.3	Control and Accountability of Nuclear Materials at RL
RLID 5635.1	Special Access and Top Secret Access Authorization
RLID 5670.3A	Counterintelligence Program
DOE/RL-92-36	Hanford Site Hoisting and Rigging Manual
DOE/RL-92-49	Radiological Assistance Program Plan - Region 8
DOE/RL-93-75	Hanford Facility Contingency Plan
DOE/RL-94-02, Rev 2	Hanford Emergency Response Plan
DOE/RL-94-55	Hanford Analytical Services QA Plan

Deleted: RLID 1300.1D . Richland Operations Office Facility Representative Program¶

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DOE/RL-94-97	Selection of Analytical Methods for Mixed Waste Analysis at Hanford
DOE/RL-94-125	Federal Building Self Protection Plan
DOE/RL-96-68 2	Hanford Analytical Services Quality Assurance Requirements Document
DOE/RL-96-109 Rev 2	Hanford Site Radiological Control Manual (HSRCM-1, Rev.2)

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APPENDIX D - PERFORMANCE BASED INCENTIVES

This Appendix D, in combination with Section C, *Statement of Work*, constitutes the minimum performance requirements of the Contract. In addition, successful achievement of all funded work set forth in Section C and the performance-based incentives (PBI) contained in this Appendix D, constitutes satisfactory Contract performance. Table D-1 is a summary of the fiscal year (FY) 2001 through 2006 PBIs, including a list of potential SSPBI areas.

Table D-1

Summary of FY2001 through FY2006
Performance Based Incentives

Number	Title	Percent of Available Fee Pool	Available Fee Pool	Estimated Cost of Work Scope (000)
ORP-1	Project W-314	15.40%		$ 236,256
ORP-2	Retrieval Systems (W-211 and W-521)	4.10%		$ 43,213
ORP-3	Store Immobilized High Level Waste (IHLW)	2.90%		$ 55,873
ORP-4	Dispose of Immobilized Low Activity Waste (ILAW)	5.50%		$ 65,324
ORP-5	SST Interim Stabilization	8.00%		$ 80,972
ORP-6	Initial Waste Feed Delivery	5.70%		$ 112,366
ORP-7	SST Retrieval - Tank C-104	9.60%		$ 88,475
ORP-8	Facility Stabilization	4.70%		$ 25,236
ORP-9	Life Cycle Asset Management	6.40%		$ 49,693
ORP-10	DST Integrity Assessment Reports	3.40%		$ 18,617
ORP-11	242-A Evaporator Life Cycle Asset Management	1.30%		$ 6,536
ORP-12	Tank Characterization	1.80%		$ 25,167
ORP-13	Tank Farm - Closure Support	6.40%		$ 57,939
ORP-14	SST Retrieval - Tank S-102 (Note: includes SSPBI work, see below)	1.60%		$ 18,998
ORP-15	Corporate Performance	14.70%		NA
ORP-16	WTP Interim Design and Transition	2.30%		$ 56,500
	Unallocated Fee (See Clause H.1)	6.20%		NA
	Total	100.00%	$ 106,100,000	
	FY 2000 through FY 2006 Super Stretch Performance Incentives			
Number	**Title**	**Available Fee**		
	The following SSPBIs are Negotiated and Approved:			See Note 2
ORP2.1.3S	Advanced Preparation of 241-SY-101 for Retrieval and for Receiving and Staging	$ 1,390,000		$ 6,948
ORP3.8.2S	Transfer Waste from 241-AW-104 to Evaporator Feed Tank	$ 760,000		$ 4,526
ORP8.1.2S	Acceleration of Project W-519	$ 400,000		NA
ORP-19	DST Caustic Addtion	$ 1,386,000		$ 8,047
	Total	$ 3,936,000		
	The following SSPBIs are Pending Final Negotiation:			
ORP-14	SST Retrieval - Tank S-102	TBD		$ 73,731
ORP-17	FY2001 Deferred Work Scope	TBD		$ 8,994
ORP-18	Accelerate W-520 Construction of the ILAW Disposal Facility	TBD		$ 11,826
ORP-20	SST Retrieval Tank S-112	TBD		$ 36,870
ORP-22	Accelerate W-464 Construction of IHLW Storage Facility	TBD		$ 30,000
ORP-23	Accelerate W-525 Construction of the Tank Farm Infrastructure and Compliance Upgrades	TBD		$ 47,576
See Note 1				
	Estimated Cost of Work Associated with Specific Incentives			$ 1,169,683
	Estimated Cost of Work Subject to ORP-15 and Unallocated Fee			$ 1,324,929
	Baseline per Section C, Clause C.3(a) and Technical Exhibit A			$ 2,494,612
Note 1: The number "ORP-21" is Reserved at this time.				
Note 2: Estimated cost of SSPBI work scope excludes fee.				

	The following is a list of Potential SSPBI Areas			
	Remove Organic Layer from C-103			$ 2,500
	Accelerate Salt Cake Retrieval			$ 2,700
	Remove SY-103 from Watch List			$ 8,630
	Vadose Zone Work Accleration in Support of SST Farm Closure			$ 1,330
	Accelerate SST Retrieval Crawler Development			$ 2,000
	C-106 Closure Evaluation			$ 1,325
	Accelerate SST Leak Detection Upgrade			$ 3,050
	Enhanced Interim Stabilization of Equipment			$ 15,000
	Enhance Interim Stabilization of BY-103 and A-103			$ 4,600
	Subtotal Estimated Cost of Work (Excluding Fee) for Potential SSPBI Areas			$ 41,135

APPENDIX E - GUIDANCE FOR OTHER REQUIRED PLANS

JE.1 INTRODUCTION

The Contractor shall provide the following subject specific plans which expand on the discussion in Section C, *Statement of Work*, or applicable contract clause.

(a) Integrated Environment, Safety and Health Management System (ISMS) Plan

Specific guidance on the ISMS Plan is found in the Section I Clause entitled, *Integration of Environment, Safety, and Health Into Work Planning and Execution*.

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(b) Systems Engineering Management Plan

The Systems Engineering Management Plan shall describe in detail the approach the Contractor will take to integrate a Systems Engineering functional analysis in which mission requirements drive functions, and functions drive architecture, into the overall management and integration of the River Protection Project (RPP) workscope. System engineering techniques and principles shall be utilized to establish the technical integrity of the RPP workscope. Innovative technologies shall be evaluated against the baseline.

(c) Risk Management Plan

The Contractor shall provide a Risk Management Plan which describes the system to be used for identifying, evaluating, assessing and mitigating site risks of all types (e.g., financial, technical, safety, mortgages, environment, etc.). The Plan shall also describe how risk management is integrated and implemented into planning, work prioritization, and RPP decision-making. The application of innovative technologies to mitigate the risks is expected. Plan to collect history of adverse impacts and effectiveness of mitigation actions to support future planning.

(d) Internal Audit Plan

The Contractor shall submit an annual plan for internal audits of the Contractor and for audits of cost reimbursement subcontractors. The Plan shall list planned actual audits or areas to be audited and a schedule for such audits. The official audit report(s), including the working papers (as required), shall be submitted or made available to the Contracting Officer or his/her designee.

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(e) Integrated RPP Communication Plan

The Contractor shall develop an Integrated RPP Communication Plan detailing how the full range of stakeholders will receive information in a timely, accurate, complete, and business-like manner. The Plan shall include the requirements of DOE Openness Initiatives and Public Involvement Polices.

Deleted: E. Litigation Management Plan¶
¶
The purpose of the Litigation Management Plan will be to control the cost of litigation and to provide for employment of only that level of private counsel appropriate to a particular requirement. ¶
¶
The Plan shall comply with the Guidelines set forth in DOE Acquisition Letter 94-13 of August 25, 1994, (Federal Register 44981, dated 8/31/94) and such further instructions as provided by the Contracting Officer.¶

Deleted: F. Diversity Plan¶
¶
Specific guidance on the preparation of a Diversity Plan is found in Appendix G of this Section J.¶
¶

APPENDIX F - ENVIRONMENT, SAFETY, AND HEALTH BUDGET PLANNING AND EXECUTION

The following represents additional criteria for environment, safety and health (ES&H) budget planning and execution, to be included as part of the requirements of this Contract.

JF.1 ES&H PLAN FOR BUDGET EXECUTION YEAR

Respond to the most recent Unicall Submittal, incorporate budget decisions, and include any new information for the upcoming execution year.

(a) ES&H Risk Management Conclusions

Summarize the risk management conclusions for the upcoming execution year (updated to reflect recent budgeting decisions), including a summary decision of the major risks and important ES&H issues being managed at the facility.

(b) ES&H Budget Summary

Summarize the ES&H budget for the upcoming execution year (analogous to the cost prepared for the Unicall Submittal).

(c) Performance Measures and Commitments

Include the proposed ES&H performance commitments (measures) for the upcoming execution year. It is important that these performance measures address the most significant risks identified, and have performance criteria that are measurable.

JF.2 SUMMARY OF PREVIOUS YEAR'S ES&H PERFORMANCE

Provide a summary of the previous year's ES&H performance, including the actual costs of implementing the ES&H activities.

(a) Status of Performance Measures and Commitments

Status of the previous year's performance with respect to the measures and commitments negotiated for the previous year.

Summary level conclusions from the previous year's self-assessments of ES&H programs and activities.

Status of any major commitments arising from Consent Orders or Agreements with State Agencies or the EPA regarding environmental/ecological obligations.

(b) Summary of Actual Costs

Summarize the actual ES&H expenditures for the previous year, and how this information will be used in preparing the ES&H Plan for the next budget cycle.

(See DOE letter 98-PRO-645 clarifying Appendix F.)

APPENDIX G - GUIDANCE FOR PREPARATION OF DIVERSITY PLAN

The purpose of this Guidance is to assist the Contractor in understanding the information being sought by the U.S. Department of Energy (DOE) for each of the Diversity elements and where these issues may already be addressed in a contract package. To the extent these issues are already addressed in a contract, the Contractor need only summarize or cross reference the parts of the Plan already developed elsewhere in the contract.

JG.1 WORK FORCE

This Contract includes certain provisions on Equal Opportunity and Affirmative Action. These provisions are found in clauses contained in the Section I Clauses entitled, *Equal Opportunity, Affirmative Action Compliance Requirements for Construction, Affirmative Action for Disabled Veterans – Veterans of the Vietnam War, Affirmative Action For Workers with Disabilities, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era*, and regulatory guidance is found at Federal Acquisition Regulation (FAR) Part 22 (48 Code of Federal Regulation (CFR) Part 22). The Contractor should discuss its policies and plans for implementing these provisions in its operations. If the Contractor already has procedures in place, these should be discussed and copies of any policies provided.

JG.2 EDUCATIONAL OUTREACH

The Contractor should outline or discuss any programs already provided, or which it intends to provide, which will provide employees an opportunity to improve their employment skills and opportunities. These programs may include: educational assistance allowances, provision for outside training programs either during or outside regular work hours, and executive training programs for non-executive employees. The Contractor should also discuss any plans to participate in any programs supporting Historically Black Colleges and Universities.

Employee training and educational opportunities may also be subject to collective bargaining agreements at the site. If that is the case, it is not DOE intent that the Contractor develops an independent structure for employee training and educational opportunities. In preparation of its Diversity Plan, the Contractor should outline the requirements already placed on it under existing bargaining agreements, discuss any proposals for changes to be raised at any future bargaining sessions, and discuss any educational or training programs which it operates, or will operate, independently of those provided by the unions.

JG.3 COMMUNITY INVOLVEMENT AND OUTREACH

Contractor community relations activities could include support for the following activities: support for science, mathematics and engineering education; support for community service organizations; assistance to governmental and community service organizations and for equal opportunity activities; and community assistance in connection with work force reduction plans. The Contractor may provide support to these activities through direct sponsorship or making individual employees available to work with the specific community activity. Depending upon the terms negotiated between the Department and the Contractor, some of these costs may be reimbursable. The Contractor's Diversity Plan should discuss the Contractor's existing and planned activities promoting community involvement of its employees as well as the corporation.

JG.4 SUBCONTRACTING

The Contract contains Section I Clauses entitled, *Small Business Subcontracting Plan*, and other small business-related clauses (e.g., Section I Clauses entitled, *Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns*, *Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan*, *Liquidated Damages-Subcontracting Plan*). Additional guidance is provided in Appendix H, *Small Business and Small Disadvantaged Business Subcontracting Plan*. If the Contractor has already met the requirements under Section I Clause entitled, *Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan*, and the referenced Appendix, this information should be briefly summarized and/or provided as an attachment to the Diversity Plan. If the Contractor is participating, or plans to participate, in the DOE Mentor Protégé Program, this involvement, or planned involvement, should be summarized or discussed. Information concerning its subcontracting plans already developed and submitted by the Contractor does not need to be redeveloped or renegotiated by the Contractor.

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JG.5 ECONOMIC DEVELOPMENT (INCLUDING TECHNOLOGY TRANSFER)

Many of the DOE contract actions include Technology Transfer provisions that may be found in the Section I, *Contract Clauses*, or among the patent and intellectual property clauses of Section I. Planning or activities developed under the Technology Transfer clause may apply to this element of the Contractor's Diversity Plan. Additionally, some of the subcontracting activities planned by the Contractor with small business or small disadvantaged businesses may be entered into for the purpose of assisting the economic development of or transferring technology to such a business. The Contractor's Diversity Plan should outline and discuss its planned activities promoting economic diversification of the local community.

APPENDIX H - RESERVED

APPENDIX I - SMALL BUSINESS SUBCONTRACTING PLAN

(See Modification No. M021)

APPENDIX J - WAGE DETERMINATION UNDER THE SERVICE CONTRACT ACT

(See Modification No. M023)

APPENDIX K - SPECIAL BANK ACCOUNT AGREEMENT

(See Modification No. M028)

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PART III - LIST OF DOCUMENTS¶
EXHIBITS AND OTHER ATTACHMENTS¶
SECTION J¶
¶
APPENDIX H - FEE PLAN¶
¶
¶
FOR THE PERIOD OCTOBER 1, 1999 - SEPTEMBER 30, 2000¶
¶
(a) The total available fee for FY 2000 as set forth in Clause B.3 of this contract is allocated as follows:¶
¶
Base Fee - none¶
Award Fee - none¶
Performance fee - 100%¶
¶
(b) TBD percent of the total available fee in contract clause B.3 is allocated to the critical few objectives, measures, and expectations, as follows:¶
¶
Objectives - TBD%¶
Measures. - TBD%¶
Expectations - TBD%¶
¶
The specific percentage of fee assigned to an individual objective, measure, or expectation is set forth in J, Appendix D. Available fee is suballocated into fee for baseline performance, super stretch performance, and negative fee for poor performance. If the Contractor fails to meet a given performance objective, measure, or expectation, a negative (deduct from) fee may result (if applicable). The specific amount will be deducted from the total amount of fee earned. However, in no event will the amount deducted for failure to meet performance objectives, measures, or expectations exceed 20% of the total amount of fee earned on all incentives or 25% of the total available fee amount whichever is the lesser of the two.¶
¶
(3) TBD of the total available fee pool in contract clause B.3 is allocated to the comprehensive incentive. The DOE Performance Expectation Plan for Lockheed Martin Hanford Corp. Performance During the Twelve-Month Evaluation Period, Ending September 30, 2000, dated TBD establishes the bases to measure performance.¶
¶
Section Break (Next Page)