



THIS PROJECT IS ADVERTISED ON AN UNRESTRICTED BASIS

SOLICITATION: W91278-09-B-0003

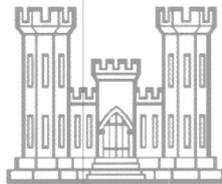
**SPECIFICATIONS
FOR**

***IDIQ FOR RENTAL OF HOPPER DREDGE WITH
ATTENDANT PLANT AND OPERATORS FOR MAINTENANCE DREDGING
OF
MOBILE HARBOR CHANNEL, MOBILE, AL
#01-FY09***

THIS SOLICITATION DOES NOT AUTHORIZE FACSIMILE BIDS; THEREFORE,
FACSIMILE BID MODIFICATIONS WILL NOT BE ACCEPTABLE.

THIS IS A CIVIL WORKS PROGRAM AND IS NOT FUNDED BY THE DEPT PF DEFENSE

"GOOD ENGINEERING RESULTS IN A BETTER ENVIRONMENT"



***U.S. ARMY ENGINEER DISTRICT, MOBILE
109 St. Joseph Street
Mobile, Alabama 36602***

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Wage Determination No. AL20080008

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NOTICE TO BIDDERS

BEFORE SIGNING AND MAILING THIS BID, PLEASE TAKE NOTE OF THE FOLLOWING. AS FAILURE TO PERFORM ANY ONE OF THESE ACTIONS MAY CAUSE YOUR BID TO BE REJECTED

(NOTE: THIS CHECKLIST IS DESIGNED FOR YOUR CONVENIENCE TO ASSIST YOU IN COMPLETING YOUR OFFER. ITS COMPLETION DOES NOT GUARANTEE THAT YOUR OFFER WILL BE ACCEPTABLE. A COMPLETE AND ACCEPTBLE OFFER IS SOLELY THE RESPONSIBILTY OF THE CONTRACTOR.)

1. **AMENDMENTS:** Have you acknowledged receipt of ALL amendments? If in doubt as to the **number** of amendments issued, please go to www.fbo.gov.
2. **AMENDED BID PAGES:** If any of the amendments furnished new/revised bid pages, then the new/revised bid pages must be used in submitting your bid.
3. **BID GUARANTEE: Sufficient** bid guarantee in proper form must be furnished with your bid (See Section 00100 clause entitled BID GUARANTEE and Section 00700 Clauses 52.228-11 and 52.228-14)
4. **INDIVIDUAL SURETIES:** Please note requirements for Individual Sureties in Section 00700.
5. **PERFORMANCE AND PAYMENT BONDS:** Please note requirements for bonds in Section 00700.
6. **NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY FOR CONSTRUCTION:** See Section 00700.
7. **MISTAKES IN BID:** Have you reviewed your bid price for possible errors in calculation or work left out?
8. **Typically your bid should include the following: The SF 1442, Completed Bid Schedule, Bid Guarantee, any requirements from Section 00100, Section 00600 and any technical information required by the solicitation.**
9. **BID RESULTS:** Bid results are usually available the next day after bid opening on the Mobile District web page at <http://www.sam.usace.army.mil/> and then click on "Contract Bids." From there, scroll down to "Bid Results."
10. Your attention is directed to the following clauses:
 - a) Section 00700, **DFARS Clause 252.204-7004, Required Central Contractor Registration. LACK OF REGISTRATION IN THE CCR DATABASE WILL RENDER BIDDER INELIGIBLE FOR AWARD. Information on how to register and the time it takes is detailed in the clause.**
 - b) Section 00100, FAR Clause 52.204-6 Data Universal Numbering System (DUNS) Number.
 - c) Section 00600, FAR Clause 52.204-3 Taxpayer Identification.

SOLICITATION, OFFER AND AWARD (Construction, Alteration, or Repair)	1. SOLICITATION NO.	2. TYPE OF SOLICITATION	3. DATE ISSUED	PAGES OF PAGES
	W91278-09-B-0003	X SEALED BID (IFB) NEGOTIATED (RFP)	16 Jan 2009	1 OF 2

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

4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO. W31XNJ83523485	6. PROJECT NO.
7. ISSUED BY U.S. ARMY ENGINEER DISTRICT, MOBILE CONTRACTING DIVISION (CESAM-CT) (109 ST. JOSEPH ST. 36602) P.O. BOX 2288 MOBILE, AL 36628-0001	CODE CT	8. ADDRESS OFFER TO SAME AS BLOCK 7 IF HAND CARRIED, DELIVER TO ROOM 6000A
9. FOR INFORMATION CALL :	A. NAME JACQUELYN MCDUFFIE	B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS) 251-441-5539

SOLICITATION

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

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no.,date):

IDIQ CONTRACT FOR RENTAL OF HOPPER DREDGE WITH ATTENDANT PLANT AND OPERATORS FOR MAINTENANCE DREDGING OF MOBILE HARBOR CHANNEL, AL (#01-FY09)

THIS PROJECT IS ADVERTISED ON AN UNRESTRICTED BASIS.

REGISTRATION REQUIREMENT IN ACCORDANCE WITH SECTION 00700 CLAUSE 252.204-7004, CENTRAL CONTRACTOR REGISTRATION

11. The Contractor shall begin performance within ___*___ calendar days and complete it within ___*___ calendar days after receiving
 award, notice to proceed. This performance period is mandatory, negotiable. (* See task order.)

12A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES," indicate within how many calendar days after award in Item 12B.) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	12B. CALENDAR DAYS 10
--	-------------------------------------

13. ADDITIONAL SOLICITATION REQUIREMENTS:

A. Sealed offers in original and 1 copies to perform the work required are due at the place specified in Item 8 by 2:00 PM (hour) local time **on 18 FEB 2009**. If this is a sealed bid solicitation, offers must be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.

B. An offer guarantee is, is not, required.

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

D. Offers providing less than **120** calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

14. NAME AND ADDRESS OF OFFEROR (Include ZIP Code)

15. TELEPHONE NO. (Include area code)

16. REMITTANCE ADDRESS (Include only if different than Item 14)

CODE FACILITY CODE

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

AMOUNTS

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

19. ACKNOWLEDGMENT OF AMENDMENTS

(The offeror acknowledges receipt of amendments to the solicitation - give number and date of each)

AMENDMENT NO.									
DATE									

20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)	20B. SIGNATURE	20C. OFFER DATE
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AWARD (To be completed by Government)

21. ITEMS ACCEPTED:

22. AMOUNT	23. ACCOUNTING AND APPROPRIATION DATA
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24. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	ITEM	25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO <input type="checkbox"/> 10 U.S.C. 2304(c) () <input type="checkbox"/> 41 U.S.C. 253(c) ()
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26. ADMINISTERED BY CODE	27. PAYMENT WILL BE MADE BY
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CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE

<input type="checkbox"/> 28. NEGOTIATED AGREEMENT (contractor is required to sign this document and return _____ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all work, requisitions identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications incorporated by reference in or attached to this contract.	<input type="checkbox"/> 29. AWARD (Contractor is not required to sign this document.) Your offer on this solicitation, is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.
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30A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)	31A. NAME OF CONTRACTING OFFICER (Type or print)
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30B. SIGNATURE	30C. DATE	31B. UNITED STATES OF AMERICA BY	31C. AWARD DATE
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SECTION 00010
BIDDING SCHEDULE

ITEM NUMBER	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	ESTIMATED AMOUNT
<u>BASE BID ITEMS</u>					
1.	Mobilization and Demobilization	1	JOB	XXX	_____
2.	Dredge Pay Time: 100% Pay Time: (See Chart in Section 1000)	_____	HR	_____	_____
3.	Mobilization and Demobilization	1	JOB	XXX	_____
4.	Sea Turtle/Gulf Sturgeon Trawling	_____	DAYS	_____	_____
Total of Base Bid Items				TOTAL	_____

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NOTES

1. Bidders must insert a price on all numbered items of the bidding schedule. Failure to do so will disqualify the bid.
2. All the extensions of the unit price shown will be subject to verification by the Government. In case of variation between the unit price and extension, the unit price will be considered to be the bid.
3. The number of hours/days indicated on the Bidding Schedule is approximate. The Contractor may be required to work either more or less than the number of hours/days specified.
4. For Items 1 through 4 refer to Section 00100 paragraph entitled BID EVALUATION.

INFORMATION TO BE SUBMITTED WITH BID: Each bidder shall furnish the information required below by filling in the blank spaces:

GENERAL DREDGE INFORMATION:

Dredge Name or Number

Fair Market Value of the Dredge

Minimum width of channel in which dredge can successfully operate and turn around (ft)

Minimum depth of water in which dredge will operate with hoppers filled (ft)

Maximum draft of vessel (ft)

Loaded freeboard (ft)

Depth range at which dredge can dig, maximum___, minimum___ _____ft.

Total length of dredge (ft)

Hopper capacity (cu yds)

DREDGING PUMPS AND PROPULSION:

Number of pumps _____ Number of dragarms

Pump suction ___ Discharge _____ (I.D. in inches)

Brake HP applied to pump impeller

Brake HP applied to propeller

The dredge may be inspected at:

ATTENDANT PLANT:

Crewboat size

Total HP

May be inspected at:

Survey Boat size

Total HP

May be inspected at:

BID EVALUATION

(1) It is the intent of the Government to secure a dredge, meeting the requirement set forth in the Statement of Work of the specifications. The Table in the paragraph entitled DREDGE AND ATTENDANT PLANT REQUIREMENTS indicates the estimated average output for dredges of various power based on average theoretical conditions under which this work is to be accomplished. Bids will be evaluated and award will be made on the basis of employment of the plant; which will result in the lowest overall total price, as described hereinafter, to the Government for the equipment. For the purpose of bidding and evaluating bids, it will be considered the dredge will work for the estimated amount of hours in the Table. This is not to be construed by the Contractor that the Government guarantees this number of hours will be worked.

(2) Bidders should insert the appropriate number of hours obtained from the Table into the bid schedule item 2.

(3) The number of days for Bid item #4 for the dredge bid is obtained by taking the "97% efficiency Hours" (Attachment #1) and multiply by 5% and divide by 24 hours and round to the nearest whole number. Example using the Newport: $(3708 \times .05) / 24 = 7.7$ insert 8 days in bid item #4. Maximum amount for this bid item is \$5,000.00 per day.

(4) Bids based on dredges smaller or larger than those listed in the Table will be considered non-responsive. Other dredges are considered inadequate for satisfactory performance of work required within the period of the contract.

(5) The Government will check the bidder's computation for accuracy and to insure that the bidder's computation was made in accordance with the above evaluation procedures. In case of variation between the bidder's computation procedures and those prescribed above, the Government will correct the bidder's computation and the bid will be evaluated by the corrected computation.

BID BOND <i>(See instruction on reverse)</i>	DATE BOND EXECUTED <i>(Must not be later than bid opening date)</i>	OMB NO.:9000-0045
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Public reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

PRINCIPAL <i>(Legal name and business address)</i>	TYPE OF ORGANIZATION <i>("X" one)</i> <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> CORPORATION <hr/> STATE OF INCORPORATION
--	--

SURETY(IES) *(Name and business address)*

PENAL SUM OF BOND				BID IDENTIFICATION		
PERCENT OF BID PRICE	AMOUNT NOT TO EXCEED				BID DATE	INVITATION NO.
	MILLION(S)	THOUSAND(S)	HUNDRED(S)	CENTS	FOR <i>(Construction, Supplies, or Services)</i>	

OBLIGATION:

We, the Principal and Surety(ies) are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The Principal has submitted the bid identified above.

THEREFORE:

The above obligation is void if the Principal - (a) upon acceptance by the Government of the bid identified above, within the period specified therein for acceptance (sixty (60) days if no period is specified), executes the further contractual documents and gives the bond(s) required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms by the principal; or (b) in the event of failure to execute such further contractual documents and give such bonds, pays the Government for any cost of procuring the work which exceeds the amount of the bid.

Each Surety executing this instrument agrees that its obligation is not impaired by any extension(s) of the time for acceptance of the bid that the Principal may grant to the Government. Notice to the surety(ies) of extension(s) are waived. However, waiver of the notice applies only to extensions aggregating not more than sixty (60) calendar days in addition to the period originally allowed for acceptance of the bid.

WITNESS:

The Principal and Surety(ies) executed this bid bond and affixed their seals on the above date.

PRINCIPAL				
SIGNATURE(S)	1. _____	2. _____	3. _____	Corporate Seal
	<i>(Seal)</i>	<i>(Seal)</i>	<i>(Seal)</i>	
NAME(S) & TITLE(S) <i>(Typed)</i>	1. _____	2. _____	3. _____	

INDIVIDUAL SURETY(IES)			
SIGNATURE(S)	1. _____	2. _____	
	<i>(Seal)</i>	<i>(Seal)</i>	
NAME(S) <i>(Typed)</i>	1. _____	2. _____	

CORPORATE SURETY(IES)				
SURETY A	NAME & ADDRESS	STATE OF INC.	LIABILITY LIMIT (\$)	Corporate Seal
	SIGNATURE(S)	1. _____	2. _____	
	NAME(S) & TITLE(S) <i>(Typed)</i>	1. _____	2. _____	

SURETY B	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT (\$)	<i>Corporate Seal</i>
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY C	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT (\$)	<i>Corporate Seal</i>
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY D	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT (\$)	<i>Corporate Seal</i>
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY E	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT (\$)	<i>Corporate Seal</i>
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY F	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT (\$)	<i>Corporate Seal</i>
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		
SURETY G	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT (\$)	<i>Corporate Seal</i>
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) <i>(Typed)</i>	1.	2.		

INSTRUCTIONS

1. This form is authorized for use when a bid guaranty is required. Any deviation from this form will require the written approval of the Administrator of General Services.
2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.
3. The bond may express penal sum as a percentage of the bid price. In these cases, the bond may state a maximum dollar limitation (e.g., 20% of the bid price but the amount not to exceed _____ dollars).
4. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitation listed therein. where more than one corporate surety is involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designed "SURETY(IES)" on the face of the form, insert only the letter identification of the sureties.
 (b) Where individual sureties are involved, a completed Affidavit of Individual surety (Standard Form 28), for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning its financial capability.
5. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal"; and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.
6. Type the name and title of each person signing this bond in the space provided.
7. In its application to negotiated contracts, the terms "bid" and "bidder" shall include "proposal" and "offeror."

AFFIDAVIT OF INDIVIDUAL SURETY
(See instructions on reverse)

OMB No.: 9000-0001

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

STATE OF	SS.
COUNTY OF	

I, the undersigned, being duly sworn, depose and say that I am: (1) the surety to the attached bond(s); (2) a citizen of the United States; and of full age and legally competent. I also depose and say that, concerning any stocks or bonds included in the assets listed below, that there are no restrictions on the resale of these securities pursuant to the registration provisions of Section 5 of the Securities Act of 1933. I recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Sections 1001 and 494. This affidavit is made to induce the United States of America to accept me as surety on the attached bond.

1. NAME (First, Middle, Last) (Type or Print)	2. HOME ADDRESS (Number, Street, City, State, ZIP code)
3. TYPE AND DURATION OF OCCUPATION	4. NAME AND ADDRESS OF EMPLOYER (If Self-employed, so State)
5. NAME AND ADDRESS OF INDIVIDUAL SURETY BROKER USED (If any) (Number, Street, City, State, ZIP Code)	6. TELEPHONE NUMBER HOME - BUSINESS -

7. THE FOLLOWING IS A TRUE REPRESENTATION OF THE ASSETS I HAVE PLEDGED TO THE UNITED STATES IN SUPPORT OF THE ATTACHED BOND:

(a) Real estate (Include a legal description, street address and other identifying description; the market value; attach supporting certified documents including recorded lien; evidence of title and the current tax assessment of the property. For market value approach, also provide a current appraisal.)

(b) Assets other than real estate (describe the assets, the details of the escrow account, and attach certified evidence thereof).

8. IDENTIFY ALL MORTGAGES, LIENS, JUDGEMENTS, OR ANY OTHER ENCUMBRANCES INVOLVING SUBJECT ASSETS INCLUDING REAL ESTATE TAXES DUE AND PAYABLE.

9. IDENTIFY ALL BONDS, INCLUDING BID GUARANTEES, FOR WHICH THE SUBJECT ASSETS HAVE BEEN PLEDGED WITHIN 3 YEARS PRIOR TO THE DATE OF EXECUTION OF THIS AFFIDAVIT.

DOCUMENTATION OF THE PLEDGED ASSET MUST BE ATTACHED.

10. SIGNATURE	11. BOND AND CONTRACT TO WHICH THIS AFFIDAVIT RELATES (Where appropriate)
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12. SUBSCRIBED AND SWORN TO BEFORE ME AS FOLLOWS:

a. DATE OATH ADMINISTERED MONTH DAY YEAR	b. CITY AND STATE (Or other jurisdiction)	Official Seal
c. NAME AND TITLE OF OFFICIAL ADMINISTERING OATH (Type or print)	d. SIGNATURE	
		e. MY COMMISSION EXPIRES

INSTRUCTIONS

1. Individual sureties on bonds executed in connection with Government contracts, shall complete and submit this form with the bond. (See 48 CFR 28.203, 53.228(e).) The surety shall have the completed form notarized.
2. No corporation, partnership, or other unincorporated associations or firms, as such, are acceptable as individual sureties. Likewise members of a partnership are not acceptable as sureties on bonds which partnership or associations, or any co-partner or member thereof is the principal obligor. However, stockholders of corporate principals are acceptable provided (a) their qualifications are independent of their stockholdings or financial interest therein, and (b) that the fact is expressed in the affidavit of justification. An individual surety will not include any financial interest in assets connected with the principal on the bond which this affidavit supports.
3. United States citizenship is a requirement for individual sureties. However, only a permanent resident of the place of execution of the contract and bond is required for individual sureties in the following locations - any foreign country; the Commonwealth of Puerto Rico; the Virgin Islands; the Canal Zone; Guam; or any other territory or possession of the United States.
4. All signatures of the affidavit submitted must be originals. Affidavits bearing reproduced signatures are not acceptable. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of firm, partnership, or joint venture, or an officer of the corporation involved.

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individuals(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in

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

**DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET**

Approved by OM
0348-0046

Reporting Entity: _____ Page _____ of _____

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PROMPT PAYMENT CERTIFICATION AND SUPPORTING DATA FOR CONTRACTOR PROGRESS PAYMENT INVOICE

Contractor Name and Address	Contract No.	Est. No.	Date	Discount Terms
Description and Location of Work	Designated Contractor Official and Address for Payment		Defective Invoice Notification (Name, Title, Telephone)	
Subcontractor Name	Total Amount Subcontracted	Subcontractor Amount Included This Payment Est	Previous Subcontractor Payments	Subcontractor Earnings Deducted by Contractor (Total to Date)
				<div style="text-align: right;"> _____ \$ </div>

I hereby certify, to the best of my knowledge and belief, that:

- (1) The amounts requested are only for performance in accordance with the specifications, terms and conditions of the contract;
- (2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of Chapter 39 of Title 31, United States Code; and
- (3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract.

 (NAME)
 (TITLE)

 (DATE)

SECTION 00100

INSTRUCTIONS TO BIDDERS

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52.204-6 DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (APR 2008)

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS+4" followed by the DUNS number or "DUNS+4" that identifies the offeror's name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet, Inc. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11) for the same concern.

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

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

(i) Via the Internet at <http://fedgov.dnb.com/webform> or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

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

(i) Company legal business name.

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

(iii) Company physical street address, city, state and Zip Code.

(iv) Company mailing address, city, state and Zip Code (if separate from physical).

(v) Company telephone number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

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

(End of provision)

52.214-3 AMENDMENTS TO INVITATIONS FOR BIDS (DEC 1989)

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Bidders shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on the form for submitting a bid, (3) by letter or telegram, or (4) by facsimile, if facsimile bids are authorized in the solicitation. The Government must receive the acknowledgment by the time and at the place specified for receipt of bids.

(End of provision)

52.214-4 FALSE STATEMENTS IN BIDS (APR 1984)

Bidders must provide full, accurate, and complete information as required by this solicitation and its attachments. The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

(End of provision)

52.214-5 SUBMISSION OF BIDS (MAR 1997)

(a) Bids and bid modifications shall be submitted in sealed envelopes or packages (unless submitted by electronic means) (1) addressed to the office specified in the solicitation, and (2) showing the time and date specified for receipt, the solicitation number, and the name and address of the bidder.

(b) Bidders using commercial carrier services shall ensure that the bid is addressed and marked on the outermost envelope or wrapper as prescribed in subparagraphs (a)(1) and (2) of this provision when delivered to the office specified in the solicitation.

(c) Telegraphic bids will not be considered unless authorized by the solicitation; however, bids may be modified or withdrawn by written or telegraphic notice.

(d) Facsimile bids, modifications, or withdrawals, will not be considered unless authorized by the solicitation.

(e) Bids submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.

(End of provision)

52.214-6 EXPLANATION TO PROSPECTIVE BIDDERS (APR 1984)

Any prospective bidder desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing soon enough to allow a reply to reach all prospective bidders before the submission of their bids. Oral explanations or instructions given before the award of a contract will not be binding. Any information given a prospective bidder concerning a solicitation will be furnished promptly to all other prospective bidders as an amendment to the solicitation, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders.

(End of provision)

52.214-7 LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS (NOV 1999)

(a) Bidders are responsible for submitting bids, and any modifications or withdrawals, so as to reach the Government office designated in the invitation for bids (IFB) by the time specified in the IFB. If no time is specified in the IFB, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that bids are due.

(b)(1) Any bid, modification, or withdrawal received at the Government office designated in the IFB after the exact time specified for receipt of bids is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late bid would not unduly delay the acquisition; and--

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

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

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

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

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

(e) Bids may be withdrawn by written notice received at any time before the exact time set for receipt of bids. If the IFB authorizes facsimile bids, bids may be withdrawn via facsimile received at any time before the exact time set for receipt of bids, subject to the conditions specified in the provision at 52.214-31, Facsimile Bids. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

(End of provision)

52.214-18 PREPARATION OF BIDS--CONSTRUCTION (APR 1984)

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

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

(1) Lump sum bidding;

(2) Alternate prices;

(3) Units of construction; or

(4) Any combination of subparagraphs (1) through (3) above.

(c) If the solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words "no bid" in the space provided for any item on which no price is submitted.

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

(End of provision)

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

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

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

Goals for minority participation for each trade	Goals for female participation for each trade
Mobile County – 25.9%	6.9%
Baldwin County – 25.9%	6.9%

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

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

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

- (1) Name, address, and telephone number of the subcontractor;
- (2) Employer's identification number of the subcontractor;
- (3) Estimated dollar amount of the subcontract;
- (4) Estimated starting and completion dates of the subcontract; and
- (5) Geographical area in which the subcontract is to be performed.

(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is Mobile Harbor Channels, Mobile and Baldwin Counties, Alabama.

(End of provision)

**52.225-10 NOTICE OF BUY AMERICAN ACT REQUIREMENT--CONSTRUCTION MATERIALS
(MAY 2002)**

(a) Definitions. Construction material, domestic construction material, and foreign construction material, as used in this provision, are defined in the clause of this solicitation entitled "Buy American Act --Construction Materials" (Federal Acquisition Regulation (FAR) clause 52.225-9).

(b) Requests for determinations of inapplicability. An offeror requesting a determination regarding the inapplicability of the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR 52.225-9 in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) Evaluation of offers. (1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act, based on claimed unreasonable cost of domestic construction material, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(3)(i) of the clause at FAR 52.225-9.

(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 not listed by the Government in this solicitation in paragraph (b)(2) of the clause at FAR 52.225-9, the offeror also may submit an alternate offer based on use of equivalent domestic 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 the clause at FAR 52.225-9 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 the clause at FAR 52.225-9 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested--

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

(ii) May be accepted if revised during negotiations.

(End of provision)

52.236-27 SITE VISIT (CONSTRUCTION) (FEB 1995)

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

(b) Site visits may be arranged during normal duty hours by contacting: **Mr. Wylie Groves**

Name: **Irvington Site Office**

Address: **Irvington, Alabama**
Telephone: **(251) 957-6019**

(End of provision)

**952.000-4007 U.S. ARMY CORPS OF ENGINEERS SAFETY AND HEALTH REQUIREMENTS
MANUAL, EM 385-1-1**

This paragraph applies to contracts and purchase orders that require the contractor to comply with EM 385-1-1 (e.g., contracts that include the Accident Prevention clause at FAR 52.236-13 and/or other safety provisions). EM 385-1-1 and its changes are available at <http://www.hq.usace.army.mil>. (At the HQ homepage, select Organization, Safety and Occupational Health, Safety and Occupational Health Home page, and Safety Publications.) The Contractor shall be responsible for complying with the current edition and all changes posted on the web through the date that is 10 calendar days prior to the date offers are due. If the solicitation is amended to extend the time set for receipt of offers, the 10 calendar days rule stated above shall be applied against the amended date. (For example, if offers are due on 10 April, all changes posted on or before 31 March shall apply to the contract. If the time for receipt of offers is extended from 10 April to 20 April, all changes posted on or before 10 April shall apply to the contract.)

(End of paragraph number 952.000-4007)

952.000-4026 ARITHMETIC DISCREPANCIES (MAR 1995) EFARS 52.214-5000

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

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

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

952.000-4200 THE ISSUING OFFICE IS THE US ARMY ENGINEER DISTRICT, MOBILE

Delivery Address: 109 St. Joseph St.,
Federal Building, Room 6018,
Mobile, AL 36602
Mailing Address: P.O. Box 2288, Mobile, AL 36628-0001

952.000-4201 SUBMITTAL OF BID

IMPORTANT: Offerors are cautioned to allow **ample** time (**15 minutes minimum**) for processing through enhanced security procedures in Federal facilities, which must be accomplished **prior** to delivery of offers/bids to the designated place for receipt of same. Once the contractor's courier is within the Mobile District building with their proposal in hand and has properly cleared security at the front door before the scheduled bid receipt time stated in the solicitation, it is highly advisable that their representative NOT depart the building prior to bid receipt time

without depositing their offer at the proposal receipt point on the 6th floor. Security clearance procedures will again be required when they attempt to re-enter the building with their bid package. Recent terrorists attacks have resulted in more time-consuming sign-in and escort procedures and may impact the timely delivery of offers/bids. Offers/Bids determined to be late while clearing security shall be rejected.

"Sealed Bids" in original only for the work described herein will be received at the place and time indicated on the SF1442, Solicitation, Offer and Award Form, issued herewith, to the issuing office named above and at that time "publicly" opened. (Bids delivered by hand must be delivered to the address named above and will not be accepted at any other location). Prospective bidders should submit inquiries concerning the mailing of plans and specifications and should address any nontechnical questions by writing or calling (collect calls not accepted) the Plans Room, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, Alabama 36628-0001, Telephone Area Code 251, 690-2535. Technical questions on plans and specifications should be submitted in writing to **Mr. Wylie Groves - FAX Area Code 251, 694-4264.**

952.000-4214 DESCRIPTION OF WORK

In general, the work shall consist of the following: Rental of Hopper Dredge with Attendant Plant and Operators for Maintenance Dredging of approximately 1,500,00 cys in navigation channels in Mobile Harbor. The work will consist of removal and satisfactory disposal of material as directed by the Contracting Officer's Authorized Representative. Excavated material will be transported and deposited into the Gulf Open Water. Hopper dredge should be complete with all necessary materials, supplies, labor and transportation including fuel, power, and water for excavation operations.

NOTE: The above general outline of features of the work does not in any way limit the responsibility of the Contractor to perform all work and furnish all plant, labor, equipment and materials required by the specifications and the drawings referred to therein. The cost of this work is estimated to be between **\$5,000,000.00 and \$10,000,000.00.**

952.000-4219 CONTRACT AWARD - SEALED BIDDING - CONSTRUCTION (AUG 1996) FAR 52.214-19

- (a) The Government will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Government, considering only price and the price-related factors specified elsewhere in the solicitation.
- (b) The Government may reject any or all bids, and waive informalities or minor irregularities in bids received.
- (c) The Government may accept any item or combination of items, unless doing so is precluded by a restrictive limitation in the solicitation or the bid.
- (d) The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the Government even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment. Note: For this solicitation, the term "item" in paragraph (c) shall be considered to be "Bid Schedule."

952.000-4220 JOINT VENTURE BID REQUIREMENTS (12 DEC 2006)

If applicable, the Offeror shall submit evidence from the Offeror's SBA Servicing Agency that the Offeror has notified and discussed the proposed joint venture for this project with the appropriate SBA personnel. For 8(a) set-aside procurements, all prospective Joint Ventures must comply with Title 13 Code of Federal Regulations (CFR) Part 124.513. For HUBZone set-aside procurements and awards to HUBZone SBCs through full and open competition after a price evaluation preference in favor of qualified HUBZone SBCs, a Joint Venture must comply with 13 CFR 126.616.

952.000-4227 PREAWARD INFORMATION

Each bidder shall furnish either with his bid or within 3 days after a request is made for submittal of preaward data a statement of whether he is now or ever has been engaged in any work similar to that covered by the specifications herein, the dollar value thereof, the year in which such work was performed, and the manner of its execution, and giving such other information as will tend to show the bidder's ability to prosecute the required work. The "such other information" referred to above shall include but is not limited to the following:

- a. The name and address of the office or firm under which such similar work was performed. Include names and telephone numbers of personnel within each organization who are familiar with the prospective contractor's performance.
- b. A list of key personnel available for the instant project and their qualifications.
- c. A copy of bidder's latest financial statement, including the names of banks or other financial institutions with which the bidder conducts business. If the financial statement is more than 60 days old, a certificate should be attached stating that the financial condition is substantially the same, or if not the same, the changes that have taken place. Such statements will be treated as confidential.
- d. A list of present commitments, including the dollar value thereof, and name of office under which the work is being performed. Include names and telephone numbers of personnel within each organization who are familiar with the prospective contractor's performance.
- e. If the bid exceeds \$1,000,000 and the prospective contractor is a large business concern, he must submit a subcontracting plan in compliance with the Contract Clause entitled SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN.

952.000-4234 BID GUARANTEE (SEP 1996) FAR 52.228-1

- (a) Failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid.
- (b) The bidder shall furnish a bid guarantee in the form of a firm commitment, e.g., bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds, (1) to unsuccessful bidders as soon as practicable after the opening of bids, and (2) to the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.
- (c) The amount of the bid guarantee shall be twenty percent of the bid price or \$3,000,000, whichever is less.

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

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

(End of provision)

952.000-4235 CONTRACT PRICES - BIDDING SCHEDULE

Payment for the various items listed in the Bidding Schedule shall constitute full compensation for furnishing all plant, labor, equipment, appliances, materials and bonds (performance and payment), and for performing all operations required to complete the work in conformity with the drawings and specifications. All costs for work not specifically mentioned in the Bidding Schedule shall be included in the contract prices for the items listed.

952.000-4236 SOURCE LIST FOR SMALL DISADVANTAGED SUBCONTRACTORS

Bidders desiring assistance in developing a source list of small disadvantaged subcontractors are encouraged to contact small disadvantaged contractor associations and appropriate offices of Minority Business Development Agency, addresses of which may be obtained from the U.S. Army Engineer District, Mobile, ATTN: CESAM-DB, P.O. Box 2288, Mobile, Alabama 36628, A/C 251, 690-3597.

952.000-4241 MANUALS AND PUBLICATIONS

Engineering manuals and Concrete Research Division Publications may be obtained from the addresses given below.

Engineering Manuals: U. S. Army, Corps of Engineers
Publications Depot
2803 -52nd Avenue
Hyattsville, MD 20781-1102

Concrete Research Division Publications:

U.S. Army Engineer Waterways Experiment Station
ATTN: Publications Distribution Unit
P.O. Box 631
Vicksburg, MS 39180

952.000-4243 EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE

a. Whenever a contract or modification of contract price is negotiated, the contractor's cost proposals for equipment ownership and operating expenses shall be determined in accordance with the requirements of the paragraph entitled "EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE," contained in the Special Clause section of the Specifications.

b. A copy of EP 1110-1-8 is available for purchase from the U.S. Government Online Bookstore at <http://bookstore.gpo.gov>.

952.000-4272 SMALL BUSINESS SUBCONTRACTING TARGETS (REVISED AUGUST 2008)

- (a) This clause does not apply to small business concerns.
- (b) Offerors who are large businesses, upon request by the Contracting Officer, shall submit a subcontracting plan in accordance with the contract clause in Section 00700, FAR 52.219-9, Small Business Subcontracting Plan.
- (c) The Mobile District Corps of Engineers has assigned the below listed target for subcontracting possibilities for small business categories. The percentages breakdown set forth for the Mobile District is as follows:
 - (1) Subcontracting to Small Business (SB) 70.0 %
 - (2) Subcontracting to Small Disadvantaged Business (SDB) 6.2 %
 - (3) Subcontracting to Women-Owned Small Business (WOSB) 7.0 %
 - (4) Subcontracting to HUBZone Small Business 9.8%
(For more information on HUBZone, see Web Page at www.sba.gov)
 - (5) Subcontracting to Service-Disabled Veteran-Owned Small Business (SVOSB) 0.9 %
 - (6) Veteran-Owned Small Business 3.0%

952.999-4013 SERVICE OF PROTEST (SEPT 2006) FAR 52.233-2

- (a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from the U. S. Army Engineer District, Mobile, P. O. Box 2288, Mobile, AL 36628-0001.
- (b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

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SECTION 00600

REPRESENTATIONS & CERTIFICATIONS

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

(a) The offeror certifies that --

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

(i) Those prices,

(ii) The intention to submit an offer, or

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

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

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

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

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

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

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

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

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

(End of clause)

52.203-11 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2007)

(a) Definitions. As used in this provision--"Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).

(b) Prohibition. The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.

(c) Certification. The offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

(d) Disclosure. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(e) Penalty. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(End of provision)

52.204-3 TAXPAYER IDENTIFICATION (OCT 1998)

(a) Definitions.

Common parent, as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

Taxpayer Identification Number (TIN), as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) Taxpayer Identification Number (TIN).

___ TIN:-----

___ TIN has been applied for.

___ TIN is not required because:

___ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

___ Offeror is an agency or instrumentality of a foreign government;

___ Offeror is an agency or instrumentality of the Federal Government.

(e) Type of organization.

___ Sole proprietorship;

___ Partnership;

___ Corporate entity (not tax-exempt);

___ Corporate entity (tax-exempt);

___ Government entity (Federal, State, or local);

___ Foreign government;

___ International organization per 26 CFR 1.6049-4;

___ Other-----

(f) Common parent.

___ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

___ Name and TIN of common parent:

Name-----

TIN-----

(End of provision)

52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2006)

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

(2) The small business size standard is 20 Million.

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

(b)(1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (c) of this provision applies.

(2) If the clause at 52.204-7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (b) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

Paragraph (c) applies.

Paragraph (c) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(c) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [offeror to insert changes, identifying change by clause number, title, date]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause	Title	Date	Change
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Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

(End of Provision)

52.209-5 CERTIFICATION REGARDING RESPONSIBILITY MATTERS (MAY 2008)

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

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

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

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

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

(D) Have [ballot], have not [ballot], within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) Examples. (i) The taxpayer has received a statutory notice of deficiency, under I.R.C. Sec. 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. Sec. 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. Sec. 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

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

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

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

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

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

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

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

(End of provision)

52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS (MAY 2004)

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

(2) The small business size standard is **20 Million**.

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

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

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

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

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

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

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

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

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

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

Service-disabled veteran-owned small business concern--

(1) Means a small business concern--

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

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

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

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

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

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

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

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

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

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

(d) Notice.

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

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

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

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

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

(End of provision)

52.219-2 EQUAL LOW BIDS. (OCT 1995)

(a) This provision applies to small business concerns only.

(b) The bidder's status as a labor surplus area (LSA) concern may affect entitlement to award in case of tie bids. If the bidder wishes to be considered for this priority, the bidder must identify, in the following space, the LSA in which the costs to be incurred on account of manufacturing or production (by the bidder or the first-tier subcontractors) amount to more than 50 percent of the contract price.

(c) Failure to identify the labor surplus area as specified in paragraph (b) of this provision will preclude the bidder from receiving priority consideration. If the bidder is awarded a contract as a result of receiving priority consideration under this provision and would not have otherwise received award, the bidder shall perform the contract or cause the contract to be performed in accordance with the obligations of an LSA concern.

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

(a) Definition.

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

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

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

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

No. of Employees	Avg. Annual Gross Revenues
<input type="checkbox"/> 50 or fewer	<input type="checkbox"/> \$1 million or less
<input type="checkbox"/> 51 - 100	<input type="checkbox"/> \$1,000,001 - \$2 million
<input type="checkbox"/> 101 - 250	<input type="checkbox"/> \$2,000,001 - \$3.5 million
<input type="checkbox"/> 251 - 500	<input type="checkbox"/> \$3,500,001 - \$5 million
<input type="checkbox"/> 501 - 750	<input type="checkbox"/> \$5,000,001 - \$10 million
<input type="checkbox"/> 751 - 1,000	<input type="checkbox"/> \$10,000,001 - \$17 million
<input type="checkbox"/> Over 1,000	<input type="checkbox"/> Over \$17 million

(End of provision)

52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

The offeror represents that --

(a) It has, has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) It has, has not, filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(End of provision)

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

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

(End of provision)

52.223-13 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

(a) Executive Order 13148, of April 21, 2000, Greening the Government through Leadership in Environmental Management, requires submission of this certification as a prerequisite for contract award.

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

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

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

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

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

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

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

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

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

(C) Major group codes 20 through 39.

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

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

() (v) The facility is not located within the United States or its outlying areas.

(End of clause)

**252.209-7001 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A
TERRORIST COUNTRY (OCT 2006)**

(a) "Definitions."

As used in this provision --

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

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

(3) "Significant interest" means --

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

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

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

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

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

(b) "Prohibition on award."

In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or a subsidiary of a firm if the

government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) "Disclosure."

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

(1) Identification of each government holding a significant interest; and

(2) A description of the significant interest held by each government.

(End of provision)

252.225-7031 SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 2005)

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

(1) Foreign person means any person (including any individual, partnership, corporation, or other form of association) other than a United States person.

(2) United States means the 50 States, the District of Columbia, outlying areas, and the outer Continental Shelf as defined in 43 U.S.C. 1331.

(3) United States person is defined in 50 U.S.C. App. 2415(2) and means--

(i) Any United States resident or national (other than an individual resident outside the United States who is employed by other than a United States person);

(ii) Any domestic concern (including any permanent domestic establishment of any foreign concern); and

(iii) Any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern that is controlled in fact by such domestic concern.

(b) Certification. If the offeror is a foreign person, the offeror certifies, by submission of an offer, that it--

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

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

(End of provision)

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

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

(b) Representation. The Offeror represents that it:

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

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

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

(End of provision)

952.000-4010 AFFILIATED BIDDERS

(a) Business concerns are affiliates of each other when, either directly or indirectly, (1) one concern controls or has the power to control the other, or (2) a third party controls or has the power to control both.

(b) Each bidder shall submit with its bid an affidavit stating that it has no affiliates, or containing the following information.

(1) The names and addresses of all affiliates of the bidder.

(2) The names and addresses of all persons and concerns exercising control or ownership of the bidder and any or all of its affiliates, and whether they exercise such control or ownership as common officers, directors, stockholders, holding controlling interest, or otherwise.

Please check when applicable:

____ The offeror certifies that it has no affiliates.

____ The offeror certifies that it is affiliated with the concerns designated on an attached affidavit.

952.000-4011 DUN AND BRADSTREET DATA UNIVERSAL NUMBERING SYSTEM (DUNS)

The offeror's DUNS number is _____.

The Duns and Bradstreet Data Universal Numbering System (DUNS) is a contractor identification coding system which is essential for contract reporting requirements. If the offeror does not have a DUNS number, please call Dun and Bradstreet at 1-800-333-0505. For additional instructions, see the paragraph entitled "Contractor Identification Number--DUNS Number" FAR 52.204-6 in this solicitation.

(End of provision)

952.000-4215 REMITTANCE ADDRESS

If the remittance address for the bidder/offeror is different from the mailing address indicated on the bidding documents, please complete the block below:

COMPANY NAME: _____

REMITTANCE ADDRESS: _____

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SECTION 00700
CONTRACT CLAUSES

<u>CLAUSE</u>	<u>CLAUSE TITLE</u>	<u>PAGE NO.</u>
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52.202-1 DEFINITIONS (JUL 2004)

(a) When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless--

- (1) The solicitation, or amended solicitation, provides a different definition;
- (2) The contracting parties agree to a different definition;
- (3) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or
- (4) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

(b) The FAR Index is a guide to words and terms the FAR defines and shows where each definition is located. The FAR Index is available via the Internet at <http://www.acqnet.gov> at the end of the FAR, after the FAR Appendix.

(End of clause)

52.203-3 GRATUITIES (APR 1984)

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

- (1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and
- (2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

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

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

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

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

(End of clause)

52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

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

discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

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

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

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

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

(End of clause)

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

(a) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

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

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

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

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

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

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

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

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

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

(End of clause)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2007)

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

Agency means executive agency as defined in Federal Acquisition Regulation (FAR) 2.101.

Covered Federal action means any of the following actions:

- (1) Awarding any Federal contract.
- (2) Making any Federal grant.
- (3) Making any Federal loan.
- (4) Entering into any cooperative agreement.
- (5) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

Indian tribe and tribal organization 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 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 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 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 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 eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

Reasonable compensation 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 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 includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

Regularly employed 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 means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition. 31 U.S.C. 1352 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 covered Federal actions. In accordance with 31 U.S.C. 1352, the Contractor shall not use 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 the award of this contractor the extension, continuation, renewal, amendment, or modification of this contract.

(1) The term appropriated funds does not include profit or fee from a covered Federal action.

(2) To the extent the Contractor can demonstrate that the Contractor has sufficient monies, other than Federal appropriated funds, the Government will assume that these other monies were spent for any influencing activities that would be unallowable if paid for with Federal appropriated funds.

(c) Exceptions. The prohibition in paragraph (b) of this clause does not apply under the following conditions:

(1) Agency and legislative liaison by Contractor employees.

(i) Payment of reasonable compensation made to an officer or employee of the Contractor if the payment is for agency and legislative liaison activities not directly related to this contract. For purposes of this paragraph, providing any information specifically requested by an agency or Congress is permitted at any time.

(ii) Participating with an agency in discussions that are not related to a specific solicitation for any covered Federal action, but that concern--

(A) The qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities; or

(B) The application or adaptation of the person's products or services for an agency's use.

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

(iv) Participating in technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(v) Making capability presentations prior to formal solicitation of any covered Federal action 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.

(2) Professional and technical services. (i) 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.

(ii) 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.

(iii) As used in paragraph (c)(2) of this clause, "professional and technical services" are limited to advice and analysis directly applying any professional or technical discipline (for examples, see FAR 3.803(a)(2)(iii)).

(iv) 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.

(3) Only those communications and services expressly authorized by paragraphs (c)(1) and (2) of this clause are permitted.

(d) Disclosure. (1) If the Contractor did not submit OMB Standard Form LLL, Disclosure of Lobbying Activities, with its offer, but registrants under the Lobbying Disclosure Act of 1995 have subsequently made a lobbying contact on behalf of the Contractor with respect to this contract, the Contractor shall complete and submit OMB Standard Form LLL to provide the name of the lobbying registrants, including the individuals performing the services.

(2) If the Contractor did submit OMB Standard Form LLL disclosure pursuant to paragraph (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects Block 10 of the OMB Standard Form LLL (name and address of lobbying registrant or individuals performing services), the Contractor shall, at the end of the calendar quarter in which the change occurs, submit to the Contracting Officer within 30 days an updated disclosure using OMB Standard Form LLL.

(e) Penalties. (1) Any person who makes an expenditure prohibited under paragraph (b) of this clause or who fails to file or amend the disclosure to be filed or amended by paragraph (d) 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.

(g) Subcontracts. (1) The Contractor shall obtain a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each person requesting or receiving a subcontract exceeding \$100,000 under this contract. The Contractor or subcontractor that awards the subcontract shall retain the declaration.

(2) A copy of each subcontractor disclosure form (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall, at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor, submit to the Contracting Officer within 30 days a copy of all disclosures. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(3) The Contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding \$100,000.

(End of clause)

52.203-14 DISPLAY OF HOTLINE POSTER(S) (DEC 2007)

(a) Definition.

United States, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) Display of fraud hotline poster(s). Except as provided in paragraph (c)--

(1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites--

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

(3) Any required posters may be obtained as follows:

Poster(s) Obtain from DoD Inspector General, ATTN: Defense Hotline, 400 Army Navy Drive, Washington, DC 22202-2884.

(Contracting Officer shall insert—

(i) Appropriate agency name(s) and/or title of applicable Department of Homeland Security fraud hotline poster); and

(ii) The website(s) or other contact information for obtaining the poster(s.)

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed \$5,000,000, except when the subcontract--

(1) Is for the acquisition of a commercial item; or

(2) Is performed entirely outside the United States.

(End of clause)

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

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

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

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

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

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

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

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

(1) Postconsumer fiber; and

(2) Manufacturing wastes such as--

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

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

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

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

(End of clause)

52.204-7 CENTRAL CONTRACTOR REGISTRATION (APR 2008)

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

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

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

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

Registered in the CCR database means that--

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

(2) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record ``Active''. The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.

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

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

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

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

(i) Via the Internet at <http://fedgov.dnb.com/webform> or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

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

(i) Company legal business.

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

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

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

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

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

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

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

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

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

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

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

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

(End of clause)

52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (SEP 2006)

(a) The Government suspends or debar Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of the \$30,000 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 \$30,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

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

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being in the Excluded Parties List System.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in the Excluded Parties List System.

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

(End of clause)

52.211-13 TIME EXTENSIONS (SEP 2000)

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

(End of clause)

52.214-26 AUDIT AND RECORDS--SEALED BIDDING. (OCT 1997)

(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) Cost or pricing data. If the Contractor has been required to submit cost or pricing data in connection with the pricing of any modification 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 modification;

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

(3) Pricing of the modification; or

(4) Performance of the modification.

(c) Comptroller General. In the case of pricing any modification, the Comptroller General of the United States, or an authorized representative, shall have the same rights as specified in paragraph (b) of this clause.

(d) Availability. The Contractor shall make available at its office at all reasonable times the materials described in reproduction, until 3 years after final payment under this contract, or for any other period specified in Subpart 4.7 of the Federal Acquisition Regulation (FAR). FAR Subpart 4.7, Contractor Records Retention, in effect on the date of this contract, is incorporated by reference in its entirety and made a part of this contract.

(1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.

(2) Records pertaining to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to the performance of this contract shall be made available until disposition of such appeals, litigation, or claims.

(e) The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (e), in all subcontracts expected to exceed the threshold in FAR 15.403-4(a)(1) for submission of cost or pricing data.

(End of clause)

**52.214-27 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA -
MODIFICATIONS - SEALED BIDDING. (OCT 1997)**

(a) This clause shall become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for the submission of cost or pricing data at FAR 15.403-4(a)(1), except that this clause does not apply to a modification if an exception under FAR 15.403-1(b) applies.

(1) Based on adequate price competition;

(2) Based on established catalog or market prices of commercial items sold in substantial quantities to the general public; or

(3) Set by law or regulation.

(b) If any price, including profit, negotiated in connection with any modification under this clause, 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 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) above.

(c) Any reduction in the contract price under paragraph (b) above 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) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made:

(1) 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; or

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

(2) Except as prohibited by subdivision (d)(2)(ii) of this clause:

(i) 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 date of agreement on the price of the contract (or price of the modification) and that the data were not submitted before such date.

(ii) An offset shall not be allowed if:

(A) The understated data was known by the Contractor to be understated when the Certificate of Current Cost or Pricing Data was signed; 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 date of agreement on price.

(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 which were incomplete, inaccurate, or noncurrent.

(End of clause)

52.214-28 SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS - SEALED BIDDING. (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 aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at (FAR) 48 CFR 15.403-4(a)(1); 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(a)(1), on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modifications involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1), 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(b) applies.

(1) Based on adequate price competition;

(2) Based on established catalog or market prices of commercial items sold in substantial quantities to the general public; or

(3) Set by law or regulation.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in subsection 15.406-2 of the Federal Acquisition Regulation that, to the best of its knowledge and belief, the data submitted under paragraph (b) above 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, when entered into, exceeds the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1).

(End of clause)

52.214-28 SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS - SEALED BIDDING. (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 aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at (FAR) 48 CFR 15.403-4(a)(1); 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(a)(1), on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modifications involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1), 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(b) applies.

(1) Based on adequate price competition;

(2) Based on established catalog or market prices of commercial items sold in substantial quantities to the general public; or

(3) Set by law or regulation.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in subsection 15.406-2 of the Federal Acquisition Regulation that, to the best of its knowledge and belief, the data submitted under paragraph (b) above 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, when entered into, exceeds the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1).

(End of clause)

52.214-29 ORDER OF PRECEDENCE--SEALED BIDDING (JAN 1986)

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; and (e) the specifications.

(End of clause)

52.216-18 ORDERING. (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued for a period of 365 days from the **date of issuance of Notice to Proceed for Task Order No. 0001.**

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(End of clause)

52.216-19 ORDER LIMITATIONS. (OCT 1995)

(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than \$200,000.00, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) Maximum order. The Contractor is not obligated to honor:

(1) Any order for a single item in excess of \$6,000,000.00;

(2) Any order for a combination of items in excess of \$6,000,000.00; or

(3) A series of orders from the same ordering office within 30 days that together call for quantities exceeding the limitation in subparagraph (1) or (2) above.

(c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) above.

(d) Notwithstanding paragraphs (b) and (c) above, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within seven days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of clause)

52.216-22 INDEFINITE QUANTITY. (OCT 1995)

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum". The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum".

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract 365 days after **issuance date of the Notice to Proceed of Task Order No. 0001**.

(End of clause)

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

The Government may require the delivery of the numbered line item, identified in the Schedule as an option item, in the quantity and at the price stated in the Schedule. The Contracting Officer may exercise the option by written notice to the Contractor within **60 days**. Delivery of added items shall continue at the same rate that like items are called for under the contract, unless the parties otherwise agree.

(End of clause)

52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)

(a) The Government may extend the term of this contract by written notice to the Contractor within **72 hours of the estimated completion time of the contract**; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least **60** days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed **365 days**.

(End of clause)

52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (JUL 2005)

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

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

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

(ii) Otherwise successful offers from small business concerns.

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

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

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

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

___ Offeror elects to waive the evaluation preference.

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

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

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

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

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

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

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

(End of clause)

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

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

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

Definitions. As used in this contract--

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

Service-disabled veteran-owned small business concern--

(1) Means a small business concern--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

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

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

(End of clause)

52.222-3 CONVICT LABOR (JUN 2003)

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

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

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

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

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

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

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

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

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

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

(End of clause)

**52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT -
OVERTIME COMPENSATION. (JUL 2005)**

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

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

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

(d) Payrolls and basic records.

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

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

(e) Subcontracts. The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts that may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

(End of clause)

52.222-6 DAVIS-BACON ACT (JUL 2005)

(a) Definition.--Site of the work –

(1) Means--

(i) The primary site of the work. The physical place or places where the construction called for in the contract will remain when work on it is completed; and

(ii) The secondary site of the work, if any. Any other site where a significant portion of the building or work is constructed, provided that such site is--

(A) Located in the United States; and

(B) Established specifically for the performance of the contract or project;

(2) Except as provided in paragraph (3) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided--

(i) They are dedicated exclusively, or nearly so, to performance of the contract or project; and

(ii) They are adjacent or virtually adjacent to the "primary site of the work" as defined in paragraph (a)(1)(i), or the "secondary site of the work" as defined in paragraph (a)(1)(ii) of this definition;

(3) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the "site of the work." Such permanent, previously established facilities are not a part of the "site of the work" even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of a contract.

(b)(1) 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, or as may be incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Any wage determination incorporated for a secondary site of the work shall be effective from the first day on which work under the contract was performed at that site and shall be incorporated without any adjustment in contract price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work shall be paid in accordance with the wage determination applicable to the primary site of the work.

(2) 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 (e) 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.

(3) 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.

(4) The wage determination (including any additional classifications and wage rates conformed under paragraph (c) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers.

(c)(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 (c)(2) and (c)(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.

(d) 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.

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

(End of clause)

52.222-7 WITHHOLDING OF FUNDS (FEB 1988)

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

notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(End of clause)

52.222-8 PAYROLLS AND BASIC RECORDS (FEB 1988)

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

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

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

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

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

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

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

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

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

(End of clause)

52.222-9 APPRENTICES AND TRAINEES (JUL 2005)

(a) Apprentices. (1) An apprentice will be permitted to work at less than the predetermined rate for the work performed when employed--

(i) Pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS) or with a State Apprenticeship Agency recognized by the OATELS; or

(ii) In the first 90 days of probationary employment as an apprentice in such an apprenticeship program, even though not individually registered in the program, if certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program.

(3) Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(1) of this clause, 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.

(4) 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.

(5) 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.

(6) In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, 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.

(1) 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, Office of Apprenticeship Training, Employer, and Labor Services (OATELS). The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by OATELS.

(2) 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 OATELS 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.

(3) In the event OATELS withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

(End of clause)

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

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

(End of clause)

52.222-11 SUBCONTRACTS (LABOR STANDARDS) (JUL 2005)

(a) Definition. Construction, alteration or repair, as used in this clause, means all types of work done by laborers and mechanics employed by the construction Contractor or construction subcontractor on a particular building or work at the site thereof, including without limitation--

(1) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;

(2) Painting and decorating;

(3) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work;

(4) Transportation of materials and supplies between the site of the work within the meaning of paragraphs (a)(1)(i) and (ii) of the "site of the work" as defined in the FAR clause at 52.222-6, Davis-Bacon Act of this contract, and a facility which is dedicated to the construction of the building or work and is deemed part of the site of the work within the meaning of paragraph (2) of the "site of work" definition; and

(5) Transportation of portions of the building or work between a secondary site where a significant portion of the building or work is constructed, which is part of the "site of the work" definition in paragraph (a)(1)(ii) of the FAR clause at 52.222-6, Davis-Bacon Act, and the physical place or places where the building or work will remain (paragraph (a)(1)(i) of the FAR clause at 52.222-6, in the "site of the work" definition).

(b) The Contractor shall insert in any subcontracts for construction, alterations and repairs within the United States the clauses entitled--

(1) Davis-Bacon Act;

(2) Contract Work Hours and Safety Standards Act--Overtime Compensation (if the clause is included in this contract);

(3) Apprentices and Trainees;

(4) Payrolls and Basic Records;

(5) Compliance with Copeland Act Requirements;

(6) Withholding of Funds;

(7) Subcontracts (Labor Standards);

(8) Contract Termination--Debarment;

(9) Disputes Concerning Labor Standards;

(10) Compliance with Davis-Bacon and Related Act Regulations; and

(11) Certification of Eligibility.

(c) The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor performing construction within the United States with all the contract clauses cited in paragraph (b).

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

(e) The Contractor shall insert the substance of this clause, including this paragraph (e) in all subcontracts for construction within the United States.

(End of clause)

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

A breach of the contract clauses entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act--Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Davis-Bacon and Related Act Regulations, or

Certification of Eligibility may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

(End of clause)

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

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

(End of clause)

52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)

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

(End of clause)

52.222-15 CERTIFICATION OF ELIGIBILITY (FEB 1988)

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

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

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

(End of clause)

52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

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

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

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

(End of clause)

52.222-26 EQUAL OPPORTUNITY (MAR 2007)

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

(b)(1) 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 this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(2) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor's activities (41 CFR 60-1.5).

(c) (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 this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

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

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

(End of clause)

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

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

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

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

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

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

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

- (3) Black (all persons having origins in any of the black African racial groups not of Hispanic origin); and
- (4) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race).
- (b) If the Contractor, or a subcontractor at any tier, subcontracts a portion of the work involving any construction trade, each such subcontract in excess of \$10,000 shall include this clause and the Notice containing the goals for minority and female participation stated in the solicitation for this contract.
- (c) If the Contractor is participating in a Hometown Plan (41 CFR 60-4) approved by the U.S. Department of Labor in a covered area, either individually or through an association, its affirmative action obligations on all work in the plan area (including goals) shall comply with the plan for those trades that have unions participating in the plan. Contractors must be able to demonstrate participation in, and compliance with, the provisions of the plan. Each Contractor or subcontractor participating in an approved plan is also required to comply with its obligations under the Equal Opportunity clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good-faith performance by other Contractors or subcontractors toward a goal in an approved plan does not excuse any Contractor's or subcontractor's failure to make good-faith efforts to achieve the plan's goals.
- (d) The Contractor shall implement the affirmative action procedures in subparagraphs (g)(1) through (16) of this clause. The goals stated in the solicitation for this contract are expressed as percentages of the total hours of employment and training of minority and female utilization that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for the geographical area where that work is actually performed. The Contractor is expected to make substantially uniform progress toward its goals in each craft.
- (e) Neither the terms and conditions of any collective bargaining agreement, nor the failure by a union with which the Contractor has a collective bargaining agreement, to refer minorities or women shall excuse the Contractor's obligations under this clause, Executive Order 11246, as amended, or the regulations thereunder.
- (f) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- (g) The Contractor shall take affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with this clause shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and implement affirmative action steps at least as extensive as the following:
- (1) Ensure a working environment free of harassment, intimidation, and coercion at all sites and in all facilities where the Contractor's employees are assigned to work. The Contractor, if possible, will assign two or more women to each construction project. The Contractor shall ensure that foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at these sites or facilities.
 - (2) Establish and maintain a current list of sources for minority and female recruitment. Provide written notification to minority and female recruitment sources and community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - (3) Establish and maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant, referrals of minorities or females from unions, recruitment sources, or community

organizations, and the action taken with respect to each individual. If an individual was sent to the union hiring hall for referral and not referred back to the Contractor by the union or, if referred back, not employed by the Contractor, this shall be documented in the file, along with whatever additional actions the Contractor may have taken.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Actively participates in the group;

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

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

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

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

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

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

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

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

(m) The Contractor in fulfilling its obligations under this clause shall implement affirmative action procedures at least as extensive as those prescribed in paragraph (g) of this clause, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of

Executive Order 11246, as amended, the implementing regulations, or this clause, the Deputy Assistant Secretary shall take action as prescribed in 41 CFR 60-4.8.

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

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

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

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

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

(End of clause)

52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)

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

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

Executive and top management means any employee--

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

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

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

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

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

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

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

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

Special disabled veteran means--

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

(i) Rated at 30 percent or more; or

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

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

Veteran of the Vietnam era means a person who--

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

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

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

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

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

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

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

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

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

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

- (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
 - (v) Leaves of absence, sick leave, or any other leave;
 - (vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
 - (vii) Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
 - (viii) Activities sponsored by the Contractor including social or recreational programs; and
 - (ix) Any other term, condition, or privilege of employment.
- (2) The Contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended (38 U.S.C. 4211 and 4212).
- (c) Listing openings. (1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract, and including those occurring at an establishment of the Contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local public employment service office of the State wherein the opening occurs. Listing employment openings with the U.S. Department of Labor's America's Job Bank shall satisfy the requirement to list jobs with the local employment service office.
- (2) The Contractor shall make the listing of employment openings with the local employment service office at least concurrently with using any other recruitment source or effort and shall involve the normal obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing of employment openings does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.
- (3) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State public employment agency in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State agency, it need not advise the State agency of subsequent contracts. The Contractor may advise the State agency when it is no longer bound by this contract clause.
- (d) Applicability. This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands of the United States, and Wake Island.
- (e) Postings. (1) The Contractor shall post employment notices in conspicuous places that are available to employees and applicants for employment.
- (2) The employment notices shall--
- (i) State the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are special disabled veterans, veterans of the Vietnam era, and other eligible veterans; and
 - (ii) Be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary of Labor), and provided by or through the Contracting Officer.

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

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

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

(g) Subcontracts. The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Deputy Assistant Secretary of Labor to enforce the terms, including action for noncompliance.

(End of clause)

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

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

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

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

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

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

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

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

(vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

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

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

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

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

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

(ii) The rights of applicants and employees.

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

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

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

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

(End of clause)

**52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS,
VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP
2006)**

(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 \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary.

(End of clause)

52.222-50 COMBATING TRAFFICKING IN PERSONS (AUG 2007)

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

Coercion means--

- (1) Threats of serious harm to or physical restraint against any person;
- (2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- (3) The abuse or threatened abuse of the legal process.

Commercial sex act means any sex act on account of which anything of value is given to or received by any person.

Debt bondage means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

Employee means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

Involuntary servitude includes a condition of servitude induced by means of--

- (1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or
- (2) The abuse or threatened abuse of the legal process.

Severe forms of trafficking in persons means--

- (1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(b) Policy. The United States Government has adopted a zero tolerance policy regarding trafficking in persons. Contractors and contractor employees shall not--

- (1) Engage in severe forms of trafficking in persons during the period of performance of the contract;
- (2) Procure commercial sex acts during the period of performance of the contract; or
- (3) Use forced labor in the performance of the contract.

(c) Contractor requirements. The Contractor shall--

(1) Notify its employees of--

(i) The United States Government's zero tolerance policy described in paragraph (b) of this clause; and

(ii) The actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and

(2) Take appropriate action, up to and including termination, against employees or subcontractors that violate the policy in paragraph (b) of this clause.

(d) Notification. The Contractor shall inform the Contracting Officer immediately of--

(1) Any information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, or subcontractor employee has engaged in conduct that violates this policy; and

(2) Any actions taken against Contractor employees, subcontractors, or subcontractor employees pursuant to this clause.

(e) Remedies. In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), or (f) of this clause may render the Contractor subject to--

(1) Required removal of a Contractor employee or employees from the performance of the contract;

(2) Required subcontractor termination;

(3) Suspension of contract payments;

(4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance;

(5) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or

(6) Suspension or debarment.

(f) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts.

(End of clause)

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

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

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

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

_____	_____
_____	_____
_____	_____

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (AUG 2003)

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

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

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

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

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

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

(2) The emergency notice requirements of section 304 of EPCRA.

(3) The list of Material Safety Data Sheets, required by section 311 of EPCRA.

(4) The emergency and hazardous chemical inventory forms of section 312 of EPCRA.

(5) The toxic chemical release inventory of section 313 of EPCRA, which includes the reduction and recycling information required by section 6607 of PPA.

(6) The toxic chemical, priority chemical, and hazardous substance release and use reduction goals of sections 502 and 503 of Executive Order 13148.

(End of clause)

52.223-6 DRUG-FREE WORKPLACE (MAY 2001)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

52.223-14 TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

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

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

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

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

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

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

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

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

(iii) Major group codes 20 through 39.

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

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

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

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

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

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

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

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

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

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

(End of clause)

52.225-9 BUY AMERICAN ACT—CONSTRUCTION MATERIALS (JAN 2005)

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

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

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

Cost of components means--

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

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

Domestic construction material means--

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

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

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

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

(2) This requirement does not apply to the construction material or components listed by the Government as follows: [Contracting Officer to list applicable excepted materials or indicate "none"]

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

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

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

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

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

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

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

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

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

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

Foreign and Domestic Construction Materials Price Comparison

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

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

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

Include other applicable supporting information.

(End of clause)

52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)

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

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

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

(End of clause)

52.226-1 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 constitute a 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. 1542(c).

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

(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)

52.227-1 AUTHORIZATION AND CONSENT (DEC 2007)

(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 United States patent shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in all subcontracts that are expected to exceed the simplified acquisition threshold. However, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

(End of clause)

52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007)

(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 the Contractor's possession pertaining to such claim or suit.

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 shall include the substance of this clause, including this paragraph (c), in all subcontracts that are expected to exceed the simplified acquisition threshold.

(End of clause)

52.227-4 PATENT INDEMNITY--CONSTRUCTION CONTRACTS (DEC 2007)

Except as otherwise provided, the Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs and expenses, 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 performing this contract or out of the use or disposal by or for the account of the Government of supplies furnished or work performed under this contract.

(End of clause)

52.228-2 ADDITIONAL BOND SECURITY (OCT 1997)

The Contractor shall promptly furnish additional security required to protect the Government and persons supplying labor or materials under this contract if--

(a) Any surety upon any bond, or issuing financial institution for other security, furnished with this contract becomes unacceptable to the Government.

(b) Any surety fails to furnish reports on its financial condition as required by the Government;

(c) The contract price is increased so that the penal sum of any bond becomes inadequate in the opinion of the Contracting Officer; or

(d) An irrevocable letter of credit (ILC) used as security will expire before the end of the period of required security. If the Contractor does not furnish an acceptable extension or replacement ILC, or other acceptable substitute, at least 30 days before an ILC's scheduled expiration, the Contracting officer has the right to immediately draw on the ILC.

(End of clause)

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

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

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be

effective (1) for such period as the laws of the State in which this contract is to be performed prescribe, or (2) until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

(End of clause)

52.228-11 PLEDGES OF ASSETS (FEB 1992)

(a) Offerors shall obtain from each person acting as an individual surety on a bid guarantee, a performance bond, or a payment bond--

(1) Pledge of assets; and

(2) Standard Form 28, Affidavit of Individual Surety.

(b) Pledges of assets from each person acting as an individual surety shall be in the form of--

(1) Evidence of an escrow account containing cash, certificates of deposit, commercial or Government securities, or other assets described in FAR 28.203-2 (except see 28.203-2(b)(2) with respect to Government securities held in book entry form) and/or;

(2) A recorded lien on real estate. The offeror will be required to provide--

(i) Evidence of title in the form of a certificate of title prepared by a title insurance company approved by the United States Department of Justice. This title evidence must show fee simple title vested in the surety along with any concurrent owners; whether any real estate taxes are due and payable; and any recorded encumbrances against the property, including the lien filed in favor of the Government as required by FAR 28.203-3(d);

(ii) Evidence of the amount due under any encumbrance shown in the evidence of title;

(iii) A copy of the current real estate tax assessment of the property or a current appraisal dated no earlier than 6 months prior to the date of the bond, prepared by a professional appraiser who certifies that the appraisal has been conducted in accordance with the generally accepted appraisal standards as reflected in the Uniform Standards of Professional Appraisal Practice, as promulgated by the Appraisal Foundation.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

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

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

(End of clause)

52.228-14 IRREVOCABLE LETTER OF CREDIT (DEC 1999)

(a) "Irrevocable letter of credit" (ILC), as used in this clause, means a written commitment by a federally insured financial institution to pay all or part of a stated amount of money, until the expiration date of the letter, upon presentation by the Government (the beneficiary) of a written demand therefor. Neither the financial institution nor the offeror/Contractor can revoke or condition the letter of credit.

(b) If the offeror intends to use an ILC in lieu of a bid bond, or to secure other types of bonds such as performance and payment bonds, the letter of credit and letter of confirmation formats in paragraphs (e) and (f) of this clause shall be used.

(c) The letter of credit shall be irrevocable, shall require presentation of no document other than a written demand and the ILC (including confirming letter, if any), shall be issued/confirmed by an acceptable federally insured financial institution as provided in paragraph (d) of this clause, and--

(1) If used as a bid guarantee, the ILC shall expire no earlier than 60 days after the close of the bid acceptance period;

(2) If used as an alternative to corporate or individual sureties as security for a performance or payment bond, the offeror/Contractor may submit an ILC with an initial expiration date estimated to cover the entire period for which financial security is required or may submit an ILC with an initial expiration date that is a minimum period of one year from the date of issuance. The ILC shall provide that, unless the issuer provides the beneficiary written notice of non-renewal at least 60 days in advance of the current expiration date, the ILC is automatically extended without amendment for one year from the expiration date, or any future expiration date, until the period of required coverage is completed and the Contracting Officer provides the financial institution with a written statement waiving the right to payment. The period of required coverage shall be:

(i) For contracts subject to the Miller Act, the later of--

(A) One year following the expected date of final payment;

(B) For performance bonds only, until completion of any warranty period; or

(C) For payment bonds only, until resolution of all claims filed against the payment bond during the one-year period following final payment.

(ii) For contracts not subject to the Miller Act, the later of--

(A) 90 days following final payment; or

(B) For performance bonds only, until completion of any warranty period.

(d) Only federally insured financial institutions rated investment grade or higher shall issue or confirm the ILC. The offeror/Contractor shall provide the Contracting Officer a credit rating that indicates the financial institution has the required rating(s) as of the date of issuance of the ILC. Unless the financial institution issuing the ILC had letter of

credit business of less than \$25 million in the past year, ILCs over \$5 million must be confirmed by another acceptable financial institution that had letter of credit business of less than \$25 million in the past year.

(e) The following format shall be used by the issuing financial institution to create an ILC:

[Issuing Financial Institution's Letterhead or Name and Address]

Issue Date _____

IRREVOCABLE LETTER OF CREDIT NO. _____

Account party's name _____

Account party's address _____

For Solicitation No. _____(for reference only)

TO: [U.S. Government agency]

[U.S. Government agency's address]

1. We hereby establish this irrevocable and transferable Letter of Credit in your favor for one or more drawings up to United States \$_____. This Letter of Credit is payable at [issuing financial institution's and, if any, confirming financial institution's] office at [issuing financial institution's address and, if any, confirming financial institution's address] and expires with our close of business on _____, or any automatically extended expiration date.

2. We hereby undertake to honor your or the transferee's sight draft(s) drawn on the issuing or, if any, the confirming financial institution, for all or any part of this credit if presented with this Letter of Credit and confirmation, if any, at the office specified in paragraph 1 of this Letter of Credit on or before the expiration date or any automatically extended expiration date.

3. [This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.] It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for one year from the expiration date hereof, or any future expiration date, unless at least 60 days prior to any expiration date, we notify you or the transferee by registered mail, or other receipted means of delivery, that we elect not to consider this Letter of Credit renewed for any such additional period. At the time we notify you, we also agree to notify the account party (and confirming financial institution, if any) by the same means of delivery.

4. This Letter of Credit is transferable. Transfers and assignments of proceeds are to be effected without charge to either the beneficiary or the transferee/assignee of proceeds. Such transfer or assignment shall be only at the written direction of the Government (the beneficiary) in a form satisfactory to the issuing financial institution and the confirming financial institution, if any.

5. This Letter of Credit is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500, and to the extent not inconsistent therewith, to the laws of _____ [state of confirming financial institution, if any, otherwise state of issuing financial institution].

6. If this credit expires during an interruption of business of this financial institution as described in Article 17 of the UCP, the financial institution specifically agrees to effect payment if this credit is drawn against within 30 days after the resumption of our business.

Sincerely,

[Issuing financial institution]

(f) The following format shall be used by the financial institution to confirm an ILC:

[Confirming Financial Institution's Letterhead or Name and Address]

(Date) _____

Our Letter of Credit Advice Number _____

Beneficiary: _____ [U.S. Government agency]

Issuing Financial Institution: _____

Issuing Financial Institution's LC No.: _____

Gentlemen:

1. We hereby confirm the above indicated Letter of Credit, the original of which is attached, issued by _____ [name of issuing financial institution] for drawings of up to United States dollars _____/U.S. \$ _____ and expiring with our close of business on _____ [the expiration date], or any automatically extended expiration date.

2. Draft(s) drawn under the Letter of Credit and this Confirmation are payable at our office located at _____.

3. We hereby undertake to honor sight draft(s) drawn under and presented with the Letter of Credit and this Confirmation at our offices as specified herein.

4. [This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.] It is a condition of this confirmation that it be deemed automatically extended without amendment for one year from the expiration date hereof, or any automatically extended expiration date, unless:

(a) At least 60 days prior to any such expiration date, we shall notify the Contracting Officer, or the transferee and the issuing financial institution, by registered mail or other receipted means of delivery, that we elect not to consider this confirmation extended for any such additional period; or

(b) The issuing financial institution shall have exercised its right to notify you or the transferee, the account party, and ourselves, of its election not to extend the expiration date of the Letter of Credit.

5. This confirmation is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500, and to the extent not inconsistent therewith, to the laws of _____ [state of confirming financial institution].

6. If this confirmation expires during an interruption of business of this financial institution as described in Article 17 of the UCP, we specifically agree to effect payment if this credit is drawn against within 30 days after the resumption of our business.

Sincerely,

[Confirming financial institution]

(g) The following format shall be used by the Contracting Officer for a sight draft to draw on the Letter of Credit:

SIGHT DRAFT

[City, State]

(Date) _____

[Name and address of financial institution]

Pay to the order of _____ [Beneficiary Agency] _____ the sum of United States \$_____.
This draft is drawn under Irrevocable Letter of Credit No. _____.

[Beneficiary Agency]

By: _____

(End of clause)

52.228-15 PERFORMANCE AND PAYMENT BONDS--CONSTRUCTION (NOV 2006)

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

Original contract price means the award price of the contract; or, for requirements contracts, the price payable for the estimated total quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

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

(1) Performance bonds (Standard Form 25). The penal amount of performance bonds at the time of contract award shall be 100 percent of the original contract price.

(2) Payment Bonds (Standard Form 25-A). The penal amount of payment bonds at the time of contract award shall be 100 percent of the original contract price.

(3) Additional bond protection. (i) The Government may require additional performance and payment bond protection if the contract price is increased. The increase in protection generally will equal 100 percent of the increase in contract price.

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

(c) Furnishing executed bonds. The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within the time period specified in the Bid Guarantee provision of the solicitation, or otherwise specified by the Contracting Officer, but in any event, before starting work.

(d) Surety or other security for bonds. The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the Federal Register or may be obtained from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6F01, Hyattsville, MD 20782. Or via the internet at <http://www.fms.treas.gov/c570/>.

(e) Notice of subcontractor waiver of protection (40 U.S.C. 3133(c)). Any waiver of the right to sue on the payment bond is void unless it is in writing, signed by the person whose right is waived, and executed after such person has first furnished labor or material for use in the performance of the contract.

(End of clause)

52.229-3 FEDERAL, STATE, AND LOCAL TAXES (APR 2003)

(a) As used in this clause--

"Contract date" means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

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

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

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

Local taxes includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

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

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

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

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

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

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

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

(End of clause)

52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (SEP 2002)

(a) Payment of price. The Government shall pay the Contractor the contract price as provided in this contract.

(b) Progress payments. The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer.

(1) The Contractor's request for progress payments shall include the following substantiation:

(i) An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.

(ii) A listing of the amount included for work performed by each subcontractor under the contract.

(iii) A listing of the total amount of each subcontract under the contract.

(iv) A listing of the amounts previously paid to each such subcontractor under the contract.

(v) Additional supporting data in a form and detail required by the Contracting Officer.

(2) In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site also may be taken into consideration if--

(i) Consideration is specifically authorized by this contract; and

(ii) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) Contractor certification. Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made: (However, if the Contractor elects to delete paragraph (c)(4) from the certification, the certification is still acceptable.)

I hereby certify, to the best of my knowledge and belief, that--

- (1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;
- (2) All payments due to subcontractors and suppliers from previous payments received under the contract have been made, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of Title 31, United States Code;
- (3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and
- (4) This certification is not to be construed as final acceptance of a subcontractor's performance.

(Name)

(Title)

(Date)

(d) Refund of unearned amounts. If the Contractor, after making a certified request for progress payments, discovers that a portion or all of such request constitutes a payment for performance by the Contractor that fails to conform to the specifications, terms, and conditions of this contract (hereinafter referred to as the "unearned amount"), the Contractor shall--

- (1) Notify the Contracting Officer of such performance deficiency; and
- (2) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in paragraph (j) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until--
 - (i) The date the Contractor notifies the Contracting Officer that the performance deficiency has been corrected; or
 - (ii) The date the Contractor reduces the amount of any subsequent certified request for progress payments by an amount equal to the unearned amount.

(e) Retainage. If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.

(f) Title, liability, and reservation of rights. All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as--

- (1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of the Government to require the fulfillment of all of the terms of the contract.

(g) Reimbursement for bond premiums. In making these progress payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (e) of this clause shall not apply to that portion of progress payments attributable to bond premiums.

(h) Final payment. The Government shall pay the amount due the Contractor under this contract after--

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 15).

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

(j) Interest computation on unearned amounts. In accordance with 31 U.S.C. 3903(c)(1), the amount payable under subparagraph (d)(2) of this clause shall be--

(1) Computed at the rate of average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the Contractor receives the unearned amount; and

(2) Deducted from the next available payment to the Contractor.

(End of clause)

52.232-17 INTEREST (JUNE 1996)

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

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

(1) The date fixed under this contract.

- (2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.
- (3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.
- (4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.
- (c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(End of clause)

52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)

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

(End of clause)

52.232-27 PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (SEP 2005)

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

- (a) Invoice payments--(1) Types of invoice payments. For purposes of this clause, there are several types of invoice payments that may occur under this contract, as follows:
- (i) Progress payments, if provided for elsewhere in this contract, based on Contracting Officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project.

(A) The due date for making such payments is 14 days after the designated billing office receives a proper payment request. If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of receipt, the payment due date is the 14th day after the date of the Contractor's payment request, provided the designated billing office receives a proper payment request and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) The due date for payment of any amounts retained by the Contracting Officer in accordance with the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, is as specified in the contract or, if not specified, 30 days after approval by the Contracting Officer for release to the Contractor.

(ii) Final payments based on completion and acceptance of all work and presentation of release of all claims against the Government arising by virtue of the contract, and payments for partial deliveries that have been accepted by the Government (e.g., each separate building, public work, or other division of the contract for which the price is stated separately in the contract).

(A) The due date for making such payments is the later of the following two events:

(1) The 30th day after the designated billing office receives a proper invoice from the Contractor.

(2) The 30th day after Government acceptance of the work or services completed by the Contractor. For a final invoice when the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance is deemed to occur on the effective date of the contract settlement.

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

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

(i) Name and address of the Contractor.

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

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

(iv) Description of work or services performed.

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

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

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

(viii) For payments described in paragraph (a)(1)(i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts.

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

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

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

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

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

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

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

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

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

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

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

(i) For the sole purpose of computing an interest penalty that might be due the Contractor for payments described in paragraph (a)(1)(ii) of this clause, Government acceptance or approval is deemed to occur constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. If actual acceptance or approval occurs within the constructive acceptance or approval period, the Government will base the determination of an interest penalty on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Subcontract clause requirements. The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:

(1) Prompt payment for subcontractors. A payment clause that obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.

(2) Interest for subcontractors. An interest penalty clause that obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause--

(i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(3) Subcontractor clause flowdown. A clause requiring each subcontractor to use:

(i) Include a payment clause and an interest penalty clause conforming to the standards set forth in paragraphs (c)(1) and (c)(2) of this clause in each of its subcontracts; and

(ii) Require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) Subcontract clause interpretation. The clauses required by paragraph (c) of this clause shall not be construed to impair the right of the Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions that--

(1) Retainage permitted. Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) Withholding permitted. Permit the Contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) Withholding requirements. Permit such withholding without incurring any obligation to pay a late payment penalty if--

(i) A notice conforming to the standards of paragraph (g) of this clause previously has been furnished to the subcontractor; and

(ii) The Contractor furnishes to the Contracting Officer a copy of any notice issued by a Contractor pursuant to paragraph (d)(3)(i) of this clause.

(e) Subcontractor withholding procedures. If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the Contractor shall--

(1) Subcontractor notice. Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

(2) Contracting Officer notice. Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to paragraph (e)(1) of this clause;

(3) Subcontractor progress payment reduction. Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (e)(1) of this clause;

(4) Subsequent subcontractor payment. Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and--

(i) Make such payment within--

(A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under paragraph (e)(5)(i)) of this clause; or

(B) Seven days after the Contractor recovers such funds from the Government; or

(ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty;

(5) Notice to Contracting Officer. Notify the Contracting Officer upon--

(i) Reduction of the amount of any subsequent certified application for payment; or

(ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying--

(A) The amounts withheld under paragraph (e)(1) of this clause; and

(B) The dates that such withholding began and ended; and

(6) Interest to Government. Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1)), from the 8th day after receipt of the withheld amounts from the Government until--

(i) The day the identified subcontractor performance deficiency is corrected; or

(ii) The date that any subsequent payment is reduced under paragraph (e)(5)(i) of this clause.

(f) Third-party deficiency reports—

(1) Withholding from subcontractor. If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a “second-tier subcontractor”) a written notice in accordance with the Miller Act (40 U.S.C. 3133), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, the Contractor may, without incurring an obligation to pay an interest penalty under paragraph (e)(6) of this clause--

(i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and

(ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (f)(1)(i) of this clause.

(2) Subsequent payment or interest charge. As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall--

(i) Pay the amount withheld under paragraph (f)(1)(ii) of this clause to such first-tier subcontractor; or

(ii) Incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(g) Written notice of subcontractor withholding. The Contractor shall issue a written notice of any withholding to a subcontractor (with a copy furnished to the Contracting Officer), specifying--

- (1) The amount to be withheld;
- (2) The specific causes for the withholding under the terms of the subcontract; and
- (3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) Subcontractor payment entitlement. The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.

(i) Prime-subcontractor disputes. A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the Government is a party. The Government may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) Preservation of prime-subcontractor rights. Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) Non-recourse for prime contractor interest penalty. The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the Government for such interest penalty. A cost-reimbursement claim may not include any amount for reimbursement of such interest penalty.

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

(End of clause)

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

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

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

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

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

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

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

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

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

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

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

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

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

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

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

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

(i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of

payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

(End of Clause)

52.233-1 DISPUTES. (JUL 2002)

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

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

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

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

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

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

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

(End of clause)

52.233-3 PROTEST AFTER AWARD (AUG. 1996)

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

(1) Cancel the stop-work order; or

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

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

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

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

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

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

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

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

collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

(End of clause)

52.236-1 PERFORMANCE OF WORK BY THE CONTRACTOR (APR 1984)

The Contractor shall perform on the site, and with its own organization, work equivalent to at least **40** 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)

52.236-2 DIFFERING SITE CONDITIONS (APR 1984)

(a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of

(1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or

(2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

(b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.

(c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.

(d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

(End of clause)

52.236-3 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984)

(a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to

(1) conditions bearing upon transportation, disposal, handling, and storage of materials;

(2) the availability of labor, water, electric power, and roads;

(3) uncertainties of weather, river stages, tides, or similar physical conditions at the site;

(4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Government, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Government.

(b) The Government assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Government. Nor does the Government assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

(End of clause)

52.236-5 MATERIAL AND WORKMANSHIP (APR 1984)

(a) All equipment, material, and articles incorporated into the work covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.

(b) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. When directed to do so, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

(c) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may require, in writing, that the Contractor remove from the work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

(End of clause)

52.236-6 SUPERINTENDENCE BY THE CONTRACTOR (APR 1984)

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the worksite a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

(End of clause)

52.236-7 PERMITS AND RESPONSIBILITIES (NOV 1991)

The Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

(End of clause)

52.236-8 OTHER CONTRACTS (APR 1984)

The Government may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Government employees.

(End of clause)

52.236-9 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984)

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities

(1) at or near the work site, and

(2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

(End of clause)

52.236-10 OPERATIONS AND STORAGE AREAS (APR 1984)

(a) The Contractor shall confine all operations (including storage of materials) on Government premises to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the Government. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

(End of clause)

52.236-11 USE AND POSSESSION PRIOR TO COMPLETION (APR 1984)

(a) The Government shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Government intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Government's possession or use shall not be deemed an acceptance of any work under the contract.

(b) While the Government has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the work resulting from the Government's possession or use, notwithstanding the terms of the clause in this contract entitled "Permits and Responsibilities." If prior possession or use by the Government delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

(End of clause)

52.236-12 CLEANING UP (APR 1984)

The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the Government. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.

(End of clause)

52.236-13 ACCIDENT PREVENTION (NOV 1991)

- (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.

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

(End of clause)

52.236-15 SCHEDULES FOR CONSTRUCTION CONTRACTS (APR 1984)

- (a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the

Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the Government. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.

(End of clause)

52.236-21 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997)

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory", or words of like import shall mean "approved by," or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(c) Where "as shown," "as indicated", "as detailed", or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed".

(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements, and (2) the installation (i.e., fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail specific portions of the work required by the contract. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of

the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the Government's reasons therefor. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor.

(End of clause)

52.236-26 PRECONSTRUCTION CONFERENCE (FEB 1995)

If the Contracting Officer decides to conduct a preconstruction conference, the successful offeror will be notified and will be required to attend. The Contracting Officer's notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

(End of clause)

52.242-13 BANKRUPTCY (JUL 1995)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

(End of clause)

52.242-14 SUSPENSION OF WORK (APR 1984)

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

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

(End of clause)

52.243-4 CHANGES (JUN 2007)

(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 property or services; or
- (4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating

- (1) the date, circumstances, and source of the order and
- (2) that the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after

(1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general

nature and amount of the proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) above.

(f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

(End of clause)

52.243-5 CHANGES AND CHANGED CONDITIONS (APR 1984)

(a) The Contracting Officer may, in writing, order changes in the drawings and specifications within the general scope of the contract.

(b) The Contractor shall promptly notify the Contracting Officer, in writing, of subsurface or latent physical conditions differing materially from those indicated in this contract or unknown unusual physical conditions at the site before proceeding with the work.

(c) If changes under paragraph (a) or conditions under paragraph (b) increase or decrease the cost of, or time required for performing the work, the Contracting Officer shall make an equitable adjustment (see paragraph (d)) upon submittal of a "proposal for adjustment" (hereafter referred to as proposal) by the Contractor before final payment under the contract.

(d) The Contracting Officer shall not make an equitable adjustment under paragraph (b) unless--

(1) The Contractor has submitted and the Contracting Officer has received the required written notice; or

(2) The Contracting Officer waives the requirement for the written notice.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause.

(End of clause)

52.246-12 INSPECTION OF CONSTRUCTION (AUG 1996)

(a) Definition. "Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.

(b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

(c) Government inspections and tests are for the sole benefit of the Government and do not--

(1) Relieve the Contractor of responsibility for providing adequate quality control measures;

(2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;

(3) Constitute or imply acceptance; or

(4) Affect the continuing rights of the Government after acceptance of the completed work under paragraph (i) of this section.

(d) The presence or absence of a Government inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer's written authorization.

(e) The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Government may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

(f) The Contractor shall, without charge, replace or correct work found by the Government not to conform to contract requirements, unless in the public interest the Government consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

(g) If the Contractor does not promptly replace or correct rejected work, the Government may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor or (2) terminate for default the Contractor's right to proceed.

(h) If, before acceptance of the entire work, the Government decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

(i) Unless otherwise specified in the contract, the Government shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government's rights under any warranty or guarantee.

(End of clause)

52.246-21 WARRANTY OF CONSTRUCTION (MAR 1994)

(a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (i) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If the Government takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the Government takes possession.

(c) The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Government-owned or controlled real or personal property, when that damage is the result of--

(1) The Contractor's failure to conform to contract requirements; or

(2) Any defect of equipment, material, workmanship, or design furnished.

(d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(e) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

(f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Government shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall--

(1) Obtain all warranties that would be given in normal commercial practice;

(2) Require all warranties to be executed, in writing, for the benefit of the Government, if directed by the Contracting Officer; and

(3) Enforce all warranties for the benefit of the Government, if directed by the Contracting Officer.

(h) In the event the Contractor's warranty under paragraph (b) of this clause has expired, the Government may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

(i) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the Government nor for the repair of any damage that results from any defect in Government-furnished material or design.

(j) This warranty shall not limit the Government's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.

(End of clause)

52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JUN 2003)

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

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

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

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

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

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

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

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

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

(End of statement)

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

(End of clause)

52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (MAY 2004)

(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 49.001 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(e) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(f) Subject to paragraph (e) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (g) or paragraph (g) of this clause, exclusive of costs shown in subparagraph (g)(3) of this clause, may not exceed the total contract price as reduced by (1) the amount of payments previously made and (2) the contract price of work not terminated. The contract shall be modified, and the Contractor paid the agreed amount. Paragraph (g) of this clause shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(g) If the Contractor and 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 (f)(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 (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)

52.249-10 DEFAULT (FIXED-PRICE CONSTRUCTION) (APR 1984)

(a) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if--

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include

(i) acts of God or of the public enemy,

(ii) acts of the Government in either its sovereign or contractual capacity,

(iii) acts of another Contractor in the performance of a contract with the Government,

(iv) fires,

(v) floods,

(vi) epidemics,

(vii) quarantine restrictions,

(viii) strikes,

(ix) freight embargoes,

(x) unusually severe weather, or delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Government.

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

(End of clause)

52.253-1 COMPUTER GENERATED FORMS (JAN 1991)

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

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

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

(End of clause)

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

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

(b) If the Contracting Officer designates a contracting officer's representative (COR), the Contractor will receive a copy of the written designation. It will specify the extent of the COR's authority to act on behalf of the contracting

officer. The COR is not authorized to make any commitments or changes that will affect price, quality, quantity, delivery, or any other term or condition of the contract.

(End of clause)

252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES (DEC 2008)

(a) Definitions. As used in this clause—

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

(i) Attempting to obtain;

(ii) Obtaining, or

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

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

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

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

(1) In a management or supervisory capacity on this contract;

(2) On the board of directors of the Contractor;

(3) As a consultant, agent, or representative for the Contractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of the Contractor with regard to this contract.

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

(d) 10 U.S.C. 2408 provides that the Contractor shall be subject to a criminal penalty of not more than \$500,000 if convicted of knowingly--

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

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

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

(1) Suspension or debarment;

- (2) Cancellation of the contract at no cost to the Government; or
- (3) Termination of the contract for default.
- (f) The Contractor may submit written requests for waiver of the prohibition in paragraph (b) of this clause to the Contracting Officer. Requests shall clearly identify—
 - (1) The person involved;
 - (2) The nature of the conviction and resultant sentence or punishment imposed;
 - (3) The reasons for the requested waiver; and
 - (4) An explanation of why a waiver is in the interest of national security.
- (g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation, except those for commercial items or components.
- (h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone (301) 809-4904.

(End of clause)

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

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

(End of clause)

252.204-7004 CENTRAL CONTRACTOR REGISTRATION (52.204-7) ALTERNATE A (SEP 2007)

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

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

“Commercial and Government Entity (CAGE) code” means--

- (1) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or
- (2) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an “NCAGE code.”

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

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

“Registered in the CCR database” means that--

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

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

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service, and has marked the records “Active.” The Contractor will be required to provide consent for TIN validation to the Government as part of the CCR registration process.

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

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

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

(1) An offeror may obtain a DUNS number-

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

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

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

(i) Company legal business.

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

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

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

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

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

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

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

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

(g)

(1)

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

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

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

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

(End of clause)

252.209-7004 SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY (DEC 2006)

(a) Unless the Government determines that there is a compelling reason to do so, the Contractor shall not enter into any subcontract in excess of \$30,000 with a firm, or a subsidiary of a firm, that is identified in the Excluded Parties

List System as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country.

(b) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is identified, on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country. The notice must include the name of the proposed subcontractor notwithstanding its inclusion on the List of Parties Excluded From Federal Procurement and Nonprocurement Programs.

(End of clause)

252.219-7003 SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS) (APR. 2007)

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

252.219-7011 NOTIFICATION TO DELAY PERFORMANCE (JUN 1998)

The Contractor shall not begin performance under this purchase order until 2 working days have passed from the date of its receipt. Unless the Contractor receives notification from the Small Business Administration that it is ineligible for this 8(a) award, or otherwise receives instructions from the Contracting Officer, performance under this purchase order may begin on the third working day following receipt of the purchase order. If a determination of ineligibility is issued within the 2-day period, the purchase order shall be considered canceled.

(End of clause)

252.223-7001 HAZARD WARNING LABELS (DEC 1991)

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

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

(1) Federal Insecticide, Fungicide and Rodenticide Act;

(2) Federal Food, Drug and Cosmetics Act;

(3) Consumer Product Safety Act;

(4) Federal Hazardous Substances Act; or

(5) Federal Alcohol Administration Act.

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

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

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

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

(End of clause)

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

(a) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) For the purpose of administering this clause, testing for illegal drugs may be limited to those substances for which testing is prescribed by section 2.1 of subpart B of the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (53 FR 11980 (April 11, 1988), issued by the Department of Health and Human Services.

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

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

(End of clause)

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

(a) "Definitions".

As used in this clause --

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

(2) "Toxic or hazardous materials" means:

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

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

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

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

(End of clause)

252.231-7000 SUPPLEMENTAL COST PRINCIPLES (DEC 1991)

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

(End of clause)

252.236-7000 MODIFICATION PROPOSALS - PRICE BREAKDOWN. (DEC 1991)

(a) The Contractor shall furnish a price breakdown, itemized as required and within the time specified by the Contracting Officer, with any proposal for a contract modification.

(b) The price breakdown --

(1) Must include sufficient detail to permit an analysis of profit, and of all costs for --

(i) Material;

(ii) Labor;

(iii) Equipment;

(iv) Subcontracts; and

(v) Overhead; and

(2) Must cover all work involved in the modification, whether the work was deleted, added, or changed.

(c) The Contractor shall provide similar price breakdowns to support any amounts claimed for subcontracts.

(d) The Contractor's proposal shall include a justification for any time extension proposed.

252.236-7002 OBSTRUCTION OF NAVIGABLE WATERWAYS. (DEC 1991)

(a) The Contractor shall --

(1) Promptly recover and remove any material, plant, machinery, or appliance which the contractor loses, dumps, throws overboard, sinks, or misplaces, and which, in the opinion of the Contracting Officer, may be dangerous to or obstruct navigation;

(2) Give immediate notice, with description and locations of any such obstructions, to the Contracting Officer; and

(3) When required by the Contracting Officer, mark or buoy such obstructions until the same are removed.

(b) The Contracting Officer may --

(1) Remove the obstructions by contract or otherwise should the Contractor refuse, neglect, or delay compliance with paragraph (a) of this clause; and

(2) Deduct the cost of removal from any monies due or to become due to the Contractor; or

(3) Recover the cost of removal under the Contractor's bond.

(c) The Contractor's liability for the removal of a vessel wrecked or sunk without fault or negligence is limited to that provided in sections 15, 19, and 20 of the River and Harbor Act of March 3, 1899 (33 U.S.C. 410 et. seq.).

252.236-7004 PAYMENT FOR MOBILIZATION AND DEMOBILIZATION (DEC 1991)

(a) The Government will pay all costs for the mobilization and demobilization of all of the Contractor's plant and equipment at the contract lump sum price for this item.

(1) **60** percent of the lump sum price upon completion of the contractor's mobilization at the work site.

(2) The remaining **40** percent upon completion of demobilization.

(b) The Contracting Officer may require the Contractor to furnish cost data to justify this portion of the bid if the Contracting Officer believes that the percentages in paragraphs (a) (1) and (2) of this clause do not bear a reasonable relation to the cost of the work in this contract.

(1) Failure to justify such price to the satisfaction of the Contracting Officer will result in payment, as determined by the Contracting Officer, of --

(i) Actual mobilization costs at completion of mobilization;

(ii) Actual demobilization costs at completion of demobilization; and

(iii) The remainder of this item in the final payment under this contract.

(2) The Contracting Officer's determination of the actual costs in paragraph (b)(1) of this clause is not subject to appeal.

(End of provision)

252.236-7008 CONTRACT PRICES - BIDDING SCHEDULES. (DEC 1991)

(a) The Government's payment for the items listed in the Bidding Schedule shall constitute full compensation to the Contractor for --

(1) Furnishing all plant, labor, equipment, appliances, and materials; and

(2) Performing all operations required to complete the work in conformity with the drawings and specifications.

(b) The Contractor shall include in the prices for the items listed in the Bidding Schedule all costs for work in the specifications, whether or not specifically listed in the Bidding Schedule.

252.243-7001 PRICING OF CONTRACT MODIFICATIONS (DEC 1991)

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

252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (MAY 2002)

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

(1) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Contractor or any subcontractor.

- (2) "Department of Defense" (DoD) means the Army, Navy, Air Force, Marine Corps, and defense agencies.
- (3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.
- (4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.
- (5) "Subcontractor" means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.
- (6) "Supplies" means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.
 - (i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.
 - (ii) "Supplies" includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.
- (7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.
 - (b)(1) The Contractor shall use U.S.-flag vessels when transporting any supplies by sea under this contract.
 - (2) A subcontractor transporting supplies by sea under this contract shall use U.S.-flag vessels if--
 - (i) This contract is a construction contract; or
 - (ii) The supplies being transported are--
 - (A) Noncommercial items; or
 - (B) Commercial items that--
 - (1) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it contracts for f.o.b. destination shipment);
 - (2) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or
 - (3) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.
 - (c) The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that --
 - (1) U.S.-flag vessels are not available for timely shipment;
 - (2) The freight charges are inordinately excessive or unreasonable; or
 - (3) Freight charges are higher than charges to private persons for transportation of like goods.

(d) The Contractor must submit any request for use of other than U.S.-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum --

(1) Type, weight, and cube of cargo;

(2) Required shipping date;

(3) Special handling and discharge requirements;

(4) Loading and discharge points;

(5) Name of shipper and consignee;

(6) Prime contract number; and

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(e) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Maritime Administration, Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information:

(1) Prime contract number;

(2) Name of vessel;

(3) Vessel flag of registry;

(4) Date of loading;

(5) Port of loading;

(6) Port of final discharge;

(7) Description of commodity;

(8) Gross weight in pounds and cubic feet if available;

(9) Total ocean freight in U.S. dollars; and

(10) Name of the steamship company.

(f) The Contractor shall provide with its final invoice under this contract a representation that to the best of its knowledge and belief--

(1) No ocean transportation was used in the performance of this contract;

(2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;

(3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or

(4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

ITEM DESCRIPTION	CONTRACT LINE ITEMS	QUANTITY
_____	_____	_____
_____	_____	_____
_____	_____	_____
TOTAL	_____	_____

(g) If the final invoice does not include the required representation, the Government will reject and return it to the Contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(h) In the award of subcontracts for the types of supplies described in paragraph (b)(2) of this clause, the Contractor shall flow down the requirements of this clause as follows:

(1) The Contractor shall insert the substance of this clause, including this paragraph (h), in subcontracts that exceed the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(2) The Contractor shall insert the substance of paragraphs (a) through (e) of this clause, and this paragraph (h), in subcontracts that are at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(End of clause)

252.247-7024 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA (MAR 2000)

(a) The Contractor has indicated by the response to the solicitation provision, Representation of Extent of Transportation by Sea, that it did not anticipate transporting by sea any supplies. If, however, after the award of this contract, the Contractor learns that supplies, as defined in the Transportation of Supplies by Sea clause of this contract, will be transported by sea, the Contractor --

(1) Shall notify the Contracting Officer of that fact; and

(2) Hereby agrees to comply with all the terms and conditions of the Transportation of Supplies by Sea clause of this contract.

(b) The Contractor shall include this clause; including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties--

(1) In all subcontracts under this contract, if this contract is a construction contract; or

(2) If this contract is not a construction contract, in all subcontracts under this contract that are for--

(i) Noncommercial items; or

(ii) Commercial items that--

(A) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);

(B) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(C) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(End of clause)

952.000-4199 BOARD OF CONTRACT APPEALS

The agency board of contract appeals having jurisdiction over all appeals from final decisions of the Contracting Officer under the Contract Disputes Act of 1978 is the Armed Services Board of Contract Appeals, Skyline Six, 5109 Leesburg Pike, 7TH Floor, Falls Church, Virginia 22041.#

952.000-4641 PROHIBITION AGAINST CONTRACTING WITH INDIVIDUALS OR ENTITIES DESIGNATED AS SIGNIFICANT NARCOTICS TRAFFICKERS

Pursuant to Executive Order 12978 entitled "Blocking Assets and Prohibiting Transactions with Significant Narcotic Traffickers" dated October 21, 1995, the offeror certifies that it has not and will not be involved in business transactions with individuals or business entities designated as significant narcotics traffickers under this Executive Order. For a current listing of specially designated nationals and blocked persons, contact the Office of Foreign Assets Control, Department of the Treasury, Washington, DC 22201; telephone 202/622-2420.

(End of clause)

952.999-4008 RETAINAGE--SMALL BUSINESS SUBCONTRACTING REPORTING

Reference is made to contract clause(s) FAR 52.219-9, Small Business and Small Disadvantaged Business Subcontracting Plan and 52.219-16, Liquidated Damages--Small Business Subcontracting Plan. In order to ensure compliance with these clauses, retainage will be withheld from progress payments due the contractor in an amount sufficient to protect the Government's ability to assess Liquidated Damages for failure to submit timely SF 294 and SF 295 reports.

The formula for retainage is as follows:

"Total dollar amount proposed for subcontracting to small business multiplied by percentage of actual progress on the contract, up to a maximum of 10% of the given progress payment, shall be withheld from the next progress payment due after a contractor fails to submit a required report. If one or more reports have been submitted before

such failure, formula for determining the amount of retainage will be adjusted by deducting any amounts reported as subcontracted to small business from the total dollar amount proposed to be subcontracted and the difference multiplied by the percent of actual progress, up to a maximum of 10% of the given progress payment."

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SECTION 00800

SPECIAL CONTRACT REQUIREMENTS

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952.000-4033 WAGE DETERMINATION

Wage determination Number: AL 20080008

Dated: 02/08/2008

Pages: 2 pages

is attached hereto and made a part hereof.

(Enf of provision)

952.000-4089 INVOICE

Original invoices and 2 copies shall be submitted to the receiving office designated in the contract. Invoices shall not be mailed to the paying office at the USACE Finance Center in Millington, Tennessee.

952.000-4301 SUBMITTAL OF WORK TO BE PERFORMED BY CONTRACTOR

The Contractor shall furnish the Contracting Officer within ten days after award the items of work he will perform with his own forces and the estimated cost of those items. The percentage of work that must be performed by the Contractor is stated in the Clause entitled, "PERFORMANCE OF WORK BY THE CONTRACTOR."

952.000-4309 CERTIFICATES OF COMPLIANCE

Any certificates required for demonstrating proof of compliance of materials with specification requirements shall be executed in four copies. Each certificate shall be signed by an official authorized to certify on behalf of the manufacturing company and shall contain the name and address of the Contractor, the project name and location, and the quantity and date or dates of shipment or delivery to which the certificates apply. Copies of laboratory test reports submitted with certificates shall contain the address of the testing laboratory and the date or dates of the tests to which the report applies. Certification shall not be construed as relieving the Contractor from furnishing satisfactory material, if, after tests are performed on selected samples, the material is found not to meet the specific requirements.

(End of Paragraph)

952.000-4313 BULLETIN BOARD

Immediately upon beginning of work under this contract, the Contractor shall provide at the job site a weatherproof glass-covered bulletin board for displaying the fair employment poster, wage rates, and safety bulletins and posters. Emergency telephone numbers and reporting instructions for ambulance, physician, hospital, fire and police shall be posted. The bulletin board shall be located in a conspicuous place easily accessible to all and legible copies of the aforementioned data shall be displayed until work under the contract is completed. No direct payment will be made for the bulletin board.

952.000-4315 CONTRACT DRAWINGS, MAPS AND SPECIFICATIONS

(a) One complete paper copy set of specifications inclusive of all amendments will be furnished the Contractor without charge with the contract award documents. Since the solicitation was issued on CD-ROM, additional paper copies of the specifications or drawings will be the responsibility of the Contractor. The work shall conform to the specifications and the contract drawings listed in the technical provisions.

(b) Omissions from the drawings or specifications or the misdescription of details of work which are manifestly necessary to carry out the intent of the drawings and specifications, or which are customarily performed, shall not relieve the Contractor from performing such omitted or misdescribed details of the work but they shall be performed as if fully and correctly set forth and described in the drawings and specifications.

(c) The Contractor shall check all drawings furnished him immediately upon their receipt and shall promptly notify the Contracting Officer of any discrepancies. Figures marked on drawings shall in general be followed in preference to scale measurements. Large scale drawings shall in general govern small scale drawings. The Contractor shall compare all drawings and verify the figures before laying out the work and will be responsible for any errors which might have been avoided thereby.

952.000-4316 PRESERVATION OF HISTORICAL, ARCHEOLOGICAL AND CULTURAL RESOURCES

(a) If known historical, archeological and cultural resources exist within the Contractor's work area, they have been designated on the contract drawings. The Contractor shall install protection for these resources as shown on the drawings and shall be responsible for their preservation during the contract.

(b) If, during construction activities, the Contractor observes items that might have historical or archeological value, such observations shall be reported immediately to the Contracting Officer so that the appropriate authorities may be notified and a determination can be made as to their significance and what, if any, special disposition of the finds should be made. The Contractor shall cease all activities that may result in the destruction of these resources and shall prevent his employees from trespassing on, removing, or otherwise damaging such resources.

952.000-4317 REQUIRED INSURANCE

The Contractor shall procure and maintain during the entire period of his performance under this contract, the following minimum insurance in accordance with the Contract Clause entitled "Insurance-Work on a Government Installation." Workmen's Compensation and Employers' liability Insurance:

Workmen's Compensation and Occupational Disease Coverage in accordance with statutory limits. Employers' Liability Coverage with a minimum limit of \$100,000.

Comprehensive Automobile Liability Insurance:

Bodily injury coverage with minimum limits of \$200,000 per person and \$500,000 per occurrence. property Damage Coverage with a minimum limit of \$20,000 per occurrence.

Comprehensive General Liability Insurance:

Bodily injury coverage with minimum limits of \$500,000 per occurrence.

952.000-4328 ENFORCEMENT OF WARRANTIES

(1) Performance Bond.

(a) It is understood that the Contractor's Performance Bond will remain effective throughout the life of all warranties and warranty extensions, except when the warranty period for a particular item extends beyond the one year after contract completion.

(b) In the event the Contractor or his designated representative fails to commence and diligently pursue any work required under the Special Clause entitled "Warranty of Construction" within a reasonable time after receipt of written notification pursuant to the requirements thereof, the Contracting Officer shall have a right to demand that said work be performed under the Performance Bond by making written notice on the surety. If the surety fails or refuses to perform the obligation it assumed under the Performance Bond, the Contracting Officer shall have the work performed by others, and after completion of the work, shall make demand for reimbursement of any or all expenses incurred by the Government while performing the work, including, but not limited to administrative expenses.

(c) Warranty repair work which arises to threaten the health or safety of personnel, the physical safety of property or equipment, or which impairs operations, habitability of living spaces, etc., will be handled by the Contractor on an immediate basis as directed verbally by the Contracting Officer or his authorized representative. Written verification will follow verbal instructions. Failure of the Contractor to respond as verbally directed will be cause for the Contracting Officer or his authorized representative to have the warranty repair work performed by others and to proceed against the Contractor as outlined in paragraph b, above.

(2) Pre-Warranty Conference. Prior to contract completion and at a time designated by the Contracting Officer or his authorized representative, the Contractor shall meet with the Contracting Officer to develop a mutual understanding with respect to the requirements of the Special Clause entitled "Warranty of Construction" of this specification. Communication procedures for Contractor notification of warranty defects, priorities with respect to the type of defect, reasonable time required for Contractor response, and other details deemed necessary by the Contracting Officer or his authorized representative for the execution of the construction warranty shall be established/reviewed at this meeting.

In connection with these requirements and at the time of the Contractor's quality control completion inspection, the Contractor will furnish the name, telephone number and address of a licensed and bonded company which is authorized to initiate and pursue warranty work action on behalf of the Contractor. This single point of contract will be located within the local service area of the warranted construction, will be continuously available, and will be responsive to Government inquiry on warranty work action and status. This requirement does not relieve the Contractor of any of his responsibilities in connection with the Special Clause entitled "Warranty of Construction."

952.000-4329 HAZARD ANALYSIS PLAN

A hazard analysis plan, as described in Section 1, Article 01.A.05 of the Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, dated November 2003, is required for this contract.

952.000-4330 EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE (MAR 1995) EFARS 52.231-5000

(a) This clause does not apply to terminations. See 52.249-5000, Basis for Settlement of Proposals, and FAR Part 49.

(b) Allowable cost for construction and marine plant and equipment in sound workable condition owned or controlled and furnished by a contractor or subcontractor at any tier shall be based on actual cost data for each piece of equipment or groups of similar serial and series for which the Government can determine both ownership and operating costs from the contractor's accounting records. When both ownership and operating costs cannot be determined for any piece of equipment or groups of similar serial or series equipment from the contractor's

accounting records, costs for that equipment shall be based upon the applicable provisions of EP 1110-1-8, "Construction Equipment Ownership and Operating Expense Schedule," Region III. Working conditions shall be considered to be average for determining equipment rates using the schedule unless specified otherwise by the contracting officer. For equipment not included in the schedule, rates for comparable pieces of equipment may be used or a rate may be developed using the formula provided in the schedule. For forward pricing, the schedule in effect at the time of negotiations shall apply. For retrospective pricing, the schedule in effect at the time the work was performed shall apply.

(c) Equipment rental costs are allowable, subject to the provisions of FAR 31.105(d)(ii) and FAR 31.205-36. Rates for equipment rented from an organization under common control, lease-purchase arrangements, and sale-leaseback arrangements will be determined using the schedule, except that actual rates will be used for equipment leased from an organization under common control that has an established practice of leasing the same or similar equipment to unaffiliated lessees.

(d) When actual equipment costs are proposed and the total amount of the pricing action exceeds the small purchase threshold, the contracting officer shall request the contractor to submit either certified cost or pricing data, or partial/limited data, as appropriate. The data shall be submitted on Standard Form 1411, "Contract Pricing Proposal Cover Sheet."

952.000-4356 SIGNAL LIGHTS

The Contractor shall display signal lights and conduct his operations in accordance with the General Regulations of the Department of the Army and of the Coast Guard governing lights and day signals to be displayed by towing vessels with tows on which no signals can be displayed, vessels working on wrecks, dredges, and vessels engaged in laying cables or pipe or in submarine or bank protection operations, lights to be displayed on dredge pipe lines, and day signals to be displayed by vessels of more than 65 feet in length moored or anchored in a fairway or channel, and the passing by other vessels of floating plant working in navigable channels, as set forth in Commandant U.S. Coast Guard Instruction M16672.2, Navigation Rules: International-Inland (COMDTINST M16672.2), or 33 CFR 81 Appendix A (International) and 33 CFR 84 through 33 CFR 89 (Inland) as applicable.

(END OF CLAUSE)

952.000-4358 DAMAGE TO WORK

The responsibility for damage to any part of the permanent work shall be as set forth in the clause of the contract entitled "Permits and Responsibilities." However, if in the judgment of the Contracting Officer, any part of the permanent work performed by the Contractor is damaged by flood or earthquake (hurricane or tornado), which damage is not due to the failure of the Contractor to take reasonable precautions or to exercise sound engineering and construction practices in the conduct of the work, the Contractor will make the repairs as ordered by the Contracting Officer and full compensation for such repairs will be made at the applicable contract unit or lump sum prices as fixed and established in the contract. If, in the opinion of the Contracting Officer, there are no contract unit or lump sum prices applicable to any part of such work, an equitable adjustment pursuant to contract clause entitled "Changes" will be made as full compensation for the repairs of that part of the permanent work for which there are no applicable contract unit or lump sum prices. Except as herein provided, damage to all work (including temporary construction, utilities, materials, equipment and plant shall be repaired to the satisfaction of the Contracting Officer at the Contractor's expense, regardless of the cause of such damage.

952.000-4370 DREDGING AND DREDGE RELATED MARINE WORK

“ The Contractor shall comply with the provisions of EM 385-1-1. If the Contractor is a currently accepted participant in the Dredging Contractors of America (DCA)/United States Army Corps of Engineers (USACE) Dredging Safety Management Program (DSMP), as determined by the DCA/USACE Joint Committee, and holds a current valid Certificate of Compliance for both the Contractor Program and the Dredge(s) to be used to perform the work required under this contract, the Contractor may, in lieu of the submission of an Accident Prevention Plan(APP),

- (1) Make available for review, upon request, the Contractor’s current Safety Management System (SMS) documentation,
- (2) Submit to the Contracting Officer the current valid Company Certificate of Compliance for its SMS,
- (3) Submit the current dredge(s) Certificate of Compliance based on third party audit, and
- (4) Submit for review and acceptance, site-specific addenda to the SMS as specified in the solicitation.”

(End of Paragraph)

952.000-4404 ACCOMMODATIONS AND MEALS FOR INSPECTORS

a. The Contractor shall furnish regularly to inspectors on board the dredge or other craft upon which they are employed, a suitable separate room for office purposes. The room shall be fully equipped and maintained to the satisfaction of the Contracting Officer; it shall be properly heated, ventilated, and lighted, and shall have a desk which can be locked, a chair for each inspector, and washing conveniences. The entire cost to the Contractor for furnishing, equipping, and maintaining the foregoing accommodations shall be included in the contract price. If the Contractor fails to meet these requirements, the facilities referred to above will be secured by the Contracting Officer, and the cost thereof will be deducted from payments to the Contractor.

b. If the Contractor maintains on this work an establishment for the subsistence of his own employees, he shall, when required, furnish the inspectors employed on the work, and to all Government agents who may visit the work on official business, meals of a quality satisfactory to the Contracting Officer. The Contractor will be responsible for collecting from all inspectors and other Government agents the following amount per person for each meal: Breakfast - \$2.25, Lunch - \$3.25 and Dinner - \$3.50.

952.000-4407 LAYOUT OF WORK

The Contractor shall lay out his work from the Government-established base lines, ranges, and gages indicated on the drawings and shall be responsible for all measurements in connection therewith. The Contractor shall furnish, at his own expense, all stakes, templates, platforms, equipment, range markers and labor as may be required in laying out any part of the work from the ranges and gages established by the Government. The Contractor will be held responsible for the execution of the work to such lines and grades as may be established or indicated by the Contracting Officer. It shall be the responsibility of the Contractor to maintain and preserve 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 his negligence prior to their authorized removal, they may be replaced by the Contracting Officer at his discretion. The expense of replacement will be deducted from any amounts due, or to become due, the Contractor.

952.000-4419 POTABLE WATER

Testing of all potable water storage facilities and dispensing systems with a storage capacity of ten or more gallons, will be conducted by an independent testing laboratory approved by the Contracting officer as follows:

- (1) Prior to the commencement of work.
- (2) Minimum of monthly, after start of work for the duration of the contract.
- (3) After any repairs or modifications are made to the potable water storage or dispensing systems.
- (4) After any intake of potable water into the storage system.

All samples shall meet state and local water quality standards for potable water. A copy of all test results will be forwarded to the Contracting Officer within seven working days for his review.

In the event a tested sample fails to meet state and local water quality standards, all dispensing outlets connected to the failing water storage shall be labeled as non-potable and other means of potable water shall be obtained until water quality can be provided to meet the required standards.

To insure potable water maintains water quality standards all portable potable water dispensing units shall be checked daily for cleanliness. All hoses used in the transfer of potable water shall be conspicuously marked and kept in such a manner as to keep them from being contaminated. These hoses shall be used for potable water transfer only.

952.000-4420 FLOATING CRANE OR DERRICK

The boom hoist on the floating crane or derrick shall be equipped with an auxiliary ratchet and pawl or other positive locking device that is controllable from the operator's station. The locking device shall hold the drum from rotating in the lowering direction and hold the rated load indefinitely.

952.000-4450 COMMENCEMENT, PROSECUTION AND COMPLETION OF WORK

(a) The Contractor will be required to commence work under this contract within ** calendar days after the date of receipt by him of notice to proceed, to prosecute said work diligently for a period of ** days unless work is suspended in accordance with subparagraph "b" below or the contract is terminated in accordance with subparagraph "d" below or other applicable provisions of the contract. At the option of the Government, this contract, with all its terms and provisions, may be extended for such period as the Government may elect so as to permit continuous use of said plant and equipment, not extending, however, beyond an additional thirty (30) days.

(b) The Government reserves the right to suspend operations whenever, in the opinion of the Contracting Officer, conditions will make dredging operations and disposal work impracticable or uneconomical. If during the period of suspension ordered by the Contracting Officer, the dredge and attendant plant are removed by the convenience of the Contractor from the site of assignment on which operations were suspended, the plant shall be returned to operations under the contract within ten (10) calendar days after receipt by the Contractor of notice to resume operations.

(c) The dredge and attendant plant shall not be removed from the site of the work or from the area in which standing by in the event of suspension as outlined in subparagraph b above, unless expressly consented by the Contracting Officer.

(d) Failure of the Contractor to comply with the requirements of the contract specifications will be cause for termination for default. Termination for default will be immediate, by written notice.

(e) Items of apparent archaeological or historical value which are discovered in the course of dredging operations shall be carefully preserved pending a determination of their significance and appropriate disposition. Such finds will be left undisturbed and shall be reported immediately to the Contracting Officer so that appropriate actions may be taken.

952.000-4451 CONTRACTOR'S RESPONSIBILITY

The Contractor shall be responsible that his employees strictly comply with all Federal, State, and Municipal laws that may apply to operations under the contract; and it is understood and agreed that the Contractor assumes full responsibility for the safety of his employees, plant, and materials, and for any damage or injury done by or to them from any source or cause, except damage caused to plant or equipment by acts of the Government, its officers, agents or employees, in which event such damages will be the responsibility of the Government in accordance with applicable Federal laws. For the purpose of this clause, the terms "officers, agents or employees" of the Government shall not include persons who are employed by the Contractor and whose services have been furnished to the Government pursuant to this or any other contract.

952.000-4452 DELAYS

If the Contractor refuses or fails to make delivery of the property within the time specified in the contract, or any extension thereof, as provided in specifications, or to maintain the property in serviceable condition and diligently and competently to conduct the specified operations as indicated by the Contracting Officer, the Government may by written notice, terminate the right of the Contractor to proceed with delivery or with further performance under the contract or such part or parts thereof affected by the delay. In such event, the Government may use or procure similar property by contract or otherwise and the Contractor shall be liable to the Government for any excess cost occasioned thereby. Unless otherwise provided in the specifications, the Government shall not be chargeable for out of service time due to breakdown not caused by the act of negligence of the Government or its agents.

952.000-4455 SUNDAYS, HOLIDAYS AND NIGHTS

Due to the nature of the work, a twenty-four (24) hour operation will be performed on a seven (7) day week schedule. Work shall be performed on days declared by Congress as holidays for per diem employees that fall within the work described above. Deviation from the work week contracted for will be subject to the approval of the Contracting Officer. -

Operation Day. The dredge, together with the necessary attendant plant and with adequate crew, shall be operated 24 hours per day on an optional shift basis.

952.000-4461 SUPERVISION

The work will be conducted as directed by the Contracting Officer and will be directed by Inspectors appointed by him who will enforce a strict compliance with the terms of the contract. The Inspectors will keep a record of the work done and see that the gages, ranges, and other marks are kept in proper order; but the presence of the Inspector shall not relieve the Contractor or his responsible agent (See subparagraph "d" of the Special Clause entitled

"Plant") of any responsibility for the proper execution of the work in accordance with the contract and directives of the Contracting Officer issued thereunder. The Contractor will be required:

- (a) To furnish on the request of the Inspectors the use of such boats, boatmen, laborers, and material forming a part of the ordinary and usual equipment and personnel of the plant as may be reasonably necessary in directing the work.
- (b) To furnish on the request of the contracting Officer or his authorized representative suitable transportation from all points on shore designated by the Contracting Officer to and from the various pieces of plant and to and from the disposal areas.
- (c) Should the Contractor refuse, neglect or delay compliance with these requirements, the specific facilities may be furnished and maintained by the Contracting Officer and the cost thereof will be deducted from any amounts due or to become due to the Contractor.

952.000-4462 CLEANING UP

The Contractor shall, at all times, keep the construction area, including storage areas used by him, free from accumulation of waste material or rubbish, and prior to completion of any dredging assignment, remove any rubbish from and about the premises and all tools, scaffolding, equipment, and materials not the property of the Government. Upon completion of any dredging assignment, the Contractor shall leave the work and premises in a clean, neat, and workmanlike condition satisfactory to the Contracting Officer.

952.000-4463 LABOR REPORTS

The Contractor shall promptly furnish and shall cause any subcontractors to furnish in like manner within 7 days after the regular payment date of each weekly payroll to the Contracting Officer, a copy of such payroll together with a statement of compliance with respect to the wages paid each of its employees (which shall not be deemed to apply to persons in classifications higher than laborers and mechanics and those who are the immediate supervisors of such employees) engaged on the work. If the Contractor or any of his subcontractors fail to furnish copies of such payrolls, the Contracting Officer may disapprove all or part of any progress payment estimate for the period covered by such payrolls until they are received by him. The Contractor shall also prepare and furnish such labor reports as may be required by the Department of Labor.

952.000-4464 DEFINITIONS

Wherever, in the specifications or upon any drawings the words directed, required, ordered, designated, prescribed, or words of like import are used, it shall be understood that the direction, requirements, permission, 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.

(End of Provision)

952.000-4465 GENERAL SAFETY REQUIREMENTS

Contract Clause entitled Accident Prevention, requires an accident prevention program which incorporates safety features and procedures from EM385-1-1, Sep 96, entitled "U.S. Army Corps of Engineers Safety and Health

Requirements Manual" that are applicable to all aspects of Contractor's dredging operations. In addition to these features, the following safety requirements shall be incorporated into Contractor's accident prevention program:

(a) There shall be designated a "plant fleeting area" within 2 miles of the dredge in which all non-used portions of plant or floating pipeline shall be stored. Such areas shall have upstream and downstream "hazardous area" buoys which are properly placed and marked with reflective tape to give the boating public adequate warning of the fleeting area while traveling at night. Additionally, a prominent lighted warning sign (as specified in EM 385-1-1, Sep 96, shall be displayed on the most upstream and downstream portions of equipment in the fleeting area. Such signs shall have reflective borders and shall be well lighted.

(1) Floating pipeline within this fleeting area may be placed side-by-side if and only if protected by a barge at each end and shall not be placed in a manner which exceeds the width of the barges.

(2) Floating pipeline within this fleeting area not so protected at each end by barges may only be placed singly and end-to-end. The provision for buoys, warning signs, lights and reflective tape at each end as specified in subparagraph

(a) above also applies in this case.

(b) All floating pipelines, whether in use or not shall be lighted with 8-inch yellow flashing lights, elevated 8 feet and spaced at intervals not exceeding 50 feet.

(c) Should the next scheduled dredging location not exceed 5 miles from the present location, shore pipe and only one joint of floating pipeline may be set up in advance. All precautionary measures specified in subparagraph (a) above apply to this site as well.

(d) All plant, used or non-used, shall be "inspected" at least once per shift by "both Contractor and Government inspector" to assure that buoys, signs, and lights are in place and that all lights operate properly. Daily reports of both the Contractor and Government inspector shall identify the inspectors and reflect the time of the inspection of plant in use and of plant at the fleeting area and at the next scheduled location. An adequate number of "reserve batteries and lights" shall be stored on the dredge at all times in order to restore nonfunctioning lights.

(e) All moves exceeding 5 miles from the present dredging location shall be with total plant in tow. No equipment shall be left behind.

(f) At all public boat launching ramps within 10 miles of dredging operations or equipment, a sturdy and prominent warning sign shall be displayed as depicted on the attached drawing, entitled "Warning Sign." The Contractor will be responsible for keeping this sign current with respect to his dredging operations or equipment. Such signs shall have red lettering and castles on white background with a red reflective border. Adequate spacing should be provided to allow for listing of two work sites.

952.999-4027 PAYMENT

a. The number of hours of work required to complete this contract are estimated. The actual number of hours of work required may be more or less than the estimated amount shown in the contract. Payment for labor and equipment will be made at the rates bid. The hours worked will be verified by the COR in the daily operational report. Preventative maintenance not in excess of fifteen (15) minutes in a normal work day will be paid at the regular hourly rate. Preventative maintenance or down time resulting from equipment failure, routine maintenance and fueling that exceeds fifteen (15) minutes of a work hour will be considered unacceptable work and non-payment of that time will be rounded off to the half hour during any hour when delays occur. Preventative maintenance is defined as the usual field maintenance to keep equipment in operating condition without the use of extensive shop equipment. Fueling of equipment will be considered as part of preventative maintenance.

b. The Contractor will be entitled to invoice for 60% of the mobilization and demobilization line item after all equipment is delivered to the designated work site. The remaining 40% will be due after all equipment is removed from the work site, all vehicle signs have been returned to the government, and receipt of proper invoice is received by the government.

952.999-4072 CONTRACTOR PAYMENT REQUEST

A copy of CESAM Form 1151 entitled PROMPT PAYMENT CERTIFICATION AND SUPPORTING DATA FOR CONTRACTOR PROGRESS PAYMENT INVOICE is included hereinafter, with instructions, following the Wage Rates. This form will be used in conjunction with the CONTRACT CLAUSE entitled PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS. The contracting Officer will provide copies of the form to the Contractor upon request. The Contractor shall complete the form, sign the certification and submit it with each progress payment invoice.

952.999-4073 PARTNERING

In order to most effectively accomplish this contract, the Government proposes to form a cohesive partnership with the Contractor and its subcontractors. This partnership would strive to draw on the strengths of each organization in an effort to achieve a quality project done right the first time, within budget and on schedule. This partnership would be bilateral in make-up and participation will be totally voluntary. Any cost associated with implementing this partnership will be agreed to by both parties and will be shared equally with no change in contract price.

952.999-4501 CRITERIA FOR AWARDING TASK ORDERS.

952 The award of this solicitation in addition to previously awarded contract(s) may result in two or more Indefinite Delivery/Indefinite Quantity (IDIQ) contracts which contain duplicative scopes of work in the Mobile District Corps of Engineers. The Government reserves the right to consider pre-existing IDIQ contracts and/or award additional contracts that are comparable to the defined scope of this contract. These additional IDIQ contractors, in accordance with the terms of their contracts, may be considered for Task Orders along with contractor(s) selected under this solicitation.

953 When determining the contractor's eligibility for award of Task Orders among the contracts, the Contracting Officer will consider such criteria as: (a) The quality of performance of the contractor(s) under the current and/or potential IDIQs; (b) Contractor's current capacity to accomplish the order in the required time; (c) Uniquely specialized experience for specialty type requirements; and (d) Pricing history and other relevant factors.

952.999-4502 MAXIMUM/MINIMUM CONTRACT VALUE

a. The contract term shall consist of a base period of twelve (14) months from the date of acknowledgement of the Notice to Proceed of Task Order No.0001.

b. The maximum dollar value of the contract shall not exceed \$6,000,000.00. The guaranteed minimum quantity of work for this contract will be \$100,000.00

c. If the Government's requirements for services set forth in the solicitation do not result in orders in the amount described as "estimated maximum", the event shall not constitute the basis for an equitable price adjustment under this contract.

(End of provision)

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SECTION 01000
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SECTION 1000

STATEMENT OF WORK - SPECIFICATIONS

1. SCOPE OF WORK:

1.1. **GENERAL:** The scope of work to be covered by the intended contract is to perform maintenance dredging in navigation channels along the Gulf Coast of Mississippi, Alabama, and Northwest Florida. The primary work location is intended to be Mobile Harbor, however, work at Pascagoula Harbor, Gulfport Harbor, Pensacola Harbor and Panama City Harbor are also possible. It is not the intent to preclude a separate contract for any of these other projects. All work will occur only as directed (assigned) by the Contracting Officer's representative (COR). There is no guarantee as to the amount of work. If the Contracting Officer determines that the shoaling in the channels is greater than that which can be removed under this contract in a timely manner, contracts for additional dredges may be procured to work concurrently in the same general locations. Should any of the channels of the projects listed above require dredging it is in the scope of this contract to negotiate with the successful bidder on an hourly rate for the services of another hopper dredge(s) or for unit cost dredging as negotiated with the low bidder.

1.2. **RENTAL OF DREDGE (Bid Item No. 2):** The work to be performed under this portion of the contract will consist of the removal and satisfactory disposal of all material lying above the plane of -52 feet (or as directed by the Contracting Officer's Authorized Representative), MLLW, over the bottom widths (full and/or partial) and applicable side slopes, at specific work location(s) all within the specified dredging limits of this contract. The Contracting Officer's Authorized Representative will furnish the specific work location(s) (in advance) within those limits of the project during the contract life. All material excavated from the assigned channel segments will be transported and deposited into the assigned disposal area as discussed later in this specification.

1.2.1. **RENTAL DREDGE PLANT:** The work to be performed under this contract consists of furnishing and operating a hopper dredge with pump discharge of not less than 24-inch diameter nor more than 38-inch diameter complete with all necessary materials, supplies, labor, and transportation including fuel, power, and water for excavation operations as specified in the above paragraph. General excavation limits include the entire Mobile Harbor Project, however, specific locations will be as directed by the Government within the total contract limits. More specific dredge and attendant plant requirements are discussed below.

1.3. **GENERAL:** All work, material and services not expressly called for in these specifications which may be necessary for complete and proper operations to carry out the contract in good faith shall be performed, furnished and installed by the Contractor at no increase in cost to the Government.

2. PRE-AWARD INSPECTION OF PLANT:

a. The apparent low bidder shall make his dredge and attendant plant available for inspection, to determine compliance with these specifications, as soon as practicable after bids are opened, and prior to contract award. If deficiencies are found during the inspection, the bidder will be notified by email or FAX. Upon receipt of such notice, the bidder shall correct all deficiencies at least two days in advance of the projected contract award date.

b. Two days before the projected award date, or upon notification by the bidder that the deficiencies have been corrected, a Government representative will re-inspect the dredge or plant. At that time, if the dredge and attendant plant do not meet the requirements of these specifications, then the bid will be rejected as non-responsive.

c. The Government may choose to waive the pre-award inspection, if such waiver is in the best interest of the Government. Waiver of the pre-award inspection does not relieve the bidder from the requirement to provide a dredge and attendant plant in full compliance with the specifications.

d. A post-award inspection will also be performed, in accordance with the clause "DELIVERY OF PLANT". Performance or waiver of the pre-award inspection will not affect the performance of a post-award inspection.

3. DELIVERY OF PLANT:

Delivery of the hopper dredge and attendant plant shall be completed within the time prescribed on the Standard Form 1442. For bidding purposes, the mobilization site will be the vicinity of the Theodore Ship Channel turning basin. Upon arrival of the dredge and attendant plant at the delivery site, the dredge will be inspected by Government personnel to determine whether any deficiencies have developed subsequent to the time the plant was brought into compliance pursuant to the pre-award inspection. The Contractor will be notified of acceptance or rejection of the dredge and attendant plant. If accepted, the dredge will be given an assignment immediately.

4. ORDER OF WORK:

a. The order of work to be performed under this contract cannot be determined except as the work progresses. Successive dredging location assignments may be either upstream or downstream from the previous assignments, and may not be at consecutive or contiguous locations. Repetitive assignments may also be required at a given location.

b. Dredging assignments shall be determined by the Contracting Officer or his representative, and will be given to the Contractor's representative aboard the plant who is in charge of the operations. Assignments may be changed at any time without any prior notice. The Contractor may also be required to stop work at any time without

completing an assignment. There is no guarantee of specific work assignments or quantities under this contract.

c. The Contractor shall endeavor to meet the schedule of dredging operations as determined by the Contracting Officer. Operations shall be performed 24 hours a day, 7 days a week, including those days which have been declared by Congress to be legal holidays for per diem employees of the Federal Government.

5. COMPLETION OF ASSIGNMENTS:

As soon as the Contractor can determine the estimated completion time for the present assignment, he shall notify the Contracting Officer or his representative of his best estimated completion time, during normal District working hours and not later than noon on Friday. The Contracting Officer will determine the next assignment prior to the estimated completion time of the present assignment.

6. SERVICES TO BE FURNISHED TO THE GOVERNMENT:

a. The Contractor will be required to furnish, on the request of the Contracting Officer or any inspector:

1. The use of such boats, boatmen, laborers, and material forming a part of the ordinary and usual equipment and crew of the floating plant, as may be reasonably necessary in inspecting and supervising the work.

2. Suitable transportation between the worksite and all points on shore designated by the Contracting Officer, by means of the survey boat/inspector boat described in the technical specifications of the contract.

b. Equipment which fails to perform because of insufficient power or other mechanical difficulties or due to inexperienced operators shall be replaced, or the operator replaced, as appropriate, within 24 hours after the Contractor is directed to do so.

c. Should the Contractor refuse, neglect, or delay compliance with these requirements, the specific facilities may be furnished and maintained by the Contracting Officer, and the cost will be deducted from any amounts due or to become due the Contractor.

7. LOCATION OF SUBMERGED OBJECTS:

a. If the Contractor should locate a submerged object within the area of work, which endangers dredging operations or poses a hazard to general navigation, he shall note the location of the object, as determined from the electronic positioning system

aboard the vessel. This location shall be reported to the Government inspector. Dredging in the immediate vicinity of the reported object shall be curtailed until the nature of the object and the degree of hazard can be determined. Dredging shall resume at the location of the reported object when the Contracting Officer determines that a hazard no longer exists.

b. If the Contractor issues a false report of a sunken object, the cost of the investigation shall be deducted from any amounts due, or to become due, the Contractor.

c. This clause applies in the case of submerged objects or hazards which are created by others. Submerged objects or other hazards created by the Contractor shall be considered as misplaced materials.

8. LAYOUT OF WORK (1965 APR OCE):

The Contractor shall lay out the work assignments from the Government-established monuments, ranges, and gages indicated on the drawings (if furnished in Advertisement) and shall be responsible for all measurements in connection therewith. The Contractor shall furnish, at his own expense, all stakes, templates, platforms, equipment, range markers and labor as may be required in laying out any part of the work from the ranges and gages established by the government. The Contractor will be held responsible for the execution of the work to such lines and grades as may be established or indicated by the Contracting Officer. It shall be the responsibility of the Contractor to maintain and preserve 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 his negligence prior to their authorized removal, they may be replaced by the Contracting Officer at his discretion. The expense of replacement will be deducted from any amounts due, or to become due the Contractor.

9. DATUM AND BENCH MARKS:

The plane of reference of Mean Lower Low Water (MLLW) as used in these specifications is that determined by monuments, bench marks and tide gages as shown on the contract drawings (if furnished in Advertisement) or as are on record in the office of the Site Manager, Irvington Site Office, Phone (251) 957-6019. The Contractor should take note that there will be specific tide gages designated for specific tangents of the project work.

10. EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE (MAR 95):

a. This statement shall become operative only for negotiated contracts where cost or pricing data is requested, and for modification to sealed bid or negotiated contracts where cost or pricing data is requested. This clause does not apply to terminations. See 52.231-5000, Basis for settlement of proposals, and FAR Part 49.

b. Allowable costs for construction and marine plant and equipment in sound workable condition owned or controlled and furnished by a contractor or subcontractor at any tier shall be based on actual cost data for each piece of equipment or groups of similar serial and series for which the Government can determine both ownership and operating costs from the contractor's accounting records. When both ownership and operating costs cannot be determined for any piece of equipment or groups of similar serial or series equipment from the contractor's accounting records, costs for that equipment shall be based upon the applicable provisions of EP 1110-1-8, "Construction Equipment Ownership and Operating Expense Schedule," Region III. Working conditions shall be considered to be average for determining equipment rates using the schedule unless specified otherwise by the contracting officer. For retroactive pricing, the schedule in effect at of the time work was performed shall apply.

c. Equipment rental costs are allowable, subject to the provisions of FAR 31.105(d) (ii) and FAR 31.205-36. Rates for equipment rented from an organization under common control, lease-purchase arrangements, and sale-leaseback arrangements, will be determined using the schedule, except that actual rates will be used for equipment leased from an organization under common control that has an established practice of leasing the same or similar equipment to unaffiliated lessees.

d. When actual equipment costs are proposed and the total amount of the pricing action exceeds the small purchase threshold, the contracting officer shall request the contractor to submit either certified cost or pricing data, or partial/limited data, as appropriate. The data shall be submitted on Standard Form 1411, "Contract Pricing Proposal Cover Sheet".

11. RADIO TELEPHONE:

The Contractor shall furnish and maintain the following radios for communication with the Corps of Engineers, the United States Coast Guard, and other vessels: Radio(s) must be certified as being operable on the specified frequencies and powers by a licensed radio technician. A copy of the certification must be furnished to the Contracting Officer prior to final acceptance of the dredging plant.

a. A Marine VHF Radio, FCC type accepted with the following channels: Channel 16, (156.8 MHZ), Channel 13, (156.65 MHZ), Channel 12, (156.6 MHZ), Channel 14, (156.7 MHZ), and Channels 26 and 28 for public correspondence. A separate receiver must be provided on Channel 13, (156.6 MHZ) in compliance with Public Law 92-63.

b. The Contractor shall furnish and maintain a cellular telephone for the Government Inspector's use exclusively. This telephone must be portable and include base charger with additional battery. Phone shall be furnished prior to commencement of work and will be returned at the completion of the project.

12. DESIGNATION OF AUTHORIZED REPRESENTATIVE OF THE

CONTRACTING OFFICER:

Effective the date of award and pursuant to AFARS 42.9001, Assistant Chief, Western Support Section, Operations Division (CESAM-OP-GW), Irvington Site Office, 7861 13th Street, Irvington, AL 36544, is delegated authority to act as the Authorized Representative of the Contracting Officer, without power of redelegation, for the purpose of discharging the following duty of the Contracting Officer on this contract:

- a. Order work when and as required during the contract period.
- b. Determine acceptability of work performed.
- c. Inspect all equipment furnished by the Contractor for use on the project and determine that it is suitable for use as required by the contract.
- d. To approve payments.

The following delegated title will be used when signing any contractual document pursuant to this authority.

EXAMPLE: John Doe
Authorized Representative of the Contracting Officer

This delegation will remain in effect until completion of the contract unless sooner rescinded in writing by the Contracting Officer or his successor.

12.1. ADMINISTRATION OF CONTRACT: After award, this contract will be administered by the A-E and Construction Branch (CT-C), U.S. Army Corps of Engineers, Mobile district, P.O. Box 2288, Mobile, Alabama 36628-0001, telephone (251) 441-6161.

13. PHYSICAL DATA (APR 1984):

Information and data furnished or referred to below are furnished for the Contractor's information. However, it is expressly understood that the Government will not be responsible for any interpretation or conclusion drawn therefrom by the Contractor.

- a. General. The physical conditions indicated on the drawings (if furnished in Advertisement) and in the specifications are the result of site investigations and surveys.
- b. Location.

(1) The work (excavation or dredging) to be done under these specifications is located in the existing Mobile Harbor project channels in the southwestern part of the State of Alabama, and approximately 80 miles by water from Pensacola Harbor, Florida,

on the east and 61 miles by water from Pascagoula Harbor, Mississippi, on the west.

c. Subsurface Investigations.

(1) Mobile River, Bay and Bar Channels: Subsurface cable, pipeline and tunnel crossings are as indicated on the contract drawings (if drawings furnished in Advertisement). The Contractor shall be responsible for any damage, due to his negligence, to the cables, pipelines and tunnels occasioned by his dredging operations.

(2) Contractor's Investigation Responsibility: The Contractor should make his own investigation of submerged, surface and overhead structures in the work area and other locations he finds necessary to traverse. The exact location, depths and height of all submarine cables, pipes, highlines, docks, piers, bulkheads bridges, ect. (as applicable), are not known and it will be necessary for the Contractor to ascertain interference problems and notify the respective owners in advance of dredging operations. The Contractor shall make all arrangements with the respective owners of the structure to assure satisfactory completion of dredging in the vicinity with a minimum interruption of service, and shall perform his operations in such a manner as will avoid damage to these facilities.

(3) No dredging will be done within 100 feet (horizontally) of any marine structures, wharves, or bulkheads in order that such structures will not sustain damage or be undermined by the dredging operations. Any such damaged structures, due to the negligence of the Contractor, shall be repaired or replaced by the Contractor at no expense to the Government.

d. Weather Conditions. The sites of the work are exposed to local disturbances in the Mobile Harbor, which may cause suspension of the work for short unknown periods of time. During tropical hurricanes which may occur from June to December, inclusive, the project channels do not afford a safe refuge for floating plant. There are no unusual currents except during floods, when velocities of 2 to 4 miles per hour may be expected; however, the Contractor should investigate all sites of work and determine for himself the requirements of the work. Under ordinary conditions, the Mean Tidal Range is 1.2 feet. The working season extends over the entire year. Tides in Mobile Harbor are affected by extended periods of strong north or south winds.

e. Transportation Facilities: Rail and highway transportation is available to Mobile, Alabama. Water transportation is available to the site of the work.

f. Channel Traffic. The traffic using the Mobile Bay and Bar Channel is considered large, including several lines of freight steamers, ore carriers, tankers, tugs, fishing and passenger boats. There is ample width in this channel to accommodate traffic without undue interference with the dredging operations specified herein. CAUTION: When navigation conditions become hazardous due to inclement weather (fog, storm, etc) or other circumstances, the dredge and related equipment shall be moved to provide the

maximum possible channel width (even full channel) for safe passage of any impending project traffic. The Contractor shall maintain appropriate communication with project traffic during such hazardous conditions. The Contractor shall particularly comply with all U.S. Coast Guard regulations pertaining to proper activation of fog (and any other) signaling devices (sound, light, etc).

g. Obstruction of Channel. The Government will not undertake to keep the area and channel free from vessels or other obstructions, except to the extent of such regulations, if any, as may be prescribed by the Secretary of the Army, in accordance with the provisions of Section 7 of the River and Harbor Act approved 8 August 1917. The Contractor will be required to conduct the work in such manner as to obstruct navigation as little as possible, and in case the Contractor's plant so obstructs the channel as to make difficult or endanger the passage of vessels, said plant shall be promptly moved on the approach of any vessel to such an extent as may be necessary to afford a practicable passage. The Contractor is emphatically placed on notice that the work areas of this contract is a very heavy marine industrial, congested area. The Contractor must layout his work (and equipment) in such a way not to restrict the docks, piers, bulkheads, etc of the bank occupants. Upon the completion of the work, the Contractor shall promptly remove his plant, including ranges, buoys, piles, and other marks placed by him under the contract in navigable waters or on shore.

h. Character of Material: The material to be removed is predominantly the normal maintenance shoaling (silts and sands) and will have some debris (wood, metal, etc as is normally found in a heavy marine industrial Harbor environment). For the purposes of this solicitation, the material to be dredged shall be considered as unclassified. Some new work dredging could be encountered by the dredge plant.

14. PRECONSTRUCTION CONFERENCE:

a. A preconstruction conference will be arranged by the Contracting Officer's representative after award of contract and before commencement of work. The Contracting Officer's representative will notify the Contractor of the time and date set for the meeting. At this conference, the Contractor shall be oriented with respect to Government procedures and line of authority, contractual, administrative, and construction matters. Additionally, a schedule of required submittals will be discussed.

b. The Contractor shall bring to this conference the following items in either completed or draft form:

Submittal Register.

Accident Prevention Plan.

Dredge (Excavation) Plant Instrumentation Plan.

Letter appointing superintendent.

Transmittal registers.

Power of attorney and certified copy of resolution.

List of subcontractors.

Quality Control Plan.

Deposition Plan.

Survey Plan.

Pollution Control Plan.

Environmental Protection Plan.

15. DREDGE AND ATTENDANT PLANT REQUIREMENTS (Bid Item No. 2):

15.1. DREDGE REQUIREMENTS: The dredge offered shall be capable of continuous operation and of sufficient size (not less than a 24-inch nor more than a 38-inch discharge) and with dragarm(s) of an appropriate length and construction to work efficiently in depths of up to 52 feet. The Contractor shall have available for use at all times a variety of serviceable interchangeable pump impellers (2 minimum), a spare pump case, and a spare serviceable draghead to permit the dredge to operate efficiently under varying conditions described in the paragraph entitled (PHYSICAL DATA), of the Special Clauses. The dredge shall be capable of dredging upstream as well as downstream and will so operate as directed by the Contracting Officer. The following information was obtained from history and data banks from Operations Division, Mobile District Office:

Pump Disch. Diam. (inches)	Hopper Size (CY)	Base Hours	
*24	3600	4397	Isle 1
**24	3600	4101	Isle 2
27	4000	4286	RNWeeks
26	4000	3708	Newport
24	4387	2948	Columbia

28	4000	3471	Lindholm
33.5	6400	2146	Eagle
33.5	11147	1280	Stuyvesant
28.5	4830	2923	Bayport
31.5	6466	1895	Liberty Island
38	13572	875	Glenn Edwards

* Normal powered dredge for this size category

** Turbo charged dredge for this size category

15.1.1. **BIDDING:** The bidder shall use the above chart to select the hours to be inserted into the appropriate Bid Schedule from the class of dredge he intends to use. The total amount of hours to be inserted into the Bid Items shall be that shown above for the class of dredge to be used by the Contractor.

15.1.2. **EVALUATION OF BIDS:**

a. It is the intent of the Government to secure a dredge and/or dredges meeting the requirements set forth in these specifications and having a main pump discharge of not less than 24 inch diameter nor more than 38 inch diameter.

b. Hourly quantities have been determined based on the estimated quantity of shoal material to be removed, the size of the dredge pump and the operating characteristics of the hopper dredge, to provide fair competition between dredges of dissimilar sizes and production rates. Award will be to the lowest responsive, responsible bidder.

15.2. **ATTENDANT PLANT:**

a. Transport Vessel/Survey Boat: The contractor shall provide one transport vessel/survey boat, with twin propellers, not less than 40 feet in overall length, with enclosed space for three or more passengers after installation of all required contractor furnished survey equipment and survey party crew (Survey Equipment/Personnel defined elsewhere), to adequately operate and survey in the Mobile Harbor Channels, Ocean Disposal Area, and the area enroute to the ocean D/A and at other Gulf Coast Harbors, Channels, etc. along the Alabama, Mississippi, and Florida coastlines. This vessel must have an operator on site at all times; capable of traveling at a speed of 20 knots (23 MPH) or greater in good weather and capable of traveling safely at night and in intense fog; (such vessel shall meet or exceed US Coast Guard regulations for vessels 65 feet or less in length and have Certificate of Inspection (COI) or be inspected by a licensed Marine Surveyor, as applicable). This vessel shall be for the primary use of Government Inspector shift changes and government directed hydrographic surveying. The use of this vessel for contractors crew changes, or any other use of this vessel by the contractor shall

be secondary to Government Inspector shift changes and government directed hydrographic surveys. This vessel shall be equipped with the following at a minimum: built in fuel tanks with correctly operating fuel gauges; marine and company radios; windshield wipers, running and spot lights; and all required survey equipment. The contractor shall secure a satisfactory landing location in the vicinity of the current assignment for this vessel. This location will vary depending on the assignment.

b. Survey Party: The Contractor shall furnish one full survey party available for 12 hr/day survey operations 7 days a week. The minimum full-time crew for the survey boat shall be one qualified survey boat operator for the daylight shift, plus up to a 4 man survey party to perform surveys to support the entire dredging process. Also, a person responsible for processing and plotting of surveys shall be on board the dredge during the daylight shift. The survey party shall have a sufficient number of qualified personnel in order to adequately survey under any condition. The minimum qualifications for the chief surveyor shall be one of the following: Hydrographer Certification by American Congress of Surveying and Mapping or a minimum of 3 years of experience performing hydrographic surveys as the primary systems operator within the last 5 years. The party shall survey the current conditions of the area being dredged and continue surveying for shoals for future dredging while the prior survey is being processed on board the dredge. This survey party will perform the survey assignments, operating all necessary electronic positioning and computer equipment.

c. Survey Equipment: The Contractor furnished survey equipment must meet or exceed all requirements listed below as well as any other requirements referred to in these specifications:

(1) Positioning System: The positioning system must be capable of providing positional accuracies of the vessel within three meters or less. This system must have a proven track record and have the manufacturers written backing stating the accuracy thereof. The system utilized must be capable of providing twenty-four hours, seven days a week positional coverage within the above stated accuracies, anywhere within the scope of work area without interruption of positional location. Both the dredge and survey vessel shall be equipped with a complete positional system. These systems shall be fully operational at all times. Any failure of said system will be corrected within 8 hours. If not corrected within said time frame the vessel with failed system may be directed to cease operations until corrected. The contractor, if properly equipped with a Global Positioning System, may utilize such a system as long as the accuracies are confirmed and documented during the use of the system. The positioning system and survey software will have the capability of providing visual guidance to the vessel operator and acquire positioning and guidance updates on no less than one second time increments.

(2) Sounding Equipment: The sounding equipment will consist of a sounding machine/device capable of providing updated soundings on no more than 1/20 second intervals and have an accuracy rating of not less than ± 0.5 feet. Sounding device will have analog charting (real time) within the device and will have all the capabilities of

calibrating to a bar check utilizing the Norfolk Method of bar checking. All depths acquired will consist of dual frequency soundings utilizing a high operating 208 kHz frequency transducer and a low operating 41 kHz frequency transducer (any frequencies other than those listed must be approved by the Authorized Representative of the Contracting Officer prior to use). Sounding data will be digitally acquired from both the high and low frequency transducers. The 41 kHz soundings will be shown in conjunction with the 208 kHz soundings on the analog chart of the sounding device. All soundings will be acquired on a continuous basis. Plotting of data shall be on the scale and size of the plot requirements as specified by the Authorized Representative in clearly legible print. These plots shall reflect the data gathered by the 208 kHz frequency unless otherwise requested by the Authorized Representative of the Contracting Officer. Any additional plotted data requested would be that data acquired by the 41 kHz. Volumes shall be computed from the 208 kHz frequency unless otherwise requested by the Authorized Representative. These plots along with all digitally acquired data (for both 208 and 41 kHz) shall be provided to the Government as specified below.

(3) Acquired and Processed Data: The survey system will require a computer and software capable of handling all required data points and plotting of those data points. This system shall be capable of acquiring or converting all, unedited raw data (horizontal and vertical) to an IBM, ASCII compatible format prior to submittal to the Government. The ASCII format shall be compatible with the MS DOS Operation system. Sounding files shall contain single line records. Each record shall contain the easting, northing, depth, date, and time for one sounding. Each item in the record shall be separated by a space character (ASCII 32 (10)) and the record shall be terminated by a line feed with carriage return. Sounding files shall be no greater than 1.2 MB in size and shall contain the data for no more than 99 section lines. All records shall conform to the format shown below.

East	North	Depth	Date	Time
123456.78	876543.21	-42.3	10/15/91	14:22:13.3

Said survey system will provide a means of plotting all data points for submittal in hard copy form according to the following requirements: All plots submitted shall be provided on full size 22" x 34" (ANSI 'D' size) plot paper (half size, 11" x 17" if approved by the Authorized Representative) and delineate no less than the following: all nav aids; north arrow; station annotation; channel limits (toe & center line); edited sounding data (corrected to MLLW); date of survey; grid ticks; surveyor's name; survey vessel name; contract number; and any other pertinent information. Scale of plan view plots shall be 1" = 200' and cross-sectional plots shall be plotted at a 1" = 100' horizontal scale unless otherwise specified by the Authorized Representative. Plan view plots for vessel tracking will delineate actual vessel track along the specific route taken and print depths acquired along the route on a scale clearly legible; cross-sectional plots will be plotted on hard copies which delineate the channel dimensions in a template format and

plot all acquired sounding data points thereon; a plan view plot will be plotted in three different colors which will determine the depths above and below project depth. Colors will be determined by the Authorized Representative. A contour line drawn at the project depth, which will be given by the Authorized Representative, will be drawn showing said contour, all data acquired by the system will be provided on a 3-1/2 inch diskette or CD-Rom in the format previously specified and in unedited form. All hard copy submittals shall consist of edited data and all supporting field notes.

d. The Contractor shall be able to visually display continuous real time positioning of the dredge, by track plot or CRT screen, in relation to both the before-dredging surveyed shoals and at the disposal area. Dredge location accuracy shall meet the requirement of the Corps' "Manual of Survey Instructions". A written discussion of the method the Contractor intends to use in order to satisfy these requirements shall be included in the Contractor's bidding schedule discussions.

e. The Contractor shall furnish a computer workstation for use by the Government Inspector on board the vessel. The computer shall be set up on the bridge or an area acceptable by the government and shall meet the following requirements:

Pentium IV or equivalent, 40 gigabyte Hard Drive, 3 1/2" Floppy Drive, CD-RW Drive, USB Ports, 15" Color Monitor, Keyboard, Trackball type Mouse, Near Letter Quality Printer, 280VA UPS. Software required: Windows XP, Microsoft Excel, Microsoft Word.

16. PLANT MANAGEMENT:

16.1. GENERAL: Upon initiation of work, the Contractor shall prosecute the work assigned him with faithfulness and energy, and at all times endeavor to meet the schedule of excavation (dredging) and disposal operations as determined by the Contracting Officer. The Contractor shall be expected to conduct excavation dredging and disposal operations seven days per week, twenty-four hours per day. The order of work to be performed cannot be determined except as the work progresses. The Contractor shall bear all direct, overhead and collateral expenses incident to the operation, upkeep and repair of all items of plant. He shall maintain the plant in a good state of repair, shall arrange for a supply of renewal parts to be on hand when needed for all plant and shall provide and maintain efficient personnel for each item of plant employed in connection with the work. Equipment will be in condition to render efficient, economical and continuous service and shall be equipped with all mechanical devices and equipment required by Federal, State and local authorities, provided that nothing in the paragraph shall be construed to limit the authority of the Contracting Officer to prohibit the use of any piece of equipment which, in the opinion of the Contracting Officer, is mechanically unsafe for use. Equipment which the Contracting Officer or his authorized representative considers does not perform in a satisfactory or efficient manner shall be repaired or replaced by the Contractor at the Contractor's expense within 24 hours after notification

by the Contracting Officer or his authorized representative. Failure of the equipment to perform to the satisfaction of the Contracting Officer, and failure by the Contractor to effect timely replacement of the unsatisfactory equipment, shall be sufficient cause for the Government to procure replacement equipment and charge the Contractor for any excess costs associated therewith. The equipment shall be registered by the Contractor with all Federal, State and local authorities requiring registration, and registration plates or other evidence of registration shall be displayed in accordance with the requirements of the registering authority.

16.1.1. ORDER OF WORK AND INSPECTION: The work will be conducted as directed by the Contracting Officer and will be directed by Inspectors appointed by him who will enforce a strict compliance with the terms of the contract. The Inspectors will keep a record of the work done and see that the gages, ranges, and other marks are kept in proper order; but the presence of the Inspector shall not relieve the Contractor or his responsible agent of any responsibility for the proper execution of the work in accordance with the contract and directives of the Contracting Officer issued thereunder. The Contractor will be required (notwithstanding contract requirements at other points):

a. To furnish on the request of the Inspectors the use of such boats, boatmen, laborers, and material forming a part of the ordinary and usual equipment and personnel of the plant as may be reasonably necessary in directing the work.

b. To furnish on the request of the Contracting Officer or his authorized representative suitable transportation from all points on shore designated by the Contracting Officer to and from the various pieces of plant and to and from the disposal areas. Should the Contractor refuse, neglect or delay compliance with these requirements, the specific facilities may be furnished and maintained by the Contracting Officer and the cost thereof will be deducted from any amounts due or to become due to the Contractor.

16.2. INSPECTION OF PLANT: The dredge plant will be inspected by the Contracting Officer or his representative to insure total dredging plant required under the contract has been mobilized and is in safe working condition.

a. Contractor's Obligation to Inspect. Before any machinery or mechanized equipment is placed in service it shall be inspected and tested by contractor and certified to be in safe operating condition using Safety Survey Checklist for Floating Plant and Safety Inspection Checklist for Mobile Construction Equipment forms as prescribed by SADVR 385-1-1. Records of these tests and inspections shall be provided to the Government prior to Government inspection and shall be maintained at the site by the contractor.

b. Safety Inspection. Upon completion of mobilization, before starting work, and after the checklist forms are provided to the government, a safety inspection will be conducted by the Government. The safety inspection will be conducted using the checklist as a guide to denote any deficiencies.

c. Clearance to Begin Work. Upon completion of the safety inspection a list of deficiencies will be compiled and copies given to the contractor for corrective action as required. If in the opinion of the Contracting Officer the plant is unsafe or does not meet the terms of the specifications clearance to begin work will not be given. In the absence of any deficiencies, the plant will be put to work. Failure of the Contractor to provide dredge plant complying with requirements of the contract specifications or safety deficiencies preventing commencement of work could be cause for termination for default.

d. Inspections performed by the Government does not relieve the contractor of his responsibility to perform his own inspections of plant to assure a safe working environment at all times in accordance with contract specifications, EM 385-1-1 and his Accident Prevention Plan.

e. Hopper Leakage Test. During the safety inspection the dredge will be required to take on water equivalent to the hopper capacity as rated in the above table. In order for the dredge to begin work it must have no more than a 5% loss in a one hour (1 hr) period. This test may be performed again at anytime during the contract when an indication of leakage exists. Should the dredge fail said test after dredging begins the dredge will be on 0% pay for the entire test period and until leakage is repaired; if the dredge passes said test it will be paid at a 70% rate for the time to perform leakage test.

16.3. TERMINATION OF WORK: It is anticipated that upon completion of the excavation assignment(s) all the plant will be released to the Contractor. However, the Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Government shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

16.4. DREDGE SUSPENSION AND WORK FOR OTHERS:

16.4.1. PRIVATE WORK RELEASE: By mutual agreement of both the Contractor and the Contracting Officer, the dredge may be released from this contract (with Government approval) for short periods of time to perform work for others in the same vicinity. The dredge shall, however, be returned to operations under this contract within 48 hours after notice by the Contracting Officer to resume such contract work.

16.4.2. DREDGE SUSPENSION/RELEASE: The Contracting Officer may suspend the dredge for extended periods of time to allow the Contractor to perform work for other Corps Districts. The Contractor may request to be released or the Contracting Officer may unilaterally suspend work to allow the dredge release. The dredge shall remain on 10-day call by the Contracting Officer during the suspension/release period. Regardless of the pay status of the dredge at the time it is released, the dredge will immediately go to a non-pay status, and remain so until it is recalled to work. Demobilization at the time of release, and mobilization at the time of recall, will not be paid. Payment will cease when

the last load is dumped prior to release. Payment will resume if the dredge is recalled to an assignment under this contract and when the dredged material starts flowing into the hopper. The return from the dump will be estimated and paid for, based on return time from loads previous to demobilization. The contract may be terminated during the suspension/release time period if the Contracting Officer determines that termination is in the best interest of the Government.

16.5. **WORK LAYOUT:** Dredging limits will be designated at each assignment by coordinates and/or channel centerline station. The Contractor shall furnish, at its own expense, all stakes, pipe, equipment, range markers and labor as may be required to maintain any part of the work from the ranges and gages established by the Government and to check for verification starting and stopping points on each shoal area. It shall be the responsibility of the Contractor to maintain and preserve all stakes and other marks established by the Contracting Officer until authorized to remove them, and if such works are destroyed by the Contractor through his negligence prior to their authorized removal, they may be replaced by the Contracting Officer at his discretion. The expense of replacement will be deducted from any amounts due or to become due the Contractor.

17. DREDGING (EXCAVATING OF SHOALS):

17.1. **General:** The shoals removed during this contract shall be transported and satisfactorily deposited into the designated Gulf D/A (Specific location of D/A shall be furnished at the Pre-Work Conference or as necessary during this contract).

17.2. **Dredge (excavation) Plant Instrumentation:** All dredge (excavation) plant utilized on this contract shall be instrumented to monitor the location of the dredge during excavation and disposal as specified herein. The data produced by this instrumentation will be collected by automated (computer-digitized) means and stored in an IBM compatible format, DOS Operating System, ASCII format. The Contractor's initial submittal shall include written instructions to explain the data format used. All data will be tied to the date and real time of day with data point intervals not greater than five (5) minutes. (See paragraph 17.3 for data point interval times) The data will be submitted to the Government weekly on CD Rom or 3 1/2 inch floppy disk.

17.2.1. The following elements will be monitored, as a minimum:

- a. Dredge I.D. designation.
- b. Dredge location by coordinates and by cut(s), i.e. east, west, center, 1, 2, 3, etc and whether first cut or redredge and stationing of current assignment.

17.2.2. The Dredge Plant Instrumentation is a part of the dredge plant and must be functional at all times. If failure of any part thereof occurs the Contractor will be expected to repair the failed part within the next 36 hours restoring full operations. If failure to repair does not occur in that period, the particular plant affected will be considered non-responsive to the contract requirement and will either be replaced or a redundancy part added to render the plant fully operational to include the monitored data,

all at no additional increased price or time to the contract.

17.3. Disposal of Excavated Material: The Contractor will be required to furnish an electronics surveillance feature of the movement of and deposition of the excavated material. This surveillance feature shall monitor horizontal location by means of an automated (computer) system that will continuously track the horizontal location and draft condition (vertical) of the dredged material transport vessel from the dredge area to the Gulf disposal site and return. Digital data required is as follows:

- a. Date
- b. Trip I.D.
- c. Time of date (real time)
- d. Vessel Captain's name
- e. Tow vessel position, every five (5) minutes (real time) with traveling outside the disposal area, and every minute (or 200' whichever is smaller) when the vessel is immediately approaching the disposal area boundary, when traveling through the disposal area and during the travel immediately after exiting the disposal area boundaries.
- f. Material transport vessel draft, on same interval as e.

Horizontal location shall have an accuracy at least equal to or better than a standard LORAN system, equal to or better than ± 10 feet (horizontal repeatability). These horizontal locations must be referenced to the Alabama West State Plane Coordinate System (1983 Datum). Vertical drafts shall have an accuracy of \pm one-half foot and must be continuously updated as required. Horizontal (X and Y) and vertical (Z) data must be collected in sets tied to the real time-of-day and date. All digital data shall be collected and stored on 3 1/2 inch disk in an IBM compatible format DOS Operating System, ASCII format. All the data collected will also be plotted in chart form to depict the actual route taken by the vessel during the trip to the disposal site(s), within the disposal site(s), and return. This chart shall be plotted at a scale of one (1) inch equals two hundred (200) feet, or other scale which clearly displays the critical data for review. The charts shall also indicate the disposal site boundaries. A "data mark" (transport vessel horizontal location) shall be shown on this chart at each required time interval with it's associated time, date, and draft values printed beside the "data mark". The "data mark" may be a cross, a plus sign, a dot, a shape, ect. More than one disposal area trip may be stored onto a single disk as long as each trip data is indexed to and clearly identifiable. The original disks, when full or complete, will be furnished to the Government within 24 hours. The hard copy plotted chart shall be orderly organized and maintained at some central location on essentially a daily basis for evaluation by the Contracting Officer or his Authorized representative at all times. At the end of each week of operations the Contractor shall orderly bind-up the collected hard copy data and submit same to the Contracting Officer for permanent file record.

17.4. Misplaced Dredged Material: Any dredged materials deposited at locations other than in areas designated or approved by the Contracting Officer will be considered

misplaced material and will not be paid for until the Contractor, at his own expense, removes and redeposit of the misplaced material and any necessary disposal site restoration work shall not be the material and any necessary disposal site restoration work shall not be the basis for a time extension or additional compensation under this contract.

18. COMPANY REPRESENTATIVE: With reference to the paragraph entitled PLANT MANAGEMENT and section 01451, the Contractor's Representative shall be on the actual work site (dredge) at all times. The Government Representative shall issue work instructions to the Contractor's Representative. The Contractor's Representative will direct the actual performance of the equipment. No definable feature of work shall be performed without the Contractor's Representative being present.

19. REPORTING REQUIREMENT: The Contractor will be required to prepare and submit a Daily Report of Operations, ENG Form 27A, for all dredging work activities (as appropriate). The Contractor will also be required to attach a copy of the Mate's Log pages which cover the 24 hour period being reported to the ENG Form 27A. The original Mate's Log must be given to the Government's Representative at the completion of the project. Contractor shall also submit daily report SAM Form 696 (See paragraph 24.2.b. All reports must be submitted on a daily basis and not in groups. A reduced sample of each form for recording the required information is bound herein. In addition to the two (2) daily dredging reports required, the Contractor shall prepare a Monthly Report of Operations for each month or partial month's dredging work on ENG Form 27A. The monthly report is to be submitted to the Contracting Officer's Authorized Representative on or before the 7th of each month, consolidating the previous month's work. Further instructions on the preparation of the reports will be furnished at a Preconstruction Conference. Upon completion of the job, the Contractor shall submit a consolidated job report, combining the monthly reports, within seven calendar days of contract completion. The Contractor shall submit the original and one carbon copy (full size reproduction of original can substitute for the carbon copy) of each report to the Contracting Officer's Authorized Representative.

20. NOTICES:

a. The Contractor shall give the Contracting Officer 5 days advance written notice of the date he plans to commence work under this contract in order that Government required actions may be commenced sufficiently in advance of the Contractor's operations and that baselines and other controls may be adequately installed.

b. The Contractor shall work on holidays, week-ends, etc., 24 hours per day, 7 days per week. Adequate lighting for thorough inspection of night operations will be provided by the Contractor at his expense.

21. GENERAL SAFETY REQUIREMENTS: Contract Clause entitled, ACCIDENT PREVENTION, requires an accident prevention program which incorporates safety features and procedures from EM 385-1-1, (latest edition), entitled "U.S. Army Corps of Engineers Safety and Health Requirements Manual" that are applicable to all aspects of

Contractor dredging operations. In addition to these features, the following safety requirements shall be incorporated into the Contractor's accident prevention program:

21.1. The Contractor shall designate a "plant fleeting area" in which all non-used portions of plant shall be stored. Such area shall have "hazardous area" buoys which are properly placed and marked with reflective tape to give the boating public adequate warning of the fleeting area while traveling at night. Additionally, a prominent lighted warning sign (as specified in EM 385-1-1) shall be displayed on the equipment in the fleeting area. Such signs shall have reflective borders and shall be well lighted.

21.2. All plant, used or idle, shall be inspected at least once per shift by the contractor and government inspector (if inspector is on shift) to assure that buoys, signs, and lights are in place and that all lights operate properly. Daily reports of both the contractor and government inspector shall identify the inspectors and reflect the time of the inspection of plant in use and of plant at the fleeting area. An adequate number of reserve batteries and lights shall be stored on the dredge at all times in order to restore non-functioning lights.

21.3. At all public boat marinas within 10 miles of dredging operations or moored equipment, a sturdy and prominent warning sign shall be displayed, (reference drawing of example sign at end of this advertisement entitled: "Warning Sign"). The Contractor will be responsible for keeping this sign current with respect to his dredging operations or equipment. Such sign shall have red lettering and castles on white background with a red reflective border. Adequate spacing should be provided to allow for listing of two work sites.

21.4. The Contractor shall increase public awareness of potential hazards presented by dredge plant equipment stating: location, date of construction, equipment mooring, marshalling areas, etc., by: Ensuring that an announcement of the beginning of the dredging operation receives publicity in local newspapers/radios/television/waterway users association/etc. Periodic updates/status announcements should be made at intervals (suggest monthly) throughout the contract life.

22. PAYMENT:

22.1. Mobilization and Demobilization (Bid Item No. 1.): (See Special Contract Requirements.) All cost associated with mobilization and demobilization of all dredge plant and dredge attendant plant will be included in the contract lump sum price for Mobilization and Demobilization, Item No. 1. This shall include any and all costs to adapt, modify, reconstruct, and/or reconfigure the dredge plant and/or the attendant plant to such a configuration capable of conducting this contract work. No separate payment shall be made for any such configuration preparations and payment of this Bid Item is considered complete compensation for such actions.

22.2. Excavation (Bid Item No. 2.): 100% Pay time (Bid Item No. 2.) shall begin on the date and hour when the dredge actually commences dredging operations (defined as shoal

material moving through pump and deposited into the hopper) on the initial assignment. There is no eligible 70% Pay Time or 40% Pay Time prior to eligible 100% Pay Time (Bid Item No. 2.). The actual number of hours of work required may be more or less than the estimated amount shown in the contract. Payment for work on an assignment will stop upon completion of the work assignment as determined by the Authorized Representative of the Contracting Officer.

22.2.1. 100% Pay Time (Bid Item No. 2.): Actual time of dredging when the dredge is under operation, with the dredge's pump system satisfactorily moving material, and such material is being properly deposited into the hopper. This item will include applicable turning time that facilitates loadings operations at the shoal (dredging) assignment. Also time involved in round trip transport of material from location of excavation to and through the disposal site and back to the excavation location or new assigned location if so directed by the Government; the dumping process (dropping of hopper load into D/A) will be included in the payment under this bid item. During the movement periods, the Contractor shall at all times maintain the average operating strengths of each watch and be ready to commence preparing the dredge before and after a movement between work locations. Payment will be made monthly at the contract price per hour calculated to the nearest one sixtieth (1/60) hour.

22.2.2. 70% Pay Time: The following time will be paid for monthly at 70% of the contract price per hour calculated to the nearest one sixtieth (1/60) hour:

a. Actual time lost due to traffic in ALL areas. This excessive time shall be calculated by using the following method.

Subtract the reduced speed from the full speed to determine the reduction in speed. Multiply the reduction in speed by the duration of the reduction and divide the resulting distance by the full speed of the dredge to calculate the time lost. The full speed rate and the reduced speed rate can be obtained either by using the silent inspector data and/or the mate's noted observations.

b. Also actual time lost up to but not in excess of four hours due to dredge shut-downs authorized by the Contracting Officer, for the purpose of replacing the pump impeller with either a different diameter impeller or an impeller of a different number of vanes than that of the impeller being used. The intent of payment for delays authorized by the Contracting Officer to permit the Contractor to change pump impellers is to obtain the greatest efficiency of pump operations under changing conditions, such as, varying materials, but it is not the intent to pay for replacing worn out impellers or impellers that have lost their efficiency because of wear of either impellers or pump liners.

c. Actual time lost due to removal of logs, driftwood, etc. from the draghead, pump, pipeline, etc.

d. Actual time for moving between work assignment locations will be made under this bid item and will continue until material is passing through the pump(s) at

which time the payment will revert back to 100% payment for Bid Item No. 2. If moving to the new work assignment requires travel through the previous work assignment, 70% payment will begin at the north end of the previous work assignment until material is passing through the pump(s) at which time the payment will revert back to 100% payment for Bid Item No. 2., unless the new assignment is connected to the previous assignment. If moving to the new work assignment requires travel to a different project location (i.e. from Mobile Bay to Pascagoula Sound) then 70% payment will begin from the previous work assignment designated Disposal Area until material is passing through the pump(s) at which time the payment will revert back to 100% payment for Bid Item No. 2.

e. When weather conditions, i.e. fog, storm, hurricane, are of such intensity as to require cessation of dredging operations is further clarified hereby. If the cessation of dredging operations results in the dredge plant standing by at, or near, the work site (anchored) and the full crew remains on duty, then payment will continue at the 70% pay rate for the duration of the cessation. If the cessation of operations results in the dredge plant being moved to a point of dockage or safe harbor (if so directed by the Authorized Representative of the Contracting Officer) where the dredge is shut down except for a required fire watch and other minimum crew for necessary operations, then the payment will be: at the 70% pay rate, to and from the work area and designated dockage point, and at the 40% pay rate while at the dockage point. Payment for moving from the dredging location to the standby locations will be made at 70% of the effective dredging time payment. Pay for moving from the standby location back to the dredging location last performed on will be made at 70% of the effective dredging time payment.

f. Time lost when the dredge's speed is reduced due to adverse weather conditions. This excessive time shall be calculated as detailed for traffic delays in paragraph 22.2.2 a.

g. Time incurred during a successfully passed leak test as required by paragraph 16.2.e.

22.2.3 40% Pay Time: Lay time for the convenience of the Government. This may be a directed long term docking of the vessel by the Government for reasons other than that caused by the Contractor. Actual time lost due to circumstances uncontrollable by the Contractor. If the dredge is damaged, while on 40% pay time due to the weather conditions, the dredge will be placed on 0% pay time until the repairs are made and the dredge becomes fully operational at which time the dredge will be placed back on the applicable pay status.

Option Item No. 1

22.2.4. Mobilization and Demobilization (Bid Item No. 3): All cost associated with mobilization and demobilization of all necessary man power and equipment to perform trawling operations as described in the SECTION 01431 – ENVIRONMENTAL PROTECTION. For estimation purposes assume the mobilization site be the Mobile Bar Channel adjacent to the Sand Island Light House.

22.2.5 Sea Turtle/Gulf Sturgeon Trawling (Bid Item No. 4):

Payment will include all costs associated with providing the trawler, sea turtle/gulf sturgeon observers and all items necessary to comply with the specifications, all environmental permits and the Regional Biological Opinion.

22.2.6. Reduced Percentage of Payment: Should any portion of the dredge plant become inoperable with the dredge still able to operate at a reduced rate of performance, the hourly rate of payment will be reduced by the same percentage as the reduction in dredge performance as compared to the fully operational dredge performance. See section entitled "PLANT MANAGEMENT" for other provisions regarding time allowed for repair.

22.2.7. 0% Pay Time : No Payment will be made for lay time after arrival at a new work location when such time is incurred at the direction of the Contractor's representative or when, through the negligence of the Contractor, part of the necessary equipment needed to prepare the plant before and after a given move is not available, no payment will be made for the period of delay.

- a. Time incurred during a failed leak test as required by paragraph 16.2.e.
- b. Time lost due to stoppage of work due to safety violations.
- c. Time of the complete cycle during which the material is placed outside of the assigned disposal area.

23. NAVIGATION AIDS: Navigation aids located within or near the areas required to be dredged will be removed, if necessary, by the U.S. Coast Guard in advance of dredging operations. The Contractor will notify the Contracting Officer of any aids which will be required to be relocated to facilitate dredging. The Contracting Officer will then request the U.S. Coast Guard to relocate the aids.

24. Quality Control:

24.1. Electronic positioning: While performing all excavation (dredging) work under this contract the contractor shall control the horizontal positioning of the dredge and make all required surveys with electronic positioning equipment. The dredges electronic positioning equipment shall be installed and operated at all times.

24.2. The contractor shall establish and maintain quality control for operations under this section to assure compliance with contractual requirements and maintain records of his quality control for qualification of survey personnel, and accuracy and completeness of required survey work, including but not limited to the following:

- a. Survey work shall be performed by survey personnel in accordance with "Manual of Survey Instructions", copies of which are available for review at the Mobile District Office. All responsibilities for accuracy, completeness and verification of survey

work so performed shall remain with the Contractor.

b. Daily reports shall be made by the Contractor for those days requiring surveying activity. Such reports shall be prepared using SAM Form 696, attached hereto. All reports shall be prepared daily and signed by the Contractor's authorized representative and submitted to the Government's representative on the next duty day following the surveying activity. Said reports shall include, but not be limited to: equipment used; location, description, and type work performed; inspections of said work; verbal instructions received and actions taken; safety; and causes for delays.

c. The Contractor shall be responsible for protection of all vegetation and/or property within surveying areas. Should any portion of said survey work require tree trimming, or in anyway, use of private property or facilities, specific written consent shall be obtained by the Contractor from the affected owner prior to said survey action.

d. All survey work is subject to periodic inspection and/or verification by the Government during or after such work. Should any portion of the surveys be found to be in error it shall be the responsibility of the Contractor, at no cost to the Government, to correct such errors. Presence of the Government representative on the work site does not release the Contractor of his responsibility for providing quality control of the required survey work and does not release the Contractor from the responsibility of taking necessary corrective action should errors be found. The determination of acceptable and unacceptable dredged channel remains the responsibility of the Authorized Representative of the Contracting Officer.

24.3. All surveys for open water disposal areas, baselines, hydroranges, cutting ranges and all other necessary survey work are to be performed by standard survey methods as referenced in Paragraph 24.2.a. Soundings shall be made at such intervals specified by the Government and to an accuracy of 0.5 foot. Tide will be observed and recorded every half hour, in addition to the beginning and ending of the survey. Tide heights will be read and recorded to the nearest 0.1 foot. All baselines and all markers, whether land or water based, shall be tied to existing land based survey markers using channel center line coordinates furnished by the Government. Then such survey work shall be clearly and completely recorded in standard field books, and shall be made available for inspection and/or verification by representatives of the Government. Said books shall, upon or before completion of the requirements of this contract, become the property of the Government. All poles, stakes, flagging, books, and/or other survey materials shall be furnished by the Contractor.

25. TASK ORDERS, DELIVERY, COMMENCEMENT, PROSECUTION AND COMPLETION OF WORK:

a. Task Orders will be issued continuously, however, after the dredge has been released, additional task orders may be issued if the dredge is available for additional work.

b. In the event that the Contractor has a conflict of schedules due to other Government contracts either with this district or other Corps districts, the Contracting Officer may elect to allow a substitute dredge to perform work during the interim time prior to the arrival of the originally proposed dredge. This substitution will only be allowed if the substitute dredge meets all the requirements of this solicitation and it is determined that the substitution is in the best interest of the Government. Any substitution will be by contract modification and the Contractor may experience delays or down time as a result of the required modification process. Any delay will be at the contractor's expense. There will be no increase in contract price by said modification but the unit hourly rate may be adjusted by the percentage variation between the evaluation chart's hours for each dredge as listed in the contract. The Contractor is still required to meet both the percentages stated in the paragraph entitled Performance of Work by the Contractor and the commencement and prosecution times stated below.

c. The Government reserves the right to suspend operations whenever, in the opinion of the Contracting Officer, conditions will make dredging operations and disposal impracticable or uneconomical. If during the period of suspension ordered by the Contracting Officer, the dredge and attendant plant are removed at the convenience of the Contractor from the site of assignment from which operations were suspended, the plant shall be returned to operations under the contract within ten (10) calendar days after receipt by the Contractor of notice to resume operations.

d. In the event of suspension as outlined in subparagraph "b" above, the dredge and attendant plant shall not be removed from the site of work or from the area in which standing by, unless expressly consented to by the Contracting Officer.

e. Failure of the Contractor to comply with the requirements of the contract specifications will be cause for termination for default. Termination for default will be immediate, by written notice.

26. POTABLE WATER:

Testing of all potable water storage facilities and dispensing systems with a storage capacity of ten or more gallons, will be conducted by an independent testing laboratory approved by the Contracting Officer as follows:

- a. Prior to the commencement of work.
- b. Minimum of monthly, after start of work for the duration of the contract.
- c. After any repairs or modifications are made to the potable water storage or dispensing systems.
- d. After any intake of potable water into the storage system.

All samples shall meet state and local water quality standards for potable water. A copy of all test results will be forwarded to the Contracting Officer within seven working days for his review.

In the event a tested sample fails to meet state and local water quality standards, all dispensing outlets connected to the failing water storage shall be labeled as non-potable and other means of potable water shall be obtained until water quality can be provided to meet the required standards.

To insure potable water maintains water quality standards all portable potable water dispensing units shall be checked daily for cleanliness. All hoses used in the transfer of potable water shall be conspicuously marked and kept in such a manner as to keep them from being contaminated. These hoses shall be used for potable water transfer only.

27. PERFORMANCE EVALUATION OF CONTRACTOR :

As a minimum, the Contractor's performance will be evaluated upon final acceptance of the work. However, interim evaluation may be prepared at any time during contract performance when determined to be in the best interest of the Government.

The format for the evaluation will be Standard Form 1420, and the Contractor will be rated either outstanding, satisfactory, or unsatisfactory in the areas of Contractor Quality Control, Timely Performance, Effectiveness of Management, Compliance with Labor Standards, and Compliance with Safety Standards. The Contractor will be advised of any unsatisfactory rating, either in an individual element or in the overall rating, prior to completing the evaluation, and all Contractor comments will be made a part of the official records. Performance Evaluation Reports will be available to all DOD Contracting offices for their future use in determining Contractor responsibility, in compliance with DFARS 36.201(c)(1).

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SECTION 01330

SUBMITTAL PROCEDURES 03/01

PART 1 GENERAL

1.3 SUBMITTAL IDENTIFICATION (SD)

SD-01 Preconstruction Submittals

- Certificates of insurance.
- Surety bonds.
- List of proposed subcontractors.
- List of proposed products.
- Construction Progress Schedule.
- Submittal schedule.
- Schedule of values.
- Health and safety plan.
- Work plan.
- Quality control plan.
- Environmental protection plan.

SD-02 Shop Drawings

Drawings, diagrams and schedules specifically prepared to illustrate some portion of the work.

Diagrams and instructions from a manufacturer or fabricator for use in producing the product and as aids to the contractor for integrating the product or system into the project.

Drawings prepared by or for the contractor to show how multiple systems and interdisciplinary work will be coordinated.

SD-03 Product Data

Catalog cuts, illustrations, schedules, diagrams, performance charts, instructions and brochures illustrating size, physical appearance and other characteristics of materials or equipment for some portion of the work.

Samples of warranty language when the contract requires extended product warranties.

SD-04 Samples

Physical examples of materials, equipment or workmanship that illustrate functional and aesthetic characteristics of a material or product and establish standards by which the work can be judged.

Color samples from the manufacturer's standard line (or custom color samples if specified) to be used in selecting or approving colors for the project.

Field samples and mock-ups constructed on the project site establish standards by which the ensuring work can be judged. Includes assemblies or portions of assemblies which are to be incorporated into the project and those which will be removed at conclusion of the work.

SD-05 Design Data

Calculations, mix designs, analyses or other data pertaining to a part of work.

SD-06 Test Reports

Report signed by authorized official of testing laboratory that a material, product or system identical to the material, product or system to be provided has been tested in accord with specified requirements. (Testing must have been within three years of date of contract award for the project.)

Report which includes findings of a test required to be performed by the contractor on an actual portion of the work or prototype prepared for the project before shipment to job site.

Report which includes finding of a test made at the job site or on sample taken from the job site, on portion of work during or after installation.

Investigation reports

Daily checklists

Final acceptance test and operational test procedure

SD-07 Certificates

Statements signed by responsible officials of manufacturer of product, system or material attesting that product, system or material meets specification requirements. Must be dated after award of project contract and clearly name the project.

Document required of Contractor, or of a supplier, installer or subcontractor through Contractor, the purpose of which is to further quality of orderly progression of a portion

of the work by documenting procedures, acceptability of methods or personnel qualifications.

Confined space entry permits.

SD-08 Manufacturer's Instructions

Preprinted material describing installation of a product, system or material, including special notices and Material Safety Data sheets concerning impedances, hazards and safety precautions.

SD-09 Manufacturer's Field Reports

Documentation of the testing and verification actions taken by manufacturer's representative to confirm compliance with manufacturer's standards or instructions.

Factory test reports.

SD-10 Operation and Maintenance Data

Data intended to be incorporated in operations and maintenance manuals.

SD-11 Closeout Submittals

Documentation to record compliance with technical or administrative requirements or to establish an administrative mechanism.

As-built drawings.

Special warranties.

Posted operating instructions.

Training plan.

1.2 SUBMITTAL CLASSIFICATION

Submittals are classified as follows:

1.2.1 Government Approved

Governmental approval is required for extensions of design, critical materials, deviations, equipment whose compatibility with the entire system must be checked, and other items be designated by the Contracting Officer. Within the terms of the Contract Clause entitled "Specifications and Drawings for Construction," they are considered to be "shop drawings".

1.2.2 Information Only

All submittals not requiring Government approval will be for information only. They are not considered to be "shop drawings" within the terms of the Contract Clause referred to above.

1.3 APPROVED SUBMITTALS

The Contracting Officer's approval of submittals shall not be construed as a complete check, but will indicate only that the general method of construction, materials, detailing and other information are satisfactory. Approval will not relieve the Contractor of the responsibility for any error which may exist, as the Contractor under the CQC requirements of this contract is responsible for dimensions, the design of adequate connections and details, and the satisfactory construction of all work. After submittals have been approved by the Contracting Officer, no resubmittal for the purpose of substituting materials or equipment will be considered unless accompanied by an explanation of why a substitution is necessary.

1.4 DISAPPROVED SUBMITTALS

The Contractor shall make all corrections required by the Contracting Officer and promptly furnish a corrected submittal in the form and number of copies specified for the initial submittal. If the Contractor considers any correction indicated on the submittals to constitute a change to the contract, a notice in accordance with the Contract Clause "Changes" shall be given promptly to the Contracting Officer.

1.5 WITHHOLDING OF PAYMENT

Payment for materials incorporated in the work will not be made if required approvals have not been obtained.

PART 2 PRODUCTS (NOT APPLICABLE)

PART 3 EXECUTION

3.1 GENERAL

The Contractor shall make submittals as required by the specifications. The Contracting Officer may request submittals in addition to those specified when deemed necessary to adequately describe the work covered in the respective sections. Units of weights and measures used on all submittals shall be the same as those used in the contract drawings. Each submittal shall be complete and in sufficient detail to allow ready determination of compliance with contract requirements. Prior to submittal, all items shall be checked and approved by the Contractor's Quality Control (CQC) representative and each item shall be stamped, signed, and dated by the CQC representative indicating action taken. Proposed deviations from the contract requirements shall be clearly identified. Submittals shall include items such as: Contractor's, manufacturer's, or fabricator's drawings; descriptive literature including (but not limited to) catalog cuts, diagrams, operating charts or curves; test reports; test cylinders;

samples; O&M manuals (including parts list); certifications, warranties; and other such required submittals. Submittals requiring Government approval shall be scheduled and made prior to the acquisition of the material or equipment covered thereby. Samples remaining upon completion of the work shall be picked up and disposed of in accordance with manufacturer's Material Safety Data Sheets (MSDS) and in compliance with existing laws and regulations.

3.2 SUBMITTAL REGISTER

At the end of this section is a listing of items identified in the specifications as requiring submittals. The list is not all inclusive and additional submittals may be required by other parts of the contract. The contractor is required to complete the attached submittal form and submit to the Contracting Officer for approval within 30 calendar days after Notice to Proceed. The approved submittal register will serve as a scheduling document for submittals and will be used to control submittal actions throughout the contract period. The submit dates and need dates used in the submittal register shall be coordinated with dates in the contractor prepared progress schedule. Updates to the submittal register showing the contractor action codes and actual dates with government action codes and actual dates shall be submitted monthly or until all submittals have been satisfactorily completed. When the progress schedule is revised, the submittal register shall also be revised and both submitted for approval.

3.3 SCHEDULING

Submittals covering component items forming a system or items that are interrelated shall be scheduled to be coordinated and submitted concurrently. Certifications to be submitted with the pertinent drawings shall be so scheduled. Adequate time (a minimum of 30 calendar days exclusive of mailing time) shall be allowed and shown on the register for review and approval. No delay damages or time extensions will be allowed for time lost in late submittals. An additional 15 calendar days shall be allowed and shown on the register for review and approval of submittals for food service equipment and refrigeration and HVAC control systems and 30 additional days for review of systems furniture, interior design packages and color boards.

3.4 TRANSMITTAL FORM (ENG FORM 4025)

The sample transmittal form (ENG FORM 4025) attached to this section shall be used for submitting both Government approved and information only submittals in accordance with the instructions on the reverse side of the form. These forms will be furnished to the Contractor. These form shall be properly completed by filling out all the heading blank spaces and identifying each item submitted. Special care shall be exercised to ensure proper listing of the specification paragraph and/or sheet number of the contract drawings pertinent to the data submittal for each item.

3.5 SUBMITTAL PROCEDURES

Submittals shall be made as follows:

3.5.1 Procedures

Detailed submittal procedures will be further discussed with the contractor at the pre-construction conference.

3.5.2 Deviations

For submittals which include proposed deviations requested by the Contractor, the column "variation" of ENG Form 4025 shall be checked. The Contractor shall set forth in writing the reason for any deviations and annotate such deviations on the submittal. The Government reserves the right to rescind inadvertent approval of submittals containing unnoted deviations.

3.6 CONTROL OF SUBMITTALS

The Contractor shall carefully control his procurement operations to ensure that each individual submittal is made on or before the Contractor scheduled submittal date shown on the approved "Submittal Register."

3.7 GOVERNMENT APPROVED SUBMITTALS

Upon completion of review of submittals requiring Government approval, the submittals will be identified as having received approval by being so stamped and dated. 4 copies of the submittal will be retained by the Contracting Officer and 2 copies of the submittal will be returned to the Contractor.

3.8 INFORMATION ONLY SUBMITTALS

Normally submittals for information only will not be returned. Approvals of the Contracting Officer is not required on information only submittals. The Government reserves the right to require the Contractor to resubmit any item found not to comply with the contract. This does not relieve the Contractor from the obligation to furnish material conforming to the plans and specifications; will not prevent the Contracting Officer from requiring removal and replacement of nonconforming material incorporated in the work; and does not relieve the Contractor of the requirement to furnish samples for testing by the Government in those instances where the technical specification so prescribe.

3.9 STAMPS

Stamps used by the Contractor on the submittal data to certify that the submittal meets contract requirements shall be similar to the following:

CONTRACTOR	
(Firm Name)	
_____ Approved	
_____ Approved with corrections as noted on submittal data and/or attached sheets(s).	
SIGNATURE: _____	
TITLE: _____	
DATE: _____	

-- End of Section --

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MOBILE HARBOR

SECTION 01 57 20.00 10

ENVIRONMENTAL PROTECTION 09/08

PART 1 GENERAL

1.1 APPLICABLE REGULATIONS

The Contractor and their subcontractors in the performance of this contract, shall comply with all applicable Federal, state, and local laws and regulations concerning environmental pollution control and abatement, all applicable provisions of the Corps of Engineers Manual, EM 385-1-1, entitled "Safety and Health Requirements", in effect on the date of solicitation, and the specific requirements stated elsewhere in the contract specifications.

1.2 SCOPE

The work covered by this section consists of furnishing all labor, materials and equipment, and performing all work required for the prevention of environmental pollution during the dredging activities for the Mobile Harbor project, except for those measures set forth in other Technical Provisions of these specifications. For the purpose of this specification, environmental pollution is defined as: a) the presence of chemical, physical, or biological elements or agents that adversely affect human health or welfare; b) unfavorably alter ecological balances; c) affect other species of designated importance of man; or d) degrade the utility of the environment for aesthetic and recreational purposes. The control of environmental pollution requires consideration of air, water, and land, and involves noise control, solid waste management, as well as control of other pollutants.

1.3 SUBCONTRACTORS

The Contractor and their subcontractors shall comply with all requirements under the terms and conditions set out in the permits or certifications issued by the Alabama Department of Environmental Management (ADEM) and in compliance with the provisions of the Contract and applicable Federal, state, and local environmental laws and regulations. Compliance with the provisions of this section by subcontractors shall be the responsibility of the Contractor.

a. The Contractor shall submit an Environmental Protection Plan, in accordance with provisions as specified.

b. The Contractor shall record on daily reports any problems in complying with laws, regulations and ordinances and corrective action taken.

c. The Contractor shall prepare a listing of resources needing protection (i.e., upland vegetation, wetlands, oyster reefs, submerged aquatic vegetation, air quality, noise levels, surface and groundwater quality, fish and wildlife, historical, archeological and cultural resources) within authorized work areas.

d. The Contractor shall prepare a pollution prevention plan that identifies all potentially hazardous substances on the job site and the intended actions to be taken to prevent the accidental or intentional introduction of such materials into the air, the water or the ground.

e. The Contractor shall set out the procedures to be followed to correct pollution of the environment due to accident, natural causes or failure to follow the procedures identified in the environmental protection plan.

f. The Contractor shall keep dredging and placement activities under surveillance and shall exercise all necessary controls to minimize damage to the environment by noise from equipment and various activities. Areas that have noise levels greater than 85-dB continuously or 140-dB peak (unweighted) impulse must be designated as noise hazardous areas. These work areas must have caution signs displayed at the perimeter of the noise area indicating the presence of hazardous noise levels and requiring the use of hearing protection devices.

g. The Contractor shall detail special provisions taken to meet Federal, state, and local laws and regulations regarding the storage and handling of solid and hazardous waste materials.

1.4 PAYMENT

No separate payment will be made for work covered under this section and all costs in connection therewith will be considered a subsidiary obligation of the Contractor and covered under the contract unit and/or lump sum prices in the Bidding Schedule.

1.5 ENVIRONMENTAL PROTECTION PLAN

Prior to commencement of the work, the Contractor shall, after receipt of Notice of Award of the Contract and at least 7 days prior to the Preconstruction Conference, submit in writing the above Environmental Protection Plan, and shall meet with representative(s) of the Contracting Office to develop mutual understanding relative to compliance with this provision and administration of the environmental protection program.

1.6 NOTIFICATION

The Contracting Officer will notify the Contractor in writing of any observed noncompliance with Federal, State or local environmental laws or regulations, permits, and other elements of the Contractor's Environmental Protection plan. The Contractor shall, after receipt of such notice, inform the Contracting Officer of the proposed

corrective action and take such action when approved by the Contracting Officer. The Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No time extensions shall be granted or equitable adjustments allowed to the Contractor for any such suspensions. This is in addition to any other actions the Contracting Officer may take under the contract, or in accordance with the Federal Acquisition Regulation or Federal Law.

PART 2 PRODUCTS (NOT USED)

PART 3 EXECUTION

3.1 PROTECTION OF WATER RESOURCES

The Contractor shall not pollute any water bodies including streams, lakes, bays, estuaries, or other marine or fresh waters with fuels, oils, acids, or any other harmful materials. It is the responsibility of the Contractor to investigate and comply with all applicable Federal, state, county, and municipal laws concerning water pollution. The discharge of plastics of any kind within estuarine or marine waters is strictly prohibited. All work under this contract shall also be performed in such a manner that objectionable conditions will not be created in proximity to the project areas.

a. The Contracting Officer will designate the proposed areas for excavation and the location of approved placement areas. No other areas are approved for the placement or excavation of material.

b. The Contractor shall comply with all turbidity and monitoring standards and other conditions set forth in the water quality standards as specified by the Alabama Department of Environmental Management (ADEM). The Government will monitor turbidity (NTU's) in the work area throughout the life of the contract to ensure that the Contractor complies with the permit requirements. If turbidity at the beach placement site exceeds 50 NTUs above background levels outside the prescribed mixing zones, as specified in the permit, the contractor shall cease activities until corrective actions have been taken and turbidity levels have returned to within compliance levels. Should work stoppage occur, the Contractor shall immediately notify the Contracting officer.

c. Special measures shall be taken to prevent chemicals, fuels, oils, and greases at the beach placement site or along the pipeline from entering area waters, at all times.

d. Contractor shall maintain best Management Practices (BMPs) at all times during operations to minimize turbidity at both the dredge and placement sites.

e. Discharge of any pollutant into the watercourse is strictly prohibited, except as otherwise specified or allowed in other sections of the Technical Specifications.

f. Wastewater shall be processed, filtered, ponded, or otherwise treated prior to their release from project area into waterways.

g. All dredging equipment must have approved marine sanitation devices. Staging areas must have approved onsite wastewater treatment facilities.

3.2 RECORDING AND PRESERVING HISTORICAL AND ARCHEOLOGICAL FINDS

All items having any apparent historical or archeological interest, which are discovered in the course of any removing of material and placement activities shall be carefully preserved. The Contractor shall leave the archaeological find undisturbed and immediately report the find to the Contracting Officer and the Mobile District Archeological Staff (attn: Mr. Joseph A Giliberti, PD-EI 251-694-4114) so the proper authorities may be notified. Existing historical, archeological and cultural resources within the Contractor's work area will be so designated by the Contracting Officer. All activities associated with these resources shall be coordinated through the Mobile District Archeological Staff (attn: Mr. Joseph A Giliberti, PD-EI 251-694-4114).

3.3 PROTECTION OF LAND RESOURCES

The environmental resources within the project boundaries and those outside the limits of permanent work under this contract shall be protected during the entire period of this contract. The Contractor shall confine their activities to areas defined by the drawings and specifications. The Contractor shall perform a preconstruction survey, which includes but is not limited to photographs, and provide this to the Contracting Officer prior to dredging and placement activities.

a. It is intended that the land resources outside the limits of permanent work completed under this contract be preserved in their present condition or be restored to natural conditions, after completion of dredging and placement activities.

b. The Contractor's field offices, staging areas, stockpile storage, and temporary buildings shall be placed in an area approved by the Contracting Officer. The Contracting Officer shall approve all temporary movement or relocation of Contractor facilities.

c. The Contractor shall be required to maintain all work areas within or without the project boundaries free from dust that would cause a hazard or nuisance to others.

d. The Contractor shall obliterate all signs of temporary support facilities such as haul roads, work areas, structures, foundations of temporary structures, or any other vestiges of activities as directed by the Contracting Officer.

e. The Contractor shall construct or install all temporary and permanent erosion and sedimentation control features at the placement site and along the pipeline route.

f. Solid wastes (excluding clearing debris) includes any waste generated by the Contractor which meets the most complete definition of solid waste as described by Federal, state and local laws and regulations. Solid waste shall be placed in containers

that are emptied on a regular schedule. All handling and disposal shall be conducted to prevent spillage and contamination.

g. Hazardous waste shall be stored, removed from the work area and disposed of in accordance with Federal, state and local laws and regulations.

h. The Contractor shall use drainage ditches, low ground pressure equipment, matting, geogrids, and/or other types of soil reinforcement as necessary to enable vehicle traffic and other activity.

3.4 PROTECTION OF FISH AND WILDLIFE

The Contractor shall at all times perform all work and take such steps required to prevent any significant interference or disturbance (as determined by the Contracting Officer) to fish and wildlife.

a. The Contractor will not be permitted to alter water flows or otherwise disturb native habitats adjacent to the project area, which, in the opinion of the Contracting Officer or their appointed representative, are critical to fish or wildlife. Fouling or polluting of water will not be permitted.

b. The Contractor must perform all work within compliance specifications of the permit issues by the Alabama Department of Environmental Management (ADEM).

c. Threatened and Endangered Species: The Contractor shall take all necessary precautions to ensure that activities conducted during the course of this project do not adversely impact listed threatened and endangered species. The Contractor shall instruct all personnel associated with the project of the potential presence of manatees, sea turtles, and Gulf sturgeon in the area, and the need to avoid collisions with and harming these animals. All construction personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing manatees, sea turtles, Gulf sturgeon, dolphins or whales; or destroying or adversely modifying critical habitat of these species which are protected under the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and/or the Florida Manatee Sanctuary Act. The Contractor must take special precautions to ensure adequate protection for wildlife resources.

(1) The Contractor shall adhere to all Federal, state, and local laws and regulations including the 2003 NMFS Gulf Regional Biological Opinion (GRBO) and subsequent amendments.

(2) The Contractor shall coordinate all activities associated with these resources with the Coastal Environment Team, Mobile District (attn: Ms. Jenny Jacobson, PD-EC at 251-690-2724 or Mr. Larry Parson, PD-EC at 251-690-3139).

(3) If any threatened or endangered species is taken, construction activities shall cease immediately and the following individuals shall be notified: (a) The Contracting Officer

or appointed representative (b) Ms. Jenny Jacobson, U.S. Army Corps of Engineers, PD-EC at 251-690-2724 or Mr. Parson, U.S. Army Corps of Engineers, PD-EC at 251-690-3139.

d. Protection of Manatee:

(1) Manatee Sighting: If a manatee(s) is sighted within 100 yards of the project area, all appropriate precautions shall be implemented by the Contractor to ensure protection of the manatee. These precautions shall include the operation of all moving equipment no closer than 50 feet of a manatee. If a manatee is closer than 50 feet to moving equipment or the project area, the equipment shall be shut down and all construction activities shall cease within the waterway to ensure protection of the manatee. Construction activities shall not resume until the manatee has departed the project area. Animals must not be herded away or harassed into leaving. If construction activity shall cease, the Contractor shall notify the Contracting Officer.

(2) Manatee Signs: Prior to commencement of construction, each vessel involved in construction activities shall display at the vessel control station or in a prominent location, visible to all employees operating the vessel, a temporary sign at least 8-1/2" x 11" reading, "CAUTION: MANATEE HABITAT/IDLE SPEED IS REQUIRED IN CONSTRUCTION AREA." In the absence of a vessel, a temporary 3' x 4' sign reading "CAUTION: MANATEE AREA" shall be posted adjacent to the issued construction permit. A second temporary sign measuring 8-1/2" x 11" reading "CAUTION: MANATEE HABITAT. IDLE SPPED IS REQUIRED IF OPERATIING A VESSEL IN THE CONSTRUCTION AREA. ALL EQUIPMENT MUST BE SHUTDOWN IMMEDIATELY IF A MANATEE COMES WITHIN 50 FEET OF OPERATION. ALL COLLISIONS WITH AND/OR INJURY TO A MANATEE SHALL BE REPORTED IMMEDIATELY TO THE USFWS IN DAPHNE (251-441-5181)." shall be posted at the dredge operator control station and at a location prominently adjacent to the issued construction permit. The Contractor shall remove the signs upon completion of construction.

(3) Manatee Sighting Reports: Any collisions with a manatee or sighting of any injured or incapacitated manatee shall be reported immediately to the Contracting Officer or their appointed representative.

(4) Report Submission: The Contractor shall maintain a log detailing sightings, collisions, or injuries to manatees occurring during the contract period. All data in original form shall be forwarded directly to the Mobile District, Planning and Environmental Division, Coastal Environment Team, P.O. Box 2288 Mobile, Alabama 36628-0001, (Attn: Ms. Jenny Jacobson) and the Area Engineer within 10 days of collection.

e. Protection of Sea Turtles and Gulf Sturgeon - Hopper Dredging Only: the Contractor shall implement the following conditions:

(1) Observers: The contractor shall supply NMFS-approved protected species observers to be aboard the hopper dredges to monitor the hopper dredged material, screening, and dragheads for sea turtles and Gulf sturgeon and their remains. Observer coverage shall be 100 percent (24 hr/day). During transit to and from the placement area, the observer shall monitor from the bridge during daylight hours for the presence of endangered species. During dredging operations, while dragheads are submerged, the observer shall continuously monitor the inflow and/or overflow screening for turtles and Gulf sturgeon and/or parts of these species. Upon completion of each load cycle, dragheads should be monitored as the draghead is lifted from the sea surface and is placed on the saddle in order to assure that any sea turtle that may be impinged is not lost or un-accounted for. Observers shall physically inspect dragheads and inflow and overflow screening/boxes for threatened and endangered species takes.

(2) The contractor shall provide a digital camera, with an image resolution capability of 300 dpi, in order to photographically report all incidental sea turtle and Gulf sturgeon takes during dredging operations. Immediately following an incidental take of a sea turtle or Gulf sturgeon, images shall be provided, via CD or DVD, to the Contracting Officer or their appointed representative in a .JPG or .TIF format and shall accompany load data and incidental take forms (Samples of all Endangered Species Observers Forms, including the load data and Incidental take forms are provided on the following link: <http://el.erdc.usace.army.mil/seaturtles/docs/observerforms.pdf>). The nature of findings shall be fully described in the incidental take forms including references to photographs.

(3) Screening: Sea turtle observers are required on hopper dredges and shall provide for 100% inflow screening of dredged material; 100% overflow screening is recommended. If conditions prevent 100% inflow screening, inflow screening may be reduced gradually, as further detailed in the following paragraph, but 100% overflow screening is then required.

(4) Screen Size: The hopper's inflow screens shall have 4-inch by 4-inch screening. If the Contracting Officer, in consultation with observers and the draghead operator, determines that the draghead is clogging and reducing production substantially, the screens may be modified sequentially: mesh size may be increased to 6-inch by 6-inch, then 9-inch by 9-inch, then 12-inch by 12-inch openings. Further clogging may compel removal of the screening altogether, in which case effective 100% overflow screening would be required. The Contactor Officer will consult with the NMFS (Mr. Eric Hawk 727-551-5773) and notify the Mobile District Coastal Environmental Team (Ms. Jenny Jacobson 251-690-2724) prior to the reductions in screening. The Contactor shall provide an explanation for such reduction in the dredging report.

(5) Dredging Pumps: Standard operating procedure shall be that dredging pumps are disengaged by the operator when the dragheads are not firmly on the bottom, to prevent impingement or entrainment of sea turtles within the water column.

(6) Sea Turtle Deflector Requirements:

(i) Sea Turtle Deflecting Draghead: A state-of-the-art rigid deflector draghead must be used on all hopper dredges in all Gulf of Mexico channels and sand mining sites at all times of the year and shall be installed while performing hopper dredging operations under this contract. The contractor shall submit drawings showing the proposed sea turtle deflector device and its attachment to the equipment being used. Drawings submitted shall include the approach angle for any and all depths to be dredged during the dredging. A copy of the approved drawings and calculations shall be available on the vessel during the dredging.

(ii) Hopper Dredge Equipment: Hopper dredge drag heads shall be equipped with rigid sea turtle deflectors, which are rigidly attached. No dredging shall be performed by the hopper dredge without a turtle deflector device that has been approved by the Contracting Officer (CO). A detailed design of a turtle deflector can be viewed at <http://www.saj.usace.army.mil/pd/turtle.htm>.

(iii) Deflector Design: The leading v-shaped portion of the deflector shall have an included angle of less than 90 degrees. Internal reinforcement shall be installed in the deflector to prevent structural failure of the device. The leading edge of the deflector shall be designed to have a plowing effect of at least 6" depth when the drag head is being operated. Appropriate instrumentation or indicator shall be used and kept in proper calibration to insure the critical "approach angle."

If adjustable depth deflectors are installed, they shall be rigidly attached to the drag head using either a hinged aft attachment point or an aft trunnion attachment point in association with an adjustable pin front attachment point or cable front attachment point with a stop set to obtain the 6" plowing effect. This arrangement allows fine-tuning the 6" plowing effect for varying depths. After the deflector is properly adjusted there shall be NO openings between the deflector and the drag head that are more than 4" by 4".

(7) Training - Personnel on Hopper Dredges: The USACE may, as necessary, conduct thorough training on measures of dredge operation that will minimize takes of sea turtles and Gulf sturgeon. It shall be the goal of each hopper dredging operation to establish operating procedures that are consistent with those that have been used successfully during hopper dredging in other regions of the coastal United States, and which have proven effective in reducing turtle/dredge interactions.

(8) Monitoring Reports: The results of the monitoring shall be recorded on the appropriate observation forms (Samples of all Endangered Species Observers Forms are provided on the following link: <http://el.erdc.usace.army.mil/seaturtles/docs/observerforms.pdf>). Observation forms shall include a daily report sheet and a weekly summary sheet. Observation sheets shall be completed regardless of whether any takes occur. Electronic copies of all data in its original form shall be forwarded to the Mobile District Coastal Environment Team (Attn: Ms. Jenny Jacobson; fax number 251-690-2727 or e-mail Jennifer.L.Jacobson@sam.usace.army.mil) within 10 days of collection. Copies of forms submitted shall be legible with a minimum of smudges or blackened areas.

f. Sea Turtle and Gulf Sturgeon Trawling and Relocation – Trawling and relocation shall be conducted during Hopper Dredging within Mobile Bay Bar Channel unless otherwise directed by the Contracting Officer. The Contractor shall implement the following Trawling and Relocation conditions:

(1) Trawling Requirements: Relocation trawling shall be conducted to remove sea turtles and Gulf sturgeon from the dredging area(s) during dredging to help prevent entrainment by the dredge. Methods and equipment shall be standardized including data sheets, nets, trawling direction to tide, length of station, length of tow, and number of tows per station. Data on each tow shall be recorded in on Trawling Report form (sample forms are provided on the following link:

<http://el.erdc.usace.army.mil/seaturtles/docs/trawlingforms.pdf>). The trawler shall be equipped with 60-foot nets constructed from 8-inch mesh (stretch) fitted with mud rollers and flats as specified in the Turtle Trawl Nets Specifications appended to the end of this Section. Paired net tows shall be made for 12 hours per day or night, as directed by the Contracting Officer or their appointed representative. The tows shall be performed in shifts, to be determined by the Contracting Officer or their appointed representative. The trawler shall be available for operation 24 hours a day. If two (2) separate trawlers are required, they shall operate side-by-side, as much as practicable. If multiple dredges are utilized, the trawler(s) shall be used for each dredge actively performing dredging operations. If the dredging operations are coordinated so that only one (1) dredge is actively dredging, trawler(s) shall be required for only that dredge. If dredging operations cease for a period of 12 hours or more, relocation trawling shall be conducted for a minimum of 4 hours prior to resuming dredging operations. The trawler(s) shall be positioned ahead of the hopper dredge and as close to the hopper dredge as safely possible to give maximum coverage ahead of the dredging cut. The dredge and trawler(s) shall work closely together to implement techniques and procedures that will minimize the opportunity for turtles and Gulf sturgeon to enter the dredging path between the trawler(s) and dredge. **NOTE: ALL TRAWLING ACTIVITIES, VESSELS AND EQUIPMENT SHALL COMPLY WITH THE CONTRACTOR'S ACCIDENT PREVENTION PLAN AND THE REQUIREMENTS OF EM 385-1-1, U.S. ARMY CORPS OF ENGINEERS SAFETY AND HEALTH REQUIREMENTS MANUAL.** Trawling shall be conducted with and against the tidal flow at a speed between 2.5 to 3.5 knots using repetitive 15- to 42-minute (total time) trawls in the work area. Trawl tow-time duration shall not exceed 42 minutes (doors in - doors out) and trawl speeds shall not exceed 3.5 knots. If any lethal turtle takes occur during trawling duration greater than 30 minutes, then trawling time shall be reduced to not exceed 30 minute duration. Positions at the beginning and end of each tow shall be determined from the Global Positioning System (GPS) equipment. Tow speed shall be recorded at the approximate midpoint of each tow. Acceptable GPS criteria shall be in accordance with EM 1110-1-1003, paragraph 5.3 and Table 5-1. This EM 1110-1-1003 can be located at the following website: <http://www.hnd.usace.army.mil/techinfo> or can be purchased directly from the Government Printing Office by calling (202) 512-1800. The postal address is Superintendent of Documents, P. O. Box 371954, Pittsburgh, Pennsylvania 15250-7954 or on line at <http://bookstore.gpo.gov/>.

- (2) **Water Quality and Physical Measurements:** Water temperature measurements shall be taken at the water surface each day using a laboratory thermometer. Weather conditions shall be recorded from visual observations and instruments on the trawler. Weather conditions, air temperature, wind velocity and direction, sea state-wave height, and precipitation shall be recorded on the Trawling Report form (sample forms are provided on the following website: <http://el.erdc.usace.army.mil/seaturtles/index.cfm>). High and low tides shall be recorded.
- (3) **Approved Sea Turtle Trawling and Relocation Supervisor:** Trawling shall be conducted under the supervision of a crewmember that possesses the required permits for handling endangered species, experienced in sea turtle capture or is a NMFS-approved observer. A letter of approval from NMFS shall be provided to the Contracting Officer or their appointed representative prior to commencement of trawling.
- (4) **Repair and Replacement of Damaged Trawl Nets:** The Contractor, at the time of mobilization, shall provide trawl nets, which meet the requirements specified in the Turtle Trawl Net Specifications at the end of this section. Trawl nets that are damaged shall be repaired or replaced by the Contractor at no additional expense to the Government. Tools, supplies and materials for repairing nets shall be kept aboard the trawler. In the event of damage to trawl nets, one hour shall be allowed to either repair or replace them. The Contractor shall have at least one set of replacement nets immediately available at all times, to insure that the dredging work is not adversely delayed due to trawler down-time for replacing damaged nets. It is recommended that a second set of replacement nets be available aboard the trawler.
- (5) **Equipment Breakdown:** The contractor shall be placed in a non-pay status when trawling equipment breakdown is such that the trawler does not operate during the day. Pay time shall resume when trawling operations recommence.
- (6) **Suspension of Dredging and Relocation Trawling:** Should there be dangerously high seas that would cause the trawler to leave the dredging area when relocation trawling is required, the dredge may continue to operate, as long as no turtles or Gulf sturgeon are taken and subject to the discretion of the Contracting Officer.
- (7) **Turtle Excluder Devices:** Approval for trawling for sea turtles without Turtle Excluder Devices (TEDs) on hopper dredge dragheads must be obtained from NMFS (contact Eric Hawk at 727-551-5773). Any necessary State or Federal clearances for the capture and relocation of sea turtles shall also be obtained. Approvals shall be submitted to the Contracting Officer or their appointed representative prior to trawling.
- (8) **Handling During Trawling:** Sea turtles and sturgeon captured pursuant to relocation trawling shall be handled in a manner designed to ensure their safety and viability, and shall be released over the side of the vessel, away from the propeller, and only after ensuring that the vessel's propeller is in the neutral, or disengaged, position (i.e., not rotating). Resuscitation guidelines are located in Appendix IV of the GRBO.

(9) Captured Turtle and Gulf Sturgeon Holding Conditions: Turtles and Gulf sturgeon may be held briefly for the collection of important scientific measurements, prior to their release. Captured turtles shall be kept moist, and shaded whenever possible, until they are released, according to the requirements below. Captured Gulf sturgeon shall be held in a suitable well-aerated seawater enclosure until they are released according to the requirements below.

(i) Take and Release Time During Trawling - Turtles: Turtles shall be kept no longer than 12 hours prior to release and shall be released not less than three (3) nautical miles (nmi) from the excavation site. If two or more released turtles are later recaptured, subsequent turtle captures shall be released not less than (5) five nautical miles away. If it can be done safely and without injuries to the turtle, turtles may be transferred onto another vessel for transport to the release area to enable the relocation trawler to keep sweeping the dredge site without interruption. Minor skin abrasions resulting from trawl capture are considered non-injurious. Injured sea turtles shall be immediately transported to the nearest sea turtle rehabilitation facility. Observer(s), or their appointed representative(s), shall transport injured turtles to a rehabilitation facility as soon as possible. The NOAA Fisheries-approved turtle transporters shall be used for this purpose.

FLORIDA (partial list)

Clearwater Aquarium
249 Windward Passage
Clearwater, FL 33767
Tel. 727-441-1790

Mote Marine Lab
1600 Ken Thompson Parkway
Sarasota, FL 34236
Tel. 941-388-4441 or 800-691-MOTE

Gulf World
15412 Front Beach Rd
Panama City Beach, FL 32413
Tel. 850-234-5271

Florida's Gulfarium
1010 Miracle Strip Parkway SE
Ft. Walton Beach, FL 32548
Tel. 850-243-9046

Emerald Coast Wildlife Rescue
406 Mountain Dr
Destin, FL 32541
Tel. 850-/650-1880

(ii) Take and Release Time During Trawling - Gulf Sturgeon: Gulf sturgeon shall be released immediately after capture, away from the dredge site, unless the trawl vessel is equipped with a suitable well-aerated seawater holding tank, container, trough or pool where a maximum of one sturgeon may be held for not longer than 30 minutes before it must be released or relocated away from the dredge site.

(10) Scientific Measurements: When safely possible, all turtles shall be measured (standard carapace measurements including body depth), tagged, weighed, and a tissue sample taken prior to release. When safely possible, all Gulf sturgeon shall be measured

(fork length and total length), tagged weighed, and a tissue sample taken prior to release. Any external tags shall be noted and data recorded onto the Tagging form (sample forms are provided on the following link:

<http://el.erdc.usace.army.mil/seaturtles/docs/taggingforms.pdf>). Only NMFS approved protected species observers or observer candidates in training under the direct supervision of a NMFS-approved observer shall conduct the tagging/measuring/weighing/tissue sampling operations.

(11) Turtle Flipper External Tagging: All sea turtles captured by relocation trawling shall be flipper-tagged prior to release with external tags which shall be obtained prior to the start of dredging from the University of Florida's Archie Carr Center for Sea Turtle Research. The NMFS-approved protected species observer aboard these relocation trawlers shall flipper-tag with external tags (e.g., Inconel tags) captured sea turtles. Columbus crabs or other organisms living on external sea turtle surfaces may also be sampled and removed.

(12) PIT Tagging: PIT tagging of sea turtles and Gulf sturgeon is not required to be done, if the NMFS-approved protected species observer does not have prior training or experience in said activity; however, if the observer has received prior training in PIT tagging procedures, then the observer shall PIT tag the animal prior to release (in addition to the standard external tagging):

(i) Sea turtle PIT tagging must then be performed in accordance with the protocol detailed at NMFS' Southeast Fisheries Science Center's web page:
<http://www.sefsc.noaa.gov/seaturtlefisheriesobservers.jsp>.

(ii) Gulf sturgeon PIT tagging must then be performed in accordance with the protocol detailed at the NMFS SERO PRD Web site address:
<http://sero.nmfs.noaa.gov/pr/protres.htm>.

(iii) PIT tags used must be sterile, individually wrapped tags to prevent disease transmission. PIT tags should be 125 kHz, glass-encapsulated tags-the smallest ones made.

(13) Other Sampling Procedures: All other tagging and external or internal sampling procedures (e.g., blood letting, laparoscopies, anal and gastric lavages, mounting satellite or radio transmitters, etc.) performed on live sea turtles or live sturgeon are not permitted unless the observer holds a valid sea turtle or sturgeon research permit authorizing this activity, either as the permit holder, or as designated agent of the permit holder.

(14) Reporting: Immediately after completing each day of relocation trawling, the Contractor shall notify the Contracting Officer by telephone conveying the results of the trawl. The results of each trawl shall be recorded on the Trawling Report (sample forms are provided on the following link:
<http://el.erdc.usace.army.mil/seaturtles/docs/trawlingforms.pdf>).

Electronic copies of trawling reports in its original form shall be forwarded to the Mobile District Coastal Environment Team (Attn: Ms. Jenny Jacobson; fax number 251-690-2727 or e-mail Jennifer.L.Jacobson@sam.usace.army.mil) and Area Engineer within 10 days of collection. Copies of trawl reports (trawling forms, tagging forms and/or incidental take forms) associated with a relocation of Gulf sturgeon or sea turtle shall be furnished to the U.S. Army Corps of Engineers, Mobile District (Attn: Ms. Jennifer Jacobson; fax number 251-690-2727 or e-mail Jennifer.L.Jacobson@sam.usace.army.mil) and to Eric Hawk, National Marine Fisheries Service (fax number 727-570-5517), within 24 hours after completing a relocation trawl.

g. Collateral or "Piggy Back" Research - Hopper Dredging/Trawling Relocation Only: Any sea turtle research activities proposed by the contractor, or outside parties, to be conducted in association with USACE funded actions, including endangered species monitoring, relocation trawling operations, or use of turtles acquired by these operations shall comply with the following general requirements, and any specific requirements developed by the Corps on a case-by-case basis as requests are received:

- (1) The USACE shall be given at least 60 days to review and comment on any such research proposals. The point of contact for this review is Dena Dickerson at the Engineer Research and Development Center (ERDC) in Vicksburg MS.
- (2) No such research shall be conducted without the express consent of USACE.
- (3) The USACE shall be given the opportunity to review and comment on any potential publication or interpretation of resulting data prior to release. The point of contact for this review is Dena Dickerson at the ERDC.
- (4) The party or parties conducting the research shall possess a valid research permit pursuant to Section 10 of the Endangered Species Act; and will be responsible for any other Federal, State or local permits or authorizations required, including any requirement of the National Environmental Policy Act (NEPA).
- (5) Any injuries, including lethal takes resulting from sea turtle handling activity beyond USACE contract requirements shall be the responsibility of the researcher.
- (6) Acknowledgment that the research was conducted with the assistance of USACE shall be included in any resulting publication or report, at the discretion of USACE.
- (7) Research activities shall not hinder USACE contracted operations, nor result in any additional cost to the Government;
- (8) Research personnel not directly employed by USACE contractors or subcontractors shall not board contracted vessels without signing an appropriate waiver of liability and/or other documents required by USACE.

h. PIT-Tag Scanning - Hopper Dredging/Trawling Relocation Only: All sea turtles and Gulf sturgeon captured by relocation trawling or hopper dredges shall be thoroughly scanned for the presence of PIT tags prior to release using a multi-frequency scanner powerful enough to read multiple frequencies (including 125 128, 134 and 400-kHz tags) and read tags deeply embedded deep in muscle tissue (e.g., manufactured by Trovan, Biomark, or Avid).

Turtles whose scans show they have been previously PIT tagged shall be externally flipper tagged. The data collected (PIT tag scan data and external tagging data) shall be submitted to NOAA, NMFS, Southeast Fisheries Science Center, Attn: Lisa Belskis, 75 Virginia Beach Drive, Miami, Florida 33149. All data collected shall be submitted in electronic format within 60 working days to Lisa.Belskis@noaa.gov; and Sheryan.Epperly@noaa.gov. Sea turtle external flipper tag and PIT tag data generated and collected by relocation trawlers shall also be submitted to the Cooperative Marine Turtle Tagging Program (CMTTP), on the appropriate CMTTP form, at the University of Florida's Archie Carr Center for Sea Turtle Research.

Gulf sturgeon data (PIT tag scan data and external tagging data) shall be submitted within 60 days of project completion to NOAA, National Marine Fisheries Service, Protected Resources Division, 263 13th Avenue South, St. Petersburg, Florida 33701, or by fax: (727)824-5309; or by e-mail: takereport.nmfsser@noaa.gov, Attn: Dr. Stephania Bolden.

i. Handling Fibropapillomatose Turtles: NMFS-approved protected species observers onboard a relocation trawler or hopper dredges are not required to handle or sample the viral fibropapillomatose tumors if they believe there is a health hazard to themselves and choose not to. When handling sea turtles infected with fibropapilloma tumors shall either: 1) clean all equipment that comes in contact with the turtle (tagging equipment, tape measures, etc.) with mild bleach solution, between the processing of each turtle or 2) maintain a separate set of sampling equipment for handling animals displaying fibropapilloma tumors or lesions.

j. Requirement and Authority to Conduct Tissue sampling for Genetic Analyses - Hopper Dredging/Trawling Relocation Only: All alive or dead sea turtles and Gulf sturgeon captured by relocation trawling or dredging shall be tissue-sampled prior to release by a NMFS-approved protected species observer.

(i) Sea turtle tissue samples shall be taken in accordance with NMFS' Southeast Fisheries Science Centers' (SEFSC) procedures for sea turtle genetic analyses (Appendix II of the GRBO). Tissue samples shall be properly stored and mailed within 60 days of completion of dredging project, to NOAA, National Marine Fisheries Service, Southeast Fisheries Science Center, Attn: Lisa Belskis, 75 Virginia Beach Drive, Miami, Florida 33149.

(ii) Gulf sturgeon tissue samples (i.e., fin clips or barbel clips) shall be taken in accordance with NMFS SERO's Protected Resources Division's Gulf sturgeon Tissue Sampling Protocol found at NMFS SERO PRD Website address:

<http://sero.nmfs.noaa.gov/pr/protres.htm>. Tissue samples shall be property stored and mailed to SERO PRD (Attn: Dr. Stephania Bolden) within 60 days of dredging completion.

k. Dredge or Trawler Take Reporting: The observer(s) shall notify the Contracting Officer as soon as possible of collisions with, and the taking of injured, uninjured or killed sea turtles or Gulf sturgeon. The observer(s) shall complete the appropriate incident report forms for sea turtles and Gulf sturgeon (samples located on the following link: <http://el.erdc.usace.army.mil/seaturtles/docs/observerforms.pdf>) and transmit an e-mail of this information, within 24 hours of any incident to: NMFS, Southeast Regional Office (e-mail: takereport.nmfsser@noaa.gov), Mobile District Coastal Environmental Team (e-mail: jennifer.jacobson@usace.army.mil and elizabeth.s.godsey@sam.army.mil) Engineering Research Development Center (ERDC)(e-mail: dena.d.dickerson@erdc.usace.army.mil; monica.s.wolters@erdc.usace.army.mil; craig.t.theriot@erdc.usace.army.mil). Photographs shall be attached to respective reports for documentation.

l. Hopper Dredge and Trawler Report Submission: The contractor shall maintain a log detailing all incidental, including sightings of threatened and endangered species occurring during the contact period. The data shall be recorded on the forms provided by the Contracting Officer (sample forms are provided on the following website: <http://el.erdc.usace.army.mil/seaturtles/index.cfm>). Copies of all data in its original form shall be forwarded to the Mobile District Coastal Environment Team within 10 days of collection. Following project completion, and within 30 working days, an endangered species observer/trawling and relocation final report shall be submitted to the Mobile District Coastal Environment Team (Attn: Ms. Jenny Jacobson; P.O. Box P.O. Box 2288 Mobile, Alabama 36628-0001). Reports shall contain information on project location (specific area dredged), start-up and completion dates, cubic yards of material dredged, problems encountered, incidental takes and sightings of protected species, mitigation actions taken (if relocation trawling, the number and species of turtles relocated), screening type (inflow, overflow) utilized, any modifications or repairs made on inflow/outflow screens and draghead deflectors, daily water temperatures, name of dredge, names of endangered species observers, and percent observer coverage.

3.5 PROTECTION OF AIR RESOURCES

All fuel burning equipment shall be properly maintained to prevent violations of State or Federal Air Pollution Standards or interference with inhabitants of the area by causing drastic changes in their accustomed environment. If burning is required, the Contractor should obtain a burning permit from the local fire department, if necessary. Daily inspections will be made of all fuel burning equipment. Immediate corrective action shall be taken if exhaust emissions are found to be excessive.

3.6 MAINTENANCE OF POLLUTION CONTROL FACILITIES DURING DREDGING AND PLACEMENT ACTIVITIES

During the life of this contract, the Contractor shall maintain all facilities constructed for pollution control as long as the operations creating the particular pollutant are being carried out or until the material concerned has become stabilized to the extent that pollution is no longer being created. During the dredging period the Contractor should conduct frequent training courses for his maintenance personnel. The curricula should include methods of detection of pollution, familiarity with pollution standards and measures for prevention or mitigation of environmental pollution.

3.7 SANITATION

The Contractor must provide suitable sanitation devices for the proper storage of all sanitary sewage. The Contractor shall ensure that all floating plant operates according to an approved waste management plan as required by 33 CFR Part 151. The dumping of sanitary sewage effluent and/or solids into the waters surrounding the job is strictly prohibited.

Turtle Trawl Net Specifications

DESIGN: 4 Seam, 4 Legged, 2 Bridal Trawl Net

WEBBING: 4 inch bar, 8 inch stretch

Top - 36 Gauge Twisted Nylon Dipped

Side - 36 Gauge Twisted Nylon Dipped

Bottom - 84 Gauge Braided Nylon Dipped

NET LENGTH: 60 ft from cork line to cod end

BODY TAPER: 2 to 1

WING END HEIGHT: 6 feet

CENTER HEIGHT: Dependent on depth of trawl - 14 to 18 feet

COD END: Length 50 meshes x 4 inches equals 16.7 feet

Webbing 2 inch bar, 4 inch stretch, 84 gauge braid nylon

Dipped, 80 meshes around, 40 rigged meshes with $\frac{1}{4}$ x 2
inch choker rings, 1 each $\frac{1}{2}$ x 4 inch at end

Cod End Cover - none

Chaffing Gear - none

HEAD ROPE: 60 ft $\frac{1}{2}$ inch combination rope (braid nylon with
stainless cable center)

FOOT ROPE: 65 ft $\frac{1}{2}$ inch combination rope

LEG LINE: Top - 6 ft, Bottom - 6 ft

FLOATS: Size - Tuna Floats (football style), Diameter - 7

Inches; Length - 9 inches; number 12 each;

Spacing - center of top net 2 inches apart

MUD ROLLERS: Size - 5 inch Diameter, 5.5 inch length

Number - 22 each; spacing - 3 ft attached with $\frac{3}{8}$ inch
Polypropylene rope (replaced with snap on roller when
broken)

TICKLER CHAINS: NONE (Discontinued - but previously used $\frac{1}{4}$
inch x 74 ft galvanized chain)

WEIGHT: 20 ft of $\frac{1}{4}$ inch galvanized chain on each wing, 40 ft
per net looped and tied

DOOR SIZE: 7 ft x 40 inches (or 8 ft x 40 inches); Shoe - 1 inch

X 6 inch: bridles - $\frac{3}{8}$ inch high test chain

CABLE LENGTH: (Bridle Length, Total) : $\frac{7}{16}$ inch x 240-300 ft
varies with bottom conditions

FLOAT BALL: NONE

LAZY LINES: 1 inch nylon

IDIQ for Rental of Hopper Dredge with Attendant Plant for
Maintenance Dredging of Mobile Harbor Channel, AL (#01-FY09)

W91278-09-B-0003

PICKUP LINES: 3/8 inch polypropylene
WHIP LINES: 1 inch nylon

SECTION 01451

CONTRACTOR QUALITY CONTROL

PART I. GENERAL

1.1 REFERENCES (Not Applicable)

1.2 PAYMENT

Separate payment will not be made for providing and maintaining an effective Quality Control program, and all costs associated therewith shall be included in the applicable unit prices or lump-sum prices contained in the Bidding Schedule.

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 GENERAL

The Contractor is responsible for quality control and shall establish and maintain an effective quality control system in compliance with the Contract Clause entitled "Inspection of Construction." The quality control system shall consist of plans, procedures, and organization necessary to produce an end product which complies with the contract requirements. The system shall cover all design/construction operations, both onsite and offsite, and shall be keyed to the proposed design/construction operations sequence. The project superintendent will be held responsible for the quality of work on the job and is subject to removal by the Contracting Officer for non-compliance with quality requirements specified in the contract. The project superintendent in this context shall mean the highest ranking on-site individual with responsibility for the overall management of the project including quality and production.

3.2 QUALITY CONTROL PLAN

3.2.1 General

The Contractor shall furnish for review by the Government, not later than 15 days after receipt of notice to proceed, the Contractor Quality Control (CQC) Plan proposed to implement the requirements of the Contract Clause entitled "Inspection of Construction." The plan shall identify personnel, procedures, control, instructions, test, records, and forms to be used. The Government will consider an interim plan for the first 30 days of operation. Construction will be permitted to begin only after acceptance of the CQC Plan or acceptance of an interim plan applicable to the particular feature of work to be started. Work outside of the features of work included in an accepted interim plan will not be

permitted to begin until acceptance of a CQC Plan or another interim plan containing the additional features of work to be started.

SD-01 Plan

Contractor Quality Control (CQC) Plan; G|CD

3.2.2 Content of the CQC Plan

The CQC Plan shall include, as a minimum, the following to cover all design/construction operations, both onsite and offsite, including work by subcontractors, fabricators, suppliers, and purchasing agents:

- a. A description of the quality control organization, including a chart showing lines of authority and acknowledgment that the CQC staff shall implement the three phase control system for all aspects of the work specified. The staff shall include a CQC System Manager who shall report to the project superintendent.
- b. The name, qualifications (in resume format), duties, responsibilities, and authorities of each person assigned a CQC function.
- c. A copy of the letter to the CQC System Manager signed by an authorized official of the firm which describes the responsibilities and delegates sufficient authorities to adequately perform the functions of the CQC System Manager, including authority to stop work which is not in compliance with the contract. The CQC System Manager shall issue letters of direction to all other various quality control representatives outlining duties, authorities, and responsibilities. Copies of these letters will also be furnished to the Government.
- d. Procedures for scheduling, reviewing, certifying, and managing submittals, including those of subcontractors, offsite fabricators, suppliers, and purchasing agents. These procedures shall be in accordance with Section 01330 SUBMITTAL PROCEDURES.
- e. Control, verification, and acceptance testing procedures for each specific test to include the test name, specification paragraph requiring test, feature of work to be tested, test frequency, and person responsible for each test. (Laboratory facilities will be approved by the Contracting Officer.)
- f. Procedures for tracking preparatory, initial, and follow-up control phases and control, verification, and acceptance tests including documentation.
- g. Procedures for tracking construction deficiencies from identification through acceptable corrective action. These procedures will establish verification that identified deficiencies have been corrected.

- h. Reporting procedures, including proposed reporting formats.
- i. A list of the definable features of work. A definable feature of work is a task which is separate and distinct from other tasks and has separate control requirements. It could be identified by different trades or disciplines, or it could be work by the same trade in a different environment. Although each section of the specifications may generally be considered as a definable feature of work, there are frequently more than one definable feature under a particular section. This list will be agreed upon during the coordination meeting.

3.2.3 Acceptance of Plan

Acceptance of the Contractor's plan is required prior to the start of construction. Acceptance is conditional and will be predicated on satisfactory performance during the construction. The Government reserves the right to require the Contractor to make changes in his CQC Plan and operations including removal of personnel, as necessary, to obtain the quality specified.

3.2.4 Notification of Changes

After acceptance of the CQC Plan, the Contractor shall notify the Contracting Officer in writing of any proposed change. Proposed changes are subject to acceptance by the Contracting Officer.

3.3 COORDINATION MEETING

After the Preconstruction Conference, before start of construction, and prior to acceptance by the Government of the CQC Plan, the Contractor shall meet with the Contracting Officer or Authorized Representative and discuss the Contractor's quality control system. The CQC Plan shall be submitted for review a minimum of 5 calendar days prior to the Coordination Meeting. During the meeting, a mutual understanding of the system details shall be developed, including the forms for recording the CQC operations, control activities, testing, administration of the system for both onsite and offsite work, and the interrelationship of Contractor's Management and control with the Government's Quality Assurance. Minutes of the meeting shall be prepared by the Government and signed by both the Contractor and the Contracting Officer. The minutes shall become a part of the contract file. There may be occasions when subsequent conferences will be called by either party to reconfirm mutual understandings and/or address deficiencies in the CQC system or procedures which may require corrective action by the Contractor.

3.4 QUALITY CONTROL ORGANIZATION

3.4.1 General

The requirements for the CQC organization are a CQC System Manager and sufficient number of additional qualified personnel to ensure contract compliance. The Contractor shall provide a CQC organization which shall be at the site at all times during progress of the work and with complete authority to take any action necessary to ensure compliance with the contract. All CQC staff members shall be subject to acceptance by the Contracting Officer.

3.4.2 CQC Staff

Following are the minimum requirements for the CQC staff. These minimum requirements will not necessarily assure an adequate staff to meet the CQC requirements at all time during construction. The actual strength of the CQC staff may vary during any specific work period to cover the needs of the work period. When necessary for a proper CQC organization, the Contractor will add additional staff at no cost to the Government. This listing of minimum staff in no way relieves the Contractor of meeting the basic requirements of quality construction in accordance with contract requirements. All CQC staff members shall be subject to acceptance by the Contracting Officer.

3.4.3 CQC System Manager

The Contractor shall identify as CQC System Manager an individual within his organization at the site of the work who shall be responsible for overall management of CQC and have the authority to act in all CQC matters for the Contractor. The CQC System Manager shall be a graduate engineer, graduate architect or a graduate of construction management, with a minimum of 2 years construction experience on construction similar to this contract. This CQC System Manager shall be on the site at all times during construction and will be employed by the prime Contractor. The CQC System Manager shall be assigned no other duties. An alternate for the CQC System Manager will be identified in the plan to serve in the event of the System Manager's absence. The requirements for the alternate will be the same as for the designated CQC System Manager.

3.4.4 CQC Personnel

In addition to CQC personnel specified elsewhere in the contract, the Contractor shall provide as part of the CQC organization specialized personnel to assist the CQC System Manager for the following areas: electrical, mechanical, civil, structural, and architectural. These individuals may be employees of the prime or subcontractor; be responsible to the CQC System Manager; be physically present at the construction site during work on their areas of responsibility; have the necessary education and/or experience in accordance with the experience matrix listed herein. These individuals may perform other duties but must be allowed sufficient time to perform their assigned quality control duties as described in the Quality Control Plan.

Experience Matrix

<u>Area</u>	<u>Qualifications</u>
a. Civil	Graduate Civil Engineer with 2 years experience or technician with 5 yrs related experience.
b. Mechanical	Graduate Mechanical Engineer with 2 yrs experience or technician with 5 yrs related experience.
c. Electrical	Graduate Electrical Engineer with 2 yrs experience or technician with 5 yrs related experience.
d. Structural	Graduate Structural Engineer with 2 yrs experience or technician with 5 yrs related experience.
e. Architectural	Graduate Architect with 2 yrs experience or technician with 5 yrs related experience.

3.4.5 Additional Requirement

In addition to the above experience and education requirements the CQC System Manager shall have completed the course entitled "Construction Quality Management For Contractors". This course is periodically offered by the Corps of Engineers within the Mobile Engineer District.

3.4.6 Organizational Changes

The Contractor shall maintain his CQC staff at full strength at all times. When it is necessary to make changes to the CQC staff the Contractor shall revise the CQC Plan to reflect the changes and submit the changes to the Contracting Officer for acceptance.

3.5 SUBMITTALS

Submittals shall be made as specified in Section 01330 SUBMITTAL PROCEDURES. The CQC organization shall be responsible for certifying that all submittals are in compliance with the contract requirements.

3.6 CONTROL

Contractor Quality Control is the means by which the Contractor ensures that the construction, to include that of subcontractors and suppliers, complies with the requirements of the contract. At least three phases of control shall be conducted by the CQC System Manager for each definable feature of work as follows:

3.6.1 Preparatory Phase

This phase shall be performed prior to beginning work on each definable feature of work and shall include:

- a. A review of each paragraph of applicable specifications.
- b. A review of the contract drawings.
- c. A check to assure that all materials and/or equipment have been tested, submitted, and approved.
- d. Review of provisions that have been made to provide required control inspection and testing.
- e. Examination of the work area to assure that all required preliminary work has been completed and is in compliance with the contract.
- f. A physical examination of required materials, equipment, and sample work to assure that they are on hand, conform to approved shop drawings or submitted data, and are properly stored.
- g. A review of the appropriate activity hazard analysis to assure safety requirements are met.
- h. Discussion of procedures for controlling quality of the work including repetitive deficiencies. Document construction tolerances and workmanship standards for that feature of work.

- i. A check to ensure that the portion of the plan for the work to be performed has been accepted by the Contracting Officer.
- j. Discussion of the initial control phase.
- k. The Government shall be notified at least 24 hours in advance of beginning the preparatory control phase. This phase shall include a meeting conducted by the CQC System Manager and attended by the superintendent, other CQC personnel (as applicable), and the foreman responsible for the definable feature. The results of the preparatory phase actions shall be documented by separate minutes prepared by the CQC System Manager and attached to the daily CQC report. The Contractor shall instruct applicable workers as to the acceptable level of workmanship required in order to meet contract specifications.

3.6.2 Initial Phase

This phase shall be accomplished at the beginning of a definable feature of work. The following shall be accomplished:

- a. A check of work to ensure that it is in full compliance with contract requirements. Review minutes of the preparatory meeting.
- b. Verify adequacy of controls to ensure full contract compliance. Verify required control inspection and testing.
- c. Establish level of workmanship and verify that it meets minimum acceptable workmanship standards. Compare with required sample panels as appropriate.
- d. Resolve all differences.
- e. Check safety to include compliance with and upgrading of the safety plan and activity hazard analysis. Review the activity analysis with each worker.
- f. The Government shall be notified at least 24 hours in advance of beginning the initial phase. Separate minutes of this phase shall be prepared by the CQC System Manager and attached to the daily CQC report. Exact location of initial phase shall be indicated for future reference and comparison with follow-up phases.
- g. The initial phase should be repeated for each new crew to work onsite, or any time acceptable specified quality standards are not being met.

3.6.3 Follow-up Phase

Daily checks shall be performed to assure control activities, including control testing, are providing continued compliance with contract requirements, until completion of the particular feature of work. The checks shall be made a matter of record in the CQC documentation. Final follow-up checks shall be conducted and all deficiencies corrected prior to the start of additional features of work which may be affected by the deficient work. The Contractor shall not build upon or conceal non-conforming work.

3.6.4 Additional Preparatory and Initial Phases

Additional preparatory and initial phases shall be conducted on the same definable features of work if the quality of on-going work is unacceptable, if there are changes in the applicable CQC staff, onsite production supervision or work crew, if work on a definable feature is resumed after a substantial period of inactivity, or if other problems develop.

3.7 TESTS

3.7.1 Testing Procedure

The Contractor shall perform specified or required tests to verify that control measures are adequate to provide a product which conforms to contract requirements. Upon request, the Contractor shall furnish to the Government duplicate samples of test specimens for possible testing by the Government. Testing includes operation and/or acceptance tests when specified. The Contractor shall procure the services of a Corps of Engineers approved testing laboratory or establish an approved testing laboratory at the project site. The Contractor shall perform the following activities and record and provide the following data:

- a. Verify that testing procedures comply with contract requirements.
- b. Verify that facilities and testing equipment are available and comply with testing standards.
- c. Check test instrument calibration data against certified standards.
- d. Verify that recording forms and test identification control number system, including all of the test documentation requirements, have been prepared.
- e. Results of all tests taken, both passing and failing tests, will be recorded on the CQC report for the date taken. Specification paragraph reference, location where tests were taken, and the sequential control number identifying the test will be given. If approved by the Contracting Officer, actual test reports may be submitted later with a reference to the test number and date taken. An information copy of tests performed by an offsite or commercial test facility will be provided directly to the Contracting Officer. Failure to submit timely test

reports as stated may result in nonpayment for related work performed and disapproval of the test facility for this contract.

3.7.2 Testing Laboratories

3.7.2.1 Capability Check

The Government reserves the right to check laboratory equipment in the proposed laboratory for compliance with the standards set forth in the contract specifications and to check the laboratory technician's testing procedures and techniques. Laboratories utilized for testing soils, concrete, asphalt, and steel shall meet criteria detailed in ASTM D 3740 and ASTM E 329.

3.7.2.2 Capability Recheck

If the selected laboratory fails the capability check, the Contractor will be assessed a charge of for inspection to reimburse the Government for each succeeding recheck of the laboratory or the checking of a subsequently selected laboratory. Such costs will be deducted from the contract amount due the Contractor.

3.7.3 On-Site Laboratory

The Government reserves the right to utilize the Contractor's control testing laboratory and equipment to make assurance tests and to check the Contractor's testing procedures, techniques, and test results at no additional cost to the Government.

3.7.4 Furnishing or Transportation of Samples for Testing

Costs incidental to the transportation of samples or materials will be borne by the Contractor. Samples of materials for test verification and acceptance testing by the Government shall be delivered to the Corps of Engineers Division Laboratory, f.o.b., at the following address:

- (i) All Samples, except as in items (ii) and (iii) below:
Waterways Experiment Station Laboratory
U. S. Army, Corps of Engineers
3909 Halls Ferry Road
Vicksburg, MS. 39180-6199
- (ii) For HTRW, paint tests and analyses only, the samples shall be Shipped or delivered to:

Chemistry Quality Assurance Laboratory
U. S. Army, Corps of Engineers
420 South 18th Street
Omaha, NE 68102

- (iii) To a local commercial laboratory as directed by the Contracting Officer.

Coordination for each specific test, exact delivery location, and dates will be made through the Area Office.

3.8 COMPLETION INSPECTION

3.8.1 CQC Inspection prior to Pre-Final

At the completion of all work or any increment thereof as established by a completion time stated in the Special Contract Clause entitled "Commencement, Prosecution, and Completion of Work", or stated elsewhere in the specifications, the CQC System Manager shall conduct a CQC inspection of the work and develop a "punch list" of items which do not conform to the approved drawings and specifications. Such a list of deficiencies shall be included in the CQC documentation, as required by paragraph DOCUMENTATION below, and shall include the estimated date by which the deficiencies will be corrected. The purpose of this CQC inspection is to verify for the Contractor that the work is ready for a pre-final inspection.

3.8.2 Pre-Final Inspection

Once all the above deficiencies are corrected the Contractor shall notify the Government that the facility is complete and is ready for the Government's "Prefinal" inspection. The Government will perform this inspection with the Contractor to verify that the facility is complete and ready to be occupied. A Government "Prefinal Punch List" will be developed as a result of this inspection. The Contractor's CQC System Manager shall ensure that all items on this list have been corrected and so notify the Government so that a "Final Acceptance Inspection" with the customer can be scheduled.

3.8.3 Final Acceptance Inspection

The final acceptance inspection will be formally scheduled by the Contracting Officer based upon notice from the Contractor. This notice will be given to the Contracting Officer at least 14 days prior to the final acceptance inspection and must include the Contractor's assurance that all specific items previously identified to the Contractor as being unacceptable, along with all remaining work to be performed under the contract, will be completed and acceptable by the date scheduled for the final acceptance inspection. Failure of the Contractor to have all contract work acceptably complete for this inspection will be cause for the Contracting Officer to bill the Contractor for the Government's additional inspection cost in accordance with the contract clause entitled "Inspection of Construction". The Contractor's Quality Control Inspection personnel, his superintendent or other primary management person and the Contracting Officer's Representative will be in attendance at the final acceptance inspection. Additional Government personnel including, but not limited to, those from Base/Post/Civil Facility

Engineer, other user groups, and major commands may also be in attendance. These inspections and any deficiency corrections required by this paragraph will be accomplished within the time stated for completion of the contract work or any particular increment thereof if the project is divided into increments by separate completion dates.

3.9 DOCUMENTATION

The Contractor shall maintain current records providing factual evidence that required quality control activities and/or tests have been performed. These records shall include the work of subcontractors and suppliers and shall be on an acceptable form that includes, as a minimum, the following information:

- a. Contractor/subcontractor and their area of responsibility.
- b. Operating plant/equipment with hours worked, idle, or down for repair.
- c. Work performed each day, giving location, description, and by whom. When Network Analysis (NAS) is used, identify each phase of work performed each day by NAS activity number.
- d. Test and/or control activities performed with results and references to specifications/drawings requirements. The control phase should be identified (Preparatory, Initial, Follow-up). List deficiencies noted along with corrective action.
- e. Quantity of materials received at the site with statement as to acceptability, storage, and reference to specifications/drawings requirements.
- f. Submittals reviewed, with contract reference, by whom, and action taken.
- g. Off-site surveillance activities, including actions taken.
- h. Job safety evaluations stating what was checked, results, and instructions or corrective actions.
- i. Instructions given/received and conflicts in plans and/or specifications.
- j. Contractor's verification statement.

These records shall indicate a description of trades working on the project; the number of personnel working; weather conditions encountered; and any delays encountered. These records shall cover both conforming and deficient features and shall include a statement that equipment and materials incorporated in the work and workmanship comply with the contract. The original and one copy of these records in report form shall be furnished to the Government daily within 24 hours after the date(s) covered by the report, except that reports need not be submitted for days on which no work is performed. As a minimum,

one report shall be prepared and submitted for every seven days of no work and on the last day of a no work period. All calendar days shall be accounted for throughout the life of the contract. The first report following a day of no work shall be for that day only. Reports shall be signed and dated by the CQC System Manager. The report from the CQC System Manager shall include copies of test reports and copies of reports prepared by all subordinate quality control personnel.

3.10 SAMPLE FORMS (Not Applicable)

3.11 NOTIFICATION OF NONCOMPLIANCE

The Contracting Officer will notify the Contractor of any detected noncompliance with the foregoing requirements. The Contractor shall take immediate corrective action after receipt of such notice. Such notice, when delivered to the Contractor at the worksite, shall be deemed sufficient for the purpose of notification. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

*

*

--END OF SECTION--

SECTION 01 45 02.00 10

QUALITY CONTROL SYSTEM (QCS)

1.1 GENERAL

The Government will use the Resident Management System for Windows (RMS) to assist in its monitoring and administration of this contract. The Contractor shall use the Government-furnished Construction Contractor Module of RMS, referred to as QCS, to record, maintain, and submit various information throughout the contract period. The Contractor module, user manuals, updates, and training information can be downloaded from the RMS web site. This joint Government-Contractor use of RMS and QCS will facilitate electronic exchange of information and overall management of the contract. QCS provides the means for the Contractor to input, track, and electronically share information with the Government in the following areas:

- Administration
- Finances
- Quality Control
- Submittal Monitoring
- Scheduling
- Import/Export of Data

1.1.1 Correspondence and Electronic Communications

For ease and speed of communications, both Government and Contractor will, to the maximum extent feasible, exchange correspondence and other documents in electronic format. Correspondence, pay requests and other documents comprising the official contract record shall also be provided in paper format, with signatures and dates where necessary. Paper documents will govern, in the event of discrepancy with the electronic version.

1.1.2 Other Factors

Particular attention is directed to Contract Clause, "Schedules for Construction Contracts", Contract Clause, "Payments", Section 01 32 01.00 10, PROJECT SCHEDULE, Section 01 33 00, SUBMITTAL PROCEDURES, and Section 01 45 04.00 10, CONTRACTOR QUALITY CONTROL, which have a direct relationship to the reporting to be accomplished through QCS. Also, there is no separate payment for establishing and maintaining the QCS database; all costs associated therewith shall be included in the contract pricing for the work.

1.2 QCS SOFTWARE

QCS is a Windows-based program that can be run on a stand-alone personal computer or on a network. The Government will make available the QCS software to the Contractor after award of the construction contract. Prior to the Pre-Construction Conference, the Contractor shall be responsible to download, install and use the latest version of the QCS software from the Government's RMS Internet Website. Upon specific justification and request by the Contractor, the Government can provide QCS on 3-1/2

inch high-density diskettes or CD-ROM. Any program updates of QCS will be made available to the Contractor via the Government RMS Website as they become available.

1.3 SYSTEM REQUIREMENTS

The following is the minimum system configuration that the Contractor shall have to run QCS:

QCS and QAS System

Hardware

IBM-compatible PC with 1000 MHz Pentium or higher processor

256+ MB RAM for workstation / 512+ MB RAM for server

1 GB hard drive disk space for sole use by the QCS system

3 1/2 inch high-density floppy drive

Compact Disk (CD) Reader 8x speed or higher

SVGA or higher resolution monitor (1024x768, 256 colors)

Mouse or other pointing device

Windows compatible printer. (Laser printer must have 4 MB+ of RAM)

Connection to the Internet, minimum 56k BPS

Software

MS Windows 2000 or higher

QAS-Word Processing software: MS Word 2000 or newer

Latest version of: Netscape Navigator, Microsoft Internet Explorer, or other browser that supports HTML 4.0 or higher

Electronic mail (E-mail) MAPI compatible

Virus protection software that is regularly upgraded with all issued manufacturer's updates

1.4 RELATED INFORMATION

1.4.1 QCS User Guide

After contract award, the Contractor shall download instructions for the installation and use of QCS

from the Government RMS Internet Website; the Contractor can obtain the current address from the Government. In case of justifiable difficulties, the Government will provide the Contractor with a CD-ROM containing these instructions.

1.4.2 Contractor Quality Control(CQC) Training

The use of QCS will be discussed with the Contractor's QC System Manager during the mandatory CQC Training class.

1.5 CONTRACT DATABASE

Prior to the pre-construction conference, the Government shall provide the Contractor with basic contract award data to use for QCS. The Government will provide data updates to the Contractor as needed, generally by files attached to E-mail. These updates will generally consist of submittal reviews, correspondence status, QA comments, and other administrative and QA data.

1.6 DATABASE MAINTENANCE

The Contractor shall establish, maintain, and update data for the contract in the QCS database throughout the duration of the contract. The Contractor shall establish and maintain the QCS database at the Contractor's site office. Data updates to the Government shall be submitted by E-mail with file attachments, e.g., daily reports, schedule updates, payment requests. If permitted by the Contracting Officer, a data diskette or CD-ROM may be used instead of E-mail (see Paragraph DATA SUBMISSION VIA COMPUTER DISKETTE OR CD-ROM). The QCS database typically shall include current data on the following items:

1.6.1 Administration

1.6.1.1 Contractor Information

The database shall contain the Contractor's name, address, telephone numbers, management staff, and other required items. Within 14 calendar days of receipt of QCS software from the Government, the Contractor shall deliver Contractor administrative data in electronic format via E-mail.

1.6.1.2 SubContractor Information

The database shall contain the name, trade, address, phone numbers, and other required information for all subContractors. A subContractor must be listed separately for each trade to be performed. Each subContractor/trade shall be assigned a unique Responsibility Code, provided in QCS. Within 14 calendar days of receipt of QCS software from the Government, the Contractor shall deliver subContractor administrative data in electronic format via E-mail.

1.6.1.3 Correspondence

All Contractor correspondence to the Government shall be identified with a serial number. Correspondence initiated by the Contractor's site office shall be prefixed with "S". Letters initiated by the Contractor's home (main) office shall be prefixed with "H". Letters shall be numbered starting from

0001. (e.g., H-0001 or S-0001). The Government's letters to the Contractor will be prefixed with "C".

1.6.1.4 Equipment

The Contractor's QCS database shall contain a current list of equipment planned for use or being used on the jobsite, including the most recent and planned equipment inspection dates.

1.6.1.5 Management Reporting

QCS includes a number of reports that Contractor management can use to track the status of the project. The value of these reports is reflective of the quality of the data input, and is maintained in the various sections of QCS. Among these reports are: Progress Payment Request worksheet, QA/QC comments, Submittal Register Status, Three-Phase Inspection checklists.

1.6.2 Finances

1.6.2.1 Pay Activity Data

The QCS database shall include a list of pay activities that the Contractor shall develop in conjunction with the construction schedule. The sum of all pay activities shall be equal to the total contract amount, including modifications. Pay activities shall be grouped by Contract Line Item Number (CLIN), and the sum of the activities shall equal the amount of each CLIN. The total of all CLINs equals the Contract Amount.

1.6.2.2 Payment Requests

All progress payment requests shall be prepared using QCS. The Contractor shall complete the payment request worksheet and include it with the payment request. The work completed under the contract, measured as percent or as specific quantities, shall be updated at least monthly. After the update, the Contractor shall generate a payment request report using QCS. The Contractor shall submit the payment requests with supporting data by E-mail with file attachment(s). If permitted by the Contracting Officer, a data diskette may be used instead of E-mail. A signed paper copy of the approved payment request is also required, which shall govern in the event of discrepancy with the electronic version.

1.6.3 Quality Control (QC)

QCS provides a means to track implementation of the 3-phase QC Control System, prepare daily reports, identify and track deficiencies, document progress of work, and support other Contractor QC requirements. The Contractor shall maintain this data on a daily basis. Entered data will automatically output to the QCS generated daily report. The Contractor shall provide the Government a Contractor Quality Control (CQC) Plan within the time required in Section 01 45 04.00 10, CONTRACTOR QUALITY CONTROL. Within seven calendar days of Government acceptance, the Contractor shall submit a data diskette or CD-ROM reflecting the information contained in the accepted CQC Plan: schedule, pay activities, features of work, submittal register, QC requirements, and equipment list.

1.6.3.1 Daily Contractor Quality Control (CQC) Reports.

QCS includes the means to produce the Daily CQC Report. The Contractor may use other formats to record basic QC data. However, the Daily CQC Report generated by QCS shall be the Contractor's official report. Data from any supplemental reports by the Contractor shall be summarized and consolidated onto the QCS-generated Daily CQC Report. Daily CQC Reports shall be submitted as required by Section 01 45 04.00 10, CONTRACTOR QUALITY CONTROL. Reports shall be submitted electronically to the Government using E-mail or diskette within 24 hours after the date covered by the report. Use of either mode of submittal shall be coordinated with the Government representative. The Contractor shall also provide the Government a signed, printed copy of the daily CQC report.

1.6.3.2 Deficiency Tracking.

The Contractor shall use QCS to track deficiencies. Deficiencies identified by the Contractor will be numerically tracked using QC punch list items. The Contractor shall maintain a current log of its QC punch list items in the QCS database. The Government will log the deficiencies it has identified using its QA punch list items. The Government's QA punch list items will be included in its export file to the Contractor. The Contractor shall regularly update the correction status of both QC and QA punch list items.

1.6.3.3 Three-Phase Control Meetings

The Contractor shall maintain scheduled and actual dates and times of preparatory and initial control meetings in QCS.

1.6.3.4 Accident/Safety Tracking.

The Government will issue safety comments, directions, or guidance whenever safety deficiencies are observed. The Government's safety comments will be included in its export file to the Contractor. The Contractor shall regularly update the correction status of the safety comments. In addition, the Contractor shall utilize QCS to advise the Government of any accidents occurring on the jobsite. This brief supplemental entry is not to be considered as a substitute for completion of mandatory reports, e.g., ENG Form 3394 and OSHA Form 300.

1.6.3.5 Features of Work

The Contractor shall include a complete list of the features of work in the QCS database. A feature of work may be associated with multiple pay activities. However, each pay activity (see subparagraph "Pay Activity Data" of paragraph "Finances") will only be linked to a single feature of work.

1.6.3.6 QC Requirements

The Contractor shall develop and maintain a complete list of QC testing, transferred and installed property, and user training requirements in QCS. The Contractor shall update all data on these QC requirements as work progresses, and shall promptly provide this information to the Government via QCS.

1.6.4 Submittal Management

The Government will provide the initial submittal register in electronic format. Thereafter, the Contractor shall maintain a complete list of all submittals, including completion of all data columns. Dates on which submittals are received and returned by the Government will be included in its export file to the Contractor. The Contractor shall use QCS to track and transmit all submittals. ENG Form 4025, submittal transmittal form, and the submittal register update shall be produced using QCS. RMS will be used to update, store and exchange submittal registers and transmittals, but will not be used for storage of actual submittals.

1.6.5 Schedule

The Contractor shall develop a construction schedule consisting of pay activities, in accordance with Contract Clause "Schedules for Construction Contracts", or Section 01 32 01.00 10, PROJECT SCHEDULE, as applicable. This schedule shall be input and maintained in the QCS database either manually or by using the Standard Data Exchange Format (SDEF) (see Section 01 32 01.00 10 PROJECT SCHEDULE). The updated schedule data shall be included with each pay request submitted by the Contractor.

1.6.6 Import/Export of Data

QCS includes the ability to export Contractor data to the Government and to import submittal register and other Government-provided data, and schedule data using SDEF.

1.7 IMPLEMENTATION

Contractor use of QCS as described in the preceding paragraphs is mandatory. The Contractor shall ensure that sufficient resources are available to maintain its QCS database, and to provide the Government with regular database updates. QCS shall be an integral part of the Contractor's management of quality control.

1.8 DATA SUBMISSION VIA COMPUTER DISKETTE OR CD-ROM

The Government-preferred method for Contractor's submission of updates, payment requests, correspondence and other data is by E-mail with file attachment(s). For locations where this is not feasible, the Contracting Officer may permit use of computer diskettes or CD-ROM for data transfer. Data on the disks or CDs shall be exported using the QCS built-in export function. If used, diskettes and CD-ROMs will be submitted in accordance with the following:

1.8.1 File Medium

The Contractor shall submit required data on 3-1/2 inch double-sided high-density diskettes formatted to hold 1.44 MB of data, capable of running under Microsoft Windows 95 or newer. Alternatively, CD-ROMs may be used. They shall conform to industry standards used in the United States. All data shall be provided in English.

1.8.2 Disk or CD-ROM Labels

The Contractor shall affix a permanent exterior label to each diskette and CD-ROM submitted. The label shall indicate in English, the QCS file name, full contract number, contract name, project location, data date, name and telephone number of person responsible for the data.

1.8.3 File Names

The Government will provide the file names to be used by the Contractor with the QCS software.

1.9 MONTHLY COORDINATION MEETING

The Contractor shall update the QCS database each workday. At least monthly, the Contractor shall generate and submit an export file to the Government with schedule update and progress payment request. As required in Contract Clause "Payments", at least one week prior to submittal, the Contractor shall meet with the Government representative to review the planned progress payment data submission for errors and omissions.

The Contractor shall make all required corrections prior to Government acceptance of the export file and progress payment request. Payment requests accompanied by incomplete or incorrect data submittals will be returned. The Government will not process progress payments until an acceptable QCS export file is received.

1.10 NOTIFICATION OF NONCOMPLIANCE

The Contracting Officer will notify the Contractor of any detected noncompliance with the requirements of this specification. The Contractor shall take immediate corrective action after receipt of such notice. Such notice, when delivered to the Contractor at the work site, shall be deemed sufficient for the purpose of notification.

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SECTION 02329 – HOPPER DREDGE SILENT INSPECTOR

PART 1 GENERAL

1.0 INTRODUCTION

The Silent Inspector (SI) for Hopper Dredges is a system that can monitor dredge position, dredge state, compute dry tonnage, and report and manage the data for Corps of Engineers dredging contracts. This specification defines the data collection needs of the Contracting Officer for managing the present and proposed future contracts whereby the Government will measure and compensate the contractor based on performance. Most of the required data parameters are currently available through existing sensors on industry hopper dredges. The collection and recording of the data in standard format will afford timely analysis of these data for dredge performance indicators. On unit priced contracts, SI will be used to verify parameters and assist in evaluating claims.

It is the spirit and intent of this section of the specifications to define: a) the data collection needs for computing tons dry solids, and b) those data to be used as a pay-for-performance indicator in future hopper dredging contracts within the Mobile District, and for other potential applications by the Corps of Engineers.

Additionally, the data will assist the CONTRACTING OFFICER or his/her representative with contract administration and lessen government manpower allocations for continuous inspection, and meet ever increasing environmental monitoring requirements established by the responsible agencies. The SI system collects and records measurements from shipboard sensors, calculates the dredging activities and the weight of the recovered material, and displays this information with standard reports and graphical displays. Recorded data are also automatically backed up, and later archived to allow transfer of the data to other locations.

The system consists of sensors connected to two primary components: a dredge-specific system component (DSS), and a ship-based component Dredge Monitoring Computer (DMC) (CONTRACTING OFFICER or his/her representative's computer). The DSS (Dredge Specific System) collects sensor data, checks these data against acceptable ranges, computes the status of the dredging pumps (on/off) and other equipment and sends the data via serial link to the Ship Server.

The DMC attaches the dredge name and contract/permit number to the DSS provided data, and inserts data into the system's central database. The DMC maintains the system's central database, accepting data in near-real time from a DSS. The DMC then reviews those data, computes the present dredging activity being performed and the amount of material recovered, and produces reports (trip, daily) and graphical displays of the data. Additional information concerning the dredging project, the dredges used, and location of the dredging and disposal areas are also inserted into the system database.

1.2 PAYMENT

The system shall be operational at the start of dredging. The Contractor shall include all costs for this system within the unit price for dredging.

If the system is not operational after 15 days after the Notice to Proceed, or if the system becomes inoperable for a period of time greater than allowed within this section, the hourly rate of pay for the dredge for 100% pay time will be reduced to 80% of the original bid price until the system is fully operational. Installation of the system shall not relieve the contractor of the requirements within the paragraph entitled "Delivery of Plant" located in the Special Contract Requirements Section.

1.3 DREDGE PLANT INSTRUMENTATION PLAN

The contractor shall develop a Dredge Plant Instrumentation Plan (DPIP) that shows how the contractor will gather sensor data, perform quality control on those data, calibrate and repair sensors/data reporting equipment when they fail, and distribute the sensor data and computed dredge specific data to the CONTRACTING OFFICER or his/her representative's computer via a standard interface. The contractor shall keep a log of sensor problems and repairs. Re-calibration may be directed by the Contracting Officer or his/her representative at any time during contract execution as deemed necessary. No recalibration or adjustments to the calibration controls shall be performed in the absence of the CONTRACTING OFFICER or his/her representative. Physical documentation of the calibration procedures and corresponding printed verification data shall be provided for every calibration event.

PART 2 PRODUCTS

PART 3 EXECUTION

3.1 SENSOR SPECIFICATIONS

The contractor shall provide, operate and maintain all hardware and software to meet the following specifications.

3.1.1 Slurry densities of port and starboard dragarms

The slurry density of each dragarm shall be recorded by a density-metering device approved for use by the CONTRACTING OFFICER or his/her representative and calibrated according to the manufacturer's specifications prior to commencement of work and documented in the DPIP.

3.1.2 Slurry velocities of port and starboard dragarms

The slurry velocities of each dragarm should be obtained by a flow-metering device approved for use by the CONTRACTING OFFICER or his/her representative and calibrated according to the manufacturer's specifications prior to commencement of work and documented in the DPIP. A magnetic flow-metering device calibrated according to manufacturer's specifications prior to commencement of work is the preferred flow-metering device. The slurry velocity shall be obtained using the same pipeline inside diameter as the slurry density measurement.

3.1.3 Draghead depths

The depth of each draghead (relative to the water surface) shall be obtained with a minimum accuracy of $\pm 1/2$ foot with values recorded to the nearest 1/10 foot. Conventional bubbler or other dragarm measuring systems may be used to provide both draghead depths, but their operation and accuracy must be described in detail in written form and included in the DPIP for approval prior to dredging. Draghead depth data shall be relative to the water surface level without tidal elevation adjustments.

3.1.4 Horizontal Positioning

Horizontal dredging equipment positioning shall be provided in Lambert State Plane coordinates based on North American Datum 1983. Horizontal positioning shall be obtained using differential Global Positioning System (DGPS) equipment operating with a minimum accuracy level of 1-3 meters horizontal Circular Error Probable (CEP). Differential Correction broadcasts will be furnished 24 hours/day by the Government in standard RTCM SC-104 ver 2.0 output. Horizontal positioning shall be recorded to the nearest whole foot when provided in State Plane coordinates.

3.1.5 Vessel Heading and Course

Vessel headings shall be provided using industry standard equipment described in written form and approved by the CONTRACTING OFFICER or his/her representative prior to dredging. Calibration shall be performed according to manufacturer's specifications prior to commencement of work and documented in the DPIP. The contractor shall provide dredge compass heading with values from 000 (true north) to 359 degrees referenced to a clockwise positive direction convention. Furthermore, the contractor shall provide dredge course over ground with values from 000 (true north) to 359 degrees referenced to a clockwise positive direction convention.

3.1.6 Draft

Fore and Aft draft measurements shall be reported to the nearest 1/100-foot from the hopper dredge's keel. Industry standard bubbler systems or equivalent system approved by the CONTRACTING OFFICER or his/her representative prior to dredging may be used by the contractor. The contractor must provide, as part of the DPIP documentation, how to relate measured fore and aft draft values to external draft markings on the hopper dredge. The contractor shall verify draft sensor calibration according to manufacturer's specifications prior to commencement of work and document the calibration in the DPIP.

3.1.7 Hopper level

Fore and aft hopper material level measurements shall be obtained with a minimum accuracy of $\pm 1/10$ foot with values recorded to the nearest 1/100-foot. To minimize the influence of vessel trim and list, four hopper level measurement sensors are recommended, two (port and starboard) fore and two (port and starboard) aft sensors. A minimum of two sensors are required, one fore and one aft. If only two sensors are used, they should be mounted in a location as close as possible over the hopper centerline and away from discharge flume turbulence and foam. If more than one fore or one aft sensor is used, then they should be placed near the corners of the hopper and the average value of the fore sensors and the average value of the aft sensors shall be reported. The contractor shall maintain a functional spare sensor on-board the dredge. The contractor shall install and calibrate the sensors according to manufacturer's directions and guidelines.

As part of the DPIP submittal, the contractor shall provide calibration information for all sensors. The plan shall include four measurements of different hopper levels, comparing the sensor value to a standard, i.e., a tape measure. The CONTRACTING OFFICER or his/her representative may perform checks of the reported sensor to hopper level distance. Distance from sensor face to: 1) bottom of hopper and, 2) reference elevation for ullage measurements to calculate volume of hopper contents, shall be measured and provided to the CONTRACTING OFFICER or his/her representative as a part of the DPIP.

3.1.8 Tide

Tide data shall be obtained using appropriate equipment to give the water level accurate to the nearest 1/10 foot. Government furnished benchmark location and water level datum information will be provided at the dredging site and given to the contractor. Above datum (positive) tide values shall be entered with a positive sign, and below datum tide values shall be entered with a negative sign.

3.1.9 Hopper status

Open/closed measurements of hopper status shall be obtained. These data correspond to the split/not-split condition for a split hull hopper dredge. A hopper dredge with hopper doors may measure the status of a single door that is the first opened during normal

disposal operations. A OPEN value refers to when the hopper door is open or in the case of split hull dredges, the hull is split. A CLOSED value refers to when the hopper doors are closed or in the case of split hull dredges, the hull is not split. The format is shown in paragraphs 3.4.2 and 3.4.3.

3.1.10 Material recovery

True/False reports of material recovery shall be obtained. A True value refers to when the dredge is actually digging material. The contractor shall submit as part of the DPIP the project and dredge specific criteria used to determine this state for approval by the CONTRACTING OFFICER or his/her representative. An example criterion is shown in section 3.4.3.

3.1.11 Date and time

The date and time shall be reported to the nearest second in the format shown in sections 3.4.2 and 3.4.3. The time shall be referenced to UTC time. The reported time is the time the measurements were taken.

3.1.12 Pumpout

Open/closed measurements of dredge pumpout valve status shall be obtained. This measurement shall be True when the dredge is pumping out and False when it is not. The format is shown in sections 3.4.2 and 3.4.3.

3.1.13 Pumping water

True/False reports of pumping water shall be obtained. A True value refers to when the dredge is not digging material but pumping water (or very low-density material) through the dredge pump(s). The contractor shall submit as part of the DPIP the project and dredge specific criteria used to determine this state for approval by the CONTRACTING OFFICER or his/her representative. An example is shown in section 3.4.3.

3.1.14 Minimum pumping effort

True/False reports of minimum pumping effort shall be obtained. A True value refers to when the dredge's pumps are running at idle speed or are off. The contractor shall submit as part of the DPIP the project and dredge specific criteria used to determine this state for approval by the CONTRACTING OFFICER or his/her representative. An example is shown in section 3.4.3.

3.2 PERFORMANCE REQUIREMENTS

3.2.1 Sensors

The contractor shall be responsible for replacement or repair of sensors and other necessary data acquisition equipment needed to supply the required data. Repairs must be completed within 48 hours after a sensor failure occurs or after the contractor fails to report required data within the specified time window (section 3.4.1) for dredge measurements. Pay will be reduced for failure to meet these system performance requirements.

3.2.2 System

To meet the overall goals stated in the introduction, the contractor's DSS system shall provide a minimum 95 percent data return. Data return is defined as the total number of valid data strings sent by the DSS system to the CONTRACTING OFFICER or his/her representative's computer divided by the number of data strings that are possible to send during a given time interval. The possible number of data strings for a given time interval is defined by the data-reporting interval in paragraph 3.4. Acceptable system performance includes the system consistently reporting correct data, especially at major transitions in the dredging cycle. Pay may be reduced at the discretion of the CONTRACTING OFFICER or his/her representative for failure to meet these system performance requirements.

3.3 CONTRACTOR PROVIDED EQUIPMENT

3.3.1 Data Monitoring Computer

The contractor shall supply the CONTRACTING OFFICER or his/her representative a computer that will run Corp's software and receive data from the contractor's data reporting interface. The DMC should contain at minimum a Pentium IV (or equivalent) microprocessor with no less than a 1.2 Gigahertz CPU. The computer must contain a hard disk no smaller than 8 Gigabytes, include at least 256 Megabytes of system memory, support the PCI system bus and support the Windows 2000 operating system. The contractor shall be responsible for obtaining component vendor software drivers if the drivers are not provided with the latest release of the Windows 2000 operating system software. The computer must also contain an Ethernet adapter that supports 10BaseT Unshielded Twisted Pair connections that shall connect to the network hub (contractor shall supply a stranded Category 5 UTP patch cable to the network hub and two spares). Also, it should have a standard 101 key keyboard, Microsoft compatible mouse, at minimum one parallel, two unoccupied serial ports, a universal serial bus port, and a CD-ROM drive (16X speed or faster). It should also have a minimum of 17-inch (viewable-size measured diagonally) video monitor capable of supporting at a minimum XVGA resolution of 1024x768 pixels, 65536 viewable colors. Also the system should include a 100Mb Zip disk

mounted either internally or externally. The contractor shall make available all computer related owner's guides and instruction manuals.

If a CONTRACTING OFFICER or his/her representative's hardware (including printer and other hardware) fails to operate properly, the CONTRACTING OFFICER or his/her representative is responsible to determine the nature of the problem. If a hardware problem is identified, then the contractor shall be responsible for repairing it within 48 hours.

3.3.2 Network Hub

The CONTRACTING OFFICER or his/her representative's computer shall communicate via IEEE 802.3 Ethernet and the TCP/IP networking protocol. The contractor shall provide to the CONTRACTING OFFICER or his/her representative a network hub to allow the temporary addition of the CONTRACTING OFFICER or his/her representative's portable computers to the computer network. The hub should provide a minimum of four RJ-45 ports that support Category 5 Unshielded Twisted-Pair Network wiring.

3.3.3 UPS

The contractor shall also supply an Uninterruptible Power Supply (UPS) for the computer and networking equipment. The UPS should provide backup power at 1kVA for a minimum of 10 minutes. The UPS should have a serial interface to the CONTRACTING OFFICER or his/her representative's computer to communicate UPS status. The contractor shall ensure that sufficient power outlets are available to run all specified equipment.

3.3.4 Printer

The contractor shall supply a printer. The printer will connect to the specified Ship computer via a parallel interface (cable supplied by the contractor). The printer should support the Adobe Postscript Level 2-page description language. Also, the printer should have a minimum resolution of 300 dots per inch and have a rated print speed of 6 pages per minute or higher. Additionally, the printer should have minimum paper capacity of 100 pages of 8.5X11 inch paper. The contractor is responsible for maintaining a supply of printer paper and other consumables such as printer cartridges. Printer usage will not exceed 500 pages per month.

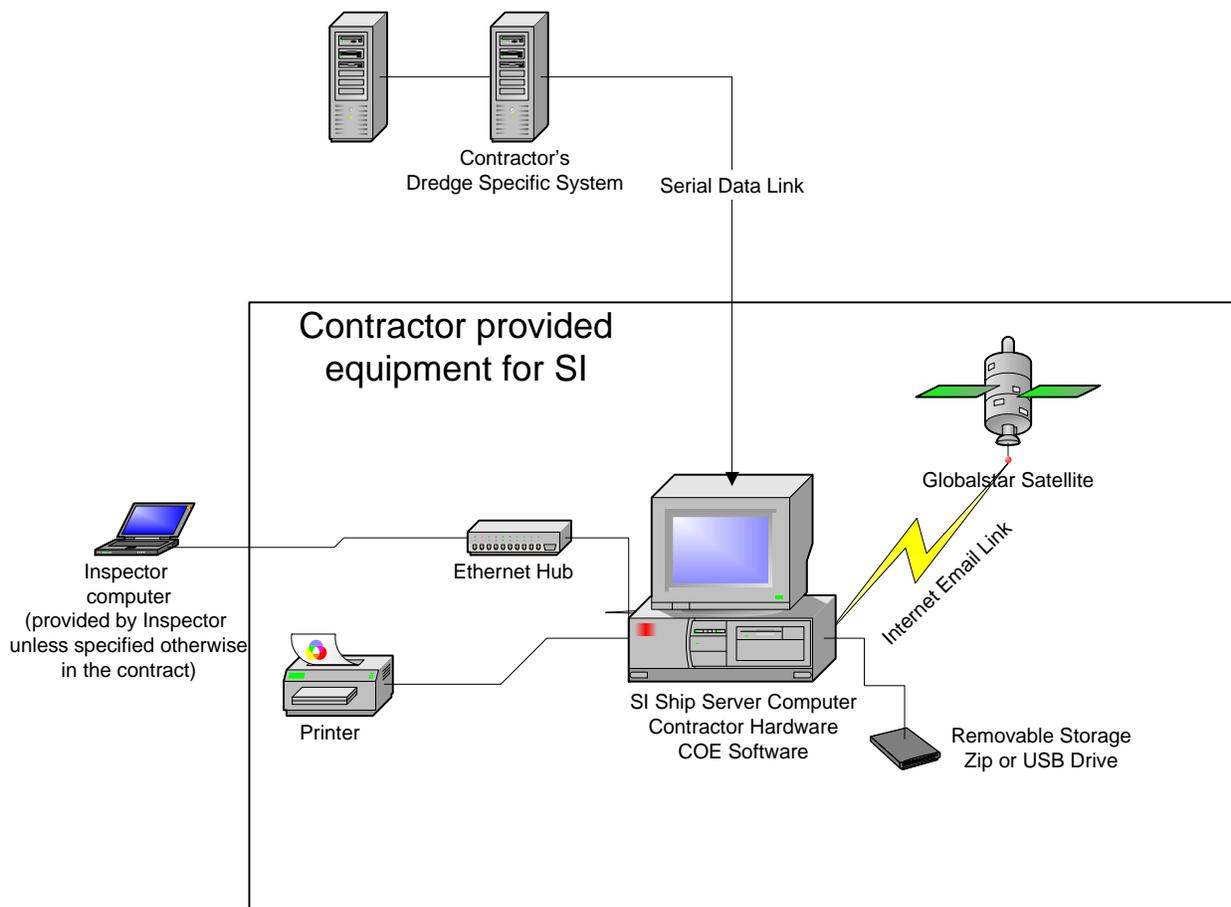
3.3.5 Satellite Data Modem

The contractor shall provide a satellite phone or modem, establish service and install the relevant equipment for use as a data link. The satellite data transmission device shall be equal to or equivalent to a SeaTel Wavecall 3000 or Qualcomm GSP-1620 which have the following salient characteristics: connection to externally mounted antenna, db-9 connector

serial data transmission port, compatible with the Globalstar satellite system, 9.6Kbaud data transmission rate, no internet service provider required to access the Internet, and compatible with Microsoft windows dialup networking. The data transmission time required is 1 to 3 minutes for each hopper load.

To avoid data interference, the satellite data modem is for the exclusive use of the DMC computer during the length of the contract. The contractor shall provide copies of all relevant operating and reference manuals for the satellite data phone/modem. As in 3.3.1 if the modem fails then the contractor shall repair it within 48 hours.

3.3.6 Figure of Contractor provided equipment



3.4 DATA REPORTING INTERFACE

Standard data shall be sent to the CONTRACTING OFFICER or his/her representative's computer. The sensor data should be output via an RS-232 19200-baud serial interface to the CONTRACTING OFFICER or his/her representative's data-monitoring computer. The serial interface shall be configured as 8 bits no parity and no flow control.

3.4.1 Data Measurement Interval

Data are reported as a series of events. Disposal activities are required to be logged with high temporal and spatial resolution. A standard data string should be nominally sent every 10 seconds. The failure to send a data string within 25 seconds to the CONTRACTING OFFICER or his/her representative's computer results in a dredge down status determination by the automated monitoring system if the dredge is within two miles of the disposal or dredging area. Data strings should never be sent more frequently than one per second. The standard events are in the following table:

Event Description	Event Time Resolution
An elapsed time of 10 seconds since the last event	1 second
Start of Disposal Activity	1 second
End of Disposal Activity	1 second

3.4.2 XML Reporting Data Format

The data are reported as an eXtensible Markup Language (W3C standard XML 1.0) document. The format required here facilitates viewing the data in a web browser as well as automated handling of the data. Data tags that are marked optional may be omitted or reported according the XML convention of <TAG_NAME/> to signify an empty tag. Line Breaks and spaces are added for readability here, but the carriage return, line feed character combination is only added to delineate records (HOPPER_DREDGING_DATA tag) for actual data transmission.

```
<?xml version="1.0"?>
<HOPPER_DREDGING_DATA version = "2.0">
  <DREDGE_NAME> string32 </DREDGE_NAME>
  <HOPPER_DATA_RECORD>
    <DATE_TIME> time date string </DATE_TIME>
    <LOAD_NUMBER> integer string </LOAD_NUMBER>
```

<VESSEL_X coord_type = "(SP,LL,UTM)"> **floating point string** </VESSEL_X>
<VESSEL_Y coord_type = "(SP,LL,UTM)"> **floating point string** </VESSEL_Y>
<DRAFT_FORE> **floating point string** </DRAFT_FORE>
<DRAFT_AFT> **floating point string** </DRAFT_AFT>
<VESSEL_SPEED> **floating point string** </VESSEL_SPEED>
<VESSEL_HEADING> **floating point string** </VESSEL_HEADING>
<VESSEL_COURSE> **floating point string** </VESSEL_COURSE >
<DRAGHEAD_DEPTH_PORT> **floating point string**
</DRAGHEAD_DEPTH_PORT>
<DRAGHEAD_DEPTH_STBD> **floating point string**
</DRAGHEAD_DEPTH_STBD>
<ULLAGE_FORE> **floating point string** </ULLAGE_FORE>
<ULLAGE_AFT> **floating point string** </ULLAGE_AFT>
<HOPPER_VOLUME> **floating point string** </HOPPER_VOLUME>
<DISPLACEMENT> **floating point string** </DISPLACEMENT>
<EMPTY_DISPLACEMENT> **floating point string** </EMPTY_DISPLACEMENT>
<TIDE> **floating point string** </TIDE>
<HULL_STATUS> **OPEN/CLOSED string** </HULL_STATUS>
<PUMP_WATER_PORT> **true/false/unknown string** </PUMP_WATER_PORT>
<PUMP_WATER_STBD> **true/false/unknown string** </PUMP_WATER_STBD>
<PUMP_MATERIAL_PORT> **true/false/unknown string**
</PUMP_MATERIAL_PORT>
<PUMP_MATERIAL_STBD> **true/false/unknown string**
</PUMP_MATERIAL_STBD>
<PUMP_OUT_ON> **true/false/unknown string** </PUMP_OUT_ON>
<MIN_PUMP_EFFORT_PORT> **true/false/unknown string**
</MIN_PUMP_EFFORT_PORT>
<MIN_PUMP_EFFORT_STBD> **true/false/unknown string**
</MIN_PUMP_EFFORT_STBD>
<PORT_VELOCITY> **floating point string** </PORT_VELOCITY>
<PORT_DENSITY> **floating point string** </PORT_DENSITY>
<STBD_VELOCITY> **floating point string** </STBD_VELOCITY>
<STBD_DENSITY> **floating point string** </STBD_DENSITY>

The following tags are optional unless otherwise stated in section 3.4.3.

<PORT_DRAG_X coord_type = "(SP,LL,UTM)"> **floating point string**</PORT_DRAG_X>
<PORT_DRAG_Y coord_type = "(SP,LL,UTM)"> **floating point string**</PORT_DRAG_Y>
<STBD_DRAG_X coord_type = "(SP,LL,UTM)"> **floating point string**
</STBD_DRAG_X>
<STBD_DRAG_Y coord_type = "(SP,LL,UTM)"> **floating point string**
</STBD_DRAG_Y>
<WATER_DEPTH> **floating point string** </WATER_DEPTH>

<PUMP_RPM_PORT> **floating point string** </PUMP_RPM_PORT>
 <PUMP_RPM_STBD> **floating point string** </PUMP_RPM_STBD>
 <STBD_GIMBAL_DEPTH> **floating point string** </STBD_GIMBAL_DEPTH>
 <PORT_GIMBAL_DEPTH> **floating point string** </PORT_GIMBAL_DEPTH>

The end of optional tags

</HOPPER_DATA_RECORD>
 </HOPPER_DREDGING_DATA>
 Carriage return – ASCII value 13
 Line Feed – ASCII value 10

3.4.3 Reporting Data Metadata

Data Tag	Tag Notes
LOAD_NUMBER	The number of the load the dredge is currently working on. Normally, the load number is incremented at the completion of the disposal phase of each loading cycle. Loads are determined according to the convention specified by the CONTRACTING OFFICER or his/her representative.
X_POSITION	Dredge X position. Latitude or Easting in state plane coordinates. West Longitude values are reported as negative and Northerly Latitude reported as positive. Latitude and Longitude values are to be reported to the hundredth of a minute. State plane coordinates may be reported to the nearest whole foot and are the preferred means of position reporting. The attribute coord_type has the value SP for state plane coordinates, LL for Latitude or Longitude and UTM for Universal Transverse Mercator coordinates. Only these three values are valid.
Y_POSITION	Dredge Y position. Longitude or Northing in state plane coordinates. The same comments for the X_POSITION tag apply.
STBD_DRAG_X PORT_DRAG_X	Draghead X position as computed or measured by the contractor. The same comments for the X_POSITION tag apply. The coord type attribute should have the same value for this tag as for the X_POSITION and Y_POSITION tags.
PORT_DRAG_Y	Draghead Y position. The coord type attribute should have

Data Tag	Tag Notes
STBD_DRAG_Y	the same value for this tag as for the X_POSITION and Y_POSITION tags. The same comments for the X_POSITION tag apply.
DATE_TIME	mm/dd/yyyy hh:mm:ss defined as UTC time of the measurement. All of the measurements should have occurred within one second of this reported time.
DRAGHEAD_DEPTH_PORT DRAGHEAD_DEPTH_STBD	Depth below water surface of the low fixed point of each draghead. This value includes a correction for the draft and trim of the vessel, and is not depth below the keel.
HULL_STATUS	<p>OPEN or CLOSED are the only permissible values. If the hull is split, then the value is OPEN. If the hull is closed, then the value is CLOSED.</p> <p>Status of the hopper doors as either open (OPEN), all doors fully closed (CLOSED). Any single hopper door open requires a door open status.</p>
MIN_PUMP_EFFORT_PORT MIN_PUMP_EFFORT_STBD	True when the hopper dredge's dredge pumps are either idling to assure minimum dragarm intake velocity or off. Pump revolutions per minute below a certain idle threshold or dragarm slurry velocity at or below the idle speed threshold could be used depending on the particular dredge plant and project. The criteria may be tailored for each dredge and project. Reported as true or false.
PUMP_MATERIAL_PORT PUMP_MATERIAL_STBD	True when the hopper dredge is digging material. For example when the slurry velocity is greater than 10 feet per second and the density is greater than 1.05 grams per cubic centimeter, then material recovery is true. These criteria may be tailored for each dredge and project. This value is applied to each dragarm. Reported as true or false.
PUMP_WATER_PORT PUMP_WATER_STBD	True when the hopper dredge is not recovering material but only pumping water. For example when the slurry density is less than 1.05 grams per cubic centimeter, then the dredge is pumping water. This criterion may be tailored for each dredge and project. Other parameters such as pump vacuum (for example) could be used to satisfy the pumping water requirement. Reported as true or false.
PUMP_OUT_ON	Status of pumpout activity. When pumpout is active the value is true, when pumpout is not active the value is false.

Data Tag	Tag Notes
VESSEL_SPEED	The vessel speed measured in knots at the reported time.
VESSEL_HEADING	The dredge heading reported from 0 to 359 degrees
VESSEL_COURSE	The dredge course over ground reported from 0 to 359 degrees
DRAFT_FORE DRAFT_AFT	Draft of vessel in feet at the forward and aft sensor locations
DISPLACEMENT	Weight of the dredge at the time of measurement in long tons.
PUMP_RPM_PORT PUMP_RPM_STBD	The shaft revolutions per minute of the pumps that are used to pump excavated slurry. Dredges that have multiple pumps per side should select the pump that best describes the dredging process and document this in the DPIP (typically the outboard pumps). Pump RPM that are used to compute the PUMP_WATER, PUMP_MATERIAL and MIN_PUMP_EFFORT tags should be included here. This parameter is required for this contract.
EMPTY_DISPLACEMENT	Weight of the dredge with a completely empty hopper in long tons for the current load. This parameter is required for this contract.
ULLAGE_FORE ULLAGE_AFT	Distance from the top of the bin down to the surface of the dredged material in the bin (measured in feet). This distance is called ullage and the corresponding capacity tables are known as hopper ullage tables. These values are obtained either by averaging multiple sensors (i.e., from port and starboard corners of the fore bin for one value and, from port and starboard corners of the aft bin for another) or optimal placement of a single fore and single aft sensor.
PORT_SLURRY_DENSITY STBD_SLURRY_DENSITY	Instantaneous dragarm slurry density (grams/cubic centimeters)
PORT_SLURRY_VELOCITY STBD_SLURRY_VELOCITY	Instantaneous dragarm slurry velocity (feet/second)
WATER_DEPTH	Depth below the keel at the location of the sensor. This parameter is required for this contract.
PORT_GIMBAL_DEPTH STBD_GIMBAL_DEPTH	Depth below water surface of the dragarm gimbals. This parameter is required for this contract.
HOPPER_VOLUME	Volume of the bin in cubic yards computed from the ullage sensor values.

3.4.4 Data Reporting Example

```
<?xml version="1.0"?>
<HOPPER_DREDGING_DATA version = "2.0">
  <DREDGE_NAME>Essayons</DREDGE_NAME>
  <HOPPER_DATA_RECORD>
    <DATE_TIME>04/11/2002 13:12:05</DATE_TIME>
    <LOAD_NUMBER>102</LOAD_NUMBER>
    <VESSEL_X coord_type = "LL">10.123345</VESSEL_X>
    <VESSEL_Y coord_type = "LL">-80.123333</VESSEL_Y>
    <DRAFT_FORE>10.05</DRAFT_FORE>
    <DRAFT_AFT>15.13</DRAFT_AFT>
    <VESSEL_SPEED>3.4</VESSEL_SPEED>
    <VESSEL_HEADING>302</VESSEL_HEADING>
    <VESSEL_COURSE>258</VESSEL_COURSE>
    <DRAGHEAD_DEPTH_PORT>55.10</DRAGHEAD_DEPTH_PORT>
    <DRAGHEAD_DEPTH_STBD>53.21</DRAGHEAD_DEPTH_STBD>
    <ULLAGE_FORE>10.11</ULLAGE_FORE>
    <ULLAGE_AFT>10.22</ULLAGE_AFT>
    <HOPPER_VOLUME>2555.2</HOPPER_VOLUME>
    <DISPLACEMENT>4444.1</DISPLACEMENT>
    <EMPTY_DISPLACEMENT>2345.0</EMPTY_DISPLACEMENT>
    <TIDE>-0.1</TIDE>
    <HULL_STATUS>CLOSED</HULL_STATUS>
    <PUMP_WATER_PORT>>true</PUMP_WATER_PORT>
    <PUMP_WATER_STBD>>true</PUMP_WATER_STBD>
    <PUMP_MATERIAL_PORT>>false</PUMP_MATERIAL_PORT>
    <PUMP_MATERIAL_STBD>>false</PUMP_MATERIAL_STBD>
    <PUMP_OUT_ON>>false</PUMP_OUT_ON>
    <MIN_PUMP_EFFORT_PORT>>false</MIN_PUMP_EFFORT_PORT>
    <MIN_PUMP_EFFORT_STBD>>false</MIN_PUMP_EFFORT_STBD>
    <PORT_VELOCITY>22.1</PORT_VELOCITY>
    <PORT_DENSITY>1.02</PORT_DENSITY>
    <STBD_VELOCITY>23.3</STBD_VELOCITY>
    <STBD_DENSITY>1.03</STBD_DENSITY>
    <WATER_DEPTH/>
    <PORT_DRAG_X coord_type = "LL">10.123351</PORT_DRAG_X >
    <PORT_DRAG_Y coord_type = "LL">-80.123337</PORT_DRAG_Y >
    <STBD_DRAG_X coord_type = "LL">10.123347</STBD_DRAG_X >
    <STBD_DRAG_Y coord_type = "LL">-80.123339</STBD_DRAG_Y >
  </HOPPER_DATA_RECORD>
</HOPPER_DREDGING_DATA>
<br>
```

<lf>

3.4.5 Legacy Data Reporting Format

For compatibility, the previous version (Legacy) of the hopper dredge data transfer standard is included. Existing implementations of this standard may be used if the contracting officer requires only the reporting of parameters that are part of legacy reporting. Reporting parameters not contained in the legacy format (such as empty displacement or drag head position) shall be reported via XML tags as described in 3.4.1. This legacy standard may be depreciated at a future date so all new implementations shall use the XML tags (3.4.1).

Sensor Data (Parameter)	Units	Data Format	Character Length	Character Position
Version	V1.11	ASCII string	5	1 - 5
Date	yymmdd (local)	ASCII string	6	6-11
Time	hhmmss (local)	ASCII string	6	12-17
Position Error	feet	Floating point	4	18-21
X location	feet	Floating point	7	22-28
Y location	feet	Floating point	7	29-35
Forward draft	feet	Floating point	6	36-41
Aft draft	feet	Floating point	6	42-47
Tide elevation	feet	Floating point	5	48-52
Port dragarm velocity	feet/sec	Floating point	4	53-56
Port dragarm density	grams/liter	Floating point	4	57-60
Starboard dragarm velocity	feet/sec	Floating point	4	61-64
Starboard dragarm density	grams/liter	Floating point	4	65-68
Port gimbal depth	feet	Floating point	4	69-72
Starboard gimbal depth	feet	Floating point	4	73-76
Port draghead depth	feet	Floating point	4	77-80
Starboard draghead depth	feet	Floating point	4	81-84
Heading	degrees true	Integer	3	85-87
Course	degrees true	Integer	3	88-90
Water depth (below hull)	feet	Floating point	4	91-94
Speed (over ground)	knots	Floating point	4	95-98
Hopper volume	cubic yards	Floating point	6	99-104
Current ship weight	long tons	Floating point	6	105-110
Forward ullage	feet	Floating point	4	111-114
Aft ullage	feet	Floating point	4	115-118
Stb. minimum pumping effort	T/F	ASCII	1	119
Port minimum pumping effort	T/F	ASCII	1	120
Starboard pumping water	T/F	ASCII	1	121
Port pumping water	T/F	ASCII	1	122
Port material recovery	T/F	ASCII	1	123
Starboard material recovery	T/F	ASCII	1	124
Hopper open	T/F	ASCII	1	125
Pumpout Active	T/F	ASCII	1	126
Load Number	loads	Integer	4	127-130
<Carriage Return>	n/a	ASCII	1	131
<Line Feed>	n/a	ASCII	1	132

Example data string:

```
V1.11991208015929 1.1798859 96072 6.8 8.3 1.4 .0 .00<line break>
.01.02 .0 3.3 .0 4.9 7 8 7.610.0 747. 521. 3.8 4.6FFFFFFFFF0111<cr><lf>
```

3.4.6 Legacy Format Data Reporting Metadata

Any data that are out of range, missing, or considered unusable for any other reason shall be reported as the value 999. If a true/false value cannot be computed, then it should be reported as the letter U for unknown. Each data string is followed by a carriage return - line feed combination. The definitions of the data parameters follow:

Version Version of string - This version is designated V1.11

Date Date in local time of the sensor measurements, formatted yymmdd.

Time Local time of the measurements formatted hhmmss.

Position Error

For conventional positioning systems this is the RMS error of ship's position based on the X and Y range values used to calculate the position. For a GPS-based system, this is the Horizontal Dilution of Precision (HDOP) value.

X location X (easting) position of the dredge.

Y location Y (northing) position of the dredge.

Forward and aft draft

Draft of vessel below waterline at the forward and aft sensor locations.

Tide elevation Tide height relative to district standard datums.

Port & Stbd dragarm velocity Velocity of water moving through the dragarms.

Port & Stbd dragarm density

Specific gravity of water/material mixture in the dragarms. Valid values are 1.0 to 2.0; values < 1.0 indicate no water in the dragarm.

Port & Stbd. gimbal depth Depth below water surface of the dragarm gimbals.

Port & Stbd. draghead depth

Depth below water surface of the low fixed point of each draghead. This value includes a correction for the draft and trim of the vessel, and is not depth below the keel.

Heading Heading in degrees of the vessel. Values are from 000 to 359.

Course

Vessel course in degrees made good as computed from the vessel's navigation system data over 10 second intervals. Values are from 000 to 359.

Water depth Depth below the keel at the location of the sensor.

Speed Vessel speed over the ground averaged over the reporting interval.

Current ship weight Weight of the vessel at the time of measurement.

Ullage (fore, aft)

Distance from the top of the hopper down to the surface of the dredged material in the hopper. This distance is called ullage and the corresponding capacity tables are known as hopper ullage tables. These values are obtained either by averaging multiple sensors (i.e., from port and starboard corners of the fore hopper for one value and, from port and starboard corners of the aft hopper for another) or optimal placement of a single fore and single aft sensor.

Hull - Split or closed

If the hull is split, then the value is true. If the hull is closed, then the value is false.

Hopper doors - open or closed

Status of the hopper doors as either open (true), all doors fully closed (false), or undetermined (unknown). Any single hopper door open requires a door open status.

Pumpout

Status of pumpout activity. When pumpout is active the value is true, when pumpout is not active the value is false.

Material Recovery

True when the hopper dredge is digging material. For example when the slurry velocity is greater than 10 feet per second and the density is greater than 1.05 grams per cubic centimeter, then material recovery is True. These criteria may be tailored for each dredge and project. This value is applied to each dragarm.

Pumping Water

True when the hopper dredge is not recovering material but only pumping water. For example when the slurry density is less than 1.05 grams per cubic centimeter, then the dredge is pumping water. This criterion may be tailored for each dredge and project. Other parameters such as pump vacuum (for example) could be used to satisfy the pumping water requirement.

Minimum Pumping Effort

True when the hopper dredge's dredge pumps are either idling to assure minimum dragarm intake velocity or off. Pump revolutions per minute below a certain idle threshold or dragarm slurry velocity at or below the idle speed threshold could be used depending on the particular dredge plant and project. The minimum pumping effort value is reported for each dragarm. The criteria may be tailored for each dredge and project.

Load Number

The number of the load that the dredge is currently working on. Typically the load number is incremented at the completion of the disposal phase of each loading cycle. Loads are determined according to the convention specified by the CONTRACTING OFFICER or his/her representative.

3.4.7 Contractor Data Backup

The dredging contractor shall maintain an archive of the data sent to the CONTRACTING OFFICER or his/her representative's computer for the length of the dredging project. The CONTRACTING OFFICER or his/her representative may request (at no additional cost to the contract price) that the contractor provide a copy of these data covering specified time periods. The data shall be provided on PC format CD-ROM (or other storage medium acceptable to the CONTRACTING OFFICER or his/her representative) and each of the requested time periods shall be identified.

3.5 DREDGE PLANT INSTRUMENTATION PLAN

The contractor shall submit a Dredge Plant Instrumentation Plan prior to commencement of dredging operations. Refer to section 3.8 for the schedule of submittal. The plan shall include at a minimum:

3.5.1 Dredge Computations and Documentation

All computations for a particular dredge concerning deriving computed data elements as required in section 3.4.3 from sensor data elements shall be provided to the CONTRACTING OFFICER or his/her representative. Any changes to the computing methods during the dredging contract must be approved in writing by the CONTRACTING OFFICER or his/her representative prior to the change being applied. These computations include the vessel displacement, hopper volume, material recovery, pumping water, and the minimum pumping effort.

The contractor shall provide the dragpipe length dimensions and offset distances from the DGPS antenna location to the centerline of each draghead. The inside pipe diameter along with the location of the slurry density and slurry velocity metering system sensors shall also be provided to the CONTRACTING OFFICER or his/her representative. All dimensions and drawings are to be certified by a licensed marine surveyor or architect.

The contractor shall also provide the CONTRACTING OFFICER or his/her representative with dimensioned-drawings of the hopper with hopper level sensor locations included. These drawings should include hopper length, depth, and width with hopper level sensors referenced to the overall dimensions. A typical mid-ship hopper cross-section should be included with dimensions. The overall dredge dimensions shall also be provided, indicating the locations of the fore and aft draft sensors with regard to; 1) horizontal and vertical distances from the keel, 2) horizontal and vertical distances between each draft sensor, 3) vertical distances to the hopper level sensors, 4) distance of aft draft sensor to aft perpendicular, 5) distance of fore draft sensor to fore perpendicular, 6) distance of the aft draft sensor from the midship section, and 7) distance of the fore draft sensor from the midship section. The contractor shall also provide in writing as part of the DPIP; how to relate fore and aft ullage sensor measurements to hopper volume calculations.

3.5.2 Data Reporting

Non-standard sensor data names not in section 3.4.3 shall be supplied to the CONTRACTING OFFICER or his/her representative. An example ASCII format file of data to be exported to the CONTRACTING OFFICER or his/her representative's computer shall be provided with the DPIP.

3.5.3 Computer Hardware

The brand name and specifications of furnished computer hardware.

3.5.4 Calibrations

The contractor shall provide certificates of calibration and/or manufacturer certificates of compliance for all needed dredge information. These include slurry density, slurry velocity, heading, draft, hopper level, water depth, and draghead depth.

3.5.5 Instrumentation Quality Control Methods

Test methods used by the contractor to provide quality control of input sensor data should be documented. These test methods shall include the checking of sensors to verify that reported values are applicable for that sensor and the particular project being dredged

3.5.6 Sensor Log

The contractor shall maintain a log of sensor performance and modifications during the length of the dredging contract. The log shall contain the time when a sensor fails (and subsequently repaired). The log shall also include the time and results of sensor calibrations, the time of sensor replacements, and the time when backup sensor systems

are initiated to provide required data. It shall also contain the name of the person responsible for the sensor work. Only sensors that affect the data reported in section 3.4.3 are affected by this logging requirement.

3.5.7 Hopper Volume and Dredge Displacement

In the DPIP, the contractor shall supply the CONTRACTING OFFICER or his/her representative with the dredge ullage table which lists the hopper volume as a function of hopper level, a dredge draft displacement table listing the dredge displacement as a function of draft, and the vessel's hydrostatic curves and lines drawing. A licensed marine surveyor or architect who is independent of the contractor must certify these tables, curves, and lines drawing. The contractor should specify the most accurate method for calculating hopper volume based on fore and aft hopper level and displacement based on fore and aft draft.

3.5.8 Summary of DPIP Deliverables

Description	Referring Section
Hopper volume computation, hopper ullage table	3.5.1, 3.5.7
Dredge displacement computation	3.5.1, 3.5.7
Dredge dimensions - dragpipe lengths, offset distance from DGPS antenna, draft sensor/hull draft markings relation, draft and hopper sensor offsets	3.5.1, 3.1.6, 3.6.2
Hopper dimensioned drawing	3.5.1
Hopper cross-section drawing	3.5.1
Overall dredge dimensioned drawing	3.5.1
Vessel's hydrostatic curves and lines drawing	3.5.1
Quality control methods	3.5.5
Computer system hardware documentation	3.5.3, 3.3.1, 3.3.2, 3.3.3, 3.3.4
Proposed revisions to data reporting interface	3.5.2, 3.4.1, 3.4.2

Description	Referring Section
Sensor calibrations - draft, slurry density, slurry velocity, hopper level, water depth, and draghead depth	3.5.4, 3.1.1, 3.1.2, 3.1.3, 3.1.6, 3.1.7, 3.1.10
Sensor Log	3.5.6, 3.4.1, 3.4.2

3.6 QUALITY ASSURANCE TESTS

3.6.1 Water Test

Each water test shall consist of pumping the hopper out to its lowest level and then filling the hopper to capacity with water. The objective of the water test is to assure data consistency by comparing the system-measured water specific gravity to that of the value determined by analyzing water samples retrieved from the hopper. The CONTRACTING OFFICER or his/her representative will direct the contractor in performing up to three water tests at no additional cost to the contract price. After the first water test, the CONTRACTING OFFICER or his/her representative will evaluate the data for accuracy. If the CONTRACTING OFFICER or his/her representative's review of the data indicates an unsatisfactory calibration, a re-calibration of the sensors and review of contractor-supplied displacement and hopper volume may be necessary before completing additional water tests. During dredging operations, up to two additional water tests may be conducted per week at the time and discretion of the CONTRACTING OFFICER or his/her representative. The CONTRACTING OFFICER or his/her representative will review the water test data to insure that the system is operating within acceptable accuracy, directing the contractor to re-calibrate or repair system components as necessary.

The Contractor shall provide a handheld refractometer with automatic temperature compensation to measure the hopper water specific gravity during water tests. The refractometer shall be capable of measuring the hopper water's specific gravity with a resolution of 0.001 and minimum accuracy of ± 0.001 . The Contractor shall also provide a water-sampling device to retrieve a sufficient volume of water from various depths in the hopper to accurately determine specific gravity with the refractometer.

3.6.2 Relative water level tests

The relative water level test consists of opening the bottom dump doors (or corresponding equipment) to allow the water level surrounding the dredge to equalize with the water level in the hopper and comparing the draft and ullage sensor-measured values of the same water plane. During dredging operations, up to two additional relative water level tests may be conducted per week at the time and discretion of the CONTRACTING OFFICER or

his/her representative. The CONTRACTING OFFICER or his/her representative will review the test data to insure that the system is operating within acceptable accuracy, directing the contractor to re-calibrate or repair system components as necessary. The contractor shall provide to the CONTRACTING OFFICER or his/her representative sufficient dredge configuration data including the vertical distance between hopper level sensors and draft sensors.

3.6.3 Hopper level

The CONTRACTING OFFICER or his/her representative will periodically check the reported hopper level. Tape measure or other distance measuring means shall be used. The Contractor shall have on the dredge a clearly readable weighted tape with measurements shown in foot-and-tenths-and hundredths, capable of measuring the full hopper depth. The weight for this tape shall be a 6-inch diameter disk weighing between 2 and 3 pounds. The CONTRACTING OFFICER or his/her representative will review the hopper level data to insure that the system is operating within acceptable accuracy (1/10 foot), directing the contractor to re-calibrate or repair system components as necessary.

3.6.4 Draghead Depth

The CONTRACTING OFFICER or his/her representative may require periodic calibration checks of the reported draghead depth over a calibration point at the project site. The CONTRACTING OFFICER or his/her representative may also use direct means such as tape measures, sounding lines, and pressure sensors to directly measure draghead depth. The Contractor shall have on the dredge a clearly readable steel tape, chain, or wire graduated in 1 and 1/2 foot increments. This tape or chain shall be capable of measuring the depth below water surface of the low fixed point of each draghead with sufficient length to measure 5 feet over the maximum project depth. . The CONTRACTING OFFICER or his/her representative will review the hopper level data to insure that the system is operating within acceptable accuracy, directing the contractor to re-calibrate or repair system components as necessary.

3.7 LIST OF ITEMS PROVIDED BY THE CONTRACTOR

Description	Section Reference
Computer system, UPS, and printer	3.3.1, 3.3.3, 3.3.4
Network hub	3.3.2

Description	Section Reference
Dredge Plant Instrumentation Plan	1.3, 3.1, 3.5, 3.5.3, 3.5.4, 3.5.5, 3.5.6
Dredge hopper level and volume	3.1.7, 3.5.7, 3.6.3, 3.6.1, 3.6.2, 3.6.3
Dredge draft and displacement	3.5.1, 3.1.6, 3.2, 3.5.7, 3.6.1, 3.6.2
Data reporting interface	3.4, 3.4.1, 3.4.2, 3.4.3, 3.2, 3.3.1
Dredge heading	3.1.5, 3.2, 3.4.1, 3.4.2
Draghead depths	3.1.3, 3.6.4, 3.2
Report tide level	3.1.8, 3.4.3, 3.2
Hopper status	3.1.9, 3.4.2, 3.4.3, 3.2
Dredge material recovery status	3.1.10, 3.4.2, 3.4.3, 3.2
Dredge Data Acquisition Time	3.1.11, 3.4, 3.4.2, 3.4.3, 3.2
Slurry density	3.5.4, 3.4.2, 3.4.3, 3.2
Slurry velocity	3.5.4, 3.4.2, 3.4.3, 3.2
Pumpout status	3.1.12, 3.4.2, 3.4.3, 3.2
Dredge pumping water status	3.1.13, 3.4.2, 3.4.3, 3.2
Dredge minimum pumping effort status	3.1.14, 3.4.2, 3.4.3, 3.2
Dredge position	3.4.2, 3.4.3, 3.1.4, 3.2
Refractometer	3.6.1
Water Sampling Device	3.6.1
Hopper level measurement tape	3.6.3
Draghead depth measurement tape	3.6.4

3.8 SCHEDULE OF DPIP SUBMITTAL

The Contractor DPIP submittal shall be required by the Notice to Proceed date. Within 7 days after receipt of the DPIP, the CONTRACTING OFFICER or his/her representative will review and comment on its acceptability. After this DPIP is reviewed and accepted by the CONTRACTING OFFICER or his/her representative, the onboard system will be required to

be inspected, approved by the CONTRACTING OFFICER or his/her representative, and operational within 15 days of the Notice to Proceed.

If the system is not operational after 15 days after the Notice to Proceed, or if the system becomes inoperable for a period of time greater than allowed in the specification, the Dredging unit price, for each assignment, will each be reduced to 80% of the original bid price for the hours when the system is not fully operational.

FOR INFORMATION ONLY

#1-09											6-Jan-09
Island 1	Island 2	Weeks	Newport	Columbia	Lindholm	Eagle	Stuyv.	Bayport	Liberty	Glenn E	
1500000	1500000	1500000	1500000	1500000	1500000	1500000	1500000	1500000	1500000	1500000	Gross Yardage
3594	3594	4009	4167	4387	4023	6400	11118	4830	6466	13572	Hopper Capacity
300	300	450	230	110	450	100	1000	250	87	270	Retained Material
3294	3294	3559	3937	4277	3573	6300	10118	4580	6379	13302	Effective Capacity
1976.4	1976.4	2135.4	2362.2	2566.2	2143.8	3780	6070.8	2748	3827.4	7981.2	60% Load
26.6	26.6	26.6	26.6	26.6	26.6	26.96	27.32	26.6	26.96	26.96	Haul Distance
9.87	10.56	9.19	9.67	12.77	12.26	10.89	11.44	10.34	12.19	12.25	MPH Loaded
10.97	11.97	10.54	11.02	12.92	12.42	11.88	12.78	12.54	13.62	14.86	MPH Light
2.70	2.52	2.89	2.75	2.08	2.17	2.48	2.39	2.57	2.21	2.20	Travel Time to Dump
2.42	2.22	2.52	2.41	2.06	2.14	2.27	2.14	2.12	1.98	1.81	Travel Time to Cut
0.5	0.5	0.5	0.5	0.75	0.5	0.5	0.5	0.5	0.5	0.5	Pump, turn, dump time
5.62	5.24	5.92	5.66	4.89	4.81	5.25	5.03	5.19	4.69	4.52	Total Cycle time
758.96	758.96	702.44	635.00	584.52	699.69	396.83	247.08	545.85	391.91	187.94	Number of cycles
4265.20	3977.81	4157.19	3597.01	2859.38	3366.47	2081.36	1241.80	2835.01	1838.49	848.57	Total Hours
4397.00	4101.00	4286.00	3708.00	2948.00	3471.00	2146.00	1280.00	2923.00	1895.00	875.00	97% efficiency Hours

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General Decision Number: AL080008 02/08/2008 AL8

Superseded General Decision Number: AL20070032

State: Alabama

Construction Type: Heavy Dredging

Counties: Alabama Statewide.

DREDGING CONSTRUCTION PROJECTS (SELF-PROPELLED HOPPER DREDGING ONLY).

Modification Number	Publication Date
0	02/08/2008

SUAL1998-001 03/26/1998

	Rates	Fringes
Self-Propelled Hopper Dredge Drag Tenders.....	\$ 9.70	3.45+b

FOOTNOTES: b.- Fourteen days paid vacation and eight paid holidays: New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day and Christmas Day, provided that employee has had one year or more of service.

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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

In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

WAGE DETERMINATION APPEALS PROCESS

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

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter

* a conformance (additional classification and rate) ruling

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

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

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

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

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

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

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

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

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

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END OF GENERAL DECISION