



**US Army Corps  
of Engineers**  
Philadelphia District

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# **Rehabilitation of Water Quality Control Gate**

**Beltzville Dam and Reservoir  
Lehigh River Basin  
Pohopoco Creek, Pennsylvania**

## **Construction Solicitation and Specifications**

**17 August 2000**



## CAUTION TO BIDDERS

All information required by the terms of the Solicitation must be furnished. **MISTAKES OR OMISSIONS CAN BE COSTLY.** Important items for you to check are included in but not limited to those listed below. **This checklist is furnished only to assist you in submitting a proper bid.** Check as you read.

- Are you registered in the Central Contractor Database? See DFARS Clause 52.204-7004, "REQUIRED CENTRAL CONTRACTOR REGISTRATION", in Section 00700 of this solicitation.
- Have you acknowledged all amendments? Have you submitted your bid on the latest amended bid schedule?
- Have you completed the "Representations and Certifications" {Section 00600} portion of the Solicitation? Is your Contractor Establishment Code listed on the Standard Form 1442?
- Is your bid properly signed by an officer of your company?
- If a bid guarantee is required, is it included with your bid {A late bid guarantee is treated the same as a late bid.} and is it in the proper amount? {Usually 20 percent of the **total** bid price, including any options or additives.} If your bid guarantee is in the form of a bid bond, is the bond properly signed by both the bidder and surety and are all required seals affixed? A bid guarantee is required when your bid exceeds \$100,000.00.
- Is the name in which you submitted the bid the same on your bid as on the bid bond?
- If required, have you entered a unit price for each bid item? {The solicitation will specifically state when this is necessary.}
- The Government may reject a bid as nonresponsive if it is materially and mathematically unbalanced as to price for any bid item or combination of items. A bid is unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.
- Are decimals in unit prices in the proper places? Are your figures legible?
- Are the extensions of your unit prices, and your total bid price correct?
- Are all erasures or corrections initialed by the person signing the bid?
- Have you restricted your bid by altering the provisions of the solicitation?
- If you are a large business and your bid is greater than \$1,000,000.00 have you included your Sub-Contracting Plan in your bid package? {NOTE: **AN AWARD WILL NOT BE MADE WITHOUT AN APPROVED SUB-CONTRACTING PLAN. IN ORDER TO BE APPROVED YOUR PLAN MUST DESIGNATE 5% OF THE TOTAL SUB-CONTRACTING DOLLARS TO SMALL DISADVANTAGED BUSINESSES**}.
- Is the envelope containing your bid properly identified that it is a sealed bid and does it contain the correct solicitation number and bid opening time?
- Will your bid arrive on time? See paragraph entitled "Late Submissions, Modifications, and Withdrawals of Bids" in the Instructions to Bidders {Section 00100} of the solicitation.

July 02, 1998



INVITATION NO. DACW61-00-B-0034

PHILADELPHIA DISTRICT  
CORPS OF ENGINEERS

INVITATION FOR BIDS  
FOR

REHABILITATION OF WATER QUALITY CONTROL GATE

BELTZVILLE DAM AND RESERVOIR  
LEHIGH RIVER BASIN  
POHOPOCO CREEK, PENNSYLVANIA

I. NOTE THE AFFIRMATIVE ACTION REQUIREMENT OF THE EQUAL OPPORTUNITY CLAUSE WHICH MAY APPLY TO THE CONTRACT RESULTING FROM THIS SOLICITATION.

II. BIDDERS ARE CAUTIONED TO NOTE THE "CERTIFICATION OF NONSEGREGATED FACILITIES" IN THE SOLICITATION. FAILURE OF A BIDDER TO AGREE TO THE CERTIFICATION WILL RENDER HIS BID NONRESPONSIVE TO THE TERMS OF SOLICITATIONS INVOLVING AWARDS OF CONTRACTS EXCEEDING \$10,000 WHICH ARE NOT EXEMPT FROM THE PROVISIONS OF THE EQUAL OPPORTUNITY CLAUSE. (1984 APR)

III. BIDDERS ARE REQUIRED TO COMPLETE THE REPRESENTATION AND CERTIFICATIONS PORTION OF SECTION 00600 OF THIS SOLICITATION AND SUBMIT THIS WITH THEIR BIDS.

IV. PROSPECTIVE BIDDERS ARE INVITED TO VISIT THE SITE OF THE WORK TO ACQUAINT THEMSELVES WITH THE SITE CONDITIONS AND ANY PROBLEMS INCIDENT TO THE PROSECUTION OF THE WORK. A SITE VISIT OF THE PROJECT SITE WILL BE HELD ON 1 SEPTEMBER 2000 BEGINNING AT 10:00 AM. ALL THOSE PLANNING TO ATTEND SHALL CONTACT MR. WILLIAM ROTHERT AT (215) 656-6893 PRIOR TO COB 30 AUGUST 2000.

17 August 2000



<b>SOLICITATION, OFFER, AND AWARD</b> <i>(Construction, Alteration, or Repair)</i>	1. SOLICITATION NO. DACW61-00-B-0034	2. TYPE OF SOLICITATION <input checked="" type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED Aug. 16, 2000	PAGE OF PAGES 1 of 232
	IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.			

4. CONTRACT NO. DACW61-00-C-	5. REQUISITION/PURCHASE REQUEST NO. W25PHS-	6. PROJECT NO. DACW61-00-B-0034
7. ISSUED BY US Army Engineer District, Philadelphia Wanamaker Building, Rm 643 100 Penn Square East Philadelphia, PA 19107-3390	8. ADDRESS OFFER TO See Block 6	

9. FOR INFORMATION CALL	A. NAME William A. Bailey	B. TELEPHONE NO. (include area code) (NO COLLECT CALLS) 251-656-6932
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**SOLICITATION**

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

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

Project: Rehabilitation of Water Quality Control Gate  
Beltzville Dam and Reservoir, Lehigh, PA

Solicitation No. DACW61-00-B-0034

Issue Date: Aug. 16, 2000

Bid Opening Date: Sept. 15, 2000, 11:00 a.m., local time

**THIS PROJECT IS TOTALLY SET ASIDE FOR SMALL BUSINESS**

11. The Contractor shall begin performance within 10 calendar days and complete it within 90 calendar days after receiving  
 award,  notice to proceed. This performance period is  mandatory,  negotiable. (See Section 00800.)

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
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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 11:00 a.m. (hour) local time  
Sept. 15, 2000 (date). If this is a sealed bid solicitation, offers will 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 60 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.



BIDDING SCHEDULE  
 (To be attached to SF 1442)

Item No.	Description	Estimated Quantity	Unit	Unit Price	Estimated Amount
1.	Lower and Raise Bulkheads	1	Job	L.S.	\$
2.	Remove Gate	1	Job	L.S.	\$
3.	Inspect Gates	1	Job	L.S.	\$
4.	Replace Parts	1	Job	L.S.	\$
5.	Weld Repair	1	Job	L.S.	\$
6.	Replace Horizontal and Vertical Gate Seats and Cap Screws	1	Job	L.S.	\$
7.	Remove Lead-Based Paint	1	Job	L.S.	\$
8.	Paint	1	Job	L.S.	\$
9.	Install Gate	1	Job	L.S.	\$
10.	Inspect, Lubricate, and Adjust Limitorque Motor	1	Job	L.S.	\$
11.	Replace Position Indicator Control System	1	Job	L.S.	\$
TOTAL ESTIMATED AMOUNT:					\$

NOTE: Bidders must bid on all items.

SECTION 00100 Bidding Schedule/Instructions to Bidders

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

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

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

- (1) Company name.
- (2) Company address.
- (3) Company telephone number.
- (4) Line of business.
- (5) Chief executive officer/key manager.
- (6) Date the company was started.
- (7) Number of people employed by the company.
- (8) Company affiliation.

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

52.214-1 SOLICITATION DEFINITIONS--SEALED BIDDING (JUL 1987)

"Government" means United States Government.

"Offer" means "bid" in sealed bidding.

"Solicitation" means an invitation for bids in sealed bidding.

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.

#### 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.

#### 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.

#### 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.

#### 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.

#### 52.214-12 PREPARATION OF BIDS (APR 1984)

(a) Bidders are expected to examine the drawings, specifications, Schedule, and all instructions. Failure to do so will be at the bidder's risk.

(b) Each bidder shall furnish the information required by the solicitation. The bidder shall sign the bid and print or type its name on the Schedule and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(c) For each item offered, bidders shall (1) show the unit price, including, unless otherwise specified, packaging, packing, and preservation and (2) enter the extended price for the quantity of each item offered in the "Amount" column of the Schedule. In case of discrepancy between a unit price and an extended price, the unit price will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.

(d) Bids for supplies or services other than those specified will not be considered unless authorized by the solicitation.

(e) Bidders must state a definite time for delivery of supplies or for performance of services, unless otherwise specified in the solicitation.

(f) Time, if stated as a number of days, will include Saturdays, Sundays, and holidays.

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.

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

(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.

52.216-1 TYPE OF CONTRACT (APR 1984)

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

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
1.6 %	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 Carbon County.

**52.225-10 NOTICE OF BUY AMERICAN ACT/BALANCE OF PAYMENTS PROGRAM REQUIREMENT--CONSTRUCTION MATERIALS (FEB 2000)**

(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--Balance of Payments Program--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 or Balance of Payments Program should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include

the information and applicable supporting data required by paragraphs (c) and (d) of 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 or Balance of Payments Program before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) Evaluation of offers. (1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act or Balance of Payments Program, based on claimed unreasonable cost of domestic construction 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.

#### 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:

Name : William Rothert, Project Manager  
Telephone: 215-656-6893

#### 52.233-2 SERVICE OF PROTEST (AUG 1996)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from: Denise DeTitta, Contracting Officer, US Army Engineer District, Philadelphia, Wanamaker Building, Rm 643, 100 Penn Square East, Philadelphia, PA 19107-3390

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

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

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

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

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

52.203-11 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APR 1991)

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this Certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989,--

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

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-----

52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (MAR 1996)

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

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

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

(B) Have [ ] have not [ ], within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; 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 subdivision (a)(1)(i)(B) of this provision.

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

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

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

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

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

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

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

52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS (MAY 1999) ALTERNATE I (OCT 1998) & ALTERNATE II (NOV 1999)

(a)(1) The standard industrial classification (SIC) code for this acquisition is 1629.

(2) The small business size standard is \$17.0 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 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)(4)(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.

(5) [Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision.] The offeror shall check the category in which its ownership falls:

\_\_\_ Black American.

\_\_\_ Hispanic American.

\_\_\_ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

\_\_\_ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

\_\_\_ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

\_\_\_ Individual/concern, other than one of the preceding.

(c) Definitions. "Joint venture," for purposes of a small disadvantaged business (SDB) set-aside or price evaluation preference (as prescribed at 13 CFR 124.321), is a concern that is owned and controlled by one or more socially and economically disadvantaged individuals entering into a joint venture agreement with one or more business concerns and is considered to be affiliated for size purposes with such other concern(s). The combined annual receipts or employees of the concerns entering into the joint venture must meet the applicable size standard corresponding to the SIC code designated for the contract. The majority of the venture's earnings must accrue directly to the socially and economically disadvantaged individuals in the SDB concern(s) in the joint venture. The percentage of the ownership involvement in a joint venture by disadvantaged individuals must be at least 51 percent.

"Small business concern," as used in this provision, 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.

"Small disadvantaged business concern," as used in this provision, means a small business concern that (1) is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one or more socially and economically disadvantaged individuals, and (2) has its management and daily business controlled by one or more such individuals. This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian Organization, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one or more of these entities, which has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian Organization, and which meets the requirements of 13 CFR Part 124.

"Women-owned small business concern," as used in this provision, means a small business concern--

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

(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, 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.

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.

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(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.

52.223-13 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (OCT 1996)

(a) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

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

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

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

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

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

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

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

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

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.

252.209-7001 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(a) "Definitions."

As used in this provision --

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

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

(3) "Significant interest" means --

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

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

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

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

(v) Holding 50 percent or more of the 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.

252.225-7017 PROHIBITION ON AWARD TO COMPANIES OWNED BY THE PEOPLE' S  
REPUBLIC OF CHINA (FEB 2000)

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

(b) Prohibition on award. Section 8120 of the Department of Defense Appropriations Act for fiscal year 1999 (Pub. L. 105-262), as amended by Section 144 of Title I, Division C, of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Pub. L. 105-277), prohibits the award of a contract under this solicitation to any company in which the Director of Defense Procurement (Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics)) has determined that the People's

Republic of China or the People's Liberation Army of the People's Republic of China owns more than 50 percent interest.

(c) Representation. By submission of an offer, the offeror represents that the People's Republic of China or the People's Liberation Army of the People's Republic of China does not own more than 50 percent interest in the offeror.

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.

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## SECTION 00700 Contract Clauses

## CLAUSES INCORPORATED BY FULL TEXT

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

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

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

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

(d) "Nondevelopmental item" means--

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

(2) Any item described in paragraph (e)(1) of this definition that requires only minor modification or modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

(3) Any item of supply being produced that does not meet the requirements of paragraph (e)(1) or (e)(2) solely because the item is not yet in use.

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

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

## 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.

#### 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.

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

(a) Definitions.

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

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

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

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

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

Contractor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibitions.

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

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

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

(i) Agency and legislative liaison by own employees.

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

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

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

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

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

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

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

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

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

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

(ii) Professional and technical services.

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

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

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

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

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

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

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

(c) Disclosure.

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

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

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

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

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

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

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

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

(e) Penalties.

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

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

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

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

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

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

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

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

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

(1) The name of the subcontractor.

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

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

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

#### 52.211-18 VARIATION IN ESTIMATED QUANTITY (APR 1984)

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

#### 52.214-26 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.

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.

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).

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.

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

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

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

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

(ii) Otherwise successful offers from small business concerns;

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

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

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

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

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

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

\_\_\_ Offeror elects to waive the evaluation preference.

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

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

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

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

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

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

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

## 52.219-6 NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (JUL 1996)

## (a) Definition.

"Small business concern," as used in this clause, 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 size standards in this solicitation.

(b) General. (1) Offers are solicited only from small business concerns. Offers received from concerns that are not small business concerns shall be considered nonresponsive and will be rejected.

(2) Any award resulting from this solicitation will be made to a small business concern.

(c) Agreement. A small business concern submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States. The term "United States" includes its territories and possessions, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply in connection with construction or service contracts.

## 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 1999)

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

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

(c) Definitions. As used in this contract (1) Small business concern means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

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

(3) Small business concern owned and controlled by socially and economically disadvantaged individuals and small disadvantaged business concern mean a small business concern that represents, as part of its offer that--

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

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

(iii) 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

(iv) 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).

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

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

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

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

#### 52.219-14 LIMITATIONS ON SUBCONTRACTING (DEC 1996)

(a) This clause does not apply to the unrestricted portion of a partial set-aside.

(b) By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract in the case of a contract for--

(1) Services (except construction). At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern.

(2) Supplies (other than procurement from a nonmanufacturer of such supplies). The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.

(3) General construction. The concern will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.

(4) Construction by special trade contractors. The concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

#### 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.

#### 52.222-3 CONVICT LABOR (AUG 1996)

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

- (a)(1) The worker is paid or is in an approved work training program on a voluntary basis;
  - (2) Representatives of local union central bodies or similar labor union organizations have been consulted;
  - (3) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and
  - (4) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and
- (b) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

52.222-3 CONVICT LABOR (AUG 1996)

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

- (a)(1) The worker is paid or is in an approved work training program on a voluntary basis;
  - (2) Representatives of local union central bodies or similar labor union organizations have been consulted;
  - (3) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and
  - (4) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and
- (b) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

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

- (a) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics (see Federal Acquisition Regulation (FAR) 22.300) shall require or permit any such laborers or mechanics in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- (b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in paragraph (a) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the

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

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

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

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

#### 52.222-6 DAVIS-BACON ACT (FEB 1995)

(a) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (d) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period. Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (b) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

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

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

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

#### 52.222-7 WITHHOLDING OF FUNDS (FEB 1988)

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

#### 52.222-8 PAYROLLS AND BASIC RECORDS (FEB 1988)

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct

classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

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

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

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

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

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

#### 52.222-9 APPRENTICES AND TRAINEES (FEB 1988)

(a) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they

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

(b) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

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

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

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

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

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

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

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

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

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

## 52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)

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

## 52.222-15 CERTIFICATION OF ELIGIBILITY (FEB 1988)

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

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

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

52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

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

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

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

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
1.6%	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 Pennsylvania, Carbon County, White Haven

52.222-26 EQUAL OPPORTUNITY (FEB 1999)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Develop on-the-job training opportunities and/or participate in training programs for the area that expressly

include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under subparagraph (g)(2) of this clause.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Actively participates in the group;

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

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

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

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

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

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

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

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

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

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

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

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

(3) Keep records that shall at least include for each employee the name, address, telephone number, construction trade, union affiliation (if any), employee identification number, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated

trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, separate records are not required to be maintained.

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

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

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

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

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

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

Veteran of the Vietnam era means a person who--

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

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

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

(i) Employment;

(ii) Upgrading;

(iii) Demotion or transfer;

(iv) Recruitment;

(v) Advertising;

(vi) Layoff or termination;

(vii) Rates of pay or other forms of compensation; and

(viii) Selection for training, including apprenticeship.

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

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

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

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

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

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

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

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

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

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

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

#### 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.

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

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

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

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

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

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

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

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

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

52.225-9 BUY AMERICAN ACT--BALANCE OF PAYMENTS PROGRAM--CONSTRUCTION MATERIALS (FEB 2000)

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

Component means any article, material, or supply incorporated directly into construction materials.

Construction material means an article, material, or supply brought to the construction site by the Contractor or 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 end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

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

Domestic construction material means--

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

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

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

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

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

None

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

- (i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent. For determination of unreasonable cost under the Balance of Payments Program, the Contracting Officer will use a factor of 50 percent;
- (ii) The application of the restriction of the Buy American Act or Balance of Payments Program to a particular construction material would be impracticable or inconsistent with the public interest; or
- (iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) Request for determination of inapplicability of the Buy American Act or Balance of Payments Program. (1)( i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(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 or Balance of Payments Program applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3)( i) of this clause.

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

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

Foreign and Domestic Construction Materials Price Comparison

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

52.223-6 DRUG-FREE WORKPLACE (JAN 1997)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) Taking appropriate personnel action against such employee, up to and including termination; or
  - (ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
- (7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.
- (c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.
- (d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.

52.223-14 TOXIC CHEMICAL RELEASE REPORTING (OCT 1996)

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

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

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

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

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

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

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

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

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

(2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall (i) submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior

calendar year during which the facility becomes eligible; and (ii) continue to file the annual Form R for the life of the contract for such facility.

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

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

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

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

52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUL 2000)

(a) The Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through, countries whose products are banned from importation into the United States under regulations of the Office of Foreign Assets Control, Department of the Treasury. Those countries are Cuba, Iran, Iraq, Libya, North Korea, Sudan, the territory of Afghanistan controlled by the Taliban, and Serbia (excluding the territory of Kosovo).

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

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

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.

#### 52.227-1 AUTHORIZATION AND CONSENT (JUL 1995)

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

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

## 52.228-1 BID GUARANTEE (SEP 1996)

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

(b) The bidder shall furnish a bid guarantee in the form of a firm commitment, e.g., bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds, (1) to unsuccessful bidders as soon as practicable after the opening of bids, and (2) to the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.-

(c) The amount of the bid guarantee shall be 20 percent of the bid price or \$\_n/a\_\_\_, 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.

## 52.228-2 ADDITIONAL BOND SECURITY (OCT 1997)

The Contractor shall promptly furnish additional security required to protect the Government and persons supplying labor or materials under this contract if--

(a) Any surety upon any bond, or issuing financial institution for other security, furnished with this contract becomes unacceptable to the Government.

(b) Any surety fails to furnish reports on its financial condition as required by the Government;

(c) The contract price is increased so that the penal sum of any bond becomes inadequate in the opinion of the Contracting Officer; or

(d) An irrevocable letter of credit (ILC) used as security will expire before the end of the period of required security. If the Contractor does not furnish an acceptable extension or replacement ILC, or other acceptable substitute, at least 30 days before an ILC's scheduled expiration, the Contracting officer has the right to immediately draw on the ILC.

## 52.228-13 ALTERNATIVE PAYMENT PROTECTIONS (OCT 1997)

(a) The Contractor shall submit one of the following payment protections:

Payment Bond or Irrevocable Letter of Credit

(b) The amount of the payment protection shall be 50 percent of the contract price.

(c) The submission of the payment protection is required within 10 days of contract award.

(d) The payment protection shall provide protection for the full contract performance period plus a one-year period.

(e) Except for escrow agreements and payment bonds, which provide their own protection procedures, the Contracting Officer is authorized to access funds under the payment protection when it has been alleged in writing by a supplier of labor or material that a nonpayment has occurred, and to withhold such funds pending resolution by

administrative or judicial proceedings or mutual agreement of the parties.

(f) When a tripartite escrow agreement is used, the Contractor shall utilize only suppliers of labor and material that signed the escrow agreement.

#### 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: \_\_\_\_\_

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.

52.228-15 PERFORMANCE AND PAYMENT BONDS--CONSTRUCTION (SEP 1996)-

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

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

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

- (1) Performance Bonds (Standard Form 25): (i) The penal amount of performance bonds shall be 100 percent of the original contract price.
- (ii) The Government may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.
- (iii) The Government may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

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

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

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

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

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

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

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

(c) The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within the time period specified in the Bid Guarantee provision of the solicitation, or otherwise specified by the Contracting Officer, but in any event, before starting work.

(d) The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the Federal Register, or may be obtained from the U.S. Department of Treasury, Financial Management Service, Surety Bond Branch, 401 14th Street, NW., 2nd Floor, West Wing, Washington, DC 20227.

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

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

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

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

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

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

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

- (d) The contract price shall be decreased by the amount of any after-relieved Federal tax.
- (e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.
- (f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.
- (g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.
- (h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

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

- (a) Payment of price. The Government shall pay the Contractor the contract price as provided in this contract.
- (b) Progress payments. The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer.
  - (1) The Contractor's request for progress payments shall include the following substantiation:
    - (i) An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.
    - (ii) A listing of the amount included for work performed by each subcontractor under the contract.
    - (iii) A listing of the total amount of each subcontract under the contract.
    - (iv) A listing of the amounts previously paid to each such subcontractor under the contract.
    - (v) Additional supporting data in a form and detail required by the Contracting Officer.
  - (2) In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site also may be taken into consideration if--
    - (i) Consideration is specifically authorized by this contract; and
    - (ii) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.
- (c) Contractor certification. Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made: (However, if the Contractor elects to delete paragraph (c)(4) from the certification, the certification is still acceptable.)

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

- (1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of Title 31, United States Code;

(3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and

(4) This certification is not to be construed as final acceptance of a subcontractor's performance.

\_\_\_\_\_

(Name)

\_\_\_\_\_

(Title)

\_\_\_\_\_

(Date)

(d) Refund of unearned amounts. If the Contractor, after making a certified request for progress payments, discovers that a portion or all of such request constitutes a payment for performance by the Contractor that fails to conform to the specifications, terms, and conditions of this contract (hereinafter referred to as the "unearned amount"), the Contractor shall--

(1) Notify the Contracting Officer of such performance deficiency; and

(2) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in paragraph (j) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until--

(i) The date the Contractor notifies the Contracting Officer that the performance deficiency has been corrected; or

(ii) The date the Contractor reduces the amount of any subsequent certified request for progress payments by an amount equal to the unearned amount.

(e) Retainage. If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.

(f) Title, liability, and reservation of rights. All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as--

(1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of the Government to require the fulfillment of all of the terms of the contract.

(g) Reimbursement for bond premiums. In making these progress payments, the Government shall, upon request,

reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (e) of this clause shall not apply to that portion of progress payments attributable to bond premiums.

(h) Final payment. The Government shall pay the amount due the Contractor under this contract after--

- (1) Completion and acceptance of all work;
- (2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 15).

(i) Limitation because of undefinitized work. Notwithstanding any provision of this contract, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(j) Interest computation on unearned amounts. In accordance with 31 U.S.C. 3903(c)(1), the amount payable under subparagraph (d)(2) of this clause shall be--

- (1) Computed at the rate of average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the Contractor receives the unearned amount; and
- (2) Deducted from the next available payment to the Contractor.

#### 52.232-17 INTEREST (JUNE 1996)

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

- (1) The date fixed under this contract.
- (2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.
- (3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.
- (4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

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

#### 52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)

(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.

#### 52.232-27 PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (JUN 1997)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments. (1) Types of invoice payments. For purposes of this clause, there are several types of invoice payments that may occur under this contract, as follows:

(i) Progress payments, if provided for elsewhere in this contract, based on Contracting Officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project:

(A) The due date for making such payments shall be 14 days after receipt of the payment request by the designated billing office. If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of receipt, the payment due date shall be the 14th day after the date of the Contractor's payment request, provided a proper payment request is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) The due date for payment of any amounts retained by the Contracting Officer in accordance with the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, shall be as specified in the contract or, if not specified, 30 days after approval for release to the Contractor by the Contracting Officer.

(ii) Final payments based on completion and acceptance of all work and presentation of release of all claims against the Government arising by virtue of the contract, and payments for partial deliveries that have been accepted by the Government (e.g., each separate building, public work, or other division of the contract for which the price is stated separately in the contract):

(A) The due date for making such payments shall be either the 30th day after receipt by the designated billing office

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

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

(2) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in subdivisions (a)(2)( i) through (a)(2)(ix) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice, with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(4) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (e.g., prompt payment discount terms).

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(viii) For payments described in subdivision (a)(1)( i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts.

(ix) Any other information or documentation required by the contract.

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

(3) Interest penalty. An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in subdivisions (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

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

(ii) A receiving report or other Government documentation authorizing payment was processed and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the

amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) Computing penalty amount. The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and will be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(2) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor for payments described in subdivision (a)(1)(ii) of this clause, Government acceptance or approval shall be deemed to have occurred constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. In the event that actual acceptance or approval occurs within the constructive acceptance or approval period, the determination of an interest penalty shall be based on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

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

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

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

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

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

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

(6) Additional interest penalty. (i) If this contract was awarded on or after October 1, 1989, a penalty amount, calculated in accordance with subdivision (a)(6)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Subcontract clause requirements. The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:

(1) Prompt payment for subcontractors. A payment clause that obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.

(2) Interest for subcontractors. An interest penalty clause that obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause--

(i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(3) Subcontractor clause flowdown. A clause requiring each subcontractor to include a payment clause and an interest penalty clause conforming to the standards set forth in subparagraphs (c)(1) and (c)(2) of this clause in each of its subcontracts, and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) Subcontract clause interpretation. The clauses required by paragraph (c) of this clause shall not be construed to impair the right of the Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions that--

(1) Retainage permitted. Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) Withholding permitted. Permit the Contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) Withholding requirements. Permit such withholding without incurring any obligation to pay a late payment penalty if--

(i) A notice conforming to the standards of paragraph (g) of this clause previously has been furnished to the subcontractor; and

(ii) A copy of any notice issued by a Contractor pursuant to subdivision (d)(3)( i) of this clause has been furnished to the Contracting Officer.

(e) Subcontractor withholding procedures. If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the Contractor shall--

(1) Subcontractor notice. Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

- (2) Contracting Officer notice. Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to subparagraph (e)(1) of this clause;
- (3) Subcontractor progress payment reduction. Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under subparagraph (e)(1) of this clause;
- (4) Subsequent subcontractor payment. Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and--
- (i) Make such payment within--
- (A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under subdivision (e)(5)( i) of this clause; or
- (B) Seven days after the Contractor recovers such funds from the Government; or
- (ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty;
- (5) Notice to Contracting Officer. Notify the Contracting Officer upon--
- (i) Reduction of the amount of any subsequent certified application for payment; or
- (ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying--
- (A) The amounts withheld under subparagraph (e)(1) of this clause; and
- (B) The dates that such withholding began and ended; and
- (6) Interest to Government. Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1)), from the 8th day after receipt of the withheld amounts from the Government until--
- (i) The day the identified subcontractor performance deficiency is corrected; or
- (ii) The date that any subsequent payment is reduced under subdivision (e)(5)( i) of this clause.
- (f) Third-party deficiency reports. (1) Withholding from subcontractor. If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a "second-tier subcontractor") a written notice in accordance with section 2 of the Act of August 24, 1935 (40 U.S.C. 270b, Miller Act), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, the Contractor may, without incurring an obligation to pay an interest penalty under subparagraph (e)(6) of this clause--
- (i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and
- (ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under subdivision (f)(1)( i) of this clause.
- (2) Subsequent payment or interest charge. As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the

Contractor shall--

- (i) Pay the amount withheld under subdivision (f)(1)(ii) of this clause to such first-tier subcontractor; or
- (ii) Incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.
- (g) Written notice of subcontractor withholding. A written notice of any withholding shall be issued to a subcontractor (with a copy to the Contracting Officer of any such notice issued by the Contractor), specifying--
  - (1) The amount to be withheld;
  - (2) The specific causes for the withholding under the terms of the subcontract; and
  - (3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.
- (h) Subcontractor payment entitlement. The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.
- (i) Prime-subcontractor disputes. A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the United States is a party. The United States may not be interpleaded in any judicial or administrative proceeding involving such a dispute.
- (j) Preservation of prime-subcontractor rights. Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.
- (k) Non-recourse for prime contractor interest penalty. The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the United States for such interest penalty. A cost-reimbursement claim may not include any amount for reimbursement of such interest penalty.

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

- (a) Method of payment. (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.
- (2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--
  - (i) Accept payment by check or some other mutually agreeable method of payment; or
  - (ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).
- (b) Contractor's EFT information. The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

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

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

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

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

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

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

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

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

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

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

(j) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the

Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

52.233-1 DISPUTES. (DEC 1998)

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

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

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

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

(2)(i) The contractors shall provide the certification specified in subparagraph (d)(2)(iii) of this clause when submitting any claim -

(A) Exceeding \$100,000; or

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

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

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

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

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

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

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

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

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

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

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

#### 52.233-3 PROTEST AFTER AWARD (AUG. 1996)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

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

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

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

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

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

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

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

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In

addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

#### 52.236-2 DIFFERING SITE CONDITIONS (APR 1984)

As prescribed in 36.502, insert the following clause in solicitations and contracts when a fixed-price construction contract or a fixed-price dismantling, demolition, or removal of improvements contract is contemplated and the contract amount is expected to exceed the small purchase limitation. The Contracting Officer may insert the clause in solicitations and contracts when a fixed-price construction or a fixed-price contract for dismantling, demolition, or removal of improvements is contemplated and the contract amount is expected to be within the small purchase limitation.

(a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of

(1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or

(2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

(b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.

(c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.

(d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

#### 52.236-3 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984)

(a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to

(1) conditions bearing upon transportation, disposal, handling, and storage of materials;

(2) the availability of labor, water, electric power, and roads;

(3) uncertainties of weather, river stages, tides, or similar physical conditions at the site;

(4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Government, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Government.

(b) The Government assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Government. Nor does the Government assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

#### 52.236-5 MATERIAL AND WORKMANSHIP (APR 1984)

(a) All equipment, material, and articles incorporated into the work covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.

(b) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. When directed to do so, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

(c) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may require, in writing, that the Contractor remove from the work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

#### 52.236-6 SUPERINTENDENCE BY THE CONTRACTOR (APR 1984)

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the worksite a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

#### 52.236-8 OTHER CONTRACTS (APR 1984)

The Government may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Government employees.

#### 52.236-9 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984)

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during

contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities

(1) at or near the work site, and

(2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

#### 52.236-12 CLEANING UP (APR 1984)

The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the Government. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.

#### 52.236-10 OPERATIONS AND STORAGE AREAS (APR 1984)

(a) The Contractor shall confine all operations (including storage of materials) on Government premises to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the Government.

The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

#### 52.236-11 USE AND POSSESSION PRIOR TO COMPLETION (APR 1984)

(a) The Government shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Government intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Government's possession or use shall not be deemed an acceptance of any work under the contract.

(b) While the Government has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the work resulting from the Government's possession or use, notwithstanding the terms of the clause in this contract entitled

"Permits and Responsibilities." If prior possession or use by the Government delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

#### 52.236-13 ACCIDENT PREVENTION (NOV 1991)

(a) The Contractor shall provide and maintain work environments and procedures which will

(1) safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities;

(2) avoid interruptions of Government operations and delays in project completion dates; and

(3) control costs in the performance of this contract.

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

(1) Provide appropriate safety barricades, signs, and signal lights;

(2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and

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

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

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

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

#### 52.236-17 LAYOUT OF WORK (APR 1984)

The Contractor shall lay out its work from Government established base lines and bench marks indicated on the drawings, and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work. The Contractor shall be responsible for executing the work to the lines and grades that may be established or indicated by the Contracting Officer. The Contractor shall also be responsible for maintaining and

preserving all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Contracting Officer may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

52.236-21 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997)

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory", or words of like import shall mean "approved by," or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(c) Where "as shown," "as indicated", "as detailed", or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed".

(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements, and (2) the installation (i.e., fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail specific portions of the work required by the contract. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the Government's reasons therefor. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor.

## 52.236-26 PRECONSTRUCTION CONFERENCE (FEB 1995)

If the Contracting Officer decides to conduct a preconstruction conference, the successful offeror will be notified and will be required to attend. The Contracting Officer's notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

## 52.242-14 SUSPENSION OF WORK (APR 1984)

(a) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract. (c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

## 52.243-4 CHANGES (AUG 1987)

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes--

- (1) In the specifications (including drawings and designs);
- (2) In the method or manner of performance of the work;
- (3) In the Government-furnished facilities, equipment, materials, services, or site; or
- (4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances, and source of the order; and 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.

#### 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (OCT 1998)

(a) Definitions.

"Commercial item", as used in this clause, has the meaning contained in the clause at 52.202-1, Definitions.

"Subcontract", as used in this clause, includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c) Notwithstanding any other clause of this contract, the Contractor is not required to include any FAR provision or clause, other than those listed below to the extent they are applicable and as may be required to establish the reasonableness of prices under Part 15, in a subcontract at any tier for commercial items or commercial components:

(1) 52.222-26, Equal Opportunity (E.O. 11246);

(2) 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212(a));

(3) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793); and

(4) 52.247-64, Preference for Privately-Owned U.S.-Flagged Commercial Vessels (46 U.S.C. 1241)(flow down not required for subcontracts awarded beginning May 1, 1996).

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

#### 52.246-12 INSPECTION OF CONSTRUCTION (AUG 1996)

(a) Definition. "Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.

(b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

(c) Government inspections and tests are for the sole benefit of the Government and do not--

- (1) Relieve the Contractor of responsibility for providing adequate quality control measures;
- (2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;
- (3) Constitute or imply acceptance; or
- (4) Affect the continuing rights of the Government after acceptance of the completed work under paragraph ( i) of this section.
- (d) The presence or absence of a Government inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer's written authorization.
- (e) The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Government may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.
- (f) The Contractor shall, without charge, replace or correct work found by the Government not to conform to contract requirements, unless in the public interest the Government consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.
- (g) If the Contractor does not promptly replace or correct rejected work, the Government may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor or (2) terminate for default the Contractor's right to proceed.
- (h) If, before acceptance of the entire work, the Government decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.
- (i) Unless otherwise specified in the contract, the Government shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government's rights under any warranty or guarantee.

#### 52.248-3 Value Engineering--Construction.

As prescribed in 48.202, insert the following clause:

#### VALUE ENGINEERING-CONSTRUCTION (FEB 2000)

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

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

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

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

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

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

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

- (1) Requires a change to this, the instant contract, to implement; and
- (2) Results in reducing the contract price or estimated cost without impairing essential functions or characteristics; provided, that it does not involve a change--
  - (i) In deliverable end item quantities only; or
  - (ii) To the contract type only.

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

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

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

(3) A separate, detailed cost estimate for (i) the affected portions of the existing contract requirement and (ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under paragraph (h) below.

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

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

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

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

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

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

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

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause. The Contracting Officer may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. Collateral savings. If a VECP is accepted, the Contracting Officer will increase the instant contract amount, as specified in paragraph (h)(5) of this clause, by a rate from 20 to 100 percent, as determined by the Contracting Officer, of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price, target price, target cost, or estimated cost, at the time the VECP is accepted, or \$100,000, whichever is greater. The Contracting Officer will be the sole determiner of the amount of collateral savings.

(f) Sharing. (1) Rates. The Government's share of savings is determined by subtracting Government costs from instant contract savings and multiplying the result by ( i) 45 percent for fixed-price contracts or (ii) 75 percent for cost-reimbursement contracts.

(2) Payment. Payment of any share due the Contractor for use of a VECP on this contract shall be authorized by a modification to this contract to--

(i) Accept the VECP;

(ii) Reduce the contract price or estimated cost by the amount of instant contract savings; and

(iii) Provide the Contractor's share of savings by adding the amount calculated to the contract price or fee.

(g) Collateral savings. If a VECP is accepted, the Contracting Officer will increase the instant contract amount by 20 percent of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price or estimated cost, at the time the VECP is accepted, or \$100,000, whichever is greater. The Contracting Officer

is the sole determiner  
of the amount of collateral savings.

(h) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of \$50,000 or more and may include one in subcontracts of lesser value. In computing any adjustment in this contract's price under paragraph (f) above, the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs clearly resulting from a VECP accepted by the Government under this contract, but shall exclude any value engineering incentive payments to a subcontractor. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that these payments shall not reduce the Government's share of the savings resulting from the VECP.

(i) Data. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

"These data, furnished under the Value Engineering-- Construction clause of contract \_\_\_\_\_, shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations."

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

#### 52.249-1 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SHORT FORM) (APR 1984)

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 rights, duties, and obligations of the parties, including compensation to the Contractor, shall be in accordance with Part 49 of the Federal Acquisition Regulation in effect on the date of this contract.

#### 52.249-10 DEFAULT (FIXED-PRICE CONSTRUCTION) (APR 1984)

(a) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if--

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include

- (i) acts of God or of the public enemy,
- (ii) acts of the Government in either its sovereign or contractual capacity,
- (iii) acts of another Contractor in the performance of a contract with the Government,
- (iv) fires,
- (v) floods,
- (vi) epidemics,
- (vii) quarantine restrictions,
- (viii) strikes,
- (ix) freight embargoes,
- (x) unusually severe weather, or delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Government.

The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

#### 52.253-1 COMPUTER GENERATED FORMS (JAN 1991)

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

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

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

#### 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.

252.203-7001 Special Prohibition on Employment.  
As prescribed in 203.570-5, use the following clause:

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

(a) Definitions. As used in this clause-

(1) "Arising out of a contract with the DoD" means any act in connection with-

(i) Attempting to obtain;

(ii) Obtaining, or

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Suspension or debarment;

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

(3) Termination of the contract for default.

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

- (1) The person involved;
  - (2) The nature of the conviction and resultant sentence or punishment imposed;
  - (3) The reasons for the requested waiver; and
  - (4) An explanation of why a waiver is in the interest of national security.
- (g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation, except those for commercial items or components.
- (h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone (202) 616-3507.

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.

252.204-7004 REQUIRED CENTRAL CONTRACTOR REGISTRATION.(MAR 2000)

(a) Definitions.

As used in this clause--

- (1) Central Contractor Registration (CCR) database means the primary DoD repository for contractor information required for the conduct of business with DoD.
  - (2) Data Universal Numbering System (DUNS) number means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.
  - (3) Data Universal Numbering System +4 (DUNS+4) number means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned by a parent (controlling) business concern. This 4-digit suffix may be assigned at the discretion of the parent business concern for such purposes as identifying subunits or affiliates of the parent business concern.
  - (4) Registered in the CCR database means that all mandatory information, including the DUNS number or the DUNS+4 number, if applicable, and the corresponding Commercial and Government Entity (CAGE) code, is in the CCR database; the DUNS number and the CAGE code have been validated; and all edits have been successfully completed.
- (b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee must be registered in the CCR database prior to award, during performance, and through final payment of any contract resulting from this solicitation, except for awards to foreign vendors for work to be performed outside the United States.
- (2) The offeror shall provide its DUNS or, if applicable, its DUNS+4 number with its offer, which will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

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

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

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

(d) Offerors and contractors may obtain information on registration and annual confirmation requirements by calling 1-888-227-2423, or via the Internet at <http://www.ccr2000.com>.

252.209-7001 THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(a) Definitions. As used in this provision-

(1) "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 acts of international terrorism. As of the date of this provision, terrorist countries include: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

(3) "Significant interest" means-

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

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

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

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

(v) Holding 50 percent or more of the 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.

252.209-7003 COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (MAR 1998)

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., the VETS-100 report required by Federal Acquisition Regulation clause 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era), it has submitted the most recent report required by 38 U.S.C. 4212(d).

252.209-7003 Compliance with Veterans' Employment Reporting Requirements.  
As prescribed in 222.1304(b), use the following provision:

COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (MAR 1998)

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., the VETS-100 report required by Federal Acquisition Regulation clause 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era), it has submitted the most recent report required by 38 U.S.C. 4212(d).

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, the 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 time 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 programs shall not apply to the extent they are inconsistent with state or local law, or with an existing collective bargaining agreement; provided that with respect to the latter, the Contractor agrees that those issues that are in conflict will be a subject of negotiation at the next collective bargaining session.

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

(a) Definitions. As used in this clause-

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

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

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

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

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

## 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.

## 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.

## 252.236-7004 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.

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.

252.242-7000 POSTAWARD CONFERENCE (DEC 1991)

The Contractor agrees to attend any postaward conference convened by the contracting activity or contract administration office in accordance with Federal Acquisition Regulation subpart 42.5.

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 (MAR 2000)

(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 Division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information-

- (1) Prime contract number;
- (2) Name of vessel;
- (3) Vessel flag of registry;
- (4) Date of loading;
- (5) Port of loading;
- (6) Port of final discharge;
- (7) Description of commodity;
- (8) Gross weight in pounds and cubic feet if available;
- (9) Total ocean freight in U.S. dollars; and
- (10) Name of steamship company.

(f) The Contractor agrees to 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

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(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) The Contractor shall include this clause, including this paragraph (h), in all subcontractors under this contract that--

- (1) Exceed the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation; and
- (2) Are for a type of supplies described in paragraph (b)(3) of this clause.

252.247-7024 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA (MZR 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.

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.

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SECTION 00800

SPECIAL CLAUSES

SC-1 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK

The Contractor shall be required to (1) commence work under this contract within 10 calendar days after the Contractor receives the notice to proceed, (2) prosecute the work diligently, and (3) complete the entire work ready for use not later than 90 calendar days after the Contractor receives the notice to proceed. (CENAP)

SC-2 LIQUIDATED DAMAGES - CONSTRUCTION

a. If the Contractor fails to complete the work within the time specified in the contract, or any extensions thereof, the Contractor shall pay to the Government as liquidated damages, the sum of \$410 for each calendar day of delay.

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

c. If the Government does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted. (FAR 52.211-22)

SC-3 CONTRACT DRAWINGS, MAPS AND SPECIFICATIONS

a. The Contractor shall -

- (1) Check all drawings furnished on the CD, immediately upon receipt;
- (2) Compare all drawings and verify the figures before laying out the work;
- (3) Promptly notify the Contracting Officer of any discrepancies, and;
- (4) Be responsible for any errors which might have been avoided by complying with this paragraph (a).

b. Large scale drawings shall, in general, govern small scale drawings. Figures marked on drawings shall, in general, be followed in preference to scale measurements.

c. Omissions from the drawings or specifications or the misdescription of details of work which are manifestly necessary to carry out the intent of the drawings and specifications, or which are customarily performed, shall not relieve the contractor from performing such omitted or misdescribed details of the work, but shall be performed as if fully and correctly set forth and described in the drawings and specifications.

d. The work shall conform to the specifications and the contract drawings identified on the following, all of which are available in the office of the District Engineer, U.S. Army Engineer District, Philadelphia, Room 643, Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107. Drawings are titled: "Lehigh River Basin, Pohopoco Creek, Pennsylvania, Beltzville Dam and Reservoir, Rehabilitation of Water Quality Control Gate," and have the following drawing numbers, subtitles, and dates:

Latest

<u>Drawing No.</u>	<u>Subtitle</u>	<u>Date</u>	<u>Revision Date</u>
58730	General Plan, Location Map and List of Drawings	17 Aug 00	
58731	Summary of Work	17 Aug 00	
58732	Water Quality Gate Position Indicator	17 Aug 00	

The reference drawings listed on Drawing No. 58730 are also provided for use by the Contractor.

#### SC-4 GENERAL INFORMATION

a. Weather Conditions. The climate of the area is referred to as "continental" by climatologists, characterized by cold winters and moderately hot summers. Complete weather records and reports may be obtained from the local U.S. Weather Bureau Office nearest to the work site. The Contractor shall satisfy himself as to the hazards likely to arise from weather conditions during the construction period.

b. Location of Project and Transportation Facilities. The Beltzville Dam is located on the Pohopoco Creek about 4 miles east of Lehighton, Pennsylvania. The project is accessible by highway. The main access to the project is located off Township Route T-397, approximately 2 miles east of the Mahoning Valley Interchange, Exit 34, of the Northeast Extension of the Pennsylvania Turnpike. The Contractor shall be responsible for all investigations of load carrying capacities of bridges and roadways.

c. Magnitude of Contract. The estimated amount of the contract work is between \$ 100,000 and \$ 250,000. (CENAP)

#### SC-5 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 judgement of the Contracting Officer, any part of the permanent work performed by the Contractor is damaged by flood or hurricane, 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 shall 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, and 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, damages 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. (CENAP)

#### SC-6 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 fifty (50) percent of the total amount of work to be performed under the contract. This percentage may be reduced by a

supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government. (FAR 52.236-1)

SC-7 ENVIRONMENTAL LITIGATION (1974 NOV OCE)

a. If the performance of all or any part of the work is suspended, delayed, or interrupted due to an order of a court of competent jurisdiction as a result of environmental litigation, as defined below, the Contracting Officer, at the request of the Contractor, shall determine whether the order is due in any part to the acts or omissions of the Contractor or a Subcontractor at any tier not required by the terms of the contract. If it is determined that the order is not due in any part to acts or omissions of the Contractor or a Subcontractor at any tier other than as required by the terms of this contract, such suspension, delay, or interruption shall be considered as if ordered by the Contracting Officer in the administration of this contract under the terms of the SUSPENSION OF WORK clause of this contract. The period of such suspension, delay, or interruption shall be considered unreasonable, and an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) as provided in that clause, subject to all the provisions thereof.

b. The term "environmental litigation", as used herein, means a lawsuit alleging that the work will have an adverse effect on the environment or that the Contractor has not duly considered, either substantively or procedurally, the effect of the work on the environment. (CENAP)

SC-8 EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE (May 1995)

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 the Contractor or sub-contractor at any tier shall be based on actual cost data for each piece of equipment or groups of similar serial or 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 I. Working conditions shall be considered to be average for determining equipment rates using the schedule unless specified otherwise by the Contracting Officer. For equipment not included in the schedule, rates for comparable pieces of equipment may be used or a rate may be developed using the formula provided in the schedule. For forward pricing, the schedule in effect at the time of negotiations shall apply. For retroactive pricing, the schedule in effect at the time the work was performed shall apply.

c. Equipment rental costs are allowable, subject to the provisions of FAR 31.105(d)(ii) and FAR 31.205-36. Rates for equipment rented from an organization under common control, lease-purchase arrangements, and sale-leaseback arrangements, will be determined using the schedule, except that actual rates will be used for equipment leased from an organization under common control that has an established practice of leasing the same or similar equipment to unaffiliated lessees.

d. When actual equipment costs are proposed and the total amount of the pricing action exceeds the small purchase threshold, the Contracting Officer shall request the Contractor to submit either certified cost or pricing data, or partial/limited data, as appropriate. (EFARS 52.231-5000)

Note #1: The small purchase threshold is \$100,000.

Note #2: By submitting cost or pricing data, the Contractor grants to the Contracting Officer (or authorized representative) the right to examine those books, records, documents, and/or other supporting data that will permit evaluation of the proposed equipment costs. This right shall extend for 2 years after expiration of contract performance. After price agreement, the Contractor shall certify that the equipment cost or pricing data submitted are accurate, complete and current.

#### SC-9 CERTIFICATES OF COMPLIANCE

Any certificates required for demonstrating proof of compliance of materials with specifications requirements shall be executed in triplicate 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 name and address of the testing laboratory and the date or dates of the tests to which the report applies. Certification shall not be construed as relieving the Contractor from furnishing satisfactory material, if, after tests are performed on selected samples, the material is found not to meet the specific requirements. (CENAP)

#### SC-10 WARRANTY OF CONSTRUCTION (APR 1984)

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 one 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 one 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 one 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. (FAR 52.246-21)

#### SC-11 PERFORMANCE EVALUATION OF CONTRACTOR (1985 JAN HQ USACE)

a. 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.

b. The format for the evaluation will be DD Form 2626, 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 record. 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). (CENAP)

#### SC-12 INSURANCE REQUIREMENTS

Evidence of the following types of insurance shall be provided to the Contracting Officer prior to commencement of work and shall be maintained throughout the period of performance.

- a. General Liability Insurance (Comprehensive form of policy): Bodily Injury Liability - \$500,000 per occurrence.
- b. Automobile Liability Insurance (Comprehensive form of policy): Bodily Injury Liability - \$200,000 per person and \$500,000 per accident. Property Damage Liability - \$20,000 per accident.
- c. Workmen's Compensation and Employer's Liability Insurance: Compliance with applicable workmen's compensation and occupational disease statutes is required. Employer's liability coverage in the minimum amount of \$100,000 is also required."

-- End of Section --

Section 00805

Contract Administration Data

1. Accounting and Appropriation Data: To be furnished at time of award
2. Contract Administration is retained by the Contracting Officer:

U. S. Army Engineer District, Philadelphia  
Attn: CENAP-CT-C (Bailey)  
Wanamaker Bldg, Rm 643  
100 Penn Square East  
Philadelphia, PA 19107-3390  
(215) 656-6932

3. Payment by:

U. S. Army Corps of Engineers Finance Center  
5722 Integrity Drive  
Millington, TN 38054-5005

4. Billing Address: Invoices shall be forwarded to:

U. S. Army Engineer District, Philadelphia  
Attn: CENAP-OP-TS  
Wanamaker Bldg, Rm 643  
Philadelphia, PA 19107-3390

5. Technical Inquiries:

All technical inquiries should be directed to: CENAP-OP-TS (215) 656-6750

General Decision Number PA000014

General Decision Number PA000014  
 Superseded General Decision No. PA990014  
 State: Pennsylvania Construction Type:  
 HEAVY  
 HIGHWAY  
 County(ies):

ADAMS	LEBANON	SCHUYLKILL
BERKS	LEHIGH	SNYDER
BRADFORD	LUZERNE	SULLIVAN
CARBON	LYCOMING	SUSQUEHANNA
COLUMBIA	MONROE	TIOGA
CUMBERLAND	MONTOUR	UNION
DAUPHIN	NORTHAMPTON	WAYNE
JUNIATA	NORTHUMBERLAND	WYOMING
LACKAWANNA	PERRY	YORK
LANCASTER	PIKE	

HEAVY AND HIGHWAY CONSTRUCTION PROJECTS (Excluding Sewer Groutin  
 Projects and Excluding Sewage and Water Treatment Plant Projects  
 Modification Number Publication Date

0	02/11/2000
1	02/25/2000
2	05/19/2000
3	05/26/2000
4	06/09/2000
5	07/07/2000

COUNTY(ies):

ADAMS	LEBANON	SCHUYLKILL
BERKS	LEHIGH	SNYDER
BRADFORD	LUZERNE	SULLIVAN
CARBON	LYCOMING	SUSQUEHANNA
COLUMBIA	MONROE	TIOGA
CUMBERLAND	MONTOUR	UNION
DAUPHIN	NORTHAMPTON	WAYNE
JUNIATA	NORTHUMBERLAND	WYOMING
LACKAWANNA	PERRY	YORK
LANCASTER	PIKE	

CARP0121A 05/01/2000

	Rates	Fringes
EXCEPT CARBON, LEHIGH AND NORTHAMPTON COUNTIES		
CARPENTERS/PILED RIVERMEN	19.47	6.10

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 CARP0191C 05/01/1998

	Rates	Fringes
REMAINDER OF YORK COUNTY		
MILLWRIGHTS	19.27	5.64

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 CARP0259C 05/01/1999

	Rates	Fringes
ADAMS, BRADFORD, CARBON (Banks, Lusanne, Lehigh and Northern part of Packer Townships), CUMBERLAND, COLUMBIA, DAUPHIN, JUNIATA, LANCASTER, LEBANON, LUZERNE, LYCOMING, MONTOUR, NORTHUMBERLAND, PERRY, SCHUYLKILL, SNYDER, SULLIVAN, TIOGA, UNION, WYOMING, AND		

YORK (New Cumberland Army Depot and Harrisburg York State  
 Airport) COUNTIES

MILLWRIGHTS	18.93	6.83
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 CARP0261B 05/01/1999

	Rates	Fringes
LACKAWANNA, SUSQUEHANNA, PIKE, AND WAYNE COUNTIES		
MILLWRIGHTS	20.77	6.30

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 CARP0492B 05/01/1999

	Rates	Fringes
BERKS COUNTY		
MILLWRIGHTS	24.40	7.12

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 \* CARP0600I 07/01/2000

	Rates	Fringes
CARBON, LEHIGH AND NORTHAMPTON COUNTIES		
CARPENTERS/PILED RIVERMEN	23.18	10.11

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 CARP1906B 07/01/1999

	Rates	Fringes
CARBON, LEHIGH AND NORTHAMPTON COUNTIES		
MILLWRIGHTS	23.55	9.46

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 ELEC0126C 01/01/2000

	Rates	Fringes
ADAMS, CUMBERLAND, DAUPHIN, LANCASTER, LEBANON, JUNIATA, PERRY AND YORK COUNTIES		

LINE CONSTRUCTION:

Linemen	22.84	16%+2.80
Winch Truck Operators	15.99	16%+2.80
Truck Drivers	14.85	16%+2.80
Groundmen	13.70	16%+2.80

BERKS AND LEHIGH NORTHAMPTON COUNTIES

LINE CONSTRUCTION:

Linemen	24.35	16%+2.80
Winch Truck Operators	17.05	16%+2.80
Truck Driver	15.83	16%+2.80
Groundmen	14.61	16%+2.80

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 ELEC1319A 01/02/2000

	Rates	Fringes
BRADFORD, CARBON, COLUMBIA, LACKAWANNA, LUZERNE, LYCOMING, MONROE, MONTOUR, NORTHUMBERLAND, PIKE, SCHUYLKILL, SNYDER, SULLIVAN, SUSQUEHANNA, TIOGA, UNION, WAYNE, AND WYOMING COUNTIES		

LINE CONSTRUCTION:

Lineman	24.74	6%+4.35
Winch Truck Operators	17.54	6%+4.35
Groundmen	15.55	6%+4.35
Truck Drivers	17.29	6%+4.35

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 ELEC2011A 05/01/1988

	Rates	Fringes
ADAMS, BERKS, CUMBERLAND, DAUPHIN, JUNIATA, LANCASTER, LEBANON, LEHIGH, NORTHAMPTON, AND PERRY COUNTIES		

LINE CONSTRUCTION (RAILROAD ONLY)

GROUP 1	12.34	6%+.06+A
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GROUP 2	12.34	6%+.60+A
GROUP 3	10.78	6%+.60+A

FOOTNOTE:

A. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Election Day, Thanksgiving Day and Christmas Day, provided the employee works the day before and after the holiday.

LINE CONSTRUCTION CLASSIFICATIONS

GROUP 1: Linemen

GROUP 2: Hoisting equipment - when erecting complete towers, erecting framed structures, erecting steel transmission poles, erecting railroad pole extensions and crossbeams and when operating personnel lift baskets. Tension pulling equipment under energized conditions - parallel with other energized circuits or above energized circuits on same structure not to include crossovers. Bundled conductor stringing including static conductors on bundled conductor lines. Excavating augers 36" inches in diameter or larger, 5/8 cubic yard, backhoe and larger, trencher over four feet in depth, bulldozer D-6 (caterpillar) or larger, and blade on finish grade work.

GROUP 3: Operators of all other equipment.

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ENGI0542C 05/01/2000

	Rates	Fringes
POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION AND WATER LINES CONSTRUCTION (OFF PLANT SITE)		
GROUP 1	19.13	29.5%+4.96
GROUP 2	18.19	29.5%+4.66
GROUP 3	17.63	29.5%+4.48
GROUP 4	17.20	29.5%+4.47
GROUP 5	16.68	29.5%+4.47
GROUP 6	19.36	29.5%+4.47

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1 - Pile drivers, all types of cranes, all types of backhoes, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, paver (blacktop and concrete), gradalls, all front end loaders, tandem scrapers, pippin types backhoes, boat captains, batch plant with mixer, drill self contained (drill-master type), CMI Autograde, milling machine, vemeer saw, conveyor loader (euclid type) scraper and tournapulls, bulldozers and tractors, concrete pumps, motor patrols, mechanic welders, log skidder, side boom, bobcat type (with attachments), boring machines including directional boring machines, chipper with boom, hydro ax, machines similar to the above including remote control equipment.

GROUP 2 - Spreaders, asphalt plant engineers, rollers (high grade finishing), machine similar to above, including remote control equipment.

GROUP 3 - Welding machine, well points, compressors, pump heaters, farm tractors, form line graders, ditch witch type trencher, road finishing machines, concrete breaking machines, rollers, miscellaneous equipment operator, seaman pulverizing mixer, power broom, seeding spreader, tireman - (for power equipment ) conveyors, loaders other than EUC type, conveyors, driller second class, machines similar to the above including

remote control equipment.

GROUP 4 - Fireman and grease truck

GROUP 5 - Oilers and deck hands

GROUP 6 - All machines with booms (including jibs, masts, leads, etc.) 100 ft. and over.

\*\*\*TOXIC/HAZARDOUS WASTE REMOVAL\*\*\* Add 20 per cent to basic hourly rate for all classifications

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ENGI0542V 05/01/2000

	Rates	Fringes
HEAVY CONSTRUCTION:		
POWER EQUIPMENT OPERATORS:		
GROUP 1	21.11	29.5%+4.96+A
GROUP 2	20.83	29.5%+4.96+A
GROUP 3	18.29	29.5%+4.47+A
GROUP 4	17.16	29.5%+4.47+A
GROUP 5	16.70	29.5%+4.47+A
GROUP 6	15.82	29.5%+4.47+A

FOOTNOTE:

A: PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, the employee works the day before and the day after the holiday.

\*\*\*TOXIC/HAZARDOUS WASTE REMOVAL\*\*\* Add 20 per cent to basic hourly rate for all classifications

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above, including remote control equipment.

GROUP 2: All types of cranes (except cranes doing hook work), backhoes, cableways, draglines, keystones, shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnels, front end loaders, tandem scrapers, pippin type backhoes, boat captains, batch plant operators concrete drills, self-contained rotary drills, fork lifts, 20ft, lift and over, scrapers, tournapulls, spreaders, bulldozers and tractors, rollers (high grade finishing), mechanic-welder, motor patrols, concrete pumps, grease truck, bob cat type (all attachments), boring machines including directional boring machines, hydro ax, side boom, vermeer saw, chipper with boom, machines similar to the above including remote control equipment

GROUP 3: Conveyors, building hoist (single drum), high or low pressure boilers, drill operators, well drillers, asphalt plant engineers, ditch witch type trencher, second class driller, forklift truck under 20ft. lift, stump grinder tireman grinder, tireman (for power equipment), machines similar to above including remote control equipment.

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power boom, seeding spreader, chipper without boom, machines similar to the above including remote control equipment.

GROUP 5: Fireman.

GROUP 6: Oilers and deck hands (personnel boats).

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IRON0036B 07/01/1999

	Rates	Fringes
CARBON, LEHIGH (Except Fogelsville), NORTHAMPTON AND MONROE (Except Tobyhanna Army Depot)		
IRONWORKERS:		
Projects Under 25 Million Dollars	22.75	12.65
Projects Over 25 Million Dollars	23.25	12.65

\* IRON0404H 07/01/2000

	Rates	Fringes
ADAMS, CUMBERLAND, DAUPHIN, LEBANON (Western 3/4), LANCASTER (Western part), LYCOMING, MONTOUR, NORTHUMBERLAND, JUNIATA, PERRY, SCHUYLKILL (Western tip to include the twps. of Fearnot, Good Spring, Hegins, Jolett, Klingerstown, Muir, Pittman Haas, Rough and Ready, Sacramento, Spring Glen, Suedberg, Tower City, and Valley View), SNYDER, UNION, AND YORK COUNTIES		
IRONWORKERS:		
Structural, Ornamental	21.00	10.95
Reinforcing	18.25	10.95

IRON0420F 07/01/1999

	Rates	Fringes
BERKS, LANCASTER (Eastern Part), LEBANON (Eastern 1/4), LEHIGH (Fogelsville), AND SCHUYLKILL (Remainder) COUNTIES		
IRONWORKERS:		
STRUCTURAL, ORNAMENTAL, AND REINFORCING:		
Projects \$100,000,000 and greater, (all work)	21.00	12.20
Projects less than \$100,000,000	20.50	12.20

IRON0489B 07/01/1999

	Rates	Fringes
BRADFORD, COLUMBIA, LACKAWANNA, LUZERNE, MONROE (Tobyhanna Depot only), PIKE, SULLIVAN, TIOGA, SUSQUEHANNA, WAYNE, WYOMING, CARBON (Northern tip - McAdoo), LYCOMING (Southern tip - Hughsville)		
IRONWORKERS:		
Structural and Ornamental	22.40	12.95
Reinforcing	19.75	10.70

LABO0158A 05/01/2000

	Rates	Fringes
LABORERS:		
GROUP 1	16.85	5.27
GROUP 2	17.05	5.27
GROUP 3	17.40	5.27
GROUP 4	17.63	5.27
GROUP 5	17.69	5.27
GROUP 6	18.07	5.27
GROUP 7	12.44	5.27
GROUP 8	17.49	5.27
GROUP 9	17.78	5.27
GROUP 10	18.26	5.27
GROUP 11	20.06	5.27

LABORERS CLASSIFICATIONS

GROUP 1: Asphalt, tampers, concrete pitmen, puddlers & rubbers,  
 Highway guardrail, right of way and property line fence, Highway

slab renforcng placers, laborers, landscape, planters, seeders and arborists, magazine tenders, railroad trackmen, & signalmen, leaser beam men (pipe laying, paving machine)

GROUP 2: Pnuematic and Electric tool operator jackhammers, paving breakers, concrete saws, whacker vibrators, sheet hammers, steward, chain saws, pipelayers, asphalt rake, lute or screed men, concrete block layers

GROUP 3: Caisson-open air below 8 feet, cofferdam open air below 8 feet where excavations for circular caissons and cofferdams 8 ft and below level of natural grade adjacent to starting point, form setters (road) wagon drill diamond point drill, gunite nozzle operators

GROUP 4: Blasters

GROUP 5: Reinforcing steel placers, bonding, aligning and securing and burning and welding in conjunction with reinforcing steel

GROUP 6: Concrete surfaces

GROUP 7: Flaggers

FREE AIR TUNNELS AND ROCK SHAFTS:

GROUP 8: Outside laborers in conjunction tunnels & rock shafts

GROUP 9: Chuck Tenders, Muckers, Nippers, Miners

GROUP 10: Miners, Drillers, Blasters, Pneumatic Shield Operators Lining, Spotting & Timers Workmen, Reinforcing Steel placers, Bonding, Aligning and Securing Welders and Concrete Surfaces.

GROUP 11: Hazardous/Toxic handler

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 \* PLAS0052F 05/03/1999

	Rates	Fringes
MONROE COUNTY; (EXCEPT TOBYHANNA DEPOT)		
CEMENT MASONS	20.32	8.20

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 PLAS0055B 05/01/2000

	Rates	Fringes
COLUMBIA COUNTY:		
CEMENT MASONS	21.75	5.95

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 \* PLAS05920 05/01/2000

	Rates	Fringes
BERKS (Except Northeastern part), LEBANON (Eastern part) LANCASTER (Northeastern part). In Berks County through East Greenville, Huffs Church, Fredericksville, Dryville, Lyon Station, Kutztown, Krumsville and Stoney Run to Lehigh County Line, Thence along Lehigh County Line to Schuylkill County Line to Lebanon County Line, along Lebanon County Line to Route 501 North to Myerstown, Then South through Myerstown to PA Turnpike in Lancaster County, East on Turnpike to Morgantown in Berks County)		
CEMENT MASONS	20.50	5.74

BERKS (Northeastern part lying North of a line starting from the Southern boundary line of Lehigh County continuing through Huffs Church, Fredericksville, Dryville, Lyon Station, Kutztown, Krumsville, and Stoney run in Berks County to the Lehigh County line), CARBON, LEHIGH, NORTHAMPTON (Northwest part including the towns of Walnutport, Bath, and Northampton) COUNTIES

CEMENT MASONS	20.13	8.40
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The following portions of LANCASTER, YORK, ADAMS AND CUMBERLAND

COUNTIES (Within the following Boundary Lines: starting at the Maryland State Line, North on the Lancaster-Chester County Line to Berks County Line. North to the PA Turnpike, West on the Turnpike to Route 501. North on Route 501 to Lancaster-Dauphine County Line, then West to the Susquehanna River, cross the river to Route 920 and continue to Goldsboro, Lewisberry and Rossville to Dillsburg, thence to Route 15 to Heidlersburg, thence on Route 234 to Junction of Route 334, up Route 334 to Route 34 to junction of road immediately South of Hunters' Run; Then to Pine Grove Furnace, Continue on Route 233 to Mont Alto; Thence on Route 997 to road immediately South of Fayetteville; Thence through New Franklin to Marion; Thence to St. Thomas, then on Route 60 through Fort Loudon to Franklin County Line at Tuscarora Mts. Then South on the Franklin-Fulton County Line to Maryland State Line)

CEMENT MASONS	19.10	7.85
BRADFORD, LACKAWANNA, LUZERNE, LYCOMING, MONROE (Tobyhanna), SCHUYLKILL, SULLIVAN, TIOGA, UNION AND WYOMING COUNTIES		
CEMENT MASONS	21.88	4.05
CUMBERLAND, DAUPHIN, FRANKLIN, FULTON, JUNIATA, PERRY, SNYDER; and parts of ADAMS, LEBANON AND YORK COUNTIES; NORTHUMBERLAND COUNTY (Malta, Dalmatia, Mandata, Urban, Hebe, Herndon, Red Cross, Rebuck, Greenbrier, Line Mountain, Gowen City, Locust Gap, Kulpmont, Atlas, Excelsior, Treverton, Dornsife, Fishers Ferry, Augustaville, Sunbury, Stonington, Paxinos, Weigh Scales, Shamokin, Mt. Carmel, Natalie, Bear Gap, Elysburg, Snyderstown, Fort Aususta, Priestley, House, Northumberland, Riverside, and Marion Heights; MONTOUR COUNTY (Grovania, Danville, Maudale and Moresburg); NORTHUMBERLAND COUNTY (South of the Susquehanna River); MONTOUR COUNTY (South of Route 11 including the Town of Danville)		
CEMENT MASONS	19.75	6.40

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PLAS9592E 05/01/2000		
	Rates	Fringes
MONROE COUNTY (TOBYHANNA ARMY DEPOT)		
CEMENT MASONS	21.88	4.05

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TEAM0229F 05/01/2000		
	Rates	Fringes
ADAMS, BERKS, CARBON, COLUMBIA, CUMBERLAND, DAUPHIN, JUNIATA, LACKAWANA, LANCASTER, LEBANON, LEHIGH, LUZERNE, LYCOMING, MONROE, MONTOUR, NORTHAMPTON, NORTHUMBERLAND, PERRY, PIKE, SCHUYLKILL, SNYDER, SULLIVAN, SUSQUEHANNA, UNION, WAYNE, WYOMING, AND YORK COUNTIES		

TRUCK DRIVERS		
GROUP 1	22.33	
GROUP 2	22.40	
GROUP 3	22.89	
BRADFORD AND TIOGA COUNTIES		
TRUCK DRIVERS		
GROUP 1	13.50	8.33
GROUP 2	13.57	8.33
GROUP 3	14.06	8.33

TRUCK DRIVERS CLASSIFICATIONS  
 GROUP 1 - Stake body truck (single axle, dumpster)  
 GROUP 2 - Dump trucks, tandem and batch trucks, semi-trailers,

agitator mixer trucks, Ready-mix and dumpcrete type vehicles, asphalt distributors when used for transportation, stake body truck (tandem)

GROUP 3 - Euclid-type, off highway equipment-back or belly dump trucks and double-hitched equipment, straddle (ross) carrier, low-bed trailers

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.  
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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(v)).

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In the listing above, the "SU" designation means that rates listed under that identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

WAGE DETERMINATION APPEALS PROCESS

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

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

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

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

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

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

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

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

3.) If the decision of the Administrator is not favorable, an

interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

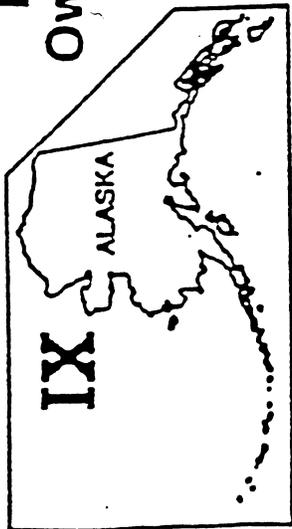
Administrative Review Board  
U. S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

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

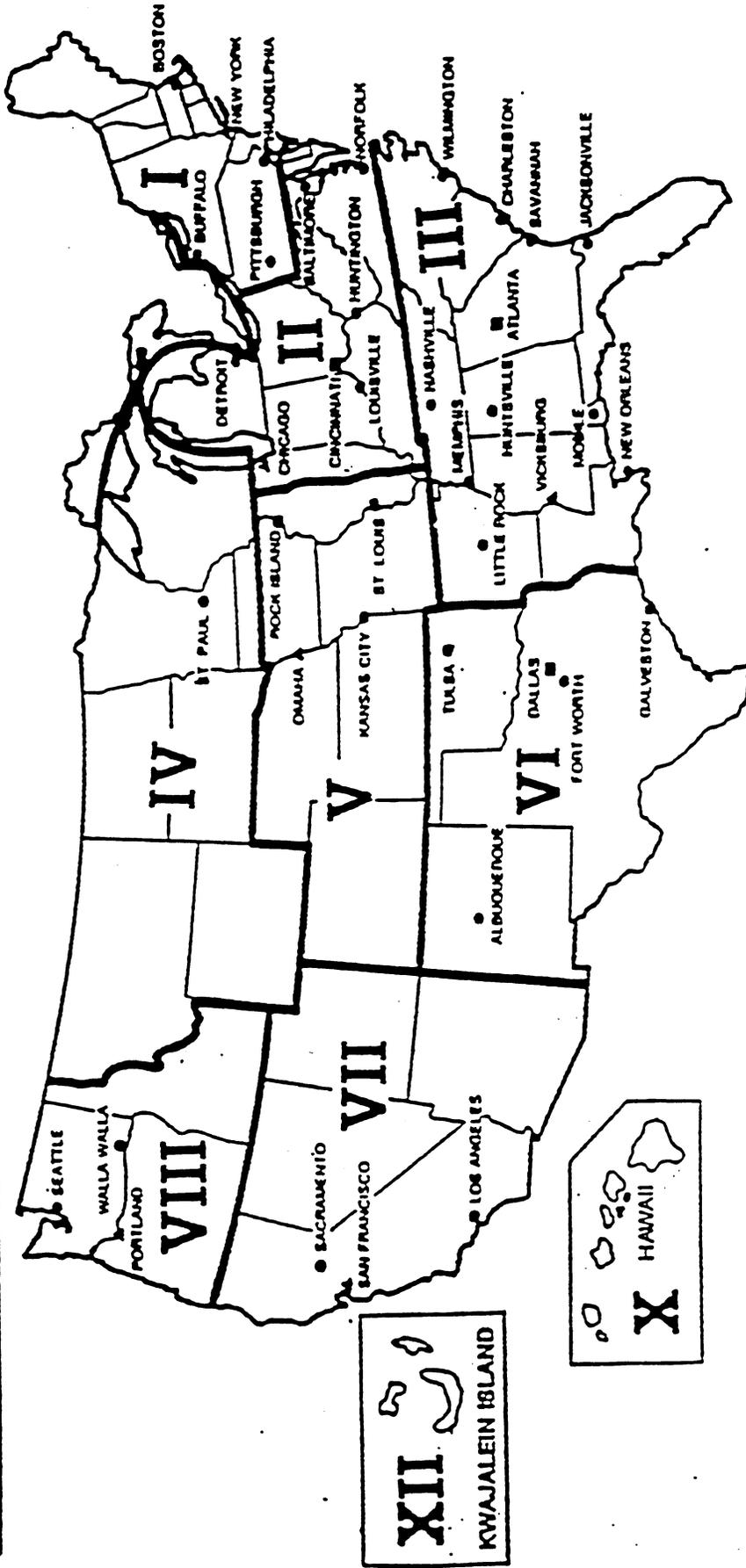
END OF GENERAL DECISION



# Regions for the Construction Equipment Ownership and Operating Expense Schedule



Vol. No.                      Stock No.                      Cost  
 I                                      008-022-00254-5                      \$26.00



Copies of Schedule available from:  
 U.S. Government Printing Office  
 Document Warehouse  
 0160 Cherry Lane  
 Laurel, MD 20707

Phone: (Area Code 301) 953-7974



REHABILITATION OF WATER QUALITY CONTROL GATE

BELTZVILLE DAM AND RESERVOIR  
LEHIGH RIVER BASIN  
POHOPOCO CREEK, PENNSYLVANIA

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(ONLY DIVISIONS 1, 5, 9, 11, AND 16 USED IN THESE SPECIFICATIONS)

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SECTION 01010

SUMMARY OF WORK

PART 1 GENERAL

1.1 SUMMARY OF WORK

The contract work includes, but is not limited to, all labor, equipment and materials required to accomplish the following:

- the lowering and raising of two bulkheads in the two water quality control wet wells;
- the pumping of inflowing water required to accomplish all work;
- the removal of one gate from operation;
- the disassembling two water quality control gate assemblies (one removed from operation and one existing spare);
- the inspection of both gate assemblies and preparation of one condition report;
- the replacement of various parts on both gate assemblies;
- the welding of areas requiring repair on both bonnets;
- the removal of lead-based paint and repainting of both gate assemblies;
- the inspection, lubrication and adjustment of the Limitorque motor used to raise and lower the water quality control gate, and, the painting of its enclosure;
- the removal and replacement of the gate's position indicator control system;
- the reassembling of both water quality control gate assemblies; and,
- the reinstallation of one assembly into operation.

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION (Not Applicable)

-- End of Section --



SECTION 01060

SAFETY

PART 1 GENERAL

1.1 REFERENCES

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

U.S. ARMY CORPS OF ENGINEERS (COE)

EM 385-1-1 (1996) Safety and Health Requirements Manual

U.S. ARMY CORPS OF ENGINEERS (PHILADELPHIA DISTRICT)

Liberty from Accidents Program (1996) Philadelphia District Awards Program

1.2 SUBMITTALS

Government approval is required for submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-08 Statements

Qualifications; GA COR

Name and qualifications of the Contractor's proposed safety representative.

Accident Prevention Plan; GA COR

An accident prevention plan, prepared by the prime Contractor for the specific work, implementing in detail the pertinent requirements of EM 385-1-1 shall be submitted for approval prior to the start of work. A suggested format for the accident prevention plan is included in EM 385-1-1, Appendix A. The plan shall be prepared for all sites and shall include, but is not limited to, the topic areas listed in Appendix A therein and the requirements of the Paragraph entitled: SAFETY AND HEALTH PROVISIONS. Each topic shall be developed in a concise manner to include management and operational aspects.

Activity Phase Hazard Analysis Plan; GA COR

Prior to beginning each major phase of work, an activity hazard analysis (phase plan) shall be prepared by the Contractor for that phase of work and submitted for approval. The suggested format for the analysis is contained in Figure 1-1 of EM 385-1-1. A phase is defined as an operation involving a type of work presenting hazards not experienced in previous operations or where a new subcontractor or work crew is to perform work. The analysis shall address the hazards for each activity performed in the phase and shall present the procedures and safeguards necessary to eliminate the hazards or reduce the risk to an acceptable level.

SD-09 Reports

Safety Meeting Reports; FIO

Outline reports of all weekly and monthly safety meeting shall be submitted.

Accident Reports; FIO

A written report for all accidents utilizing ENG FORM 3394 shall be submitted within 24 hours following such accidents.

OSHA 200 Log; FIO

Contractor's OSHA 200 Log of Injuries shall be submitted monthly.

1.3 GENERAL

Worker safety is of paramount importance. The Contractor shall comply with the Contract Clause entitled: ACCIDENT PREVENTION, EM 385-1-1, the Philadelphia District's Liberty from Accidents Program, and all other requirements as specified herein.

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 SAFETY PROGRAM

EM 385-1-1 and all subsequent revisions referred to in the Contract Clause entitled: ACCIDENT PREVENTION of this contract, are hereby supplemented as follows:

a. The Contractor shall designate a safety representative. The safety representative shall be responsible for overall supervision of accident prevention activities. Such duties shall include: (1) assuring applicable safety requirements are incorporated in work methods and (2) inspecting the work to ensure that daily safety measures and instructions are implemented and documented. The proposed safety representative's name and qualifications shall be submitted in writing for approval by the Contracting Officer. This individual shall have prior experience as a safety representative or be able to demonstrate familiarity and understanding of the safety requirements over a prescribed trial period. The safety representative shall have the authority to act on behalf of the Contractor's general management to take whatever action is necessary to assure compliance with safety requirements. The safety representative is required to be on the site when work is being performed in accordance with EM 385-1-1.

b. Prior to commencement of any work at the job site, a preconstruction safety meeting will be held between the Contractor's safety representative and the Contracting Officer to discuss the Contractor's safety program and to review the Accident Prevention Plan and Activity Phase Hazard Analysis Plan for the first phase of work.

c. Subsequent jobsite safety meetings shall be held as follows:

(1) A safety meeting shall be held at least once a month, documented with subject and attendees, for all supervisors on the project to review

past activities, to plan ahead for new or changed operations and to establish safe working procedures to anticipated hazards. An outline report of each monthly meeting shall be submitted to the Contracting Officer.

(2) At least one safety meeting shall be conducted weekly, or whenever new crews begin work, by the appropriate field supervisors or foremen for all workers. An outline report of the meeting giving date, time, attendance, subjects discussed and who conducted the meeting shall be prepared and furnished to the Contracting Officer.

### 3.2 PHILADELPHIA DISTRICT LIBERTY FROM ACCIDENTS PROGRAM

The Philadelphia District Liberty from Accidents Program is hereby incorporated as part of these specifications. The Liberty from Accidents Program rewards Contractors who exceed safety standards. The program provides local and District-wide awards on a quarterly and annual basis.

a. The Contractor will be evaluated for awards and the final performance evaluation in safety on the frequency rate for the project. The frequency rate is calculated by the following equation: frequency = (number of lost time accidents x 200,000) divided by the number of man-hours for the project. The Contractor shall have a proactive safety plan as outlined in the Liberty from Accidents Program.

b. The Contractor evaluation procedure for the safety category shall be as follows:

RATING	CONTRACTOR FREQUENCY RATE
Outstanding	Less than or equal to 0.25.
Above Average	Greater than 0.25 but less than or equal to 0.75.
Satisfactory	Greater than 0.75 but less than or equal to 0.84.
Marginal	Greater than 0.84 but less than or equal to 1.95.
Unsatisfactory	Greater than 1.95.

Extenuating circumstances will be considered to change the safety rating in limited situations.

### 3.3 ACCIDENTS

Chargeable lost time accidents are to be investigated by both the Contractor and the Contracting Officer.

#### 3.3.1 Accident Reporting

EM 385-1-1 and the Contract Clause entitled: ACCIDENT PREVENTION are supplemented as follows: The prime Contractor shall report on ENG FORM 3394, provided by the Contracting Officer's Representative, all injuries to employees or to subcontractor employee, and all damage to property and/or equipment. Verbal notification of such accidents shall be made to the Contracting Officer within 8 hours of occurrence. A written report utilizing ENG FORM 3394 shall be submitted to the Contracting Officer within 24 hours following such accidents. The report shall include the following:

a. A description of the circumstances leading up to the accident, the cause of the accident, and corrective measures taken to prevent recurrence.

b. A description of the injury and name and location of the medical facility rendering examination and treatment.

c. A statement as to whether or not the employee was permitted to return to work after examination and treatment by the medical facility, and if not, an estimate or statement of the number of days lost from work. If there have been days lost from work, the employee must be re-examined and declared fit to resume work as of the date of the report.

### 3.4 OSHA REQUIREMENTS

#### 3.4.1 OSHA 200 Log

A copy of the Contractor's OSHA 200 Log of Injuries shall be submitted in accordance with the Paragraph entitled: SUBMITTALS.

#### 3.4.2 OSHA Inspections

The Contractor shall immediately notify the Contracting Officer when an OSHA Compliance Official (Federal or State representative) presents credentials and informs the Contractor that the workplace will be inspected for OSHA compliance. The Contractor shall also notify the Contracting Officer upon determination that an exit interview will take place upon completion of the OSHA inspection.

### 3.5 MEASUREMENT AND PAYMENT

No separate measurement or payment will be made for the work specified in this section and all costs in connection therewith shall be included in the costs of all the bid items.

-- End of Section --

SECTION 01090

SOURCES FOR REFERENCE PUBLICATIONS

PART 1 GENERAL

1.1 REFERENCES

Various publications are referenced in other sections of the specifications to establish requirements for the work. These references are identified in each section by document number, date and title. The document number used in the citation is the number assigned by the sponsoring organization, e.g.

UL 1 (1993; Rev thru Jan 1995) Flexible Metal Conduit. However, when the sponsoring organization has not assigned a number to a document, an identifying number has been assigned for convenience, e.g. UL's unnumbered 1995 edition of their Building Materials Directory is identified as UL-01 (1995) Building Materials Directory. The sponsoring organization number (UL 1) can be distinguished from an assigned identifying number (UL-01) by the lack of a dash mark (-) in the sponsoring organization assigned number.

1.2 ORDERING INFORMATION

The addresses of the organizations whose publications are referenced in other sections of these specifications are listed below, and if the source of the publications is different from the address of the sponsoring organization, that information is also provided. Documents listed in the specifications with numbers which were not assigned by the sponsoring organization should be ordered from the source by title rather than by number.

AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)  
11 West 42nd St  
New York, NY 10036  
Ph: 212-642-4900  
Fax: 212-398-0023  
Internet: [www.ansi.org/](http://www.ansi.org/)

AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM)  
100 Barr Harbor Drive  
West Conshohocken, PA 19428-2959  
Ph: 610-832-9500  
Fax: 610-832-9555  
E-mail: [cservice@astm.org](mailto:cservice@astm.org)

AMERICAN WELDING SOCIETY (AWS)  
550 N.W. LeJeune Road  
Miami, FL 33126  
Ph: 305-443-9353  
Fax: 305-443-7559

CODE OF FEDERAL REGULATIONS (CFR)  
Order from:  
Government Printing Office  
Washington, DC 20402  
Ph: 202-512-1800  
Fax: 202-275-7703

Internet: <http://www.pls.com:8001/his/cfr.html>

CORPS OF ENGINEERS (COE)

Order from:

U.S. Army Engineer Waterways Experiment Station  
ATTN: Technical Report Distribution Section, Services  
Branch, TIC  
3909 Halls Ferry Rd.  
Vicksburg, MS 39180-6199  
Ph: 601-634-2571  
Fax: 601-634-2506

ENGINEERING MANUALS (EM)

USACE Publications Depot  
Attn: CEIM-SP-D  
2803 52nd Avenue  
Hyattsville, MD 20781-1102  
Ph: 301-394-0081

GRETAG MACBETH (GM)

Munsell Department

ATTN: Customer Service  
617 Little Britain Road  
New Windsor, NY 12553-6184  
Ph: 800-662-2384 or 914-566-7660, Ext 347  
Fax: 914-561-0267  
Internet: <http://www.munsell.com/munsell5.htm>  
AOK6/99

NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH (NIOSH)

Mail Stop C-13  
4676 Columbia Parkway  
Cincinnati, OH 45226-1998  
Ph: 800-356-4676  
Internet: <http://www.cdc.gov/niosh/homepage.html>  
To order pubs for which a fee is charged,  
order from:  
Superintendent of Documents  
Government Printing Office  
Washington, DC 20402-9325  
Ph: 202-512-1800  
Fax: 202-512-2250

SSPC: THE SOCIETY FOR PROTECTIVE COATING (SSPC)

40 24th Street, 6th Floor  
Pittsburgh, PA 15222-4643  
Ph: 412-281-2331  
Fax: 412-281-9992  
Internet: [www.sspc.org](http://www.sspc.org)

UNDERWRITERS LABORATORIES (UL)

333 Pfingsten Rd.  
Northbrook, IL 60062-2096  
Ph: 800-704-4050  
Fax: 847-509-6249  
Internet: <http://www.ul.com/>  
Order from:  
Global Engineering Documents

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Ph: 800-569-7128  
Fax: 303-397-7945  
Internet: <http://global.ihs.com>  
E-mail: [global@ihs.com](mailto:global@ihs.com)

-- End of Section --



SECTION 01100  
DIVING SERVICES

PART 1 GENERAL

1.1 GENERAL REQUIREMENTS

All diving performed under this contract shall be in strict accordance with the rules and regulations prescribed by the U.S. Navy Diving Manual: 0910-LP-708-8000; 29 CFR Part 1910, Subpart T; 29 CFR Part 1915; the EM 385-1-1, Section 30; and ER 385-1-86, except as modified below. A Contracting Officer's Representative, will be designated by the Contracting Officer at the Post Award Conference, to act for the Contracting Officer for all submissions, directions and/or acceptance(s) required under the specifications. There will also be an individual designated as the District Dive Coordinator

1.2 REFERENCES

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

CORPS OF ENGINEERS (COE)

EM 385-1-1	(Sep 1996) Safety and Health Requirements Manual
ER 385-1-86	(July 1994) Engineer Regulation, Government Personnel Diving Operations

CODE OF FEDERAL REGULATIONS (CFR)

29 CFR Part 1910	(1999) Occupational Safety and Health Standards
29 CFR Part 1915	(1999) Safety and Health Standards Applicable to Shipyard Employment

NAVAL SEA SYSTEMS COMMAND (NSSC)

0910-LP-708-8000	(Jan 1999) U.S. Navy Diving Manual, Revision 4
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1.3 SUBMITTALS

The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES.

SD-08 Statements

Diving Operations Manual

Submit, for review, at least 15 days prior to any diving operations, two (2) copies of a Diving Operations Manual, which shall depict the Contractor's general plan for accomplishing the diving operations required under this contract. The Diving Operations Manual shall be reviewed by the Contracting Officer's Representative prior to commencing of any diving operations under this contract. The Diving Operations Manual shall include the following information as a minimum:

- a. A complete copy of 29 CFR Part 1910, Subpart T, and the Contractor's proposed method of complying with each of its pertinent parts.
- b. U. S. Navy Standard Air Decompression Table.
- c. A sample of the Diving Log sheets to be used under this contract.
- d. A sample of the Repetitive Dive Worksheets or equivalent (dive profile method) to be used under this contract.
- e. U. S. Navy Table of No-Decompression Limits and Repetitive Group Designation for No-Decompression Air Dives.
- f. U. S. Navy Residual Nitrogen Timetable for Repetitive Air Dives.
- g. An outline of emergency communications between the dive site and the Contractor's project office (located at the job site); Contractor-furnished portable radios, hardware, telephone hookup, etc.
- h. An outline of proposed treatment and emergency evacuation for drowning, gas embolism, decompression sickness, or traumatic injury.
- i. Emergency assistance information, including location, telephone numbers, and names of nearest doctor, hospital, emergency ground and air transportation, recompression facilities, and other appropriate medical assistance.
- j. An Activity Hazard Analysis Plan, setting forth potential hazards, means of prevention, and actions to be taken should an accident involving the potential hazard occur. Minimum coverage in the Activity Hazard Analysis Plan shall include; means of prevention and procedures for dealing with fire, equipment failure, and adverse environmental conditions, prevention and procedures for dealing with fire, equipment failure, and adverse environmental conditions, drowning, air embolism, decompression sickness, hypoxia, carbon dioxide excess, carbon monoxide excess, strangulation, various type of squeezing, fouling or entanglement, mechanical injury, overexertion/exhaustion, hypothermia, hyperthermia, currents caused by hydraulic differential through the structure, and electrocution and blowup if dry suits are used. Also to be included shall be means of prevention and procedures for dealing with fire, equipment failure, and adverse environmental conditions.
- k. An outline of pre-dive briefings and equipment checkout procedures for daily diving activities under this contract.
- l. An outline of qualifications and experience requirements for the dive team members, required under this contract. As a minimum, each team member shall have at least one (1) year of commercial experience in the applicable position; divers shall have completed at least four (4) working dives to the depths required by this contract, using the particular diving techniques and equipment to be used under this

contract. Divers shall demonstrate that at least one (1) of the four (4) qualification dives was performed in the last six (6) months prior to the contract award date.

m. An outline of the medical qualifications required for divers to be employed under this contract. As a minimum, each diver shall meet the certification requirements specified in 29 CFR Part 1910, Subpart T, and EM-385-1-1, Section 30.

n. An outline of diving equipment, maintenance procedures and certification of analysis of air output for diving air supply compressors to be used under this contract. As a minimum, the equipment maintenance procedures shall indicate method of testing, frequency, and repair methods used. Diving air supply compressors' output air shall be in conformance with the following limits: oxygen - 20 to 22 percent by volume, carbon dioxide - 1,000 ppm maximum, carbon monoxide - 20 ppm maximum, total hydrocarbons - 25 ppm maximum, particulates - 5 mg/cubic meter maximum, and have no objectionable odor.

o. An outline of administrative and record-keeping procedures. As a minimum, the outline shall contain (by title of position) job responsibilities, the chain of command, daily briefing and diving safety orientation procedures, log and diving-related record-keeping responsibilities, equipment maintenance and pre-dive equipment checklist, etc.

#### SD-18 Records

##### Daily Logs

Submit each day, to the Contracting Officer/District Dive Coordinator fully completed copies of the previous day's Diving Log Sheets and any other work sheets prepared in conjunction with the Diving Log Sheets.

##### Diving Plan

Submit, for review, at least 10 days prior to any diving operations, three (3) copies of a Project/Task Specific Dive Plan prior to performing any actual dive task or assignment. Each separate Dive Plan will require review and acceptance by the Contracting Officer's Representative prior to commencing any diving required under this contract. A typical Dive Plan (the Contractor may prepare a form with the appropriate subject/item already listed with blank spaces to be filled in as required for each Dive Plan submitted) shall include the following information as a minimum:

- a. Dive Plan for: (project and specific tasks).
- b. Name of Contractor (and diving subcontractor if required).
- c. Contract Number.
- d. Date of Dive Plan submission.
- e. Name of diving supervisor preparing the Dive Plan.
- f. Description of proposed work and diving mission.
- g. Approximate time and date dive mission will start.

- h. Listing of diving equipment to be used.
- i. Name or type of diving platform to be used.
- j. Planned depth of dive and maximum depth to bottom.
- k. Maximum single dive bottom time for the planned depth of dive for each diver.
- l. Listing of special tools or equipment to be used.
- m. Materials to be handled or installed.
- n. Listing by name each member of the diving team. The first time each diver is employed on the job, the Contractor shall attach to the dive plan a qualification statement and copy of the diver's current medical record, giving the physician's written report and opinion of the diver's fitness for exposure to hyperbaric conditions, including any limitations to such exposure. The required qualifications statement and current medical report shall be in accordance with EM 385-1-1. Diver's qualification statement and medical record need not be attached to subsequent Dive Plans unless a diver's medical report has expired and a new medical report has been submitted.
- o. Listing by name each person directly involved in topside assistance/support to the dive team.
- p. Listing of information and equipment required at the dive site. The following information and work materials shall be available at the dive site, either referenced in the Diving Operations Manual or work materials furnished by the Contractor: U. S. Navy Standard Air Decompression Table; Diving Log Sheets; Repetitive Dive Worksheets; Table of No-Decompression Air Dives; means of direct emergency communications between the dive site and the Contractor's project office, the Dive Coordinator/Dive Inspector; stop watch or equivalent, as required to monitor times for each diver; standard first aid supplies; litter or tilt board and a manual resuscitator capable of administering oxygen
- q. Listing of information required at the dive site and the project office; local emergency medical assistance names, locations, and telephone numbers for ambulance service, hospital, and doctor, emergency medical evacuation assistance for ground and/or air transportation facilities with point of contact names, locations and telephone numbers; nearest emergency medical facility with hyperbaric chamber capable of recompression equivalent to 165 feet of water, with point of contact names, location and telephone numbers.
- r. The Dive Plan shall contain the following statement: "If for any reason the diving plan, as accepted, is altered in scope of mission, depth, personnel, or equipment, the Philadelphia District Diving Coordinator shall be contacted in order to review the proposed diving plan revision prior to the actual diving operation." (24 Hrs).

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 RESTRICTIONS

Only air-supplied diving within the No-Decompression Limits, using the previously cited U. S. Navy Diving Tables, will be permitted under this contract, unless otherwise accepted by the Contracting Officer. Any deviation from or modification to the U. S. Navy Diving Tables, proposed by the Contractor, shall be submitted at the time the Diving Operations Manual is submitted, with any such deviation or modification clearly identified for review purposes.

### 3.2 DOCUMENTS AVAILABILITY

One (1) copy of the accepted Diving Operations Manual (to be kept in D.O.) and one (1) copy of the appropriate accepted Diving Plan shall be available at the dive site while diving operations are underway.

### 3.3 COORDINATION

All Diving activities shall be conducted with full knowledge and close coordination with the Contracting Officer and Dive Coordinator. Divers shall not enter the water or move from prescribed location without the acceptance of the Dive Inspector or Dive Coordinator.

### 3.4 PRE-DIVE CHECK

Prior to the dive and at the scene of the dive, the Contractor will meet with the USACE diving inspector and shall insure, as a minimum, the following pre-dive checks are performed:

- a. Breathing air tanks contain sufficient air supply to perform the required work, i.e., standby air tanks are on site and full to the capacity (3,000 psi). A pressure reading shall be taken to insure that approximately 3,000 psi of breathing air is contained.
- b. All diving equipment shall be checked for proper function prior to diver entry.
- c. All necessary safety equipment specified hereinbefore are on site and functioning properly.
- d. Lockout/tagout procedures are followed and the diving supervisor is in possession of the key or keys.
- e. Crane signals are reviewed and radio communications with the crane operator is functioning properly, when applicable.
- f. Welding or cutting procedures are clearly reviewed, the proper welder polarity is set and precautions have been taken to insure that electrocution will not occur.
- g. A pre-dive briefing shall be given which includes but is not limited to, the accident management plan, activity hazards analysis, equipment check list, diving logs, diving conditions, and diving procedures.

### 3.5 DIVE TEAM CREW REQUIREMENTS

The following dive team members are required as the minimum crew manning levels:

Comply with EM 385-1-1, Appendix N, Table III.

### 3.5.1 Surface-Supplied Air Mode

All working dives requiring communications between the Divers and topside to direct crane load movements, etc., shall be performed in surface-supplied air mode. The minimum crew manning level consists of the In-water Diver, Stand-by Diver, Diver Tender, and Dive Supervisor. A member of the crew shall be responsible for radio communications and timekeeping. Surface-supplied air gear shall include hardwire communications and a diver carried air reserve.

### 3.6 MEASUREMENT AND PAYMENT

The work specified in this section will not be measured for payment and all costs in connection therewith shall be included in the costs of all the associated bid items.

-- End of Section --

SECTION 01140

WORK RESTRICTIONS

PART 1 GENERAL

1.1 REFERENCES

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

CODE OF FEDERAL REGULATIONS (CFR)

29 CFR 1910

Occupational Safety and Health Standards

1.2 RESTRICTED ACCESS TO SERVICE BRIDGE AND TOWER

The use of a mobile crane is limited to the capacity of the service and spillway bridges. The service and spillway bridges are designed for an H-20 loading and have horizontal clearance limitations as shown on the reference drawings. Due to structural considerations, the Contractor shall locate any heavy equipment, such as a mobile crane, on the service bridge and not on the tower deck.

1.3 HOIST EQUIPMENT

After lowering the bulkheads, the Contractor shall leave the hoist cables connected to them for the duration of the contract. This will eliminate needing divers to reconnect the cables for raising the bulkheads. The Contractor shall provide plates to cover the openings for the duration of the contract.

1.4 TOWER ENTRANCE DOOR

The tower entrance door is a single door not wide enough for use in removing or reinstalling the gate assemblies from/to the tower. The Contractor shall utilize the equipment hatch, located on the deck, for all removal and reinstallation operations.

1.5 STAGING AREA

The Contractor may use the turn-around area at the south end of the dam as a staging area. If the Contractor uses this area, he shall provide for sufficient area for other vehicles to turn-around.

1.6 AVAILABLE SERVICES

1.6.1 Elevator

The Contractor may utilize the existing elevator IF it is working. This elevator, however, is frequently out of service. If the elevator is out of service, the Contractor shall utilize the existing spiral staircase. The Government will not provide an elevator operator.

1.6.2 Electric Service

Electric service will be available for the Contractor's use. Electricity required other than that available at the existing outlets must be furnished by the Contractor.

#### 1.6.3 Ventilation System

The ventilation system will be available for the Contractor's use.

#### 1.7 PROTECTION OF EXISTING EQUIPMENT AND UTILITY LINES

At elevation 658.0, there is a humidifier vent and water supply line that extend through the equipment hatch. The Contractor may remove the humidifier vent during contract operations. The Contractor shall not remove, damage or disconnect the water supply line. The Contractor shall take precautions to protect these items while completing all contract work. The Contractor shall note that there is various other piping, conduits, equipment, etc. located throughout the tower. The Contractor shall be responsible for the immediate repair of any and all items damaged due to his operations.

#### 1.8 EQUIPMENT USE RESTRICTIONS

To protect against carbon monoxide poisoning at the gate chamber level, the Contractor shall locate all gas welding and/or gas-powered equipment, outside, on the deck at elevation 672.0. All operations shall be conducted as specified in Section 01430 ENVIRONMENTAL PROTECTION for confined space.

#### 1.9 EQUIPMENT HATCH GRATING AND COVERS

The Contractor shall reinstall all equipment hatch grating and covers at the end of each work day.

#### 1.10 REQUIRED NOTIFICATIONS

The Contractor shall provide the Dam Operator 24 hour notice in advance of the required opening or closing of inlet, service, emergency, or water quality control gates. The Government will operate all gates.

#### 1.11 ACCESS TO MAIN CONDUIT

The Contractor shall notify the Contracting Officer 3 days prior to any required access to the main conduit. Hydraulic conditions may, however, require the Contracting Officer to deny that request. The Contractor shall follow all OSHA requirements for entry to confined spaces when entering the conduit. The Contractor shall provide evidence that employees have had training as specified by 29 CFR 1910 Section .146, for entering permit-required confined spaces. The Contractor's access to the conduit may be limited to a maximum of 3 hours, each access. The Contracting Officer may direct the Contractor to exit the conduit at that time to allow the reopening of the dam. The dam shall be opened for a minimum of 2 hours prior to allowing another Contractor access.

### PART 2 PRODUCTS

### PART 3 EXECUTION

3.1 MEASUREMENT AND PAYMENT

No separate measurement or payment will be made for the work specified in this section and all costs in connection therewith shall be included in the costs of all the bid items.

-- End of Section --



SECTION 01300

SUBMITTAL PROCEDURES

PART 1 GENERAL

1.1 SUBMITTALS

Government approval is required for submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-08 Statements

Review and Complete Submittal Register (ENG Form 4288); GA COR.

Update Submittal Register (ENG Form 4288); GA COR.

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 as 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 (ENG FORM 4288)

At the end of this section is one set of ENG Form 4288 listing items of equipment and materials for which submittals are required by the specifications; this list may not be all inclusive and additional submittals may be required. Columns "d" through "q" have been completed by the Government; the Contractor shall complete columns "a" and "r" through "t" and submit the forms to the Contracting Officer for approval at the CQC coordination meeting. The Contractor shall keep the submittal register up-to-date and shall submit it to the Government together with the monthly payment request. The approved submittal register will become the scheduling document and will be used to control submittals throughout the life of the contract. The submittal register and the progress schedules shall be coordinated.

#### 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 10 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.

### 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. This 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 submitted for each item.

### 3.5 SUBMITTAL PROCEDURE

Paragraph (g) of Contract Clause: "Specifications and Drawings for Construction," is modified as specified herein. While submittals referred to in the text may use the wording "submitted to the Contracting Officer", submittals will be reviewed as indicated in column "p" of the Submittal Register (ENG Form 4288). Submittals shall be made to the addresses set forth below. Submittals shall be made as follows:

#### 3.5.1 Submittals for Contracting Officer Approval

For those submittals listed on the Submittal Register (ENG Form 4288) as requiring technical review by the Contracting Officer Representative (COR), the Contractor shall submit, by the most expedient means, a total of five copies to the COR (Mr. Bob Greene), at the job site.

#### 3.5.2 Submittals for District (DO) Approval

The Contractor shall submit to the District, by the most expedient means, a total of five copies of shop drawings and other submittals listed on the Submittal Register (ENG Form 4288) as requiring technical review by the DO. Four copies shall be submitted to the DO and one copy shall be submitted to the Contracting Officer Representative. The Contractor shall be responsible for all costs incurred in transmitting the required information for review in the submittal process.

District mailing address:  
US Army Corps of Engineers  
Philadelphia District  
Civil/Structural Section (CENAP-EN-DC (Clapp))  
Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107-3390

#### 3.5.3 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. Three copies of the submittal will be retained by the Contracting Officer and the remaining copies of the submittal will be returned to the Contractor.

3.8 INFORMATION ONLY SUBMITTALS

Normally submittals for information only will not be returned. Approval 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 laboratory or for check testing by the Government in those instances where the technical specifications so prescribe.

3.9 STAMPS

All submittals must be stamped by the Contractor, prior to submission, certifying that the Contractor has reviewed the submittal and that it meets the contract requirements. The stamp shall be similar to the following:

CONTRACTOR	
(Firm Name)	
_____	Section
_____	Paragraph
_____	Station/Location/Structure
_____	Approved
_____	Approved, with corrections as noted on submittal, data, and/or attached sheets(s).
SIGNATURE: _____	
TITLE: _____	
DATE: _____	

3.10 MEASUREMENT AND PAYMENT

No separate measurement or payment will be made for the work specified in this section and all costs in connection therewith shall be included in the

costs of all the bid items.

-- End of Section --





## INSTRUCTIONS

1. Section I will be initiated by the Contractor in the required number of copies.
2. Each transmittal shall be numbered consecutively in the space provided for "Transmittal No.". This number, in addition to the contract number, will form a serial number for identifying each submittal. For new submittals or resubmittals mark the appropriate box; on resubmittals, insert transmittal number of last submission as well as the new submittal number.
3. The "Item No." will be the same "Item No." as indicated on ENG FORM 4288-R for each entry on this form.
4. Submittals requiring expeditious handling will be submitted on a separate form.
5. Separate transmittal form will be used for submittals under separate sections of the specifications.
6. A check shall be placed in the "Variation" column when a submittal is not in accordance with the plans and specifications--also, a written statement to that effect shall be included in the space provided for "Remarks".
7. Form is self-transmittal, letter of transmittal is not required.
8. When a sample of material or Manufacturer's Certificate of Compliance is transmitted, indicate "Sample" or "Certificate" in column c, Section I.
9. U.S. Army Corps of Engineers approving authority will assign action codes as indicated below in space provided in Section I, column i to each item submitted. In addition they will ensure enclosures are indicated and attached to the form prior to return to the contractor. The Contractor will assign action codes as indicated below in Section I, column g, to each item submitted.

### THE FOLLOWING ACTION CODES ARE GIVEN TO ITEMS SUBMITTED

A --	Approved as submitted.	E --	Disapproved (See attached).
B --	Approved, except as noted on drawings.	F --	Receipt acknowledged.
C --	Approved, except as noted on drawings. Refer to attached sheet resubmission required.	FX --	Receipt acknowledged, does not comply as noted with contract requirements.
D --	Will be returned by separate correspondence.	G --	Other ( <i>Specify</i> )

10. Approval of items does not relieve the contractor from complying with all the requirements of the contract plans and specifications.

*(Reverse of ENG Form 4025-R)*

**SUBMITTAL REGISTER**

(ER 415-1-10)

CONTRACT NO.

TITLE AND LOCATION

CONTRACTOR

SPECIFICATION SECTION

ACTIVITY NO	TRANSMITTAL NO.	ITEM NO	SPECIFICATION PARAGRAPH NUMBER	DESCRIPTION OF ITEM SUBMITTED	TYPE OF SUBMITTAL											CLASSIFICATION		CONTRACTOR SCHEDULE DATES			CONTRACTOR ACTION		GOVERNMENT ACTION		REMARKS	
					DRAWINGS DATA	INSTRUC-TIONS	SPECIFICATIONS	STATEMENTS	PROPOSALS	CERTIFICATES	SAMPLES	RECORDS	O&M MANUALS	INFORMATION ONLY	GOVERNMENT APPROVED	REVIEWER	SUBMIT	APPROVAL NEEDED BY	MATERIAL NEEDED BY	CODE	DATE	SUBMIT TO GOVERNMENT	CODE	DATE		
																										f.
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.	k.	l.	m.	n.	o.	p.	q.	r.	s.	t.	u.	v.	w.	x.	y.	z.	aa.
			CI 22 Pg 25	Payroll and Basic Records									X			X	CO									
			CI 31 Pg 33	Affirmative Action Compliance Plan									X			X	CO									
			SC-13 Pg 7	Certificate of Insurance							X					X	CO									







**SUBMITTAL REGISTER**

(ER 415-1-10)

CONTRACT NO.

TITLE AND LOCATION

CONTRACTOR

SPECIFICATION SECTION

ACTIVITY NO	TRANSMITTAL NO.	ITEM NO	SPECIFICATION PARAGRAPH NUMBER	DESCRIPTION OF ITEM SUBMITTED	TYPE OF SUBMITTAL											CLASSIFICATION		CONTRACTOR SCHEDULE DATES			CONTRACTOR ACTION		GOVERNMENT ACTION		REMARKS	
					DRAWINGS DATA	INSTRUMENTS	STATEMENTS	PROPOSALS	CUTTINGS	SAMPLES	RECORDS	O&M MANUALS	INFORMATION ONLY	GOVERNMENT APPROVED	REVIEWER	SUBMIT	APPROVAL NEEDED BY	MATERIAL NEEDED BY	CODE	DATE	SUBMIT TO GOVERNMENT	CODE	DATE			
																								f.		g.
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.	k.	l.	m.	n.	o.	p.	q.	r.	s.	t.	u.	v.	w.	x.	y.	z.	aa.
			3.2	Review and Complete Submittal Register (ENG Form 4288)					X							X	CO									
			3.2	Deviations from the Plans and Specifications					X							X	CO									
			3.2	Updated Submittal Register (ENG Form 4288)					X						X	CO										







**SUBMITTAL REGISTER**  
(ER 415 1-10)

CONTRACT NO.

TITLE AND LOCATION

CONTRACTOR

SPECIFICATION SECTION

**REHABILITATION OF WATER QUALITY CONTROL GATE, BELTZVILLE DAM**

**09900**

ACTIVITY NO a.	TRANS-MITTAL NO. b.	ITEM NO c.	SPECIFICATION PARAGRAPH NUMBER d.	DESCRIPTION OF ITEM SUBMITTED e.	TYPE OF SUBMITTAL													CLASSIFICATION r.	CONTRACTOR SCHEDULE DATES			CONTRACTOR ACTION		GOVERNMENT ACTION		REMARKS aa.		
					DRAWINGS f.	INSTRUMENTS g.	STATEMENTS h.	CERTIFICATES i.	RECORDS j.	SPECIFICATIONS k.	PERMITS l.	RECORDS m.	MANUALS n.	INFORMATION o.	GOVERNMENT REVIEW p.	SUBMIT s.	APPROVAL NEEDED BY t.		MATERIAL NEEDED BY u.	CODE v.	DATE w.	SUBMIT TO GOVERNMENT x.	CODE y.	DATE z.				
																									GOVERNMENT REVIEW q.		GOVERNMENT ACTION	
			1.4	Qualifications and Experience of IH			X								X	DO												
			1.4	Qualifications and Experience of LBP Removal and Repainting Workers			X								X	DO												
			1.4	Location of Paint Removal and Painting Operations				X						X														
			1.4	Respiratory Protection Program			X							X	DO													
			1.4	Airborne Sampling Plan			X							X	DO													
			1.4	Ventilation Assessment			X							X	DO													
			1.4	Medical Surveillance Plan			X							X	DO													
			1.4	Waste Classification, Handling, and Disposal Plan			X							X	DO													
			1.4	Containment Plan			X							X	DO													
			1.4	Visible Emissions Monitoring Plan			X							X	DO													
			1.4	Water Quality Plan			X							X	DO													
			1.4	Soil Quality Plan			X							X	DO													
			1.4	Special Paint Formulas					X					X	DO													
			1.4	Inspections and Operations							X			X	DO													









SECTION 01322

CONTRACTOR-PREPARED CONSTRUCTION PROGRESS CHART

PART 1 GENERAL

1.1 SUMMARY

The work specified in this section consists of the preparation of a construction progress chart by the Contractor for the contract work.

1.2 SUBMITTALS

Government approval is required for submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-08 Statements

Construction Progress Chart; GA COR

Six copies of the construction progress chart consisting of the detailed analyses (on-site manpower loading schedule and equipment schedule) and flow charts shall be submitted within 10 calendar days after receipt by the Contractor of the notice to proceed.

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 CONSTRUCTION PROGRESS CHART

The construction progress chart to be prepared by the Contractor pursuant to the clause entitled: SCHEDULES FOR CONSTRUCTION CONTRACTS shall be as described below. In preparing the chart, the scheduling of construction is the responsibility of the Contractor. The requirement for the progress chart is included to assure adequate planning and execution of the work and to assist the Contracting Officer in appraising the reasonableness of the proposed schedule and evaluating progress of work.

3.1.1 General

A copy of the Construction Progress Chart - ENG Form 2454, including preparation instructions, is attached hereto. Additional instructions regarding the preparation of this chart will be provided at the Contractor Quality Control Coordination Meeting. The size of the chart shall be a minimum of 11 by 17 inches. Any updated chart shall show the date of the latest revision.

3.1.2 Summary Progress Chart

The summary construction progress chart shall show the order and interdependence of all major work items and the sequence in which the work

is to be accomplished as planned by the Contractor. A logical approach shall be followed to show all items which can be accomplished concurrently and those items which need to be done in succession. The "critical path" of those work items governing the contract duration shall also be clearly indicated on the chart.

### 3.1.3 Detailed Progress Chart

Detailed work items shall be shown on a detailed or supplemental chart. In addition to the basic work items, submittal and approval of shop drawings, procurement of critical materials and equipment, and fabrication of special items, including testing and installation, shall be shown on the chart. All activities of the Government that will affect progress and contract required dates for completion of all or parts of the work shall also be shown. The detail of information shall be such that duration times of items shall range from 3 to 30 days, with not over 2 percent of the items exceeding these limits.

### 3.2 REVISED PROGRESS CHARTS

The Contractor shall participate in a review and evaluation of the proposed construction progress charts with the Contracting Officer. Any revisions necessary as the result of this review shall be resubmitted for approval by the Contracting Officer within ten calendar days after the review. The approved charts shall then be the schedule to be used by the Contractor for planning, organizing, and directing the work, and for reporting progress. If the Contractor thereafter desires to make changes in the method of operating and scheduling, he shall notify the Contracting Officer in writing stating the reasons for the changes. If the Contracting Officer considers these changes to be major, he may require the Contractor to revise and resubmit for approval, without additional cost to the Government, the affected portion of the approved construction progress charts to show the effect on the entire project. A change may be considered major in nature if the time estimated to be required or actually used for a work item or the sequence of work items is varied from the original schedule to a degree that a reasonable doubt exists as to the Contractor meeting the contract completion date.

### 3.3 PROGRESS REPORTS

The Contractor shall submit progress reports at least once a month, consisting of four copies of the approved charts showing actual construction progress. Revisions resulting in changes to the approved construction progress charts shall be noted on the approved charts.

#### 3.3.1 Progress Payment Information

Progress reports shall show the work items or portions of work items completed during the reporting period and their total value as the basis for the Contractor's progress payment request. Payment made pursuant to Contract Clause entitled: PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS will be based on the total value of such work items completed or partially completed after verification by the Contracting Officer. The report shall state the percentage of the work actually completed and scheduled as of the report date and the progress of work in terms of days ahead or behind the scheduled dates. The Contractor shall also submit a narrative report with the updated construction progress chart which shall include, but not be limited to, a description of the problem areas, current and anticipated delaying factors and their impact on the schedule, and an explanation of

corrective actions taken or proposed.

3.4 MEASUREMENT AND PAYMENT

No separate measurement or payment will be made for the work specified in this section and all costs in connection therewith shall be included in the costs of all the bid items.

-- End of Section --

**INSTRUCTIONS FOR PREPARATION OF  
CONSTRUCTION PROGRESS CHART, ENG FORM 2454**

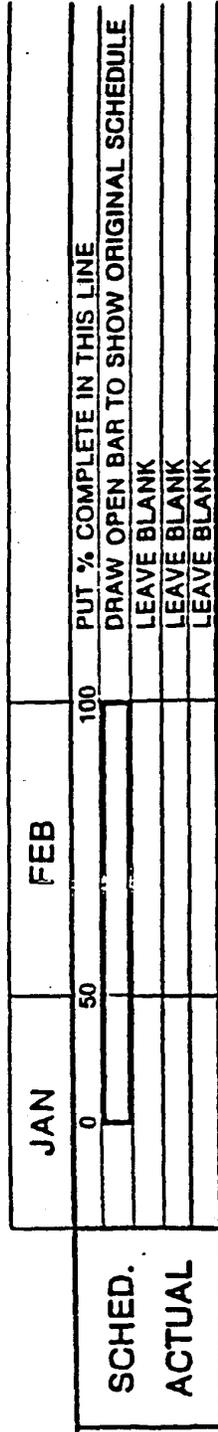
The bar chart should indicate sufficient detail to reveal how the contractor plans to meet the required completion date or dates. Details shall include all salient features of the contract and each feature having a separate completion date must be identifiable in the chart. The following detailed instructions are for assisting the contractor in preparing initial or revised charts. The various headings and columns of the sample form (page      and      ) have been identified by figures and parenthetical letters and the following instructions are identified accordingly (parenthetical letters will not be shown on regular chart):

- Block 1.                      Name of contractor as shown in the contract.
- Block 2.                      Complete contract number as shown in the contract.
- Blocks 3 and 4.              Name and location as shown in the contract.
- Block 5.                      Description as shown in the contract.
- Blocks 6, 7, and 8.        To be signed by official representative of the contractor and by the Resident Engineer with space provided for approval by the Area Engineer.
- Column (a).                Principal Contract Features. List here the principal salient features of the contract such as building, site preparation, concrete, masonry, structural steel, roofing, interior finishing, mechanical, electrical, paving, seeding, etc.
- Column (b).                Line Item. Show "Line Item No." to which each feature or bar graph applies as indicated on ENG Form 3013 (Work Order) which is supplied each Field office by the District Office.
- Column (c).                Weight. Divide the amount shown in Column (d) for each principal feature by the total (f) in Column (d).
- Column (d).                Estimated Cost. List the amount.
- Column (e).                Insert the appropriate months covering the limits of the contract, using the vertical lines as a period for each month. This scale is to be used on all charts.
- Item (f).                    Show totals for "Wt." and "Estimated Cost" columns.

- Item (g). Draw in open bar graphs for "Scheduled" progress to indicate the starting and completion dates for each feature shown under Column (a). Percentages are to be indicated above the bar graph for each 30-day interval. See explanation of Construction Progress chart on page
- Item (h). Show scheduled contract starting date. The starting date is the date following the date of acknowledgment of receipt of Notice to Proceed by the contractor.
- Item (i). Show scheduled completion date or dates for the various features to be completed as specified in Paragraph 1 of the Special Provision in the specifications.
- Item (j). The curve for scheduled progress is shown as a solid black line whereas actual progress is shown as a broken line. The method by which each point on the curve may be as follows: For each contract feature multiply the "Wt." value shown in Column (c) by the percent shown on the bar graph for the specific date; the total of the figures thus computed for all the principal features on the same date will indicate the value to be plotted for the curve on that date.
- Item (k). Chart on Page (Revised Chart). List all "Approved Modifications" by number, each one as a principal feature under Column (a). A revised chart will be submitted only when the monetary value of the approved modifications amounts to approximately 10% percent of the existing total contract amount, or when an executed modification changes the contract duration or extends the contract time. All approved modifications are to be listed as separate principal features, and not combined with any of the original principal features, except that minor modifications not materially affecting the scope of work may be grouped together. A brief identification of the work involved under each approved modification should be shown in parentheses following the modification number. Modifications involving time extensions only will be shown also with the number of days allowed shown in parentheses after the modification numbers.
- Item (l). For each reporting period the open bar graphs will be filled in as shown on chart

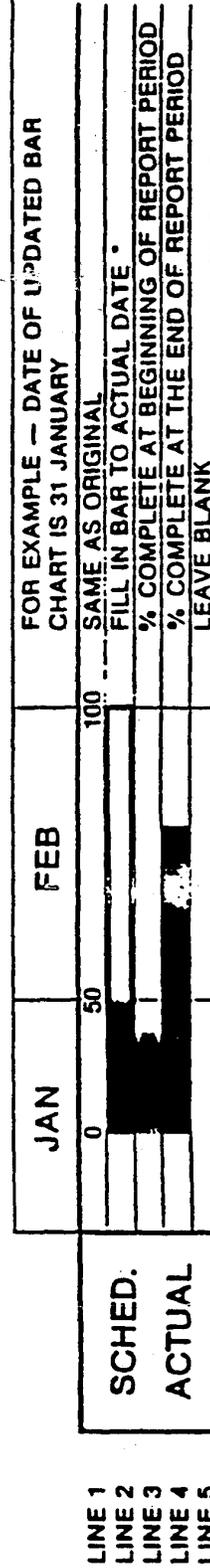


# EXPLANATION OF CONSTRUCTION PROGRESS CHART



## ORIGINAL BAR CHART

NOTES: PUT A % COMPLETE NUMBER AT EACH 30 DAY VERTICAL LINE DURING DURATION OF ITEM. (OR ANY APPROPRIATE LABELING OF %)



## UPDATED BAR CHART

NOTES: 1. THIS EXAMPLE SHOWS A CONTRACTOR AHEAD OF SCHEDULE.  
 2. IF LINE 4 WAS SHORTER THAN LINE 2 THEN CONTRACTOR IS BEHIND SCHEDULE.  
 3. IF THIS IS FIRST UPDATE SINCE ORIGINAL LEAVE LINE 3 BLANK.

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SECTION 01400

CONTRACTOR QUALITY CONTROL

PART 1 GENERAL

1.1 SUMMARY

The Contractor 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 provide materials, equipment, workmanship, and fabrication operations which comply with contract requirements.

1.2 PRE-CONSTRUCTION COORDINATION MEETING

Before the start of work, the Contractor shall meet with the Contracting Officer (CO) or his authorized representatives (COR) and discuss the Contractor's quality control system. 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 inspection. Minutes of the meeting shall be prepared and signed by both the Contractor and the CO or COR. The minutes shall become a part of the contract file. There may also be occasions when subsequent conferences will be called to reconfirm mutual understandings.

1.3 SUBMITTALS

Government approval is required for submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-08 Statements

Quality Control Plan; GA COR

The Contractor shall furnish for review by the Government, not later than 10 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, instructions, tests, records, and forms to be used.

Notification of Proposed Changes to the Quality Control Plan; GA COR

Proposed changes to the Contractor quality control plan shall be submitted for approval.

SD-18 Records

Inspection Reports; GA COR

Daily quality control reports including preparatory and initial phase minutes shall be submitted on a daily basis as specified in the Paragraph

entitled: "Documentation".

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 QUALITY CONTROL PLAN

3.1.1 General

If the Contractor fails to submit an acceptable QC plan with the time herein prescribed, the CO or COR may refuse to allow work to start.

3.1.2 Quality Control Plan

This plan shall include as a minimum, the following:

- a. A description of the QC organization, including a chart showing lines of authority and acknowledgment that the Contractor QC staff shall implement the three phase control system for all aspects of the work specified and shall report to the project manager or someone higher in the Contractor's organization.
- b. The name, qualifications, duties, responsibilities and authorities of each person assigned a QC function.
- c. A copy of the letter to the QC manager signed by an authorized official of the firm, which describes the responsibilities and delegates the authorities of the QC manager shall be furnished.
- d. Procedures for scheduling and managing submittals, including those of subcontractors, offsite fabricators, suppliers and purchasing agents.
- e. Control testing procedures for each specific test. (Laboratory must be Corps of Engineers certified.)
- f. Reporting procedures including proposed reporting formats.
- g. 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.

3.1.3 Acceptance of Plan

Acceptance of the Contractor's QC Plan is required prior to the start of work. Acceptance is conditional and will be predicated on satisfactory performance during the contract period. The Government reserves the right to require the Contractor to make changes in his QC Plan and operations as necessary to obtain the quality specified.

3.1.4 Notification of Changes

After acceptance of the QC Plan, the Contractor shall notify the CO in writing of any proposed changes. Proposed changes are subject to acceptance by the CO or COR.

3.2 QUALITY CONTROL ORGANIZATION

3.2.1 QC System Manager

The Contractor shall identify 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. This CQC System Manager shall be acceptable to the CO or COR.

### 3.2.2 Personnel

A staff shall be maintained under the direction of the system manager to perform all QC activities. The actual strength of the staff during any specific work period may vary to cover work phase needs, shifts, and production or placement rates. The personnel of this staff shall be fully qualified by experience and technical training to perform their assigned responsibilities and shall be directly hired by and work for the prime Contractor.

### 3.3 CONTROL

Contractor Quality Control is the means by which the Contractor assures himself that his operations comply with the requirements of the contract plans and specifications. The controls shall be adequate to cover all operations and shall be keyed to the proposed work sequence. The controls shall include at least three phases of control for all definable features of work as follows:

a. Preparatory Phase. This phase shall occur prior to beginning work on any definable feature of work. It shall include a review of contract requirements; a check to assure that all materials and/or equipment have been tested, submitted and approved; a check to assure that provisions have been made to provide required control testing; examination of the work area to ascertain that all preliminary work has been completed; and a physical examination of materials, equipment and sample work to assure that they conform to approved shop drawings or submittal data and that all materials and/or equipment are on hand. The Contracting Officer Representative shall be notified at least 24 hours in advance of beginning any or the required action of the preparatory phase. The results of the preparatory phase actions shall be documented by separate minutes prepared by the CQC representative and attached to the daily QC report. Subsequent to the preparatory phase and prior to commencement of dredging, the Contractor shall instruct applicable workers as to the acceptable level of workmanship required in his CQC Plan in order to meet contract requirements.

b. Initial Phase. This phase must be accomplished at the beginning of a definable feature of work. This phase shall include a check of preliminary work, verify full compliance, establish level of workmanship, resolve all differences, and check safety to include compliance with hazard analysis. The Contracting Officer's Representative 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 representative and attached to the daily QC report. The initial phase shall be repeated for each new crew to work on site, or if acceptable standards of workmanship are not being met.

c. Follow-Up Phase. Daily checks shall be performed to assure continuing compliance with contract requirements, including control testing, until completion of the particular feature of work. Such inspections shall be made a matter of record in the CQC documentation as required below. Final follow-up inspections shall be conducted and

test deficiencies corrected prior to the start of additional features of work.

### 3.4 COMPLETION INSPECTION

Upon completion of the work, the CQC System Manager shall conduct a completion inspection of the work and develop a "punch list" of items which do not conform to the approved plans and specifications. Such a list shall be included in the CQC documentation as required below, and shall include the estimated date by which the deficiencies will be corrected. The Contractor QC System Manager or his staff shall make a second completion inspection to ascertain that all deficiencies have been corrected and so notify the COR. The completion inspection and any deficiency corrections required by this paragraph will be accomplished within the time stated for completion of the entire work.

### 3.5 DOCUMENTATION

The Contractor shall maintain current records of QC operations, activities, and tests performed including the work of suppliers and subcontractors. These records shall be on the Daily Construction Quality Control Report form, a copy of which is attached to this section of the specifications and shall include factual evidence that required activities or tests have been performed, including but not limited to the following:

- a. Type and number of control activities and tests involved.
- b. Results of control activities or tests.
- c. Nature of defects, causes for rejection, etc.
- d. Proposed remedial action.
- e. Corrective actions taken.
- f. In addition, these records shall indicate a description of trades working on the project, the number of personnel working, the weather conditions encountered, any delays encountered, and acknowledgment of instructions given by Government representative. These records shall cover both conforming and defective or deficient features and shall include a statement that equipment and materials incorporated in the work comply with the contract.

### 3.6 NOTIFICATION OF NONCOMPLIANCE

The CO will notify the Contractor of any noncompliance with the foregoing requirements. The Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Contractor or his representative at the site of the work, shall be deemed sufficient for the purpose of notification. If the Contractor fails or refuses to comply promptly, the CO 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 any such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

### 3.7 MEASUREMENT AND PAYMENT

No separate measurement or payment will be made for the work specified in

this section and all costs in connection therewith shall be included in the costs of all the bid items.



(Sample of typical Contractor Quality Control Report)

CONTRACTOR'S NAME  
(address)

DAILY CONSTRUCTION QUALITY CONTROL REPORT

Contract No. \_\_\_\_\_ Date \_\_\_\_\_

Project Name \_\_\_\_\_ Report No. \_\_\_\_\_

Weather \_\_\_\_\_

Phases of Construction in Progress (Give briefly only phase or phases of work in progress)

Material and/or Equipment Delivered to Site (Including equipment demob)

Inspection Made (Include negative inspections, phase of in-progress construction work inspected and all deficiencies noted during inspections)

Preparatory

Initial

Follow-up

Tests Performed and Results or Tests ( including results of tests taken on previous dates)

Verbal Instructions Received (List any instructions given by Contracting Officer personnel on construction deficiencies, retesting required etc., with action to be taken)

Changed Conditions/Delays/Conflicts Encountered

Remarks

SIGNATURE \_\_\_\_\_  
Quality Control Inspector

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Contractor's Verification: The above report is complete and correct and all material and equipment used and work performed during this reporting period are in compliance with the contract and specifications except as noted above, and job safety and health requirements are in accordance with the USACE Safety and Health Requirements Manual EM 385-1-1.

\_\_\_\_\_  
Contractor's Approved Authorized Representative

SECTION 01430

ENVIRONMENT PROTECTION

PART 1 GENERAL

1.1 GENERAL REQUIREMENTS

The Contractor shall perform the work minimizing environmental pollution and damage as the result of construction operations. Environmental pollution and damage is the presence of chemical, physical, or biological elements or agents which adversely affect human health or welfare; unfavorably alter ecological balances of importance to human life; affect other species of importance to humankind; or degrade the utility of the environment for aesthetic, cultural and/or historical purposes. The control of environmental pollution and damage requires consideration of land, water, and air, and includes management of visual aesthetics, noise, solid waste, as well as other pollutants. The environmental resources within the project boundaries and those affected outside the limits of permanent work shall be protected during the entire duration of this contract.

1.1.1 Subcontractors

The Contractor shall ensure compliance with this section by subcontractors.

1.1.2 Notification

The Contracting Officer will notify the Contractor in writing of any observed noncompliance with Federal, State or local laws or regulations. The Contractor shall, after receipt of such notice, inform the Contracting Officer of proposed corrective action and take such action when approved. If the Contractor fails 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 time extensions shall be granted or costs or damages allowed to the Contractor for any such suspensions.

1.1.3 Litigation

If work is suspended, delayed, or interrupted due to a court order of competent jurisdiction, the Contracting Officer will determine whether the order is due in any part to the acts or omissions of the Contractor, or subcontractors at any tier, not required by the terms of the contract. If it is determined that the order is not due to Contractor's failing, such suspension, delay, or interruption shall be considered as ordered by the Contracting Officer in the administration of the contract under the contract clause SUSPENSION OF WORK.

1.1.4 Previously Used Equipment

The Contractor shall thoroughly clean all construction equipment previously used at other sites before it is brought into the work areas, ensuring that soil residuals are removed and that egg deposits from plant pests are not present.

1.2 LAND RESOURCES

The Contractor shall confine all activities to areas defined by the

drawings and specifications. The Contractor shall not remove, cut, deface, injure, or destroy land resources including trees, shrubs, vines, grasses, topsoil, and land forms without permission. No ropes, cables, or guys shall be fastened to or attached to any trees for anchorage unless specifically authorized. Where such emergency use is permitted, the Contractor shall provide effective protection for land and vegetation resources at all times as defined in the following subparagraphs. Stone, earth or other material displaced into uncleared areas shall be removed.

#### 1.2.1 Contractor Facilities and Work Areas

The Contractor's staging areas and stockpile storage shall be placed in areas designated in Section 01140 WORK RESTRICTIONS, or as directed by the Contracting Officer. Temporary movement or relocation of Contractor facilities shall be made only when approved.

#### 1.3 WATER RESOURCES

The Contractor shall keep construction activities under surveillance, management, and control to avoid pollution of the reservoir and all other surface and ground waters. Waste waters directly derived from construction activities shall not be allowed to enter the reservoir and proper disposal shall be at a location directed by the Contracting Officer.

#### 1.4 AIR RESOURCES

Equipment operation and activities or processes performed by the Contractor in accomplishing the specified construction shall be in accordance with all Federal and State environmental regulations. Dust particles, aerosols, gaseous by-products, hydrocarbons, and, carbon monoxide emissions from equipment, as a result of construction activities shall be controlled at all times, including weekends, holidays and hours when work is not in progress. These emissions shall be controlled to Federal and State allowable limits at all times. This is a special concern in the tower. The Contractor must have sufficient, competent equipment available to accomplish these tasks. Particulate control shall be performed as the work proceeds and whenever a particulate nuisance or hazard occurs.

##### 1.4.1 Odors

Odors shall be controlled at all times for all construction activities, processing and preparation of materials.

#### 1.5 WASTE DISPOSAL

Disposal of wastes shall be as specified below.

##### 1.5.1 Solid Wastes

Solid wastes shall be placed in Contractor-provided containers which are emptied on a regular schedule. Handling and disposal shall be conducted to prevent contamination. Segregation measures shall be employed so that no hazardous or toxic waste will become co-mingled with solid waste. The Contractor shall transport solid waste off Government property and dispose of it in compliance with Federal, State, and local requirements for solid waste disposal.

##### 1.5.2 Chemical Wastes

Chemicals shall be dispensed ensuring no spillage to ground or water. Chemical waste shall be collected in corrosion resistant, compatible containers. Wastes shall be disposed of in accordance with Federal and local laws and regulations.

#### 1.5.3 Hazardous Wastes

The Contractor shall take sufficient measures to prevent spillage of hazardous and toxic materials during dispensing and shall collect waste in suitable containers observing compatibility. The Contractor shall transport hazardous waste off Government property and dispose of it in compliance with Federal and local laws and regulations. Spills of hazardous or toxic materials shall be immediately reported to the Contracting Officer. Cleanup and cleanup costs due to spills shall be the Contractor's responsibility.

#### 1.5.4 Burning

Burning will not be allowed.

#### 1.6 POST CONSTRUCTION CLEANUP

The Contractor shall clean up all areas used for construction.

#### 1.7 RESTORATION OF LANDSCAPE DAMAGE

The Contractor shall restore landscape features damaged or destroyed during construction operations outside the limits of the approved work areas.

#### 1.8 MAINTENANCE OF POLLUTION FACILITIES

The Contractor shall maintain permanent and temporary pollution control facilities and devices for the duration of the contract or for that length of time construction activities create the particular pollutant.

#### 1.9 TRAINING OF CONTRACTOR PERSONNEL

The Contractor's personnel shall be trained in all phases of environmental protection. The training shall include methods of detecting and avoiding pollution, familiarization with pollution standards, both statutory and contractual, and installation and care of devices, vegetative covers, and instruments required for monitoring purposes to ensure adequate and continuous environmental pollution control.

#### PART 2 PRODUCTS (Not Applicable)

#### PART 3 EXECUTION

##### 3.1 MEASUREMENT AND PAYMENT

No separate measurement or payment will be made for the work specified in this section and all costs in connection therewith shall be included in the costs of all the bid items.

-- End of Section --



SECTION 05600

LOWERING AND RAISING WATER QUALITY BULKHEADS

PART 1 GENERAL

1.1 SUBMITTALS

Government approval is required for submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-08 Statements

Bulkheads Work Plan; GA COR.

The Contractor shall submit his work plan describing his methods for lowering and raising the bulkheads, including the equipment to be utilized. Included in this plan shall be the equipment and methods to be utilized for pumping water to allow the Government to reopen the inlet gates. Also included shall be the Contractor's proposed methods and equipment to verify that the bulkheads are seated properly.

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 LOWERING OF BULKHEADS

3.1.1 Scope

The two Government-furnished bulkheads are in-place in the wetwells held in the "up" position by dogging devices. The Contractor shall provide the labor, materials, and equipment necessary to lower the two bulkheads in their respective slots. The Contractor shall raise and lower the bulkheads numerous times as necessary to properly seat them. The Contractor shall provide the labor, materials and equipment necessary to verify that the bulkheads are seated properly.

3.1.2 Procedures

The following procedures shall be followed by the Contractor to lower the bulkheads, unless otherwise approved by the Contracting Officer:

- a. The Government will close the water quality control gate.
- b. When the water in the wetwells has reached a level static with the reservoir, the Government will close the open inlet gates (inlet gates #6 and #3).
- c. The Government will open the water quality control gate to drain the wetwells.

- d. The Contractor shall lower the bulkheads into their respective slots.
- e. The Contractor shall verify that the bulkheads are seated properly.

### 3.2 LEAKAGE

All of the closed inlet gates will leak an unknown quantity of water into the wetwells. In addition, the bulkheads will leak an unknown quantity of water. The Contractor shall be responsible for any pumping required if this leakage affects his proposed operations. Water pumped from the wetwells shall be discharged into the reservoir. Water pumped from the sump at elevation 519.0 shall be discharged into the floor drain system at that elevation.

### 3.3 CABLE CONNECTIONS

To preclude the use of divers later to re-attach the hoist cables, the Contractor shall leave them attached to the bulkheads for the duration of the contract. The Contractor shall cover the opening with plates for the duration of the contract.

### 3.4 RAISING OF BULKHEADS

#### 3.4.1 Scope

After completion of the contract work, the Contractor shall provide the labor, materials, and equipment necessary to raise the two bulkheads into their "up" positions. During the course of operations, it is assumed that water will have accumulated in the wetwells via leakage through the closed inlet gates. Since the bulkheads are not designed to be raised under a differential head of water upstream and downstream, the Contractor shall be required to dewater the wetwells prior to raising the bulkheads.

#### 3.4.2 Procedures

The following procedures shall be followed by the Contractor to raise the bulkheads, unless otherwise approved by the Contracting Officer:

- a. The Government will open the water quality control gate.
- b. The Contractor shall dewater the wetwells.
- c. The Contractor shall raise the bulkheads into their respective "up" positions and secure them in the dogging devices.

### 3.5 OPENING INLET GATES

The inlet gates cannot be reopened under a differential head. Consequently, Contractor shall provide the labor, equipment, and materials required to fill the wetwells, with water from the reservoir, to a level static with the reservoir. The following procedures shall be followed by the Contractor after the completion of all contract work, unless otherwise approved by the Contracting Officer:

- a. The Government will close the water quality control gate.
- b. The Contractor shall pump water from the reservoir into the wetwells to fill them to a level static with the reservoir. The closed water

quality control gate will leak and, consequently, the Contractor shall increase his pumping effort to compensate.

c. The Government will open the inlet gates.

d. The Government will open the water quality control gate.

### 3.6 MEASUREMENT AND PAYMENT

The lowering and raising of the bulkheads shall not be measured for payment. All costs in connection therewith shall be included in the lump sum price for Bid Item No. 1. Included in this price shall be all costs in connection with pumping, as specified herein.

-- End of Section --



SECTION 09900

LEAD-BASED PAINT REMOVAL AND PAINTING

PART 1 GENERAL

1.1 REFERENCES

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

AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)

- |             |   |
|-------------|---|
| ANSI Z87.1  | (1989; Z87.1a) Occupational and Educational Eye and Face Protection |
| ANSI Z358.1 | (1990) Emergency Eyewash Shower Equipment                           |

AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM)

- |             |   |
|-------------|---|
| ASTM D 153  | (1984; R 1989) Specific Gravity of Pigments   |
| ASTM D 281  | (1984; R 1989) Oil Absorption of Pigments by Spatula Rub-Out  |
| ASTM D 520  | (1984; R 1989) Zinc Dust Pigment  |
| ASTM D 561  | (1982; R 1989) Carbon Black Pigment for Paint   |
| ASTM D 841  | (1990) Nitration Grade Toluene  |
| ASTM D 1045 | (1986; R 1990) Sampling and Testing Plasticizers Used in Plastics   |
| ASTM D 1153 | (1990) Methyl Isobutyl Ketone   |
| ASTM D 1186 | (1987) Nondestructive Measurement of Dry Film Thickness of Nonmagnetic Coatings Applied to a Ferrous Base |
| ASTM D 1200 | (1988) Viscosity by Ford Viscosity Cup  |
| ASTM D 1210 | (1979; R 1988) Fineness of Dispersion of Pigment-Vehicle Systems  |
| ASTM D 3721 | (1983; R 1991) Synthetic Red Iron Oxide Pigment   |
| ASTM D 4417 | (1984) Field Measurement of Surface Profile of Blast Cleaned Steel  |
| ASTM E 1347 | (1990) Color and Color-Difference Measurement by Tristimulus (Filter) Colorimetry                         |

CODE OF FEDERAL REGULATIONS (CFR)

29 CFR 1910	Occupational Safety and Health Standards
29 CFR 1910.20	Access to Employee Exposure and Medical Records
29 CFR 1910.94	Ventilation
29 CFR 1910.134	Respiratory Protection
29 CFR 1910.146	Permit-required Confined Spaces
29 CFR 1910, Subpart I	Personal Protective Equipment
29 CFR 1926	Safety and Health Regulations for Construction
29 CFR 1926.62	Lead
40 CFR 60, App A, Mtd 22	Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares
40 CFR 117	Determination of Reportable Quantities for Hazardous Substances
40 CFR 261	Identification and Listing of Hazardous Waste
40 CFR 261, App II, Mtd 1311	Toxicity Characteristic Leaching Procedure (TCLP)
40 CFR 262	Standards Applicable to Generators of Hazardous Waste
40 CFR 262.22	Number of Copies
40 CFR 263	Standards Applicable to Transporters of Hazardous Waste
40 CFR 355	Emergency Planning and Notification
49 CFR 171, Subchapter C	Hazardous Materials Regulations

ENGINEERING MANUALS (EM)

EM 385-1-1	(1996) Safety and Health Requirements Manual
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GRETAGMACBETH (GM)

GM-40291	(Matte Edition) Munsell Book of Color: Matte Finish Collection
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NATIONAL FIRE PROTECTION ASSOCIATION (NFPA)

NFPA 70	(1999) National Electrical Code
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NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH (NIOSH)

NIOSH Pub No. 84-100 (1984; Supple 1985, 1987, 1988, & 1990)  
NIOSH Manual of Analytical Methods

SSPC: THE SOCIETY FOR PROTECTIVE COATING (SSPC)

SSPC SP 1 (1982) Solvent Cleaning  
SSPC SP 5 (1991) White Metal Blast Cleaning  
SSPC Guide 6 (CON) (1994) Containing Debris Generated During  
Paint Removal Operations

1.2 WORK PERFORMANCE

Work shall be performed in accordance with the requirements of 29 CFR 1910, 29 CFR 1926, EM 385-1-1, and other references as listed herein. Matters of interpretation of the standards shall be submitted to the Contracting Officer for resolution before starting work. Where the regulations conflict, the most stringent requirements shall apply.

1.3 LEAD PROTECTION PROGRAM

For all jobsites where lead is present, the Contractor shall develop a comprehensive lead protection program in accordance with 29 CFR 1926.62. The program shall include, but is not limited to the following:

- a. Containment Plan
- b. Visible Emissions Monitoring Plan
- c. Ambient Air Monitoring Plan
- d. Water Quality Plan
- e. Soil Quality Plan

1.4 SUBMITTALS

Government approval is required for all submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-08 Statements

Qualifications and Experience of IH; GA DO.

The Contractor shall provide certification pursuant to paragraph QUALIFICATIONS for all job sites. Submittal of the qualifications and experience of any additional qualified and competent persons the CIH, IH, CSP employs to provide on-site safety and health will also be provided. Acceptance of this submission must be obtained prior to the submission of other required safety and health submittal items.

Qualifications and Experience of LBP Removal and Repainting Workers; GA DO.

The Contractor shall provide the qualifications of all workers conducting the LBP removal and completing the required painting.

Location of Paint Removal and Painting Operations; FIO

Contractor shall provide the off-site location for the LBP removal and painting operations.

Respiratory Protection Program; GA DO.

The Contractor shall develop a comprehensive written respiratory protection program for all job sites in accordance with 29 CFR 1910.134, 29 CFR 1926.62, and Section 05.E of EM 385-1-1.

Airborne Sampling Plan; GA DO.

The contractor shall develop an Airborne Sampling Plan for all job sites detailing the NIOSH Pub No. 84-100, Factory Mutual, or Underwriters Laboratories approved equipment, equipment calibration procedures, sampling methods, sampling to be performed, and analytical procedures to be used based on the type of work to be performed and anticipated toxic contaminants to be generated. The contractor shall include the name of the accredited laboratory, listed by the American Industrial Hygiene Association (AIHA), to be used to conduct the analysis of any collected air samples. In addition, the contractor shall provide the Contracting Officer with a copy of the test results from the laboratory within 5 working days of the sampling date and shall provide results from direct-reading instrumentation on the same day the samples are collected.

Ventilation Assessment; GA DO.

The contractor shall develop a plan to provide ventilation assessment for all job sites as required by paragraph PAINT APPLICATION, subparagraph VENTILATION.

Medical Surveillance Plan; GA DO.

The Contractor shall develop a plan to provide medical surveillance to the workforce for all job sites as required in paragraph MEDICAL STATUS and provide a statement from the examining physician indicating the name of each employee evaluated and any limitations which will preclude the employee from performing the work required. The statement shall include the date of the medical evaluation, the physician's name, signature, and telephone number. Medical records shall be maintained as required by 29 CFR 1910.20.

Waste Classification, Handling, and Disposal Plan; GA DO.

The Contractor is responsible for assuring the proper disposal of all hazardous and nonhazardous waste generated during the project. Therefore, the contractor shall develop a Waste Classification, Handling, and Disposal Plan for all job sites in accordance with the requirements of 40 CFR 261 and 40 CFR 262. In addition, the following provisions shall be included:

- a. In the case of waste generated from abrasive blasting lead-containing paints with recyclable steel or iron abrasives, the spent abrasive shall be disposed of as a hazardous waste or shall be stabilized with proprietary blast additives regardless of the results of 40 CFR 261, App II, Mtd 1311. Where stabilization is preferred, the contractor shall employ a proprietary blast additive during blasting operations.

- b. Hazardous waste shall be placed in closed containers and shall be shielded adequately to prevent dispersion of the waste by wind or water. Any evidence of improper storage shall be cause for immediate shutdown of the project until corrective action is taken.
- c. Nonhazardous waste shall be stored in closed containers separate from hazardous waste storage areas.
- d. All hazardous waste shall be transported by a licensed transporter in accordance with 40 CFR 263 and 49 CFR 171, Subchapter C.
- e. All nonhazardous waste shall be transported in accordance with local regulations regarding waste transportation.
- f. In addition to the number of manifest copies required by 40 CFR 262.22, one copy of each manifest will be supplied to the Contracting Officer prior to transportation.

Containment Plan; GA DO.

For all job sites where lead is present, the Contractor shall develop a plan for containing all lead contaminated waste. The containment shall comply with the requirements of SSPC Guide 6 (CON), as applicable to the contract work. The plan shall include drawings as appropriate for this project. The contractor shall also identify the procedures for removing debris.

Visible Emissions Monitoring Plan; GA DO.

For all job sites where lead is present, a Visible Emissions Monitoring Plan is required for jobsites requiring moderate control on emissions. The Contractor shall develop a plan for monitoring the visible emissions from the project. The time of emissions shall be measured in accordance with 40 CFR 60, App A, Mtd 22. The plan shall also include the provisions for halting work and correcting the containment in the event unacceptable emissions are observed. General statements shall not be used; specific methods, procedures, and details are required. Random emissions from the containment shall not exceed 1 percent of the work day. The Contractor shall document each time that the work is halted due to a violation of the visible emissions criteria. Documentation shall include the cause for shutdown and the corrective action taken to resolve the problem.

Water Quality Plan; GA DO.

For all job sites where lead is present, the Contractor shall develop a plan to ensure that no lead is released into bodies of water or storm sewers. The plan shall include provisions for halting work if spills or emissions are observed entering into bodies of water or found in areas where storm water runoff could carry the debris into bodies of water or storm sewers. The plan shall also address cleanup and reporting procedures. In the event that there are any releases of lead paint debris into the waterways, with reportable quantities of hazardous substances designated pursuant to Section 311 of the Clean Water Act, they shall be reported to the EPA in accordance with 40 CFR 117 and 40 CFR 355. Releases or spills that carry into waterways or storm sewers shall be thoroughly documented. The documentation shall include the time and location of the release, amount of material released, actions taken to clean up the debris, amount of debris recovered, and corrective action taken to avoid a reoccurrence. Releases shall also be reported to the Coast Guard and other

state and local authorities as appropriate.

Soil Quality Plan; GA DO.

For all job sites where lead is present, the Contractor shall develop a plan to establish and implement practices and procedures for preventing contamination of the soil from the lead removal operation. The plan shall include provisions for halting the work should soil contamination occur, correcting the deficiencies responsible for the contamination, and provide procedures for removing and replacing contaminated soil. Contracting Officer may direct soil sampling and lead testing be conducted in the event the containment system and work practices fail to protect the soil from lead contamination. The samples shall be analyzed in accordance with EPA testing guidance as published in 40 CFR 261, App III, by a laboratory listed by the American Industrial Hygiene Association (AIHA) as being proficient in conducting the test. The Contractor shall note that if it is determined that contamination of the soil has occurred as a result of the paint removal operations, TCLP testing will be employed to determine if the soil must be handled and disposed of as a hazardous waste. At the Contractor's option, prejob soil samples may be removed (minimum of 100 grams is required for a single test at each site) to conduct TCLP testing to establish whether the soil would be classified as hazardous prior to project startup. The Contractor shall thoroughly document the occurrence of any spills of lead debris into the soil. The documentation shall include the time and location of the release, amount of material released, actions taken to clean up the debris, amount of debris reclaimed, and corrective action taken to avoid a recurrence. The documentation shall be provided to the Contracting Officer and shall also include the results of laboratory testing.

SD-13 Certificates

Special Paint Formulas; GA DO.

Certificates shall be submitted for each paint. The certificate shall attest that the paint meets the specified requirements. The certificate shall be signed by an official authorized to certify on behalf of the manufacturer, on letterhead, and dated after the award date of this contract. The certificate must state the Contractor's name and address, the project's name and location, and the requirement being certified.

SD-18 Records

Inspections and Operations; GA DO.

The Contractor shall document and submit records of inspections and operations performed. Submittals shall be made on a timely basis and shall include but are not limited to:

- a. Inspections performed and the results of the inspection.
- b. Surface preparation operations performed, the mode of preparation, the kinds of solvent, abrasive, or power tools employed, and whether contract requirements were met.
- c. Thinning operations performed, including thinners used, batch numbers, and thinner/paint volume ratios.
- d. Application operations performed, mode of application employed,

ambient temperature, substrate temperature, dew point, relative humidity, type of paint with batch numbers, elapsed time between surface preparation and application, elapsed time for recoat, condition of underlying coat, number of coats applied, and if specified, measured dry film thickness or spreading rate of each new coating.

#### 1.5 QUALIFICATIONS

Qualifications and experience shall comply with the following.

##### 1.5.1 Certified Health and Safety Professional

The Contractor shall provide a person who is qualified and competent as defined in Section 01 of EM 385-1-1, will develop the required safety and health submittals, as specified herein, and will be responsible for on-site safety and health during the contract period. The person overseeing the health and safety issues associated with the paint removal and repainting operations shall be an Industrial Hygienist (IH) with a minimum of 3 years of demonstrated experience in similar related work. The Contractor shall certify that the IH is considered board eligible by written confirmation from the ABIH. The IH may utilize other qualified and competent persons, as defined in EM 385-1-1, to conduct on-site safety and health activities as long as these persons have a minimum of 3 years of demonstrated experience in similar related work and are under the direct supervision of the IH. The competent and qualified person shall have successfully completed an EPA or state accredited lead-based paint abatement Supervisor course specific to the work to be performed and shall possess current and valid state and/or local government certification, as required.

##### 1.5.2 Certified Laboratory

The Contractor shall provide documentation which includes the name, address, and telephone number of the laboratories to be providing services.

In addition, the documentation shall indicate that each laboratory is an EPA National Lead Laboratory Accreditation Program (NLLAP) accredited laboratory and that each is rated proficient in the NIOSH/EPA Environmental Lead Proficiency Analytical Testing Program (ELPAT) and will document the date of current accreditation. Certification shall include accreditation for heavy metal analysis, list of experience relevant to analysis of lead in air, and a Quality Assurance and Quality Control Program.

##### 1.5.3 LBP Removal and Painting

The Contractor shall provide documentation of the persons conducting the LBP removal and painting work. These persons shall have a minimum of 5 years of current experience in LBP removal and painting work.

#### 1.6 SAFETY AND HEALTH PROVISIONS SPECIFICALLY APPLICABLE TO BLASTING AND PAINTING

Paragraph SAFETY AND HEALTH PROVISIONS supplements the requirements of EM 385-1-1. In any conflict between EM 385-1-1 and this paragraph, the provisions herein shall govern.

##### 1.6.1 Abrasive Blasting

The Contractor shall comply with the requirements of EM 385-1-1.

###### 1.6.1.1 Hoses And Nozzles

In addition to the requirements EM 385-1-1, hoses and hose connections of a type to prevent shock from static electricity shall be used. Hose lengths shall be joined together by approved couplings of a material and type designed to prevent erosion and weakening of the couplings. The couplings and nozzle attachments shall fit on the outside of the hose and shall be designed to prevent accidental disengagement.

#### 1.6.1.2 Workers Other Than Blasters

Workers other than blasting operators working in close proximity to abrasive blasting operations shall be protected by utilizing MSHA/NIOSH-approved half-face or full-face air purifying respirators equipped with high-efficiency particulate air (HEPA) filters, eye protection meeting or exceeding ANSI Z87.1 and hearing protectors (ear plugs and/or ear muffs) providing at least 20 dBA reduction in noise level.

#### 1.6.2 Cleaning with Compressed Air

Cleaning with compressed air shall be in accordance with EM 385-1-1 and personnel shall be protected as specified in 29 CFR 1910.134.

#### 1.6.3 Cleaning with Solvents

##### 1.6.3.1 Ventilation

Ventilation shall be provided where required by 29 CFR 1910.146 or where the concentration of solvent vapors exceeds 10 percent of the Lower Explosive Limit (LEL). Ventilation shall be in accordance with 29 CFR 1910.94, paragraph (c)(5).

##### 1.6.3.2 Personal Protective Equipment

Personal protective equipment shall be provided where required by 29 CFR 1910.146 and in accordance with 29 CFR 1910, Subpart I.

#### 1.6.4 Pretreatment of Metals and Concrete with Acids

##### 1.6.4.1 Personal Protective Equipment

Personnel shall be protected in accordance with 29 CFR 1910, Subpart I.

##### 1.6.4.2 Emergency Equipment

In addition to the requirements of Section 05 of EM 385-1-1, the contractor shall provide an eyewash in accordance with ANSI Z358.1, paragraph (6).

#### 1.6.5 Paint Application

##### 1.6.5.1 Ventilation

When using solvent-based paint in confined spaces, ventilation shall be provided to exchange air in the space at a minimum rate of 5,000 cubic feet per minute per spray gun in operation. It may be necessary to install both a mechanical supply and exhaust ventilation system to effect adequate air changes within the confined space. All air-moving devices shall be located and affixed to an opening of the confined space in a manner that assures that the airflow is not restricted or short circuited and is supplied in the proper direction. Means of egress shall not be blocked. Ventilation

shall be continued after completion of painting and through the drying phase of the operation. If the ventilation system fails or the concentration of volatiles exceeds 10 percent of the LEL (except in the zone immediately adjacent to the spray nozzle), painting shall be stopped and spaces evacuated until such time that adequate ventilation is provided.

An audible alarm that signals system failure shall be an integral part of the ventilation system. The effectiveness of the ventilation shall be checked by using ventilation smoke tubes and making frequent oxygen and combustible gas readings during painting operations. Exhaust ducts shall discharge clear of the working areas and away from possible sources of ignition.

#### 1.6.5.2 Explosion Proof Equipment

Electrical wiring, lights, and other equipment located in the paint spraying area shall be of the explosion proof type designed for operation in Class I, Division 1, Group D, hazardous locations as required by the NFPA 70. Electrical wiring, motors, and other equipment, outside of but within 20 feet of any spraying area, shall not spark and shall conform to the provisions for Class I, Division 2, Group D, hazardous locations. Electric motors used to drive exhaust fans shall not be placed inside spraying areas or ducts. Fan blades and portable air ducts shall be constructed of nonferrous materials. Motors and associated control equipment shall be properly maintained and grounded. The metallic parts of air-moving devices, spray guns, connecting tubing, and duct work shall be electrically bonded and the bonded assembly shall be grounded.

#### 1.6.5.3 Further Precautions

- a. Workers shall wear nonsparking safety shoes.
- b. Solvent drums taken into the spraying area shall be placed on nonferrous surfaces and shall be grounded. Metallic bonding shall be maintained between containers and drums when materials are being transferred.
- c. Insulation on all power and lighting cables shall be inspected to ensure that the insulation is in excellent working condition and is free of all cracks and worn spots.

#### 1.6.5.4 Ignition Sources

Ignition sources, to include lighted cigarettes, cigars, pipes, matches, or cigarette lighters shall be prohibited in area of solvent cleaning, paint storage, paint mixing, or paint application.

#### 1.6.6 Health Protection

##### 1.6.6.1 Respirators

During all spray painting operations, spray painters shall use approved SCBA or SAR (air line) respirators, unless valid air sampling has demonstrated contaminant levels to be consistently within concentrations that are compatible with air-purifying respirator Assigned Protection Factor (APF). Persons with facial hair that interferes with the sealing surface of the facepiece to face seal or interferes with respirator valve function shall not be allowed to perform work requiring respiratory protection. Air-purifying chemical cartridge/canister half- or full-facepiece respirators that have a particulate prefilter and are

suitable for the specific type(s) of gas/vapor and particulate contaminant(s) may be used for nonconfined space painting, mixing, and cleaning (using solvents). These respirators may be used provided the measured or anticipated concentration of the contaminant(s) in the breathing zone of the exposed worker does not exceed the APF for the respirator and the gas/vapor has good warning properties or the respirator assembly is equipped with a NIOSH-approved end of service life indicator for the gas(es)/vapor anticipated or encountered. Where paint contains toxic elements such as lead, cadmium, chromium, or other toxic particulates that may become airborne during painting in nonconfined spaces, air-purifying half- and full-facepiece respirators or powered air-purifying respirators equipped with appropriate gas vapor cartridges, in combination with a high-efficiency filter, or an appropriate canister incorporating a high-efficiency filter, shall be used.

#### 1.6.6.2 Protective Clothing and Equipment

All workers shall wear safety shoes or boots, appropriate gloves to protect against the chemical to be encountered, and breathable, protective, full-body covering during spray-painting applications. Where necessary for emergencies, protective equipment such as life lines, body harnesses, or other means of personnel removal shall be used during confined-space work.

#### 1.7 MEDICAL STATUS

Prior to the start of work and annually thereafter, all Contractor employees working with or around paint systems, thinners, blast media, those required to wear respiratory protective equipment, and those who will be exposed to high noise levels shall be medically evaluated for the particular type of exposure they may encounter. The evaluation shall include:

- a. Audiometric testing and evaluation of employees who will work in the noise environments.
- b. Vision screening (employees who use full-facepiece respirators shall not wear contact lenses).
- c. Medical evaluation shall include, but shall not be limited to, the following:
  - (1) Medical history including, but not limited to, alcohol use, with emphasis on liver, kidney, and pulmonary systems, and sensitivity to chemicals to be used on the job.
  - (2) General physical examination with emphasis on liver, kidney, and pulmonary system.
  - (3) Determination of the employee's physical and psychological ability to wear respiratory protective equipment and to perform job-related tasks.
  - (4) Determination of baseline values of biological indices for later comparison to changes associated with exposure to paint systems and thinners or blast media, which include: liver function tests to include SGOT, SGPT, GGPT, alkaline phosphates, bilirubin, complete urinalysis, EKG (employees over age 40), blood urea nitrogen (bun), serum creatinine, pulmonary function test, FVC, and FEV, chest x-ray (if medically indicated), blood lead (for

individuals where it is known there will be an exposure to materials containing lead), other criteria that may be deemed necessary by the Contractor's physician, and Physician's statements for individual employees that medical status would permit specific task performance.

(5) For lead-based paint removal, the medical requirements of 29 CFR 1926.62 shall also be included.

#### 1.8 CHANGE IN MEDICAL STATUS

Any employee whose medical status has changed negatively due to work related chemical and/or physical agent exposure while working with or around paint systems and thinners, blast media, or other chemicals shall be evaluated by a physician, and the Contractor shall obtain a physicians statement as described in paragraph MEDICAL STATUS prior to allowing the employee to return to those work tasks. The Contractor shall notify the Contracting Officer in writing of any negative changes in employee medical status and the results of the physicians reevaluation statement.

#### 1.9 PAINT PACKAGING, DELIVERY, AND STORAGE

Paints shall be processed and packaged to ensure that within a period of one year from date of manufacture, they will not gel, liver, or thicken deleteriously, or form gas in the closed container. Paints, unless otherwise specified or permitted, shall be packaged in standard containers not larger than 5 gallons, with removable friction or lug-type covers. Containers for vinyl-type paints shall be lined with a coating resistant to solvents in the formulations and capable of effectively isolating the paint from contact with the metal container. Each container of paint or separately packaged component thereof shall be labeled to indicate the purchaser's order number, date of manufacture, manufacturer's batch number, quantity, color, component identification and designated name, and formula or specification number of the paint together with special labeling instructions, when specified. Paint shall be delivered to the job in unbroken containers. Paints that can be harmed by exposure to cold weather shall be stored in ventilated, heated shelters. All paints shall be stored under cover from the elements and in locations free from sparks and flames.

### PART 2 PRODUCTS

#### 2.1 SPECIAL PAINT FORMULATION FOR THE GATES

##### 2.1.1 Formula V-766e, Vinyl-Type White (or Gray) Paint

INGREDIENTS	PERCENT BY WEIGHT
Vinyl Resin, Type 3	5.6
Vinyl Resin, Type 4	11.6
Titanium Dioxide and (for Gray)	
Carbon Black	13.0
Diisodecyl Phthalate	2.9
Methyl Isobutyl Ketone	32.0
Toluene	34.7
Ortho-Phosphoric Acid	0.2
	-----
	100.0

INGREDIENTS

PERCENT BY WEIGHT

a. The dispersion of pigment shall be accomplished by means of pebble mills or other approved methods to produce a fineness of grind (ASTM D 1210) of not less than 7 on the Hegman scale. Grinding in steel-lined or steel-ball mills will not be permitted. No grinding aids, antissettling agents, or any other materials except those shown in the formula will be permitted. The paint shall show the proper proportions of specified materials when analyzed by chromatographic and/or spectrophotometric methods. The ortho-phosphoric acid shall be measured accurately and diluted with at least four parts of ketone to one part of acid and it shall be slowly incorporated into the finished paint with constant and thorough agitation.

b. The viscosity of the paint shall be between 60 and 90 seconds using ASTM D 1200 and a No. 4 Ford cup.

c. The white and gray paints shall be furnished in the volume ratio designated by the purchaser. The gray paint shall contain no pigments other than those specified. Enough carbon black shall be included to produce a dry paint film having a reflectance of 20-24 (ASTM E 1347). The resulting gray color will approximate Munsell color 2.5PB 5/2 identified in GM-40291.

2.1.2 Formula VZ-108d, Vinyl-Type Zinc-Rich Primer

INGREDIENTS	PERCENT BY WEIGHT	POUNDS	GALLONS
COMPONENT A			
Vinyl Resin, Type 3	16.6	109.2	9.65
Methyl Isobutyl Ketone	80.6	528.9	79.30
Suspending Agent E	0.7	4.6	0.28
Suspending Agent F	0.4	2.7	0.19
Methanol	0.5	3.3	0.50
Synthetic Iron Oxide (Red)	1.2	7.9	0.19
	-----	-----	-----
	100.0	656.6	90.11
COMPONENT B			
Silane B	100.0	4.1	0.47
COMPONENT C			
Zinc Dust	100.0	550.0	9.42
			-----
			100.00
			(mixed paint)

a. The iron oxide and suspending agents shall be dispersed into the vehicle (Component A) to a fineness of grind of not less than 4 on the Hegman scale (ASTM D 1210). Grinding in steel-lined containers or using steel-grinding media shall not be permitted. The sole purpose of the iron oxide pigment is to produce a contrasting color. A red iron oxide-type 3 vinyl resin vehicle paste may be used in place of dry iron oxide provided compensating adjustment are made in the additions of Type 3 resin and methyl isobutyl ketone. The finished product with zinc dust added shall produce a paint which has a red tone upon drying

and a reflectance of not more than 16 (ASTM E 1347).

b. VZ-108d paint shall be supplied as a kit. Each kit shall consist of 4.5 gallons (33.1 pounds) of Component A in a 5-gallon lug closure type pail, 27.5 pounds of zinc dust (Component C) packaged in a 1-gallon plastic pail, and 3 fluid ounces of silane (Component B) packaged in a glass bottle of suitable size having a polyethylene lined cap. The bottle of silane shall be placed on the zinc dust in the gallon pail. In addition to standard labeling requirements, each container of each component shall be properly identified as to component type and each container label of Component A shall carry the following: MIXING AND APPLICATION INSTRUCTIONS: WARNING - THIS PAINT WILL NOT ADHERE TO STEEL SURFACES UNLESS COMPONENT B IS ADDED. Remove the 3 ounces of bottled Component B (silane) from the Component C (zinc dust) container and add to the base paint (Component A) with thorough stirring. Then sift the zinc dust into the base paint while it is being vigorously agitated with a power-driven stirrer and continue the stirring until the zinc dust has been dispersed. The mixed paint shall at some point be strained through a 30-60 mesh screen to prevent zinc dust slugs from reaching the spray gun nozzle. The paint shall be stirred continuously during application at a rate that will prevent settling. If spraying is interrupted for longer than 15 minutes, the entire length of the hose shall be whipped vigorously to redisperse the zinc. If the spraying is to be interrupted for more than 1 hour, the hose shall be emptied by blowing the paint back into the paint pot. Thinning will not normally be required when ambient temperatures are below about 80 degrees F, but when the ambient and steel temperatures are higher, methyl isoamyl ketone (MIAK) or methyl isobutyl ketone (MIBK) should be used. If paint is kept covered at all times, its pot life will be about 8 days.

## 2.2 PAINT FORMULATION FOR THE BONNETS, LIMITORQUE MOTOR ENCLOSURE, AND ROD ENCLOSURE

The paint shall be a Rustoleum, 5200 System, high performance, acrylic latex, or approved equal, orange.

## 2.3 INGREDIENTS FOR SPECIAL PAINT FORMULAS

The following ingredient materials and thinners apply only to those special paints whose formulas are shown above in detail.

### 2.3.1 Pigments and Suspending Agents

#### 2.3.1.1 Carbon Black

Carbon black shall conform to ASTM D 561, Type I or II.

#### 2.3.1.2 Zinc Dust

Zinc dust pigment shall conform to ASTM D 520, Type II.

#### 2.3.1.3 Iron Oxide

Iron oxide, (Dry) synthetic (red), shall conform to ASTM D 3721. In addition, the pigment shall have a maximum oil absorption of 24 and a specific gravity of 4.90 to 5.20 when tested in accordance with ASTM D 281 and ASTM D 153, Method A, respectively. When the pigment is dispersed into specified vinyl paint formulation, the paint shall have colors

approximating Munsell colors 7.5R 4/8 (light color) and 7.5R 3/6 (dark color) identified in GM-40291, and shall show no evidence of incompatibility or reaction between pigment and other components after 6 months storage.

#### 2.3.1.4 Titanium Dioxide

Titanium dioxide in vinyl paint Formula V-766e shall be one of the following: Kronos 2160 or 2101, Kronos, Inc.; Ti-Pure 960, E.I. Dupont DeNemours and Co., Inc.; Unitane OR-650, Kermira, Inc.

#### 2.3.1.5 Suspending Agent E

Suspending Agent E shall be a light cream colored finely divided powder having a specific gravity of 2 to 2.3. It shall be an organic derivative of magnesium aluminum silicate mineral capable of minimizing the tendency of zinc dust to settle hard without increasing the viscosity of the paint appreciably. Bentone 14, produced by Rheox, Inc., has these properties.

#### 2.3.1.6 Suspending Agent F

Suspending Agent F shall be a light cream colored finely divided powder having a specific gravity of approximately 1.70. It shall be an organic derivative of a special montmorillonite. Bentone 27, produced by Rheox, Inc., has these properties.

### 2.3.2 Resins, Plasticizer, and Catalyst

#### 2.3.2.1 Diisodecyl Phthalate

Diisodecyl Phthalate shall have a purity of not less than 99.0 percent, shall contain not more than 0.1 percent water, and shall have an acid number (ASTM D 1045) of not more than 0.10.

#### 2.3.2.2 Vinyl Resin, Type 3

Vinyl resin, Type 3, shall be a vinyl chloride-acetate copolymer of medium average molecular weight produced by a solution polymerization process and shall contain 85 to 88 percent vinyl chloride and 12 to 15 percent vinyl acetate by weight. The resin shall have film-forming properties and shall, in specified formulations, produce results equal to Vinylite resin VYHH, as manufactured by the Union Carbide Corporation.

#### 2.3.2.3 Vinyl Resin, Type 4

Vinyl resin, Type 4, shall be a copolymer of the vinyl chloride-acetate type produced by a solution polymerization process, shall contain (by weight) 1 percent interpolymerized dibasic acid, 84 to 87 percent vinyl chloride, and 12 to 15 percent vinyl acetate. The resin shall have film-forming properties and shall, in the specified formulations, produce results equal to Vinylite resin VMCH, as manufactured by the Union Carbide Corporation.

#### 2.3.2.4 Ortho-phosphoric Acid

Ortho-phosphoric acid shall be a chemically pure 85-percent grade.

### 2.3.3 Solvent and Thinners

#### 2.3.3.1 Methyl Isobutyl Ketone

Methyl isobutyl ketone (MIBK) shall conform to ASTM D 1153.

#### 2.3.3.2 Toluene

Toluene shall conform to ASTM D 841.

#### 2.3.4 Silane B

Silane B for Formula VZ-108d shall be N-beta-(aminoethyl)-gamma-aminopropyltrimethoxy silane. Silane A-1120, produced by the Union Carbide Corporation, and Silane Z-6020, produced by Dow Chemical Company, are products of this type.

### 2.4 TESTING

#### 2.4.1 Chromatographic Analysis

Solvents in vinyl and epoxy paints and thinners shall be subject to analysis by programmed temperature gas chromatographic methods and/or spectrophotometric methods, employing the same techniques that give reproducible results on prepared control samples known to meet the specifications. If the solvent being analyzed is of the type consisting primarily of a single chemical compound or a mixture of two or more such solvents, interpretation of the test results shall take cognizance of the degree of purity of the individual solvents as commercially produced for the paint industry.

#### 2.4.2 Vinyl Paints

Vinyl paints shall be subject to the following adhesion test. When V-766 or V-106 formulations are tested, 5 to 7 mils (dry) shall be spray applied to mild steel panels. The steel panels shall be essentially free of oil or other contaminants that may interfere with coating adhesion. The test panels shall be dry blast cleaned to a White Metal grade which shall be in compliance with SSPC SP 5. The surface shall have an angular profile of 2.0 to 2.5 mils as measured by ASTM D 4417, Method C. When VZ-108 is tested, the coating shall be mixed in its proper proportions and then spray applied to a dry film thickness of 1.5 to 2.5 mils above the blast profile.

The VZ-108 shall be top coated with a V-766 known to pass this test. In all cases, the complete system shall have a total dry film thickness of 5 to 7 mils above the blast profile. After being air dried for 2 hours at room temperature, the panel shall be dried in a vertical position for 16 hours at 120 degrees F. After cooling for 1 hour, the panel shall be immersed in tap water at 85 to 90 degrees F for 48 to 72 hours. Immediately upon removal, the panel shall be dried with soft cloth and examined for adhesion as follows: With a pocket knife or other suitable instrument, two parallel cuts at least 1 inch long shall be made 1/4 to 3/8 inch apart through the paint film to the steel surface. A third cut shall be made perpendicular to and passing through the end of the first two. With the tip of the knife blade, the film shall be loosened from the panel from the third cut between the parallel cuts for a distance of 1/8 to 1/4 inch. With the panel being held horizontally, the free end of the paint film shall be grasped between the thumb and forefinger and pulled vertically in an attempt to remove the film as a strip from between the first two cuts. The strip of paint film shall be removed at a rate of approximately 1/10 inch per second and shall be maintained in a vertical position during the process of removal. The adhesion is acceptable if the

strip of paint breaks when pulled or if the strip elongates a minimum of 10 percent during its removal. Paints not intended to be self-priming shall exhibit no delamination from the primer.

### PART 3 EXECUTION

#### 3.1 SCOPE

All painted surfaces of the gate assembly including, but not limited to, the gate, the bonnet, the Limitorque Motor enclosure, and the rod enclosure, shall be cleaned of existing lead-based paint and painted. These operations shall be completed off-site. After reassembly and reinstallation, the Contractor shall touch-up any paint damaged as a result of those operations.

#### 3.2 CLEANING AND PREPARATION OF SURFACES TO BE PAINTED

##### 3.2.1 General Requirements

Surfaces to be painted shall be cleaned before applying paint or surface treatments. Deposits of grease or oil shall be removed in accordance with SSPC SP 1, prior to mechanical cleaning. Solvent cleaning shall be accomplished with mineral spirits or other low toxicity solvents having a flashpoint above 100 degrees F. Clean cloths and clean fluids shall be used to avoid leaving a thin film of greasy residue on the surfaces being cleaned. Items not to be prepared or coated shall be protected from damage by the surface preparation methods. Machinery shall be protected against entry of blast abrasive and dust into working parts. Cleaning and painting shall be so programmed that dust or other contaminants from the cleaning process do not fall on wet, newly painted surfaces, and surfaces not intended to be painted shall be suitably protected from the effects of cleaning and painting operations. Welding of, or in the vicinity of, previously painted surfaces shall be conducted in a manner to prevent weld spatter from striking the paint and to otherwise reduce coating damage to a minimum; paint damaged by welding operations shall be restored to original condition. Surfaces to be painted that will be inaccessible after construction, erection, or installation operations are completed shall be painted before they become inaccessible.

##### 3.2.2 Surface Preparation

The items shall be dry blast-cleaned to SSPC SP 10. Appropriate abrasive blast media shall be used to produce the desired surface profile and to give an angular anchor tooth pattern. If recycled blast media is used, an appropriate particle size distribution shall be maintained so that the specified profile is consistently obtained. Steel shot or other abrasives that do not produce an angular profile shall not be used. Weld spatter not dislodged by blasting shall be removed with impact or grinding tools and the areas reblasted prior to painting. Surfaces shall be dry at the time of blasting. Within 8 hours after cleaning, prior to the deposition of any detectable moisture, contaminants, or corrosion, all surfaces shall be cleaned of dust and abrasive particles by brush, vacuum cleaner, and/or blown down with clean, dry, compressed air, and given the first coat of paint.

#### 3.3 PAINT APPLICATION

##### 3.3.1 General

The finished coating shall be free from holidays, pinholes, bubbles, runs, drops, ridges, waves, laps, excessive or unsightly brush marks, and variations in color, texture, and gloss. Each paint coat shall be applied in a manner that will produce an even, continuous film of uniform thickness. Edges, corners, crevices, seams, joints, welds, rivets, corrosion pits, and other surface irregularities shall receive special attention to ensure that they receive an adequate thickness of paint. Spray equipment shall be equipped with traps and separators and where appropriate, mechanical agitators, pressure gauges, pressure regulators, and screens or filters. Air caps, nozzles, and needles shall be as recommended by the spray equipment manufacturer for the material being applied. Airless-type spray equipment may be used only on broad, flat, or otherwise simply configured surfaces, except that it may be employed for general painting if the spray gun is equipped with dual or adjustable tips of proper types and orifice sizes. Airless-type equipment shall not be used for the application of vinyl paints.

### 3.3.2 Mixing and Thinning

Paints shall be thoroughly mixed, strained where necessary, and kept at a uniform composition and consistency during application. Paste or dry-powder pigments specified to be added at the time of use shall, with the aid of powered stirrers, be incorporated into the vehicle or base paint in a manner that will produce a smooth, homogeneous mixture free of lumps and dry particles. Where necessary to suit conditions of the surface temperature, weather, and method of application, the paint may be thinned immediately prior to use. Thinning shall generally be limited to the addition of not more than 1 pint per gallon of the proper thinner; this general limitation shall not apply when more specific thinning instructions are provided. Paint that has been stored at low temperature, shall be brought up to at least 70 degrees F before being mixed and thinned, and its temperature in the spray tank or other working container shall not fall below 60 degrees F during the application. Paint that has deteriorated in any manner to a degree that it cannot be restored to essentially its original condition by customary field-mixing methods shall not be used and shall be removed from the project site. Paint and thinner that is more than 1 year old shall be resampled and resubmitted for testing to determine its suitability for application.

### 3.3.3 Atmospheric and Surface Conditions

Paint shall be applied only to surfaces that are above the dew point temperature and that are completely free of moisture as determined by sight and touch. Paint shall not be applied to surfaces upon which there is detectable frost or ice. Except as otherwise specified, the temperature of the surfaces to be painted and of air in contact therewith shall be not less than 45 degrees F during paint application nor shall paint be applied if the surfaces can be expected to drop to 32 degrees F or lower before the film has dried to a reasonably firm condition. During periods of inclement weather, painting may be continued by enclosing the surfaces and applying artificial heat, provided the minimum temperatures and surface dryness requirements prescribed previously are maintained. Paint shall not be applied to surfaces heated by direct sunlight or other sources to temperatures that will cause detrimental blistering, pinholing, or porosity of the film.

### 3.3.4 Time Between Surface Preparation and Painting

Surfaces that have been cleaned and/or otherwise prepared for painting

shall be primed as soon as practicable after such preparation has been completed but, in any event, prior to any deterioration of the prepared surface.

### 3.3.5 Method of Paint Application

Unless otherwise specified, paint shall be applied by brush or spray. Special attention shall be directed toward ensuring adequate coverage of edges, corners, crevices, pits, rivets, bolts, welds, and similar surface irregularities. Other methods of application to metal surfaces shall be subject to the specific approval of the Contracting Officer.

### 3.3.6 Coverage and Film Thickness

Film thickness or spreading rates shall be as specified hereinafter. Where no spreading rate is specified, the paint shall be applied at a rate normal for the type of material being used. In any event, the combined coats of a specified paint system shall completely hide base surface and the finish coats shall completely hide undercoats of dissimilar color.

#### 3.3.6.1 Measurement

Measurements shall be made with one of the thickness gages listed below. They shall be calibrated and used in accordance with ASTM D 1186. They shall be calibrated using plastic shims with metal practically identical in composition and surface preparation to that being coated, and of substantially the same thickness (except that for measurements on metal thicker than 1/4 inch, the instrument may be calibrated on metal with a minimum thickness of 1/4 inch). Frequency of measurements shall be as recommended for field measurements by ASTM D 1186 and reported as the mean for each spot determination. The instruments shall be calibrated or calibration verified prior to, during, and after each use. Authorized thickness gages:

- a. Mikrotest, Elektro-Physik, Inc.
- b. Inspector Gage, Elcometer Instruments, Ltd.
- c. Positest, Defelsko Corporation
- d. Minitector, Elcometer Instruments, Ltd.
- e. Positector 2000, Defelsko Corporation

### 3.3.7 Progress of Painting Work

Where field painting on any type of surface has commenced, the complete painting operation, including priming and finishing coats, on that portion of the work shall be completed as soon as practicable, without prolonged delays. Sufficient time shall elapse between successive coats to permit them to dry properly for recoating, and this period shall be modified as necessary to suit adverse weather conditions. Paint shall be considered dry for recoating when it feels firm, does not deform or feel sticky under moderate pressure of the finger, and the application of another coat of paint does not cause film irregularities such as lifting or loss of adhesion of the undercoat. All coats of all painted surfaces shall be unscarred and completely integral at the time of application of succeeding coats. At the time of application of each successive coat, undercoats shall be cleaned of dust, grease, overspray, or foreign matter by means of airblast, solvent cleaning, or other suitable means. Cement and mortar deposits on painted steel surfaces, not satisfactorily removed by ordinary cleaning methods, shall be brushoff blast cleaned and completely repainted as required.

### 3.3.8 Contacting Surfaces

When riveted or ordinary bolted contact is to exist between surfaces of ferrous or other metal parts of substantially similar chemical composition, such surfaces will not be required to be painted, but any resulting crevices shall subsequently be filled or sealed with paint. Contacting metal surfaces formed by high-strength bolts in friction-type connections shall not be painted. Where a nonmetal surface is to be in riveted or bolted contact with a metal surface, the contacting surfaces of the metal shall be cleaned and given three coats of the specified primer. Unless otherwise specified, corrosion-resisting metal surfaces, including cladding therewith, shall not be painted.

### 3.3.9 Drying Time Prior to Immersion

Minimum drying periods after final coat prior to immersion shall be at least 3 days. Minimum drying periods shall be increased twofold if the drying temperature is below 65 degrees F and/or if the immersion exposure involves considerable abrasion.

### 3.3.10 Protection of Painted Surfaces

Where shelter and/or heat are provided for painted surfaces during inclement weather, such protective measures shall be maintained until the paint film has dried and discontinuance of the measures is authorized. Items that have been painted shall not be handled, worked on, or otherwise disturbed until the paint coat is fully dry and hard. All metalwork coated in the shop or field prior to final erection shall be stored out of contact with the ground in a manner and location that will minimize the formation of water-holding pockets; soiling, contamination, and deterioration of the paint film, and damaged areas of paint on such metalwork shall be cleaned and touched up without delay.

### 3.3.11 Vinyl Paints

#### 3.3.11.1 General

Vinyl paints shall be spray applied, except that areas inaccessible to spraying shall be brushed. All of the vinyl paints require thinning for spray application except the zinc-rich vinyl paint (Formula VZ 108d) which will normally require thinning only under certain weather conditions. Thinners for vinyl paints shall be as follows:

APPROXIMATE AMBIENT AIR TEMPERATURE  
(Degree F)

Below 50	MEK
50 - 70	MIBK
Above 70	MIAC

The amount of thinner shall be varied to provide a wet spray and avoid deposition of particles that are semidry when they strike the surface. Vinyl paints shall not be applied when the temperature of the ambient air receiving surfaces is less than 35 degrees F nor when the receiving surfaces are higher than 125 degrees F. Each spray coat of vinyl paint shall consist of a preliminary extra spray pass on edges, corners, interior angles, pits, seams, crevices, junctions of joining members, rivets, weld lines, and similar surface irregularities followed by an overall double

spray coat. A double spray coat of vinyl-type paint shall consist of applying paint to a working area of not less than several hundred square feet in a single, half-lapped pass, followed after drying to at least a near tack-free condition by another spray pass applied at the same coverage rate and where practicable at right angles to the first. Rivets, bolts, and similar surface projections shall receive sprayed paint from every direction to ensure complete coverage of all faces. Pits, cracks, and crevices shall be filled with paint insofar as practicable, but in any event, all pit surfaces shall be thoroughly covered and all cracks and crevices shall be sealed off against the entrance of moisture. Fluid and atomization pressures shall be kept as low as practicable consistent with good spraying results. Unless otherwise specified, not more than 2.0 mils, average dry film thickness, of vinyl paint shall be applied per double spray coat. Except where otherwise indicated, an undercoat of the vinyl-type paint may receive the next coat any time after the undercoat is tack-free and firm to the touch, provided that no speedup or delay in the recoating schedule shall cause film defects such as sags, runs, air bubbles, air craters, or poor intercoat adhesion. Neither the prime coat nor any other coat shall be walked upon or be subjected to any other abrading action until it has hardened sufficiently to resist mechanical damage.

#### 3.3.11.2 Vinyl Zinc-Rich Primer

Primer shall be field mixed combining components A, B, and C. Mixing shall be in accordance with label instructions. After mixing, the paint shall be kept covered at all times to avoid contamination and shall be applied within 8 days after it is mixed. When the ambient and/or steel temperature is below about 80 degrees F, the paint will not normally require thinning; however, the paint shall at all times contain sufficient volatiles (thinners) to permit it to be satisfactorily atomized and to provide a wet spray and to avoid deposition of particles that are semidry when they reach the surface. The paint shall be stirred continuously during application at a rate that will prevent the zinc dust from settling. When spraying is resumed after any interruption of longer than 15 minutes, the entire length of the material hose shall be whipped vigorously until any settled zinc is redispersed. Long periods of permitting the paint to remain stagnant in the hose shall be avoided by emptying the hoses whenever the painting operation is to be suspended for more than 1 hour. The material (paint) hoses shall be kept as short as practicable, preferably not more than 50 feet in length. Equipment used for spraying this zinc primer shall not be used for spraying other vinyl-type paints without first being thoroughly cleaned, since many of the other paints will not tolerate zinc contamination; no type of hot spray shall be used. An average dry film thickness of up to 2.5 mils may be applied in one double-spray coat. Unless specifically authorized, not more than 8 days shall elapse after application of a VZ-108d zinc-rich coat before it receives a succeeding coat.

#### 3.3.11.3 Vinyl Paints

Vinyl Paints (Formulas V-766e) are ready-mixed paints designed to be spray applied over a wide range of ambient temperatures by field thinning with the proper type and amount of thinner. For spray application, they shall be thinned as necessary up to approximately 25 percent (1 quart per gallon of base paint) with the appropriate thinner; when ambient and steel temperatures are above normal, up to 40-percent thinning may be necessary for satisfactory application.

### 3.4 PAINT SYSTEMS APPLICATION

#### 3.4.1 Gates

Paint shall be spray applied to an average minimum dry film thickness of 7.0 mils for the completed system, and the thickness at any point shall not be less than 5.5 mils. The dry film thickness of the zinc-rich primer shall be approximately 2.5 mils. The specified film thickness shall be attained in any event, and any extra coats needed to attain the specified thickness shall be applied at no additional cost to the Government. Attaining the specified film thickness by applying fewer than the prescribed number of coats or spray passes will be acceptable provided heavier applications do not cause an increase in pinholes, bubbles, blisters, or voids in the dried film and also provided that not more than 2.0 mils (dry film thickness) per double spray coat nor more than 1.0 mil per single spray pass of nonzinc paint shall be applied at one time.

#### 3.4.2 Bonnets, Limitorque Motor Enclosure, and Rod Enclosure

A minimum of two coats shall be applied separately, per the manufacturer's recommended instructions, and to the manufacturer's recommended dry thicknesses.

### 3.5 PAINTING SCHEDULES

#### SYSTEM NO. 5-E-Z

Items or surfaces to be coated: Gates

#### SURFACE

PREPARATION	1st COAT	2nd COAT	3rd COAT	4th COAT
White metal blast cleaning	Vinyl zinc- rich VZ-108d (double spray coat)	Gray Vinyl V-766e (double spray coat)	White Vinyl V-766e (double spray coat)	Gray Vinyl V-766e (double spray coat)

#### SYSTEM NO. 6

Items or surfaces to be coated: Bonnets, Limitorque Motor Enclosure,  
and Rod Enclosure

Bonnets, Limitorque Motor enclosure, and rod enclosure shall be coated as specified in paragraph PAINT FORMULATION FOR THE BONNETS, LIMITORQUE MOTOR ENCLOSURE, AND ROD ENCLOSURE, above.

### 3.6 MEASUREMENT AND PAYMENT

#### 3.6.1 Lead-Based Paint Removal

The work specified in this section for lead-based paint removal shall not be measured for payment. All costs in connection therewith shall be included in the lump sum price for Bid Item No. 7.

#### 3.6.2 Painting

The work specified in this section for painting shall not be measured for payment. All costs in connection therewith shall be included in the lump sum price for Bid Item No. 8.

-- End of Section --



SECTION 11285

REMOVAL AND INSTALLATION OF WATER QUALITY GATE ASSEMBLIES

PART 1 GENERAL

1.1 SCOPE

There are two water quality control gates. One in operation (herein referred to as Gate #1) and one spare (herein referred to as Gate #2), both located at elevation 519.0, in the tower. The Contractor shall remove the one gate from operation and subsequently remove both gates from the tower. The Contractor shall take both gate assemblies to an off-site location for inspection and repair, and return the gates to the tower at elevation 519.0. The current spare gate shall be installed into operation and the gate currently in operation shall be stored at that elevation as a spare.

1.2 SUBMITTALS

Government approval is required for submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-08 Statements

Water Quality Control Gates Removal and Reinstallation Work Plan; GA COR.

The Contractor shall submit his work plan describing his methods for removing and reinstalling the water quality control gates, including the labor, materials, and equipment to be utilized. Also included in this work plan shall be the installation of the proposed assembly for spanning the liner opening and the equipment and methods proposed for any required pumping. The Contractor shall propose his method for identifying which gate is Gate #1 and which gate is Gate #2.

1.3 DAMAGE DUE TO CONTRACTOR OPERATIONS

The Contractor shall protect all equipment and utilities in the tower during removal operations as specified in Section 01140 WORK RESTRICTIONS. The Contractor shall repair any damaged materials at no cost to the Government.

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 LOWERING OF BULKHEADS

The bulkheads shall be lowered, as specified in Section 05600 LOWERING AND RAISING WATER QUALITY BULKHEADS, prior to beginning any work to remove the existing water quality control gate assemblies.

### 3.2 REMOVAL OF THE WATER QUALITY CONTROL GATE ASSEMBLY IN OPERATION

#### 3.2.1 Procedure

The water quality control gate assembly currently in operation shall be removed from operation and taken offsite for LBP removal, inspection, rehabilitation, and painting. The assembly shall be removed piecemeal due to the limited headroom. NOTE: The bottom leaf nut, attaching the gate to the stem, is welded to the stem. The nut shall be removed without damaging the stem.

#### 3.2.2 Leakage

The installed bulkheads will leak. The Contractor shall provide the labor, equipment and materials required to pump that leakage from the sump to the floor drain system during the removal operations. The Contractor shall pump the sump as necessary to keep water from overflowing onto the floor (elev. 519.0).

#### 3.2.3 Required Bracing

It is anticipated that when the water quality control gate assembly is removed from operation, the concrete-encased conduit liner may heave inwards. The Contractor shall provide bracing as necessary to prevent that heaving and thereby allow reinstallation of the gate assembly later.

#### 3.2.4 Opening in Liner

Once the water quality control gate assembly is removed from operation, the Contractor shall bridge the resulting opening with some material. This material shall be sufficient to eliminate leakage into the sump.

### 3.3 REMOVAL OF THE SPARE WATER QUALITY CONTROL GATE ASSEMBLY

The spare water quality control gate assembly shall be removed from the tower at elevation 519.0 and taken offsite for LBP removal, inspection, rehabilitation, and painting.

### 3.4 INSTALLATION OF WATER QUALITY CONTROL GATE

After rehabilitation, the gate assembly that was previously the spare shall be installed into operation. The Contractor shall pump any leakage from the sump into the floor drain as necessary to keep water from overflowing onto the floor during the installation operations.

### 3.5 STORAGE OF SPARE WATER QUALITY CONTROL GATE

The gate assembly that was previously in operation shall be returned to elevation 519.0 to be stored as the spare. The bonnet and gate shall be reassembled. The gland assembly items and bottom leaf nut shall be stored in plastic in a location directed by the COR.

### 3.6 TESTING

The gate installed into operation shall be opened and closed multiple times to demonstrate that the gate is operating properly. Both the new position indicator system and the manual system shall be utilized to test the proper operation of the gate. The Contractor shall enter the main conduit to observe if the gate is working properly. Confined space procedures shall be

observed when entering the main conduit. See Section 01140 WORK RESTRICTIONS for procedures and restrictions for entering the main conduit.

### 3.7 MEASUREMENT AND PAYMENT

#### 3.7.1 Removal of Water Quality Control Gate Assemblies

The work specified herein for removal and dismantling the gate assemblies will not be measured for payment. All costs in connection therewith shall be included in the lump sum price for Bid Item No. 2. Also included in this bid item is all costs in connection with installing a material across the resulting opening in the liner and any pumping required.

#### 3.7.2 Installation of Water Quality Control Gate Assemblies

The work specified herein for reinstalling a gate assembly into operation and returning the other gate assembly to elevation 519.0 will not be measured for payment. All costs in connection therewith shall be included in the lump sum price for Bid Item No. 9. Also included in this bid item is all costs in connection with testing the installed gate and checking for proper operation of the gate from within the main conduit.

-- End of Section --



SECTION 11286

INSPECTION AND REHABILITATION OF WATER QUALITY GATE ASSEMBLIES

PART 1 GENERAL

1.1 REFERENCES

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

AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM)

ASTM A 240/A 240M	(1996) Heat-Resisting Chromium and Chromium-Nickel Stainless Steel Plate, Sheet, and Strip for Pressure Vessels
ASTM F 593	(1995) Stainless Steel Bolts, Hex Cap Screws, and Studs
ASTM F 594	(1991) Stainless Steel Nuts,

AMERICAN WELDING SOCIETY (AWS)

AWS D1.1	(1996) Structural Welding Code - Steel
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1.2 SUBMITTALS

Government approval is required for submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-04 Drawings

Shop Drawings; GA DO.

Shop drawings for metalwork and machine work shall be submitted and approved prior to fabrication.

SD-08 Statements

Water Quality Control Gates Rehabilitation Work Plan; GA COR.

The Contractor shall submit his work plan describing his methods for rehabilitating the water quality control gates, including the labor, materials, and equipment to be utilized.

Location of Shop; FIO.

Off-site location(s) where inspection and rehabilitation work will be completed shall be provided.

Qualifications; GA COR.

Qualifications of companies and personnel completing the various tasks, e.g. casting parts, conducting inspections.

Welding Repairs; GA DO.

Welding repair plans shall be submitted and approved prior to making repairs.

SD-09 Reports

Condition Report; GA DO.

Condition report indicating condition of gate assemblies and gate operator components.

SD-13 Certificates

Qualification of Welders; FIO.

Certification for welders shall be submitted prior to commencing fabrication.

New Parts; GA DO.

Statements signed by an official authorized to certify on behalf of the materials attesting that the items meet specified requirements.

1.3 METALWORK AND MACHINE WORK SHOP DRAWINGS

Shop drawings for metalwork and machine work shall include catalog cuts, templates, fabrication and assembly details and type, grade and class of material as appropriate. Elements of fabricated items inadvertently omitted on contract drawings shall be detailed by the fabricator and indicated on the detail drawings.

1.4 WELDING PROCEDURE QUALIFICATIONS

Except for prequalified (per AWS D1.1) and previously qualified procedures, each Contractor performing welding shall record in detail and shall qualify the welding procedure specification for any welding procedure followed in the fabrication of weldments. Qualification of welding procedures shall conform to AWS D1.1 and to the specifications in this section. Copies of the welding procedure specification and the results of the procedure qualification test for each type of welding which requires procedure qualification shall be submitted for approval. Approval of any procedure, however, will not relieve the Contractor of the sole responsibility for producing a finished structure meeting all the requirements of these specifications. This information shall be submitted on the forms in Appendix E of AWS D1.1.

1.5 QUALIFICATION OF WELDERS

The Contractor shall certify that the qualification of welders who will perform welding have been qualified for the particular type of work to be done in accordance with the requirements of AWS D1.1, Section 5, prior to commencing fabrication. The certificate shall list the qualified welders by name and shall specify the code and procedures under which qualified and the date of qualification. Prior qualification will be accepted if welders

have performed satisfactory work under the code for which qualified within the preceding three months. The Contractor shall require welders to repeat the qualifying tests when their work indicates a reasonable doubt as to proficiency. Those passing the requalification tests will be recertified. Those not passing will be disqualified until passing. All expenses in connection with qualification and requalification shall be borne by the Contractor.

#### 1.6 EXISTING PARTS' MATERIALS

##### 1.6.1 Cover Plate, Adapter Base, Tapered Flange, Bonnet, and Gate

ASTM A 36 steel.

##### 1.6.2 Upper Gland Assembly, Lower Gland Section, and Rod Bushing

High-Leaded Tin Bronze, copper alloy UNS No. C93200.

##### 1.6.3 Seal Housing

Steel, composition (obsolete AISI C 1020): 0.18-0.23 Carbon, 0.30-0.60 Manganese, maximum 0.040 Phosphorus, maximum 0.050 Sulfur.

##### 1.6.4 Lifting Rod and Top Leaf Nut

Stainless steel, austenitic, composition (obsolete Type 303): 0.15 maximum Carbon, 17.00-19.00 Chromium, 8.00-10.00 Nickel, 0.60 maximum Molybdenum or Zirconium, 0.07 minimum Phosphorus, Sulfur or Selenium. Thermal treatment: annealing, cool rapidly from 1850-2050 F; hardening, hardenable by cold work only; stress relieving, 400-750 F. Free machining and nonseizing 18-8.

##### 1.6.5 Overlay on Bottom of Gate

ASTM A 240/A 240M, UNS S30400. Plate finish shall be hot-rolled and annealed or heat treated, and blast cleaned or pickled.

## PART 2 PRODUCTS

### 2.1 GLAND ASSEMBLY

#### 2.1.1 Stem Gaskets

Existing: Self-adjusting, Buna N, 85 Shore A durometer. New shall be same or approved equivalent.

#### 2.1.2 Bronze Washer

Existing: High-leaded tin bronze, copper alloy UNS No. C93200. Washer: .25" thick, 2-7/8" outside diameter, 2-1/4" inside diameter. New shall be same or approved equivalent.

#### 2.1.3 Stem Packing

Existing: Buna N o-rings, 65-75 Shore A durometer. New shall be same or approved equivalent.

#### 2.1.4 Stainless Steel Bolts

Hex head, ASTM F 593, Alloy Group 1.

#### 2.1.5 Stainless Steel Nuts

ASTM F 594, Alloy Group 1.

#### 2.2 GASKETS UNDER COVER PLATE AND UNDER ADAPTOR BASE

Gaskets shall: provide near metal to metal contact with no yielding or loss of bolt tightness over time; have good resistance to high temperatures and pressures; adhere to smooth and rough surfaces; and resist solvent effect of lubricants, fuels, hydraulic fluids and other chemicals.

#### 2.3 BOTTOM LEAF NUT

Existing: Stainless steel, austenitic, composition (obsolete Type 303): 0.15 maximum Carbon, 17.00-19.00 Chromium, 8.00-10.00 Nickel, 0.60 maximum Molybdenum or Zirconium, 0.07 minimum Phosphorus, Sulfur or Selenium. Thermal treatment: annealing, cool rapidly from 1850-2050 F; hardening, hardenable by cold work only; stress relieving, 400-750 F. Free machining and nonseizing 18-8. New shall be same or approved equivalent.

#### 2.4 GATE LEAF SEAL BARS AND CAP SCREWS

Existing: Aluminum bronze, copper alloy UNS Nos. C95400. New shall be same or approved equivalent.

#### 2.5 NUTS AND BOLTS ON BONNET

Bolts shall be ASTM A 325, Type 1. Nuts shall be ASTM A 563, Grade C.

#### 2.6 TAPERED FLANGE O-RING

O-Ring shall be similar to existing.

#### 2.7 GATE SEAL

Neoprene gate seal shall be similar to existing.

### PART 3 EXECUTION

#### 3.1 SEAL BARS REMOVAL

The Contractor shall remove the seal bars from the gates prior to paint removal work.

#### 3.2 LEAD-BASED PAINT REMOVAL

The Contractor shall assume that all paint contains lead and shall conduct all paint removal operations in accordance with all Federal, State, and Local environmental regulations governing lead-based paint, as specified in Section 09900 LEAD-BASED PAINT REMOVAL AND PAINTING.

#### 3.3 INSPECTION

The Contractor shall conduct a complete inspection of all components to determine their condition. The Contractor shall compare the actual

dimensions with original dimensions as per the reference drawings and provide information as outlined in paragraph CONDITION REPORT, below. This inspection shall include inspection of all Government-furnished items.

### 3.4 QUALITY ASSURANCE

The Contractor shall notify the Contracting Officer of the offsite location(s) of these inspections. The Contracting Officer will conduct an on-site visit(s) at the location(s) to observe the condition of the gates and their components and to conduct quality assurance inspections of the Contractor's work. The Contractor shall provide the Contracting Officer with the use of a desk, telephone (with outside line), facsimile machine, and toilet facilities.

### 3.5 CONDITION REPORT

The Contractor shall submit a condition report, including rehabilitation recommendations, to the Contracting Officer, within 10 working days of removal of the gates from the Beltzville Tower. The condition report shall contain the following information:

- a. Inspection procedures followed
- b. Results of inspection, including sketches as necessary to show locations of anomalies and comparisons to original dimensions.
- c. Recommendations for rehabilitation and/or replacement of components including recommended labor, materials, equipment, and methods.

### 3.6 CLEANING AND LUBRICATING EXISTING PARTS

Any and all components on both gates and bonnets that are not to be replaced with new parts, as specified below, shall be cleaned. All parts shall be lubricated, when appropriate.

### 3.7 REHABILITATION OF GATE CURRENTLY IN OPERATION (GATE #1)

The Contractor shall clean and inspect the following existing parts that are currently on this gate:

- a. The upper gland assembly and lower gland section.
- b. The rod bushing.
- c. The seal housing.

The Contractor shall provide the following new parts for use with this gate:

- a. Upper and lower stem gaskets.
- b. Stem packing.
- c. A bronze washer.
- d. All stainless steel nuts and bolts required for gland assembly.
- e. A bottom leaf nut.
- f. Two vertical and one horizontal, gate leaf seal bars with cap screws.

- g. The gaskets under the cover plate and adaptor base.
- h. New nuts and bolts for reassembling the bonnet.
- i. Tapered flange o-ring.
- j. Gate seal.

### 3.8 REHABILITATION OF SPARE GATE (GATE #2)

The Contractor shall clean and inspect with the following existing parts:

- a. Upper gland assembly.
- b. Lower gland section.
- c. Seal housing.
- d. Bronze washer.
- e. Rod bushing.
- f. Horizontal and vertical gate leaf seal bars.

The Contractor shall provide the following new parts:

- a. Cap screws to remount existing gate leaf seal bars.
- b. The upper and lower stem gaskets.
- c. The stem packing.
- d. All nuts and bolts required for gland assembly.
- e. The gaskets under the cover plate and adaptor base.
- f. A bottom leaf nut.
- g. Gate seal.
- h. Tapered flange o-ring.

### 3.9 WELDING REPAIR

The Contractor shall remove the existing weld and reweld the seam between the side spacer block on the upstream bonnet sub-assembly and the downstream bonnet subassembly face. This weld shall be completed on both sides of each gate (approximately 14 LF per gate). This weld is required to eliminate existing leakage in this area. The Contractor shall test the newly welded seams to demonstrate if this repair eliminates the leakage.

### 3.10 PAINTING

Both assemblies shall be painted as specified in Section 09900 LEAD-BASED PAINT REMOVAL AND PAINTING.

### 3.11 MEASUREMENT AND PAYMENT

3.11.1 Inspection

The work specified in this section for inspection of all existing components and providing a condition report shall not be measured for payment. All costs in connection therewith shall be included in the lump sum price for Bid Item No. 3.

3.11.2 Replace Parts

The work specified in this section for cleaning existing parts and providing and installing new parts (except gate seats and cap screws) shall not be measured for payment. All costs in connection therewith shall be included in the lump sum price for Bid Item No. 4.

3.11.3 Weld Repairs

The work specified in this section for providing weld repairs on both assemblies shall not be measured for payment. All costs in connection therewith shall be included in the lump sum price for Bid Item No. 5.

3.11.4 Replace Gate Seats and Cap Screws

The work specified in this section for replacing the horizontal and vertical gate seats and cap screws on the gate currently in operation shall not be measured for payment. All costs in connection therewith shall be included in the lump sum price for Bid Item No. 6.

-- End of Section --



SECTION 16220

INSPECTION AND MAINTENANCE OF GATE OPERATOR

PART 1 GENERAL

1.1 SUBMITTALS

Government approval is required for submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-09 Reports

Condition Report; GA DO.

The condition of the gate operator components shall be included in the condition report required per Section 11286 INSPECTION AND REHABILITATION OF WATER QUALITY GATE ASSEMBLY.

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 INSPECTION

The Contractor shall inspect the gate operator for the condition of its components. This information shall be provided in the condition report as specified in Section 11286 INSPECTION AND REHABILITATION OF WATER QUALITY GATE ASSEMBLIES, paragraph entitled "Condition Report."

3.2 MAINTENANCE

The gate operator shall be properly lubricated and torque controls adjusted.

3.3 PAINTING

The gate operator's enclosure shall be painted as specified in Section 09900 LEAD-BASED PAINT REMOVAL AND PAINTING.

3.4 MEASUREMENT AND PAYMENT

The work specified in this section for inspecting and maintaining the Limatorque motor gate operator shall not be measured for payment. All costs in connection therewith shall be included in the lump sum price for Bid Item No. 10. Painting the motor enclosure shall be included in the lump sum price for Bid Item No. 8.

-- End of Section --



SECTION 16290

WATER QUALITY GATE POSITION INDICATOR CONTROL SYSTEM

PART 1 GENERAL

1.1 REFERENCES

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

AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM))

ASTM A 167 (1996) Stainless and Heat-Resisting Chromium-Nickel Steel Plate, Sheet, and Strip

NATIONAL FIRE PROTECTION ASSOCIATION (NFPA)

NFPA 70 (1999) National Electrical Code

UNDERWRITERS LABORATORIES (UL)

UL 83 (1996) Thermoplastic-Insulated Wires and Cables

1.2 SUBMITTALS

Government approval is required for submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-01 Data

Water Quality Gate Position Indicator Equipment; GA DO.

Manufacturer's catalog, installation and technical data for all components of the gate position indicator system.

PART 2 PRODUCTS

2.1 POSITION INDICATOR SYSTEM

Position indicator system shall consist of microbased controller, position transducer, slave readout indicator, and all wiring as required for a complete system installation.

2.1.1 Microbased Controller

Controller shall be 1/8 din microbased controller as manufactured by Davis Instruments, or Model PAXD Controller as manufactured by Red Lion, or approved equal. Controller shall have NEMA Type 4 sealed front panel, universal power supply, dual 4 digit programmable display, 4-20 mA output mode, auto/manual tuning, and RS-485 communications. Other requirements for

the controller shall be as follows:

- a. Sensor Break Protection: Break detected within 2 seconds. Control outputs set to OFF (0% power) alarms operate as if the process variable has gone under-range.
- b. Auto/Manual Control: User-selectable with "bump less" transfer into and out of Manual control.
- c. Cycle Times: Selectable for 0.5 sec to 512 sec in binary steps.
- d. Setpoint Range: Limited by Setpoint Upper and Setpoint Lower limits.
- e. Setpoint Ramp: Ramp rate selectable 1-9999 LSDs per hour and infinite. Number displayed is decimal point aligned with selected range.
- f. Accuracy: +/-0.25% of span +/- 1 LSD.
- g. Terminals: Screw Type (combination head).
- h. Weight: 16 ounces maximum.
- i. Ambient Operating Range: 0 degrees to 55 degrees C.
- j. Supply Voltage: 90 - 264 VAC 50/60 Hz.

#### 2.1.2 Position Transducer

Position transducer shall be Model PT 420 cable-extension position transducer as manufactured by Davis Instruments, or approved equal. Position transducer shall be designed to provide feedback signal on gate position. Feedback signal shall be 4 to 20 mA that is linearly proportional to the position of a traveling stainless steel extension cable. Enclosure material shall be powder coated anodized aluminum. Sensor shall be plastic-hybrid precision potentiometer. Other requirements for the transducer shall be as follows:

- a. Input Voltage: 12 to 40 VDC.
- b. Performance Accuracy 40 Inch Ranges and Greater: +/-0.15% full stroke.
- c. Zero Adjustment Range: 0 to 50% of full stroke.
- d. Repeatability: Greater of +/-0.001 inch or 0.02% full stroke.

#### 2.1.3 Slave Readout Indicator

Slave readout shall be Model V1000AS programmable DC process indicator as manufactured by Davis Instruments, or approved equal. Indicator shall provide for field programmable display of DC current and voltage inputs in engineering units of choice by dip switch programming. Other requirements for the indicator shall be as follows:

- a. Accuracy: +/-0.05% FS +/- 1 count.
- b. DC Input Range: 4 to 20 mA.
- c. Response Time: 1 sec.
- d. Display: 3-3/4 digit (+/-3999 counts), 0.56 inch LED.

#### 2.1.4 Wiring

All position transducer and slave readout indicator wiring shall be Type TF, #14 AWG, instrument grade stranded copper, conforming to UL 83, or wiring as recommended by the instrument manufacturer. Motor control wire shall be Type THHN, #12 AWG, 600 volt stranded copper conforming to UL 83.

#### 2.2 FABRICATIONS

Position transducer mounting bracket shall be shop fabricated from ASTM A

167, Type 302 or 304 stainless steel to the dimensions shown on the drawings.

### PART 3 EXECUTION

#### 3.1 INSTALLATION

Water quality gate position indicator system shall be installed as shown on the drawings in accordance with NFPA 70 and the equipment manufacturer's recommendations. Position transducer mounting bracket shall be welded to existing water quality gate shaft cover pipe as shown. Function and operation of installed system shall be as indicated on the drawings.

#### 3.2 OPERATION TESTS

Operational tests shall be conducted in the presence of the Contracting Officer to verify satisfactory installation and operation of the installed system.

#### 3.3 MEASUREMENT AND PAYMENT

The work specified in this section will not be measured for payment and all costs in connection therewith shall be included in the contract lump sum price for Bid Item No. 11.

-- End of Section --

