



**US Army Corps
of Engineers**

Marine Design Center

REQUEST FOR PROPOSALS

FOR

ONE STEEL TOWBOAT

W912BU-04-R-0014

DEPARTMENT OF THE ARMY
Corps of Engineers
Marine Design Center
Philadelphia, PA

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CAUTION TO OFFERORS

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 offer. Check as you read.

Are you registered in the DoD's Central Contractor Database? See DFARS Clause 252.204-7004 "Required Central Contractor Registration" in Section I of this solicitation?

Are in compliance with the VETS-100 reporting requirement? See FAR 52. 52.222-37 "Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans in Section" in Section I of this solicitation?

Have you acknowledged all amendments? Have you submitted your offer on the latest amended price schedule?

Have you completed the "Representations and Certifications" {Section K} portion of the Solicitation? Is your Contractor Establishment Code listed on the Standard Form 33?

Is your offer properly signed by an officer of your company?

NOTE TO OFFERORS: This solicitation permits an offeror to fully finance the resultant contract and receive payment upon final acceptance of the vessel. Alternatively, the offeror may elect to receive Progress Payments. If the offeror elects to receive Progress Payments, a bid guarantee is required to be submitted with the offer. See Section I, Clauses 52.228-1 and 52.228-16.

If a bid guarantee is required, is it included with your offer and is it in the proper amount? {20 percent of the total offer 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 offeror and surety and are all required seals affixed? A bid guarantee is required when your offer exceeds \$100,000.00. A late bid guarantee is treated the same as a late offer.

Is the name in which you submitted the offer the same as on the bid bond?

If required, have you entered a unit price for each line item? {The solicitation will specifically state when this is necessary.}

The Government may reject a offer as nonresponsive if it is materially and mathematically unbalanced as to price for any line item or combination of items. An offer 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 offer price correct?

Are all erasures or corrections initialed by the person signing the offer?

Have you restricted your offer by altering the provisions of the solicitation?

If you are a large business and your offer is greater than \$500,000 for supplies and services or \$1,000,000.00 for construction have you included your Sub-Contracting Plan in your bid package? (NOTE: PLEASE REFER TO SUBCONTRACTING PLAN IN SOLICITATION FOR GOALS).

Is the envelope containing your offer properly identified and does it contain the correct solicitation number and offer response time?

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SOLICITATION, OFFER AND AWARD			1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING	PAGE 1 OF 141 PAGES		
2. CONTRACT NO. W912BU-04-C-		3. SOLICITATION NO. W912BU-04-R-0014	4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	5. DATE ISSUED 12 Mar 2004	6. REQUISITION/PURCHASE NO. W25PHS-4033-6747			
7. ISSUED BY US ARMY ENGINEER DISTRICT, PHILADELPHIA CONTRACTING DIVISION WANAMAKER BUILDING 100 PENN SQUARE EAS PHILADELPHIA PA 19107-3390 CODE W912BU TEL: FAX:			8. ADDRESS OFFER TO (If other than Item 7) CODE See Item 7 TEL: FAX:					
NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".								
SOLICITATION								
9. Sealed offers in original and <u>2</u> copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in <u>block 7</u> until <u>4:00 p.m.</u> local time <u>April 13, 2004</u> (Hour) (Date)								
CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.								
10. FOR INFORMATION CALL:		A. NAME WILLIAM A BAILEY	B. TELEPHONE (Include area code) (NO COLLECT CALLS) 215-656-6932		C. E-MAIL ADDRESS William.A.Bailey@usace.army.mil			
11. TABLE OF CONTENTS								
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OFFER (Must be fully completed by offeror)								
NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.								
12. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.								
13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)								
14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):				AMENDMENT NO.	DATE	AMENDMENT NO.	DATE	
15A. NAME AND ADDRESS OF OFFEROR				CODE	FACILITY	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)		
15B. TELEPHONE NO (Include area code)		15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.			17. SIGNATURE		18. OFFER DATE	
AWARD (To be completed by Government)								
19. ACCEPTED AS TO ITEMS NUMBERED			20. AMOUNT		21. ACCOUNTING AND APPROPRIATION			
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c)() <input type="checkbox"/> 41 U.S.C. 253(c)()					23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)			ITEM
24. ADMINISTERED BY (If other than Item 7) CODE				25. PAYMENT WILL BE MADE BY CODE				
26. NAME OF CONTRACTING OFFICER (Type or print) TEL: EMAIL:					27. UNITED STATES OF AMERICA (Signature of Contracting Officer)		28. AWARD DATE	

IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice.

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Design, Construct, Test and Deliver one steel towboat for the Corps of Engineers, Nashville District for use in support of its navigation and maintenance missions on the Tennessee and Cumberland Rivers and their tributaries, in accordance with the attached specifications. In addition, optional line items may be awarded for spare equipment for the vessel and for delivery of the vessel to Nashville, TN:

<u>ITEM NUMBER</u>	<u>ITEM</u>	<u>QTY.</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
0001	Steel Towboat	1	VESSEL	XXXX	XXXXXXXX
0001AA	<u>ENGINEERING, CONSTRUCTION, TESTING & ACCEPTANCE AT CONTRACTOR'S FACILITY</u> (The submittals required for this item are listed in contract clause H02.). This item is initiated by a Notice To Proceed (NTP) issued by the Contracting Officer.	1	JOB	XXXX	\$ _____
	TOTAL ITEM 0001	1	VESSEL	XXXX	\$ _____
0001AB	<u>SPARE PARTS (OPTION)</u> for the vessel as specified in Clause C800 Spare Parts. This option may be exercised at the Government's discretion within 90 days of the NTP for CLIN 0001AA.	1	LOT	XXXX	\$ _____
0001AC	<u>DELIVERY TO GOVERNMENT FACILITY (OPTION)</u> for the vessel as specified in Clauses E08 and F02. This option may be exercised within 7 days after the Contractor notifies the Government of the beginning of the vessel tests and trials as specified in Clause E05.	1	JOB	XXXX	\$ _____
	TOTAL FOR TOWBOAT, OPTION 0001AB AND OPTION 0001AC	1	VESSEL	XXXX	\$ _____

Solicitation No. W912BU-04-R-0014

INSERT LOCATION OF THE SHIPYARD WHERE THE WORK WILL BE PERFORMED:

Refer to contract Section M for EVALUATION FACTORS FOR AWARD criteria.

PART I - THE SCHEDULE - SECTION C
 DESCRIPTION/SPECIFICATION/WORK STATEMENT

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**PART I - THE SCHEDULE - SECTION C
DESCRIPTION/SPECIFICATION/WORK STATEMENT**

C000 GENERAL

C001 PROJECT DESCRIPTION

The Marine Design Center (MDC) of the U.S. Army Corps of Engineers (USACE) has issued this Request for Proposal, to acquire a self-propelled inland river towboat intended to serve the U.S. Army Corps of Engineers, Nashville District. The primary mission of the new towboat will be year around mobilization of the Nashville District's floating plant items such as derrick boats, deck barges and dump scows to the various maintenance projects within Nashville District in a timely and efficient manner. The new towboat will be used to transport equipment, supplies and materials for the purpose of routine maintenance and construction activities. It will also respond to emergencies on the Nashville District's 1170 miles of navigable channels and 19 navigation lock chambers located on the Tennessee and Cumberland Rivers.

C002 SCOPE OF WORK

A. CONTRACT OBJECTIVE

The intent of this contract is to procure an inland river towboat. It is intended that the Contractor shall be able to design, construct, test, and deliver a complete vessel. Contractor shall not proceed with the construction or fabrication of any part, or feature, of the vessel until that feature has been fully engineered.

B. PRINCIPAL CHARACTERISTICS

The vessel to be provided must have the following characteristics:

- Construction Material: Steel
- Length: As required to support characteristics requested
- Beam: As required to support characteristics requested
- Draft: As required to support characteristics requested
- Air Draft: 36 feet maximum to highest fixed object
- Height: Operator's height of eye 28 to 30 feet above the waterline.
- Crew Accommodations: Six people
- Propulsion: Twin screw
- Main Engines: Diesel, 2000 hp total (minimum).
- Fuel: 15000 gallons minimum (more preferred), with no fuel on the side shell.
- Noise: Noise levels on deck and within the deckhouse and pilothouse shall conform to commercial standards with ear protection only acceptable within the engine spaces.
- Environmental: The vessel shall be operable year around and have the capability of operating in shallow ice and drift-strewn rivers.

C. DRAWINGS REQUIRED

The Contractor shall submit to the Corps of Engineers for review those plans, reports and calculations required by the American Bureau of Shipping in order to obtain the ABS classification and certification required in contract Clause C004. The Contractor shall also submit for review the damage stability analysis required in Clause C150.

C003 DESIGN STANDARDS

The vessel shall be designed, constructed, and outfitted in accordance with the rules, regulations, requirements and standards of the Legislation, Regulatory Agencies and technical organizations listed below. The Contractor is required to incorporate into the vessel any revisions to the rules and regulations listed below as well as those stipulated in the respective specification clauses.

- U.S. Army Corps of Engineers, Publication No. EM 385-1-1; "Safety and Health Requirements Manual." May be viewed at internet web site: <http://www.usace.army.mil/inet/usace-docs/eng-manuals/em385-1-1/toc.htm>
- American Bureau of Shipping (ABS) "Rules for Building and Classing Steel Vessels for Service on Rivers and Intracoastal Waterways."
- American Bureau of Shipping "Guide For Shipbuilding And Repair Quality Standard For Hull Structure During Construction."
- U.S. Coast Guard, Navigation Rules and Regulations, International and Inland, COMDTINST M16672.2D.
- U.S. Coast Guard Regulation 33 CFR Part 164, Navigation Safety Regulations.
- Institute of Electrical and Electronic Engineers Standards, Publication No. IEEE-45 - "IEEE Recommended Practice for Electrical Installation on Shipboard."
- US Public Health Service (USPHS) Publication No. 393 "Handbook on Sanitation of Vessel Construction."

C004 CLASSIFICATION & CERTIFICATION

The Contractor shall be responsible for preparing the required drawings and calculations, obtaining regulatory body reviews and approvals, obtaining necessary inspections and surveys during construction and for the certification and classing of the vessel as follows:

- ABS classification for “Maltese Cross A-1 Towing Vessel, River Service; Maltese Cross AMS”. USACE shall be designated on the Request for Classification as the owner of the vessel.

The Contractor shall bear all expenses associated with the acquisition of the required classing and certification.

The recommended ABS point of contact is Mr. Glenn Ashe who may be reached by phone, E-Mail or mail at: (703) 519-0801, G Ashe@eagle.org, or 1421 Prince Street, Suite 200, Alexandria, VA 22314.

For the ABS certificate of classification, the owner shall be listed as “U.S. Army Corps of Engineers, Nashville District”. The owner’s address for record shall be listed as:

US Army Corps of Engineers - Nashville District
Cumberland River Operations Center
Plant Unit
1180 Cinder Road
Nashville, TN 37138 – 3904

If the Contractor intends to launch, test, operate, or tow the vessel “out of class,” the Contractor must specifically advise ABS of such intent and incorporate any and all modifications required by that agency for such operation at no additional cost to the Government and with no additional contract time. Any such modification which, in the opinion of the COR, affects the arrangements, operability or suitability of the vessel shall be removed from the vessel by the Contractor at no additional cost or time and the vessel returned to new condition prior to Final Acceptance.

C005 VESSEL IDENTIFICATION

The vessel to be acquired through this solicitation has been assigned the following name and Marine Design Center hull and project numbers:

MDC Hull Number531
MDC Project Number2297
Vessel Name To be determined

The vessel name has not been selected at this time. For the purpose of initial documents and drawing preparation, the following title shall be used:

“M/V IROQUOIS REPLACEMENT”

Upon selection of the official name for the vessel by the Government, the Contractor shall incorporate the name into all “as-built” documents. The MDC hull number shall be used in lieu of an “Official Number.”

C010 DEFINITIONS

The following definitions are applicable to phrases and acronyms used throughout this contract:

- COR - Contracting Officer’s Representative - a member of the contract management and quality assurance team authorized by the Contracting Officer to perform certain administrative and managerial duties. A copy of the COR’s authority letter is furnished to the Contractor.
- K.O. - Contracting Officer - A person with the authority to enter into, administer and/or terminate contracts and make related determinations and findings.
- MDC – Acronym for the Marine Design Center.
- QC - Quality Control - Quality Control is a function of the Contractor. Refer to clause E03. Quality Assurance (QA) is a function of the Government.
- USACE – Acronym for United States Army Corps of Engineers.

C025 CONTRACTOR QUALITY STANDARDS

The Contractor shall be responsible for the construction of a complete and functioning vessel. The Contractor shall utilize the specified components so as to meet specification requirements utilizing construction and testing methods to ensure that the complete vessel conforms to the intended design.

Inspection by the Marine Design Center is for the purpose of verifying the proper function of the Contractor's quality control measures and is not to be used as a substitute for control of quality by the Contractor.

A. WELDING

All welding shall be in accordance with the current rules and regulations of the American Bureau of Shipping.

Welding procedure, as to direction, length, numbers, and sequence of beads, shall be carefully planned to minimize lock-up stresses. Care shall be exercised to produce small even beads, especially on all exposed plating and fittings. Beads shall be chipped and ground where directed by the COR.

B. PLATE FAIRNESS

Steel plating shall be installed using proper welding procedures and sequences to insure fair, undistorted plating panels. Fairness shall be in accordance with the requirements of the ABS "Guide For Shipbuilding And Repair Quality Standard For Hull Structure During Construction."

C100 SCIENTIFIC

C150 DAMAGE STABILITY

The vessel shall meet a one compartment damaged stability standard as follows:

After breaching any one compartment, the deck edge shall not be submerged. The definition of compartment permeabilities shall be as contained in 46 CFR Subchapter S.

The Contractor shall prepare a damaged stability analysis, documenting compliance with this criteria, for the following load conditions:

- Full load
- 50% normal load consumables
- 10% normal load consumables

The vessel may be damaged from the side or the bottom.

C185 TESTS AND TRIALS

The Contractor shall conduct trials in accordance with ABS rules.

C400 OUTFIT

C401 GENERAL REQUIREMENTS FOR VESSEL OUTFITTING

The use of materials that make the vessel more resistant to fire propagation are very desirable and will be given significant consideration during the proposal evaluation. As an example, steel studs are preferred over wood studs.

All outfitting provided shall be new and unused.

Internal outfit shall comprise of the following:

- Pilothouse
- Galley and Mess
- Three 2 man staterooms
- Head

The galley and mess shall be outfitted with major appliances, tables, and chairs. Staterooms shall be provided with berthing and storage for clothing.

The pilothouse shall be outfitted with a pilot's chair and settee.

Forward and aft pilothouse windows shall be fitted with defrosters.

C406 COATING SYSTEM

A. PAINTING

The contractor shall provide a marine paint system. The vessel shall be painted with the standard Corps of Engineers color scheme. Colors shall conform to Federal Standard No. 595B COLOR BOOK. The book as well as individual paint chips (3" x 5") may be procured from the General Services Administration/Specifications Section as follows:

GSA/FSS/Specification Section
470 L'Enfant Plaza East SW, Suite 8100
Washington, DC 20407

Phone: (202) 619-8925
FAX: (202) 619-8978

The coloring schedule shall be as follows:

AREA	COLOR/FS595 NUMBER
Hull Exterior	Black/17038
Hull Markings	White/27880
Exterior Decks	Deck Red/10776
Deck Fittings	Yellow/13591
Deckhouse Exterior	Old Ivory/17855
Hand Rails & Stair Rails	Black/17038
Safety Tread Nosing	Yellow/13591
Hull Compartments	Gray/16473
Deckhouse Interiors	White/17925
Interior Decks	Gray/16473
Tanks	Gray/16473
Insignia Base Plate	Striping Red/11350
Main Stack Bands	Striping Red/11350
Stack Bands Trim	Silver/17178
Name Board Letters	Gold/23594
Name Board Background	Blue/25102

C425 WALKWAYS, RAILINGS, GRATINGS & FLOOR PLATES

Grabrails shall be provided along the main deck house perimeter.

For the main deck level, a suspended, swing-away chain with three tiers, shall be installed along the main deck edge. For the upper decks of the vessel, fixed pipe railings, with three tiers, shall be installed.

Spacing between tiers, for the chains and pipe railings, shall be 9 inches, 24 inches, and 39 inches above the deck, in accordance with the Corps Safety Manual (Section 19). Spacing between stanchions shall be 6 feet maximum.

C427 VERTICAL & INCLINED LADDERS

An interior inclined ladder, protected from the weather, shall be provided for access from the interior main deck to the pilothouse. Another inclined ladder shall be provided from the lower machinery space to the interior main deck. Vertical ladders shall be provided at all manholes. A vertical ladder shall be provided for access to the pilothouse top.

C445 LIFESAVING & SAFETY

Lifesaving and safety equipment shall be provided as per USCG, 46 CFR requirements.

C456 CAPSTAN & DECK WINCHES

One electric or electro-hydraulic, single barrel capstan or car puller shall be provided and installed on the forward main deck of the vessel.

Two, 40 ton, electric towing winches shall be provided and located on the forward deck. The winches shall be accompanied with one roller chock each in line with the winch and one button chock adjacent to each roller chock. All winches shall have local controls and remote (pilothouse) controls.

C460 DRAFT MARKS, HULL MARKINGS & NAMEBOARDS

A. VESSEL NAMEBOARDS

The name of the towboat shall be displayed on the nameboards located at either the pilothouse top, port and starboard, or on the pilothouse side rails, port and starboard.

B. HULL IDENTIFICATION

The title U.S. ARMY CORPS OF ENGINEERS, in Gothic letters 8 inches high, all in 1/4 inch plate, shall be seal-welded on the port and starboard sides of the hull, approximately one foot below the deck and ending approximately five feet aft of the stem.

The vessel name in Gothic letters 8 inches high with a 4 inch space below to the title U.S. ARMY CORPS OF ENGINEERS, in Gothic letters 8 inches high. The name and title shall be cut from 1/4 inch plate, centered, and seal-welded on the stern of the vessel. All letters shall be painted white.

C. VESSEL DRAFT MARKS

The draft of the vessel over the lowermost projection shall be indicated on the port and starboard sides of the bow and stern by means of a 1/4 inch thick plate, Arabic numbers 6 inches in vertical projected height, continuously welded to the hull. The bottom of the figures shall correspond to multiples of 1 foot of draft. All figures shall be painted white.

D. STACK INSIGNIA

Two Corps of Engineers insignias shall be fabricated and installed, one each on the port and starboard stacks in clear view when the vessel is viewed in profile. A sketch of the "US ARMY CORPS OF ENGINEERS COMMUNICATION MARK" will be furnished to the successful offer. The Contractor shall increase the size of the sketch while maintaining the relative proportion, so that the largest insignia that will fit on the side of a stack can be utilized.

The castle and border of the insignia shall be made of 316 stainless steel, 3/8 inch thick and shall be attached to the base plate with 2 inch long stainless steel standoffs. The base plate will be the background for the Communications Mark and will be painted in accordance with contract Clause C406. Both sides of the base plate shall be coated with millage equal to that applied to the deckhouse exterior. An assembled Communications Mark shall be bolted to each stack, on the outboard side, centered in the stack band.

Painted, red stack bands shall completely encircle each stack. The red stack bands shall be trimmed with painted silver bands. The width of each red stack band shall be twice the height of the castle with 6 inch silver bands above and below the red stack band. The red for the stack bands and the silver for the trim bands are defined in contract Clause C406.

E. NAME PLATES & NOTICES

Nameplates, serial number plates, tags, etc., shall remain in place on the equipment as furnished by the supplier.

Pilothouse controls, gauges, switches, etc., shall be labeled to facilitate operation of the vessel.

Electrical breakers shall be labeled. The shore power receptacle shall be labeled to show the proper voltage; number of phases; maximum current draw; and connection procedure. All wiring shall be labeled at each end.

Fuel tanks, fills, sounds, and shut off valves shall be labeled.

All pump connections and tank fills shall be labeled.

All valves shall be labeled.

“NO SMOKING” notices shall be placed at each fuel oil, lube oil and waste oil fill and discharge station.

C470 NAVIGATION EQUIPMENT

Communications and navigational equipment shall be furnished for the towboat in accordance with USCG regulations 33 CFR, Subchapter P - Part 164 and as a minimum shall include:

- Two radar units
- Two Xenon searchlights
- Depth Finder
- Swing Meter
- DGPS/GPS
- Two VHF radios
- Air Horn
- Public Address/Loudhailer

Appropriate lights and shapes as required for inland operation shall be provided for the vessel in accordance with USCG Navigation Rules International Inland.

C600 MACHINERY

C601 GENERAL REQUIREMENTS FOR PIPING SYSTEMS & MACHINERY

The machinery systems shall include main engines diesel generating, fuel oil, engine cooling, bilge and ballast, potable water, sanitary and sewage, fire main, HVAC, and compressed air. All equipment shall be new and unused.

Heat trace shall be provided to prevent pipe freezing for any piping run through an unheated space.

All pumps shall have local control capability.

C605 PROPULSION SYSTEM

The Contractor shall provide and install two, identical, marine-type, diesel engines. Each engine shall be rated a minimum of 1000 bhp at rated load and speed up to 80% of the time with a 40% to 80% load factor. The operating range shall be up to 5000 hours per year.

Suitable reduction gears shall be provided. Each gear shall be rated to carry the full propulsion power both ahead and astern. Opposed shaft rotation shall be provided.

Engine/gear controls shall be pneumatic, electric/pneumatic, or electric. The installed control system shall meet the recommendations and practices of the engine, gear and control system manufacturers. Features that improve (reduce) ahead/astern shift time and engine response are desirable.

Stainless steel or nickel aluminum bronze propellers shall be provided.

A complete torsional analysis shall be performed on the propulsion drive train to verify the equipment selected meets the engine manufacturer's standard.

Channel bar or keel cooling and dry exhausts shall be provided for each engine.

C615 STEERING SYSTEM

A steering system with two steering and four flanking rudders shall be provided. Steering power shall be electric-hydraulic. Steering levers shall be provided for steering rudders and flanking rudders. Faster rudder speed (hard-over to hard-over) is desirable.

C677 FIRE EXTINGUISHING SYSTEMS

The Contractor shall provide and install a fixed carbon dioxide (CO₂) fire extinguishing system. The system shall be designed and installed in accordance with the standards set forth by the ABS rules. The system shall be set up to protect the main engine room and generator room (if separate from the main engines).

C678 FIRE DETECTION & ALARM SYSTEM

The Contractor shall provide and install all components necessary to form a complete electrical fire detection and alarm system. The electrical fire detection and alarm system provided shall meet all applicable USCG, ABS, and NFPA Rules, with all equipment being UL listed.

C685 HEATING, VENTILATION AND AIR CONDITIONING

The Contractor shall supply and install heating, air conditioning and ventilation equipment. The vessel will operate in the Nashville, Tennessee area, and therefore heating and cooling loads should be calculated based on ASHRAE data for that location. Any equipment chosen shall be able to handle those loads.

The towboat shall be supplied with a mechanical ventilation system for the machinery spaces. Other spaces will have natural ventilation. Heating and air conditioning shall be provided for the pilothouse and deckhouse forward of the machinery spaces. Additional air conditioning may be required in the pilothouse due to heat on the house top.

Heating shall be provided for the machinery spaces to prevent freezing.

C692 ALARM SYSTEM

The Contractor shall supply and install alarm systems in accordance with USCG regulations. The Contractor shall also provide and install a bilge alarm system.

C700 ELECTRICAL

C701 GENERAL REQUIREMENTS FOR ELECTRICAL SYSTEMS

An electrical power system shall be provided and installed to provide power for all of the vessel's electrical equipment. The system consists of an AC section and a DC section.

The design, construction and installation of all system components shall be suitable in all respects for marine service and the intended application. All system components shall be furnished new and unused.

Equipment shall be located and oriented as conveniently as practicable for operation and maintenance.

The system shall be complete with power distribution hardware including switchboard, distribution panels, transformers, control panels, gauges, and protective devices.

C730 LIGHTING & RECEPTACLES

In addition to lighting required by the design standards (See Clause C003), emergency lighting shall be provided in sufficient levels to provide safe egress from all interior spaces and on the exterior walkways.

C733 ELECTRICAL POWER PLANT

The Contractor shall provide and install two diesel generator sets that are fully redundant. Closed loop cooling and dry exhaust shall be provided for each diesel generator set.

C740 SWITCHBOARD & POWER CONTROL

Contractor shall provide and install a switchboard to meet ABS requirements. The switchboard shall include equipment for generator and shore power control and operation. The switchboard shall be set up to prevent paralleling between the generators and shore power.

C760 SHORE POWER

The shore power system shall be capable of accepting 480 volt AC, three phase, 60 Hz, 100 amp service.

The vessel's receptacle shall not be capable of being disengaged while under load. The shore power breaker shall not trip on reduced voltage or loss of voltage from the shore supply.

A phase sequence\loss system for shore power shall be installed in the switchboard for the shore power. The system shall consist of:

- Phase sensing relay with a correct phase light (green) and incorrect phase light (red)
- A phase rotation or reversing switch

C800 SPARE PARTS (Optional Item 0001AB)

C805 MAJOR EQUIPMENT

The Contractor shall furnish:

- 1 propeller shaft
- 1 left hand propeller
- 1 right hand propeller
- 1 propeller nut
- 1 steering rudder
- 2 flanking rudders

All items shall be delivered with the vessel.

PART I - THE SCHEDULE - SECTION E
INSPECTION AND ACCEPTANCE

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PART I - THE SCHEDULE - SECTION E
INSPECTION AND ACCEPTANCE

E01 INSPECTION

The contract will be managed by the Marine Design Center (MDC) of the U.S. Army Corps of Engineers (USACE) and is subject to inspection by its appointed representatives to ensure strict compliance with the terms of the contract. No Government Representative, except the Contracting Officer, is authorized to change any provision of the specifications, nor shall the presence or absence of a Government Representative relieve the Contractor from any requirements of the contract.

The Contractor shall provide "Safe for Workers" labels, in accordance with the OSHA regulations stated in 29 CFR 1915.11-12, for all confined and enclosed spaces prior to permitting entrance for work or inspection.

E02 LAUNCHING

The Contractor shall be responsible for the satisfactory launching of the vessel at the time and date selected and mutually agreed upon by the Contractor and the COR.

The Contractor shall provide a written notice to the COR 7 calendar days prior to the launching. Prior to launching, all painting below the main deck other than minor interior touch up must be completed.

E03 NOT USED

E04 FACILITIES & SUPPLIES FOR PERSONNEL

While it is not intended that the Marine Design Center will have a Resident Engineer's Office, the Contractor shall provide office space for use by a MDC staff of three during visits to the shipyard.

The office space shall be convenient to the work site.

The space provided shall be air conditioned, heated, ventilated, well maintained and secured, and shall be convenient to toilet facilities. The space shall be suitable for both male and female staff.

Government representatives attending the construction may bring with them radios for intra-agency communication, cameras, and various items of test equipment. The Contractor shall permit unencumbered ingress and egress to and from the shipyard and the vessel with such equipment.

Upon request, the Government representatives shall have unrestricted use of a fax machine, and photocopier.

The Contractor shall furnish an up-to date set of drawings for exclusive use of USACE personnel while in the shipyard.

E05 TESTS & TRIALS

The Contractor shall conduct trials in accordance with ABS procedures.

The trials performed for ABS, must also be performed in the presence of a Government Representative in order to demonstrate the proper installation, operation and control of the equipment installed.

The COR shall be notified in writing 7 working days in advance of the date set for testing of the vessel for trials.

The Contractor shall record all procedures and results for the trials. Upon completion of the trials, two record copies of the documentation shall be provided to the Government.

E06 FINAL INSPECTION

When all work and testing have been satisfactorily completed at the builder's yard, the Contractor and a Government representative shall make a complete physical inspection and inventory of the vessel. A "punch list" of deficiencies will be developed and presented to the Contractor for corrective action.

All corrective action required to eliminate the "punch list" deficiencies shall be completed at the Contractor's facility. The Contractor shall give the COR 7 calendar days notice prior to the desired date of reinspection.

Prior to any inspection or reinspection, the vessel and all of its equipment shall be thoroughly cleaned and all painting and finishes required to be performed by the Contractor put in first class condition.

E07 PROVISIONAL ACCEPTANCE

The vessel will be Provisionally Accepted at the builder's yard upon satisfactory completion of the following:

- Tests and trials
- Correction of all "punch list" deficiencies

Upon completion of Provisional Acceptance, the Government may choose to:

- Make Final Acceptance at the Contractor's Facility or
- Exercise optional line item 0001AC, in which case the Contractor shall deliver the vessel to the Government's Facility. See contract Section F, Clause F02.

If optional line item 0001AC is exercised by the Government, delivery of the vessel may not be started until Provision Acceptance of the vessel is made at the Contractor's Facility.

E08 FINAL ACCEPTANCE

Final Acceptance of the vessel will follow Provisional Acceptance. Final Acceptance will be at the Contractor's Facility unless optional line item 0001AC is exercised by the Government.

If optional line item 0001AC is exercised by the Government, the Contractor shall assume all costs associated with the delivery, and shall be responsible for delivering the vessel, afloat and "Ready for Service" at the delivery point designated in contract Section F, Clause F02.

At the time of Final Acceptance, the vessel will be "Ready for Service", which is defined as:

- clean inside and out
- all trash, dunnage, lashing, and delivery related material disposed of
- loose items of outfit in place
- all electrical and mechanical systems operational
- equipment properly adjusted
- instruments and electronics calibrated or aligned
- damaged paint touched up

The Contractor shall provide the necessary personnel, equipment, and materials to make the vessel "Ready for Service".

At Final Acceptance, the vessel shall be subject to a complete inspection with every space, compartment, and deck of the vessel cleaned to the satisfaction of the COR.

Any fuel remaining at the time of Final Acceptance will be purchased by the Government at the invoice price, which will be the subject of a contract modification.

E09 COMMERCIAL WARRANTY OF SUPPLIES

The Contractor shall assign, in writing, all commercial warranties for equipment provided under this contract to the Government. The effective date of all commercial warranties shall be the date of Final Acceptance.

Section E - Inspection and Acceptance

CLAUSES INCORPORATED BY FULL TEXT

52.246-2 INSPECTION OF SUPPLIES--FIXED-PRICE (AUG 1996)

- (a) Definition. "Supplies," as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering supplies under this contract and shall tender to the Government for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the Government during contract performance and for as long afterwards as the contract requires. The Government may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under the contract.
- (c) The Government has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Government shall perform inspections and tests in a manner that will not unduly delay the work. The Government assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in this contract.
- (d) If the Government performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the Government shall bear the expense of Government inspections or tests made at other than the Contractor's or subcontractor's premises; provided, that in case of rejection, the Government shall not be liable for any reduction in the value of inspection or test samples.
- (e)(1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.
- (2) The Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes reinspection or retest necessary.
- (f) The Government has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. The Government may reject nonconforming supplies with or without disposition instructions.
- (g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and, when required, shall disclose the corrective action taken.
- (h) If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Government may either (1) by contract or otherwise, remove, replace, or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a

price reduction shall be a dispute.

(i)(1) If this contract provides for the performance of Government quality assurance at source, and if requested by the Government, the Contractor shall furnish advance notification of the time (i) when Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract and (ii) when the supplies will be ready for Government inspection.

(2) The Government's request shall specify the period and method of the advance notification and the Government representative to whom it shall be furnished. Requests shall not require more than 2 workdays of advance notification if the Government representative is in residence in the Contractor's plant, nor more than 7 workdays in other instances.

(j) The Government shall accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. Government failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability on the Government, for nonconforming supplies.

(k) Inspections and tests by the Government do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.

(l) If acceptance is not conclusive for any of the reasons in paragraph (k) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right by contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby.

52.246-16 RESPONSIBILITY FOR SUPPLIES (APR 1984)

(a) Title to supplies furnished under this contract shall pass to the Government upon formal acceptance, regardless of when or where the Government takes physical possession, unless the contract specifically provides for earlier passage of title.

(b) Unless the contract specifically provides otherwise, risk of loss of or damage to supplies shall remain with the Contractor until, and shall pass to the Government upon--

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Acceptance by the Government or delivery of the supplies to the Government at the destination specified in the contract, whichever is later, if transportation is f.o.b. destination.

(c) Paragraph (b) of this section shall not apply to supplies that so fail to conform to contract requirements as to give a right of rejection. The risk of loss of or damage to such nonconforming supplies remains with the Contractor until cure or acceptance. After cure or acceptance, paragraph (b) of this section shall apply.

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PART I - THE SCHEDULE - SECTION F
DELIVERY OR PERFORMANCE

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PART I - THE SCHEDULE - SECTION F
DELIVERIES OR PERFORMANCE

F01 PERFORMANCE

FAR 52.211-8 TIME OF DELIVERY (JUN 1997)

(a) The Government requires completion of all work and delivery to be made in accordance to the following schedule:

REQUIRED DELIVERY SCHEDULE

ITEM NUMBER	DESCRIPTION	QUANTITY	WITHIN DAYS AFTER DATE OF NOTICE TO PROCEED
0001AA	ENGINEERING, CONSTRUCTION, TESTING AND ACCEPTANCE AT CONTRACTOR'S FACILITY	1 job	450 calendar days

Optional Items:

ITEM NUMBER	DESCRIPTION	QUANTITY	
0001AB	SPARE PARTS	1 lot	Same date as acceptance at the Contractor's Facility (Line Item 0001AA)
0001AC	DELIVERY TO GOVERNMENT FACILITY	1 job	90 calendar days after acceptance at the Contractor's Facility (Line Item 0001AA)

The Government will evaluate equally, as regards time of delivery, offers that propose delivery of each quantity within the applicable delivery period specified above. Offers that propose delivery that will not clearly fall within the applicable required delivery period specified above, will be considered non-responsive and rejected. The Government reserves the right to award under either the required delivery schedule or the proposed delivery schedule, when an earlier delivery schedule than required above. If the offeror proposes no other delivery schedule, the required delivery schedule above will apply.

OFFEROR'S PROPOSED DELIVERY SCHEDULE

ITEM NUMBER	DESCRIPTION	QUANTITY	WITHIN DAYS AFTER DATE OF NOTICE TO PROCEED
0001AA	ENGINEERING CONSTRUCTION, TESTING AND ACCEPTANCE AT CONTRACTOR'S FACILITY	1 job	_____ calendar days
0001AB	SPARE PARTS	1 lot	Same date as acceptance at the Contractor's Facility (Line Item 0001AA)
0001AC	DELIVERY TO GOVERNMENT FACILITY	1 job	_____ calendar days After acceptance at the Contractor's Facility (Line Item 0001AA)

(b) Attention is directed to the Contract Award provision of the solicitation that provides that a written award or acceptance of offer mailed, or otherwise furnished to the successful offeror, results in a binding contract. The Government will mail or otherwise furnish to the offeror an award or notice of award not later than one day after the award is dated. Therefore, the offeror should compute the time available for performance beginning with the actual date of Notice To Proceed rather than the date the written notice is received from the Contracting Officer through the ordinary mails. However, the Government will evaluate an offer that proposes delivery based on the Contractor's date of receipt of the contract or notice of award by adding five days for delivery of the award through the ordinary mails. If, as so computed, the offered delivery date is later than the required date, the offer will be considered non-responsive and rejected.

(End of Clause)

If the Government exercises the optional line item (0001AB), the option will be exercised within 90 days from the issuance of Notice to Proceed (NTP) with item 0001AA, Engineering, Construction, Testing and Acceptance at Contractor's Facility.

If the Government exercises the optional line item (0001AC), the option will be exercised within 7 days after the Contractor notifies the Government of the beginning of the vessel tests and trials. See contract Clause E05.

F02 PLACE OF DELIVERY

A. CONTRACTOR'S FACILITY (Option for Delivery Not Exercised)

If the Government chooses to not exercise optional line item 0001AC, the location for Final Acceptance and delivery to the Government shall be the Contractor's Facility listed in Section B of the contract. For details on Final Acceptance, see contract Clause E08.

B. GOVERNMENT'S FACILITY (Optional Line Item 0001AC Exercised)

If the Government exercises optional line item 0001AC, the Contractor shall deliver the towboat afloat and ready for service at the following location:

U.S. Army Corps of Engineers
U.S. Army Engineer District, Nashville
Old Hickory Lock and Dam
Old Hickory, Tennessee
Mile 216 Cumberland River

For details on Final Acceptance, see contract Clause E08.

F03 NOT USED

F04 LIQUIDATED DAMAGES

FAR 52.211-11 LIQUIDATED DAMAGES – SUPPLIES, SERVICES OR RESEARCH AND DEVELOPMENT

(a) If the Contractor fails to deliver the supplies or perform the services within the time specified in this contract, or any extension, the Contractor shall, in place of actual damages, pay to the Government as fixed, agreed, and liquidated damages, for each calendar day of delay the sum of:

For Line Item 0001AA;\$1950.00

(b) Alternatively, if delivery or performance is so delayed, the Government may terminate this contract in whole or in part under the Termination for Default - Fixed Price, Supply and Services clause in this contract and in that event, the Contractor shall be liable for fixed, agreed, and liquidated damages accruing until the time the Government may reasonably obtain delivery or performance of similar supplies or services. The liquidated damages shall be in addition to excess costs under the Termination clause.

(c) The Contractor shall not be charged with liquidated damages when the delay in delivery or performance arises out of causes beyond the control and without the fault or negligence of the Contractor as defined in the Termination for Default - Fixed Price, Supply and Services clause of this contract.

(End of Clause)

F05 FOB DESTINATION CLAUSE

FAR 52.247-34 F.O.B. DESTINATION (NOV 1991)

(a) The term “f.o.b. destination,” as used in this clause, means-

(1) Free of expense to the Government, on board the carrier’s conveyance, at a specified delivery point where the consignee’s facility (plant, warehouse, store, lot, or other location to which shipment can be made) is located; and

(2) Supplies shall be delivered to the destination consignee’s wharf (if destination is a port city and supplies are for export), warehouse unloading platform, or receiving dock, at the expense of the Contractor. The Government shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved before the actual delivery (or “constructive placement” as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of the Government acting in its contractual capacity. If rail carrier is used, supplies shall be delivered to the specified unloading platform of the consignee. If motor carrier (including “piggyback”) is used, supplies shall be delivered to truck tailgate at the unloading platform of the consignee, except when the supplies delivered meet the requirements of Item 568 of the National Motor Freight Classification for “heavy or bulky freight.” When supplies meeting the requirements of the referenced Item 568 are delivered, unloading (including movement to the tailgate) shall be performed by the consignee, with assistance from the truck driver, if requested. If the contractor uses rail carrier or freight forwarded for less than carload shipments, the contractor shall ensure that the carrier will furnish tailgate delivery, when required, if transfer to truck is required to complete delivery to consignee.

- (b) The Contractor shall--
- (1) (i) Pack and mark the shipment to comply with contract specifications; or
(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements;
 - (2) Prepare and distribute commercial bills of lading;
 - (3) Deliver the shipment in good order and condition to the point of delivery specified in the contract;
 - (4) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;
 - (5) Furnish a delivery schedule and designate the mode of delivering carrier; and
 - (6) Pay and bear all charges to the specified point of delivery.

(End of clause)

Section F - Deliveries or Performance

CLAUSES INCORPORATED BY REFERENCE

52.242-17 Government Delay Of Work

APR 1984

CLAUSES INCORPORATED BY FULL TEXT

52.242-15 STOP-WORK ORDER (AUG 1989)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

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

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if--

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

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

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

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

Section G – Contract Administration Data

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Section G - Contract Administration Data

G01. Accounting and Appropriation Data: To be furnished at time of award

G02. Contract Management will be performed by the Marine Design Center:

Marine Design Center (CEMDC)
U. S. Army Corps of Engineers
Wanamaker Bldg, Rm 630 South
100 Penn Square East
Philadelphia, PA 19107-3390
(215) 656-6850

G03. Payment by:

U. S. Army Corps of Engineers Finance Center
5722 Integrity Drive
Millington, TN 38054-5005

G04. Billing Address: Invoices shall be forwarded to the below address (see also Section I, Clause 252.232-7003, Electronic Submission of Payment Requests):

Marine Design Center
U. S. Army Corps of Engineers
100 Penn Square East
Wanamaker Bldg, Rm 630 South
Philadelphia, PA 19107-3390

G05. Technical Inquiries:

All technical inquiries should be directed to: Walter Czop (215) 656-6850

G06. FAR 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.

PART I - THE SCHEDULE - SECTION H
SPECIAL CONTRACT REQUIREMENTS

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PART I - THE SCHEDULE - SECTION H
SPECIAL CONTRACT REQUIREMENTS

H01 CONTRACT ORGANIZATION

Engineering, Construction, Testing and Acceptance at Contractor’s Facility is Line Item 0001AA of the contract and commences only after receipt by the Contractor of a Notice of Contract Award (Award) and a Notice To Proceed (NTP) with contract Line Item 0001AA. The Contractor is required to engineer, construct, perform test and trials, and deliver the vessel.

Failure of the Contractor to perform in the allotted time will result in the application by the Government of Liquidated Damages. See Section F, contract Clause F01.

H02 CONTRACTOR SUBMITTALS

The following is a summary of the items that the Contractor must submit during the course of this contract. All items must be received, reviewed and approved by the COR before Final Payment will be made. The following items are required:

<u>SUBMITTAL ITEM</u>	<u>CONTRACT CLAUSE REFERENCE</u>
• Construction Plan.....	H06
• Contractor’s Safety Plan	H07
• Material & Equipment Schedule.....	H10
• Purchase Orders\Specifications	H10
• Engineering & Drawings	H13
• ABS Stamped Drawings & Correspondence	H13
• As-Built Drawings	H14
• Manufacturer’s or Subcontractor’s Drawings and Manuals	H16
• Record Photographs	H18
• Test Documentation	E05
• Commercial Warranties	E09
• ABS Certificate of Classification	C004

H03 NOT USED

H04 NOT USED

H05 NOT USED

H06 CONSTRUCTION PLAN

After receipt of the Notice To Proceed with Line Item 0001AA, the Contractor shall develop and submit to the Contracting Officer's Representative the Contractor's proposed plan for the construction of the vessel.

The plan shall be prepared on a form similar to the USACE standard ENG Form 2454 (Construction Progress Chart). The ENG Form 2454 represents a simple bar chart in Government form. A copy of a similar form is included in Section J. At the Contractor's request, the Government will furnish a copy of ENG Form 2454.

The plan will be a summary level view of the contract. The plan will show the Contractor's proposed starting date, duration in weeks, ending date, and percentage completion (both as planned and as achieved) for all of the major activities of the contract. The plan shall also show the amount of the total bid price (percent and actual dollars) associated with each activity. The plan will also have the progress "S" curve plotted (both as planned and as achieved).

The activities shown on the chart shall be developed by the Contractor.

In addition, the following milestone events, as a minimum, shall be marked on the chart time-line:

- Award of Contract
- Notice to Proceed
- Design Submittal to ABS
- Tests and Trials
- Final Inspection
- Provisional Acceptance
- Final Acceptance
 - At Contractor Facility
 - Government Facility (if optional line item 0001AC exercised)

After initial submittal the plan shall be updated and submitted monthly with the Progress Payment Request if applicable.

H07 CONTRACTOR'S SAFETY PLAN

After Notice To Proceed with Line Item 0001AA, the Contractor shall submit a Safety Plan for the facility at which the work is to be performed.

The Contractor's Safety Plan shall outline the procedures used by the Contractor to ensure the safety of his employees and minimize lost-time accidents.

The Safety Plan shall identify by name and title the Contractor's Safety Officer who is responsible for enforcing the Contractor's safety rules and the Contractor's designated "Competent Person" (29 CFR 1915.7) who is responsible for testing the atmosphere in confined and enclosed spaces. In the event that the Contractor has no designated "competent person," a statement that a Marine Chemist will perform the tests and inspections that require a "competent person" shall be included with the Safety Plan, and the name of the Marine Chemist shall appear in the Safety Plan.

H08 NOT USED

H09 NOT USED

H10 MATERIALS & EQUIPMENT SCHEDULE

After Notice To Proceed with Line Item 0001AA, the Contractor shall develop a schedule of all items, including major stock materials (excluding nuts, bolts, gaskets, consumables, etc.), to be used in the construction of the vessel. The schedule shall be prepared in “spread sheet” format and contain the following information for the vessel:

- Component/equipment
- Quantity
- Vendor name and address
- Make, model, and options
- Purchase Order or Contract Number

After submittal to the COR the schedule shall be updated and submitted to the Government monthly.

Upon written approval of the schedule by the Contracting Officer’s Representative, the Contractor is authorized to proceed with procurement of all items and materials in the schedule.

Final submission to MDC shall include priced copies of all purchase orders to allow future acquisition of replacement parts and components.

H11 NOT USED

H12 NOT USED

H13 ENGINEERING & DRAWINGS

Three copies of each drawing, calculation, report, or document required for ABS certification and as required by clause C002 shall be submitted to MDC for review.

A copy of all correspondence with ABS shall be provided to the Government. ABS shall be directed to send a copy of all return correspondence to the Government. At completion of the ABS review process, the Contractor shall furnish the Government with one set of ABS "Eagle Stamped" drawings. For this purpose the Contractor shall furnish ABS with an extra set of prints.

H14 "AS-BUILT" DRAWINGS

All of the drawings, reports, and documents prepared as part of this contract shall be updated and corrected to form an "As-Built" record of the vessel. The "As-Built" drawings shall be provided to clearly show the construction details and systems of the vessel.

The Government shall have limited use of the "As-Built" drawings and documents for repair and maintenance purposes only.

The "As-Built" materials for the vessel shall be delivered as follows:

- a. Prior to Final Inspection, the Contractor shall submit one set of prints of the "As-Built" drawings for comparison to the completed vessel.
- b. Prior to Acceptance, the Contractor shall provide the following:
 - Two sets of black or blue line prints of all "As-Built" drawings.
 - Two sets of electronic files of all calculations and reports. The files shall be provided on 4-3/4 650 MB 74 min digital compact disk (CD) in Adobe Acrobat "*.pdf" file format. Each set of calculations or complete report shall be a separate electronic file with a filename that identifies the contents of the report or calculations. Compression utilities such as PKZIP® may not be used.
 - Two sets of electronic files of all CADD prepared drawings. The files shall be provided on 4-3/4 650 MB 74 min digital compact disk(CD) in AutoCAD 2000 (or newer version) drawing file format or higher. Each drawing sheet shall be a separate electronic file with a filename that identifies the type of drawing or the material contained on the drawing. Compression utilities such as PKZIP® may not be used.
- c. Each complete set of files on CD's shall be labeled, indexed in numerical order by filename furnished in protective plastic sleeves and on the CD cover sheet.
- d. Files furnished on CD's shall be encased in standard plastic jewel boxes. Slim line jewel cases will not be acceptable.

H15 NOT USED

H16 MANUFACTURER OR SUBCONTRACTOR DRAWINGS & MANUALS

For the vessel, the Contractor shall provide three complete sets of drawings and manuals for each piece of machinery and equipment provided by the Contractor; that clearly describe the operation, construction, maintenance, repair, adjustment, lubrication, parts lists and “trouble shooting” of every item of machinery and piece of equipment.

Manuals shall be in the English language with all dimensions in the foot-pound-second systems of units. Manuals shall be bound in hard covers of durable materials.

Manufacturer’s or Subcontractor’s drawings may be included in the manual but must be folded to page size.

Drawings not suitable for inclusion in the manuals must be considered as engineering and design drawings and shall be prepared and submitted in accordance with the requirements of Clause H13, Engineering & Drawings.

If photocopies (Xerox or similar) of parts lists, text, diagrams, etc., are furnished, one of the sets shall be a “Master” and must be made up of all “original” sheets and be clearly identified as the “Master” copy. Photocopies will be clear with high black/white contrast, sharp lines, full sheet reproduction, and no background shadow or clutter.

Where catalog “cut-sheets” are provided, pertinent information to the equipment or machinery provided shall be clearly shown and differentiated from other items on the sheet that are not applicable to this project.

Manuals shall be available at Final Acceptance.

H17 NOT USED

H18 RECORD PHOTOGRAPHS

A. CONSTRUCTION PROGRESS PHOTOGRAPHS

The Contractor shall provide monthly photographs deliverable in digital format. The photographs shall document the construction progress, the launching, and tests and trials of the vessel.

The photographs shall be provided via e-mail or via the Government's FTP site with e-mail notification. Photographs shall be JPG file format of at least SVGA Resolution, 24-bit color depth, and at a compression ratio no greater than 25% (75% Quality).

For the vessel, approximately 15 or 20 photographs shall be provided monthly. The quantity of photographs shall be commensurate with the level of production.

B. FINAL PHOTOGRAPHS

1. Digital Photography Requirements

For the vessel, a minimum of 30 different digital photograph interior shots showing the final condition of all deckhouse and machinery spaces of the vessel shall be provided by the Contractor. The interior shots shall be taken from different angles in each space to show the equipment arrangement and space layout. The digital photograph files for the vessel shall be provided electronically.

2. Color Film Photography Requirements

The Contractor shall furnish the services of a professional photographer to take regular color photographs of the completed vessel.

For the vessel, a minimum of 10 different exterior photographs, using color photograph film, shall be taken to include:

- a. Profile view of each side
- b. Profile view of each end
- c. Profile views of the vessel corner
- d. Plan or overhead view of the vessel

For the vessel, the Contractor shall provide one negative and ten prints for each of two exterior shots, which will be selected by the COR upon review of shipyard exterior photos. Color prints shall be 8 inch x 10 inch. (Total of 20 prints).

For the vessel, the COR shall select two shots from the exterior view photos, which shall be custom printed in 11 inches x 14 inches size, professionally mounted, double matted and framed under clear glass in suitable wooden frame. Four sets of each picture shall be furnished to the Contracting Officer's Representative (total of eight matted and framed photos), for the vessel.

H19 GOVERNMENT PROPERTY

All Government-Furnished equipment and equipment for which the Government has made payment or partial payment shall be considered Government Property.

The Contractor shall accept all risk for Government property in his possession.

The Contractor shall maintain an inventory of all Government Property, update and submit the inventory monthly.

All Government Property shall be stored in enclosed, weather tight secure, warehouse buildings. Security shall consist of restricted access, locked and fenced storage. Warehouse buildings shall be heated above freezing and ventilated to prevent condensation or sweating.

H20 PROGRESS PAYMENT BASED ON PERCENTAGE OR STAGE OF COMPLETION

The Government shall pay the Contractor the contract price as provided in this contract.

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 standards of quality established under the contract, as accepted by the Contracting Officer. If requested by the Contracting Officer, the Contractor shall furnish a breakdown of the total contract price showing the amount included therein for each principal category of work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates, the Contracting Officer may authorize payment for material delivered to the site and at locations other than the site may also be taken into consideration if---

- Consideration is specifically authorized by this contract; and
- The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

If the Contracting Officer finds that satisfactory progress was achieved during any period for which 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 fifteen percent (15%) 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 remaining withheld funds.

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 considered as---

- 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
- Waiving the right of the Government to require the fulfillment of all of the terms of the contract.

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 co-insurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provision preceding shall not apply to that portion of progress payments attributed to bond premiums.

The Government shall pay the amount due the Contractor under this contract after---

- Completion and acceptance of all work; and
- Presentation of a properly executed voucher.

Notwithstanding any other provision of this contract, progress payments shall not exceed eighty percent (80%) 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.

Section I - Contract Clauses

CLAUSES INCORPORATED BY REFERENCE

52.211-5	Material Requirements	AUG 2000
52.215-2	Audit and Records--Negotiation	JUN 1999
52.215-11	Price Reduction for Defective Cost or Pricing Data-- Modifications	OCT 1997
52.215-13	Subcontractor Cost or Pricing Data--Modifications	OCT 1997
52.215-15	Pension Adjustments and Asset Reversions	JAN 2004
52.215-21	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data--Modifications	OCT 1997
52.219-4	Notice of Price Evaluation Preference for HUBZone Small Business Concerns	JAN 1999
52.219-8	Utilization of Small Business Concerns	OCT 2000
52.222-19	Child Labor -- Cooperation with Authorities and Remedies	JAN 2004
52.222-20	Walsh-Healey Public Contracts Act	DEC 1996
52.222-21	Prohibition Of Segregated Facilities	FEB 1999
52.222-26	Equal Opportunity	APR 2002
52.222-35	Equal Opportunity For Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	DEC 2001
52.222-36	Affirmative Action For Workers With Disabilities	JUN 1998
52.222-37	Employment Reports On Special Disabled Veterans, Veterans Of The Vietnam Era, and Other Eligible Veterans	DEC 2001
52.223-14	Toxic Chemical Release Reporting	AUG 2003
52.226-1	Utilization Of Indian Organizations And Indian-Owned Economic Enterprises	JUN 2000
52.227-1	Authorization and Consent	JUL 1995
52.227-2	Notice And Assistance Regarding Patent And Copyright Infringement	AUG 1996
52.229-3	Federal, State And Local Taxes	APR 2003
52.232-1	Payments	APR 1984
52.232-8	Discounts For Prompt Payment	FEB 2002
52.232-9	Limitation On Withholding Of Payments	APR 1984
52.232-23 Alt I	Assignment of Claims (Jan 1986) - Alternate I	APR 1984
52.232-25	Prompt Payment	OCT 2003
52.233-1	Disputes	JUL 2002
52.233-3	Protest After Award	AUG 1996
52.242-13	Bankruptcy	JUL 1995
52.243-1	Changes--Fixed Price	AUG 1987
52.244-6	Subcontracts for Commercial Items	APR 2003
52.246-23	Limitation Of Liability	FEB 1997
52.249-2	Termination For Convenience Of The Government (Fixed- Price)	SEP 1996
52.253-1	Computer Generated Forms	JAN 1991
252.203-7001	Prohibition On Persons Convicted of Fraud or Other Defense- Contract-Related Felonies	MAR 1999
252.204-7003	Control Of Government Personnel Work Product	APR 1992
252.209-7004	Subcontracting With Firms That Are Owned or Controlled By The Government of a Terrorist Country	MAR 1998
252.215-7000	Pricing Adjustments	DEC 1991
252.223-7004	Drug Free Work Force	SEP 1988
252.225-7001	Buy American Act And Balance Of Payments Program	APR 2003
252.225-7002	Qualifying Country Sources As Subcontractors	APR 2003
252.225-7012	Preference For Certain Domestic Commodities	FEB 2003

252.225-7013	Duty-Free Entry	JAN 2004
252.227-7033	Rights in Shop Drawings	APR 1966
252.243-7001	Pricing Of Contract Modifications	DEC 1991
252.243-7002	Requests for Equitable Adjustment	MAR 1998
252.247-7023	Transportation of Supplies by Sea	MAY 2002
252.247-7024	Notification Of Transportation Of Supplies By Sea	MAR 2000

CLAUSES INCORPORATED BY FULL TEXT

52.202-1 DEFINITIONS (DEC 2001)

(a) Agency head or head of the agency means the Secretary (Attorney General, Administrator, Governor, Chairperson, or other chief official, as appropriate) of the agency, unless otherwise indicated, including any deputy or assistant chief official of the executive agency.

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

(c) Commercial item means--

(1) Any item, other than real property, that is of a type customarily used by the general public or by non-governmental entities for purposes other than governmental purposes, and that--

(i) Has been sold, leased, or licensed to the general public; or

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

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

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

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

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

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

(5) Installation services, maintenance services, repair services, training services, and other services if--

(i) Such services are procured for support of an item referred to in paragraph (c)(1), (2), (3), or (4) of this definition, regardless of whether such services are provided by the same source or at the same time as the item; and

(ii) The source of such services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government;

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

(i) Catalog price means a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or vendor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public; and

(ii) Market prices means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors.

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

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

(d) Component means any item supplied to the Government as part of an end item or of another component, except that for use in 52.225-9, and 52.225-11 see the definitions in 52.225-9(a) and 52.225-11(a).

(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) Nondevelopmental item means--

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

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

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

(g) "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.

(h) 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.

52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)

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

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

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

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 2003)

(a) Definitions.

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

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

(1) The awarding of any Federal contract.

(2) The making of any Federal grant.

(3) The making of any Federal loan.

(4) The entering into of any cooperative agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

"Regularly employed," as used in this clause, means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency

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

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

(b) Prohibitions.

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

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

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

(i) Agency and legislative liaison by own employees.

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

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

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

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

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

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

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

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

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

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

(ii) Professional and technical services.

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

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

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

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

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

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

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

(c) Disclosure.

(1) The Contractor who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, OMB standard form LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal

action), which would be prohibited under subparagraph (b)(1) of this clause, if paid for with appropriated funds.

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

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

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

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

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

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

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

(e) Penalties.

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

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

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

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

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

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

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

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

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

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

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

(1) Postconsumer fiber; and

(2) Manufacturing wastes such as--

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

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

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

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

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.

52.215-8 ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT (OCT 1997)

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

- (a) The Schedule (excluding the specifications).
- (b) Representations and other instructions.
- (c) Contract clauses.
- (d) Other documents, exhibits, and attachments.
- (e) The specifications.

52.215-14 INTEGRITY OF UNIT PRICES (OCT 1997)

(a) Any proposal submitted for the negotiation of prices for items of supplies shall distribute costs within contracts on a basis that ensures that unit prices are in proportion to the items' base cost (e.g., manufacturing or acquisition costs). Any method of distributing costs to line items that distorts unit prices shall not be used. For example, distributing costs equally among line items is not acceptable except when there is little or no variation in base cost. Nothing in this paragraph requires submission of cost or pricing data not otherwise required by law or regulation.

(b) When requested by the Contracting Officer, the Offeror/Contractor shall also identify those supplies that it will not manufacture or to which it will not contribute significant value.

The Contractor shall insert the substance of this clause, less paragraph (b), in all subcontracts for other than: acquisitions at or below the simplified acquisition threshold in FAR Part 2; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)

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

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

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

(b) The Contractor shall--

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

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

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

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

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

52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2002)

(a) This clause does not apply to small business concerns.

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

Commercial item means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

Commercial plan means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

Individual contract plan means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

Master plan means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

Subcontract means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting

Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of--

(i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns;

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to HUBZone small business concerns;

(v) Total dollars planned to be subcontracted to small disadvantaged business concerns; and

(vi) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to--

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) HUBZone small business concerns;

(iv) Small disadvantaged business concerns; and

(v) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration (SBA), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in PRO-Net as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of PRO-Net as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with—

- (i) Small business concerns;
- (ii) Veteran-owned small business concerns;
- (iii) HUBZone small business concerns;
- (iv) Small disadvantaged business concerns; and
- (v) Women-owned small business concerns.

(7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, HUBZone small business, small disadvantaged business and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility) to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the offeror will--

- (i) Cooperate in any studies or surveys as may be required;
- (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
- (iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with paragraph (j) of this clause. The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, small disadvantaged business concerns, women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with the instructions on the forms or as provided in agency regulations.
- (iv) Ensure that its subcontractors agree to submit SF 294 and SF 295.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated)

- (i) Source lists (e.g., PRO-Net), guides, and other data that identify small business, veteran-owner small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.
- (ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.
- (iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating--

- (A) Whether small business concerns were solicited and, if not, why not;
 - (B) Whether veteran-owned small business concerns were solicited and, if not, why not;
 - (C) Whether HUBZone small business concerns were solicited and, if not, why not;
 - (D) Whether small disadvantaged business concerns were solicited and, if not, why not;
 - (E) Whether women-owned small business concerns were solicited and, if not, why not; and
 - (F) If applicable, the reason award was not made to a small business concern.
- (iv) Records of any outreach efforts to contact--
- (A) Trade associations;
 - (B) Business development organizations;
 - (C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and
 - (D) Veterans service organizations.
- (v) Records of internal guidance and encouragement provided to buyers through--
- (A) Workshops, seminars, training, etc.; and
 - (B) Monitoring performance to evaluate compliance with the program's requirements.
- (vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.
- (e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:
- (1) Assist small business, veteran-owner small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owner small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.
 - (2) Provide adequate and timely consideration of the potentialities of small business, veteran-owner small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.
 - (3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owner small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.
 - (4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owner small business, HUBZone small, small disadvantaged, or women-owned

small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided--

(1) the master plan has been approved, (2) the offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer, and (3) goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Commercial plans are also preferred for subcontractors that provide commercial items under a prime contract, whether or not the prime contractor is supplying a commercial item.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization Of Small Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

(j) The Contractor shall submit the following reports:

(1) Standard Form 294, Subcontracting Report for Individual Contracts. This report shall be submitted to the Contracting Officer semiannually and at contract completion. The report covers subcontract award data related to this contract. This report is not required for commercial plans.

(2) Standard Form 295, Summary Subcontract Report. This report encompasses all of the contracts with the awarding agency. It must be submitted semi-annually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

52.219-16 LIQUIDATED DAMAGES-SUBCONTRACTING PLAN (JAN 1999)

(a) Failure to make a good faith effort to comply with the subcontracting plan, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c)

of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

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.

52.228-1 Bid Guarantee (Sep 1996)

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

(b) The bidder shall furnish a bid guarantee in the form of a firm commitment, *e.g.*, bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds --

- (1) To unsuccessful bidders as soon as practicable after the opening of bids; and
- (2) To the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.

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

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

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

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.

** SEE NOTE IMMEDIATELY FOLLOWING CLAUSE 52.228-16 **

52.228-16 PERFORMANCE AND PAYMENT BONDS--OTHER THAN CONSTRUCTION (JUL 2000)

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

Original contract price means the award price of the contract or, for requirements contracts, the price payable for the estimated quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

(b) The Contractor shall furnish a performance bond (Standard Form 1418) for the protection of the Government in an amount equal to 100 percent of the original contract price and a payment bond (Standard Form 1416) in an amount equal to 100 percent of the original contract price.

(c) The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within 10 calendar days from receipt of notice of award, but in any event, before starting work.

(d) The Government may require additional performance and payment bond protection if the contract price is increased. The Government may secure the additional protection by directing the Contractor to increase the penal amount of the existing bonds or to obtain additional bonds.

(e) 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.

NOTE TO OFFERORS: Bonding is not required if an offeror chooses to finance the entire contract by not receiving payment until Final Acceptance of the vessel at destination. Offerors are required to annotate the following blocks as applicable:

Bonding will be provided: _____

Bonding will not be required (contractor will finance contract) _____

52.232-11 EXTRAS (APR 1984)

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefore have been authorized in writing by the Contracting Officer.

52.246-1 CONTRACTOR INSPECTION REQUIREMENTS (APR 1984)

The Contractor is responsible for performing or having performed all inspections and tests necessary to substantiate that the supplies or services furnished under this contract conform to contract requirements, including any applicable technical requirements for specified manufacturers' parts. This clause takes precedence over any Government inspection and testing required in the contract's specifications, except for specialized inspections or tests specified to be performed solely by the Government.

52.246-18 WARRANTY OF SUPPLIES OF A COMPLEX NATURE (MAY 2001)

(a) Definitions.

"Acceptance," as used in this clause, means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services rendered, as partial or complete performance of the contract.

"Correction," as used in this clause, means the elimination of a defect.

"Supplies," as used in this clause, means the end items furnished by the Contractor and related services required under this contract. The word does not include "data."

(b) Contractor's obligations. (1) The Contractor warrants that for 365 calendar days after final acceptance, all supplies furnished under this contract will be free from defects in material and workmanship and will conform with all requirements of this contract; provided, however, that with respect to Government-furnished property, the Contractor's warranty shall extend only to its proper installation, unless the Contractor performs some modification or other work on the property, in which case the Contractor's warranty shall extend to the modification or other work.

(2) Any supplies or parts thereof corrected or furnished in replacement shall be subject to the conditions of this clause to the same extent as supplies initially delivered. This warranty shall be equal in duration to that set forth in paragraph (b)(1) of this clause and shall run from the date of delivery of the corrected or replaced supplies.

(3) The Contractor shall not be obligated to correct or replace supplies if the facilities, tooling, drawings, or other equipment or supplies necessary to accomplish the correction or replacement have been made unavailable to the Contractor by action of the Government. In the event that correction or replacement has been directed, the Contractor shall promptly notify the Contracting Officer, in writing, of the nonavailability.

(4) The Contractor shall also prepare and furnish to the Government data and reports applicable to any correction required (including revision and updating of all affected data called for under this contract) at no increase in the contract price.

(5) When supplies are returned to the Contractor, the Contractor shall bear the transportation costs from the place of delivery specified in the contract (irrespective of the f.o.b. point or the point of acceptance) to the Contractor's plant and return.

(6) All implied warranties of merchantability and "fitness for a particular purpose" are excluded from any obligation contained in this contract.

(c) Remedies available to the Government. (1) In the event of a breach of the Contractor's warranty in paragraph (b)(1) of this clause, the Government may, at no increase in contract price--

(i) Require the Contractor, at the place of delivery specified in the contract (irrespective of the f.o.b. point or the point of acceptance) or at the Contractor's plant, to repair or replace, at the Contractor's election, defective or nonconforming supplies; or

(ii) Require the Contractor to furnish at the Contractor's plant the materials or parts and installation instructions required to successfully accomplish the correction.

(2) If the Contracting Officer does not require correction or replacement of defective or nonconforming supplies or the Contractor is not obligated to correct or replace under paragraph (b)(3) of this clause, the Government shall be entitled to an equitable reduction in the contract price.

(3) The Contracting Officer shall notify the Contractor in writing of any breach of the warranty in paragraph (b) of this clause within 30 days after discovery of the defect. The Contractor shall submit to the Contracting Officer a written recommendation within 10 calendar days as to the corrective action required to remedy the breach. After the notice of breach, but not later than 15 calendar days after receipt of the Contractor's recommendation for corrective action, the Contracting Officer may, in writing, direct correction or replacement as in paragraph (c)(1) of this clause, and the Contractor shall, notwithstanding any disagreement regarding the existence of a breach of warranty, comply with this direction. If it is later determined that the Contractor did not breach the warranty in paragraph (b)(1) of this clause, the contract price will be equitably adjusted.

(4) If supplies are corrected or replaced, the period for notification of a breach of the Contractor's warranty in paragraph (c)(3) of this clause shall be 30 calendar days from the furnishing or return by the Contractor to the Government of the corrected or replaced supplies or parts thereof, or, if correction or replacement is effected by the Contractor at a Government or other activity, for 30 calendar days thereafter.

(5) The rights and remedies of the Government provided in this clause are in addition to and do not limit any rights afforded to the Government by any other clause of the contract.

52.248-1 VALUE ENGINEERING (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 net acquisition savings realized from accepted VECP's, in accordance with the incentive sharing rates in paragraph (f) below.

(b) Definitions. "Acquisition savings," as used in this clause, means savings resulting from the application of a VECP to contracts awarded by the same contracting office or its successor for essentially the same unit. Acquisition savings include--

- (1) Instant contract savings, which are the net cost reductions on this, the instant contract, and which are equal to the instant unit cost reduction multiplied by the number of instant contract units affected by the VECP, less the Contractor's allowable development and implementation costs;
- (2) Concurrent contract savings, which are net reductions in the prices of other contracts that are definitized and ongoing at the time the VECP is accepted; and
- (3) Future contract savings, which are the product of the future unit cost reduction multiplied by the number of future contract units in the sharing base. On an instant contract, future contract savings include savings on increases in quantities after VECP acceptance that are due to contract modifications, exercise of options, additional orders, and funding of subsequent year requirements on a multiyear contract.

"Collateral costs," as used in this clause, means agency cost 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.

"Contracting office" includes any contracting office that the acquisition is transferred to, such as another branch of the agency or another agency's office that is performing a joint acquisition action.

"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.

"Future unit cost reduction," as used in this clause, means the instant unit cost reduction adjusted as the Contracting Officer considers necessary for projected learning or changes in quantity during the sharing period. It is calculated at the time the VECP is accepted and applies either (1) throughout the sharing period, unless the Contracting Officer decides that recalculation is necessary because conditions are significantly different from those previously anticipated or (2) to the calculation of a lump-sum payment, which cannot later be revised.

"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 logistics support. The term does not include the normal administrative costs of processing the VECP or any increase in this contract's cost or price resulting from negative instant contract savings.

"Instant contract," as used in this clause, means this contract, under which the VECP is submitted. It does not include increases in quantities after acceptance of the VECP that are due to contract modifications, exercise of options, or additional orders. If this is a multiyear contract, the term does not include quantities funded after VECP acceptance. If this contract is a fixed-price contract with prospective price redetermination, the term refers to the period for which firm prices have been established.

"Instant unit cost reduction" means the amount of the decrease in unit cost of performance (without deducting any Contractor's development or implementation costs) resulting from using the VECP on this, the instant contract. If this is a service contract, the instant unit cost reduction is normally equal to the number of hours per line-item task saved by using the VECP on this contract, multiplied by the appropriate contract labor rate.

"Negative instant contract savings" means the increase in the cost or price of this contract when the acceptance of a VECP results in an excess of the Contractor's allowable development and implementation costs over the product of the instant unit cost reduction multiplied by the number of instant contract units affected.

"Net acquisition savings" means total acquisition savings, including instant, concurrent, and future contract savings, less Government costs.

"Sharing base," as used in this clause, means the number of affected end items on contracts of the contracting office accepting the VECP.

Sharing period, as used in this clause, means the period beginning with acceptance of the first unit incorporating the VECP and ending at a calendar date or event determined by the contracting officer for each VECP.

"Unit," as used in this clause, means the item or task to which the Contracting Officer and the Contractor agree the VECP applies.

"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 overall projected cost to the agency without impairing essential functions or characteristics; provided, that it does not involve a change--
 - (i) In deliverable end item quantities only;
 - (ii) In research and development (R&D) end items or R&D test quantities that is due solely to results of previous testing under this contract; or
 - (iii) 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 (8) 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 the proposed requirement, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, the effect of the change on the end item's performance, and any pertinent objective test data.
 - (2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.
 - (3) Identification of the unit to which the VECP applies.
 - (4) 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 the Subcontracts paragraph of this clause, below.
 - (5) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.
 - (6) A prediction of any effects the proposed change would have on collateral costs to the agency.
 - (7) 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.

(8) 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 Contracting Officer, unless this contract states otherwise. If this contract is administered by other than the contracting office, the Contractor shall submit a copy of the VECP simultaneously to the Contracting Officer and to the Administrative 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 and made either before or within a reasonable time after contract performance is completed. Until such a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.

(f) Sharing rates. If a VECP is accepted, the Contractor shall share in net acquisition savings according to the percentages shown in the table below. The percentage paid the Contractor depends upon (1) this contract's type (fixed-price, incentive, or cost-reimbursement), (2) the sharing arrangement specified in paragraph (a) above (incentive, program requirement, or a combination as delineated in the Schedule), and (3) the source of the savings (the instant contract, or concurrent and future contracts), as follows:

CONTRACTOR'S SHARE OF NET ACQUISITION SAVINGS

(Figures in percent)

Contract Type	Incentive (Voluntary)		Program Requirement (Mandatory)	
	Instant Contract Rate	Concurrent and Future Contract Rate	Instant Contract Rate	Concurrent and Future Contract Rate
Fixed-price (includes fixed-price-award-fee; excludes other fixed-price incentive contracts)	(1) 50	(1) 50	(1) 25	25
Incentive (fixed-price or cost) (other than award fee)	(2)	(1) 50	(1) 50	25
Cost-reimbursement (includes cost-plus-award-fee; excludes other	(3) 25	(3)	15	15

cost-type incentive Contracts)				
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- (1) The Contracting Officer may increase the Contractor's sharing rate to as high as 75 percent for each VECP.
- (2) Same sharing arrangement as the contract's profit or fee adjustment formula.
- (3) The Contracting Officer may increase the Contractor's sharing rate to as high as 50 percent for each VECP.

(g) Calculating net acquisition savings.

(1) Acquisition savings are realized when (i) the cost or price is reduced on the instant contract, (ii) reductions are negotiated in concurrent contracts, (iii) future contracts are awarded, or (iv) agreement is reached on a lump-sum payment for future contract savings (see subparagraph (i)(4) below). Net acquisition savings are first realized, and the Contractor shall be paid a share, when Government costs and any negative instant contract savings have been fully offset against acquisition savings.

(2) Except in incentive contracts, Government costs and any price or cost increases resulting from negative instant contract savings shall be offset against acquisition savings each time such savings are realized until they are fully offset. Then, the Contractor's share is calculated by multiplying net acquisition savings by the appropriate Contractor's percentage sharing rate (see paragraph (f) above). Additional Contractor shares of net acquisition savings shall be paid to the Contractor at the time realized.

(3) If this is an incentive contract, recovery of Government costs on the instant contract shall be deferred and offset against concurrent and future contract savings. The Contractor shall share through the contract incentive structure in savings on the instant contract items affected. Any negative instant contract savings shall be added to the target cost or to the target price and ceiling price, and the amount shall be offset against concurrent and future contract savings.

(4) If the Government does not receive and accept all items on which it paid the Contractor's share, the Contractor shall reimburse the Government for the proportionate share of these payments.

(h) Contract adjustment. The modification accepting the VECP (or a subsequent modification issued as soon as possible after any negotiations are completed) shall--

(1) Reduce the contract price or estimated cost by the amount of instant contract savings, unless this is an incentive contract;

(2) When the amount of instant contract savings is negative, increase the contract price, target price and ceiling price, target cost, or estimated cost by that amount;

(3) Specify the Contractor's dollar share per unit on future contracts, or provide the lump-sum payment;

(4) Specify the amount of any Government costs or negative instant contract savings to be offset in determining net acquisition savings realized from concurrent or future contract savings; and

(5) Provide the Contractor's share of any net acquisition savings under the instant contract in accordance with the following:

(i) Fixed-price contracts--add to contract price.

(ii) Cost-reimbursement contracts--add to contract fee.

(i) Concurrent and future contract savings.

- (1) Payments of the Contractor's share of concurrent and future contract savings shall be made by a modification to the instant contract in accordance with subparagraph (h)(5) above. For incentive contracts, shares shall be added as a separate firm-fixed-price line item on the instant contract. The Contractor shall maintain records adequate to identify the first delivered unit for 3 years after final payment under this contract.
- (2) The Contracting Officer shall calculate the Contractor's share of concurrent contract savings by (i) subtracting from the reduction in price negotiated on the concurrent contract any Government costs or negative instant contract savings not yet offset and (ii) multiplying the result by the Contractor's sharing rate.
- (3) The Contracting Officer shall calculate the Contractor's share of future contract savings by (i) multiplying the future unit cost reduction by the number of future contract units scheduled for delivery during the sharing period, (ii) subtracting any Government costs or negative instant contract savings not yet offset, and (iii) multiplying the result by the Contractor's sharing rate.
- (4) When the Government wishes and the Contractor agrees, the Contractor's share of future contract savings may be paid in a single lump sum rather than in a series of payments over time as future contracts are awarded. Under this alternate procedure, the future contract savings may be calculated when the VECP is accepted, on the basis of the Contracting Officer's forecast of the number of units that will be delivered during the sharing period. The Contractor's share shall be included in a modification to this contract (see subparagraph (h)(3) above) and shall not be subject to subsequent adjustment.
- (5) Alternate no-cost settlement method. When, in accordance with subsection 48.104-4 of the Federal Acquisition Regulation, the Government and the Contractor mutually agree to use the no-cost settlement method, the following applies:
- (i) The Contractor will keep all the savings on the instant contract and on its concurrent contracts only.
 - (ii) The Government will keep all the savings resulting from concurrent contracts placed on other sources, savings from all future contracts, and all collateral savings.
 - (j) 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.
 - (k) Relationship to other incentives. Only those benefits of an accepted VECP not rewardable under performance, design-to-cost (production unit cost, operating and support costs, reliability and maintainability), or similar incentives shall be rewarded under this clause. However, the targets of such incentives affected by the VECP shall not be adjusted because of VECP acceptance. If this contract specifies targets but provides no incentive to surpass them, the value engineering sharing shall apply only to the amount of achievement better than target.
 - (l) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of \$100,000 or more and may include one in subcontracts of lesser value. In calculating any adjustment in this contract's price for instant contract savings (or negative instant contract savings), the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs, and any value engineering incentive payments to a subcontractor, clearly resulting from a VECP accepted by the Government under this contract. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that the payments shall not reduce the Government's share of concurrent or future contract savings or collateral savings.

(m) 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 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.)

52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984)

(a)(1) The Government may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to--

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see subparagraph (a)(2) of this clause); or

(iii) Perform any of the other provisions of this contract (but see subparagraph (a)(2) below).

(2) The Government's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Government for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information,

and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(h) 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.

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

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

<http://farsite.hill.af.mil>

252.219-7003 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS) (APR. 1996)

This clause supplements the Federal Acquisition Regulation 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, clause of this contract.

(a) *Definitions. Historically black colleges and universities*, as used in this clause, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. The term also means any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

Minority institutions, as used in this clause, means institutions meeting the requirements of section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)). The term also includes Hispanic-serving institutions as defined in section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

(b) Except for company or division-wide commercial items subcontracting plans, the term *small disadvantaged business*, when used in the FAR 52.219-9 clause, includes historically black colleges and universities and minority institutions, in addition to small disadvantaged business concerns.

(c) Work under the contract or its subcontracts shall be credited toward meeting the small disadvantaged business concern goal required by paragraph (d) of the FAR 52.219-9 clause when:

(1) It is performed on Indian lands or in joint venture with an Indian tribe or a tribally-owned corporation, and

(2) It meets the requirements of 10 U.S.C. 2323a.

(d) Subcontracts awarded to workshops approved by the Committee for Purchase from People Who are Blind or Severely Disabled (41 U.S.C. 46-48), may be counted toward the Contractor's small business subcontracting goal.

(e) A mentor firm, under the Pilot Mentor-Protege Program established under Section 831 of Pub. L. 101-510, as amended, may count toward its small disadvantaged business goal, subcontracts awarded--

(f) The master plan approval referred to in paragraph (f) of the FAR 52.219-9 clause is approval by the Contractor's cognizant contract administration activity.

(g) In those subcontracting plans which specifically identify small, small disadvantaged, and women-owned small businesses, the Contractor shall notify the Administrative Contracting Officer of any substitutions of firms that are not small, small disadvantaged, or women-owned small businesses for the firms listed in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

252.232-7003 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (JAN 2004)

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

(1) Contract financing payment and invoice payment have the meanings given in section 32.001 of the Federal Acquisition Regulation.

(2) Electronic form means any automated system that transmits information electronically from the initiating system to all affected systems. Facsimile, e-mail, and scanned documents are not acceptable electronic forms for submission of payment requests. However, scanned documents are acceptable when they are part of a submission of a payment request made using one of the electronic forms provided for in paragraph (b) of this clause.

(3) Payment request means any request for contract financing payment or invoice payment submitted by the Contractor under this contract.

(b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests using one of the following electronic forms:

(1) Wide Area WorkFlow-Receipt and Acceptance (WAWF-RA). Information regarding WAWF-RA is available on the Internet at <https://wawf.eb.mil>.

(2) Web Invoicing System (WInS). Information regarding WInS is available on the Internet at <https://ecweb.dfas.mil>.

(3) American National Standards Institute (ANSI) X.12 electronic data interchange (EDI) formats.

(i) Information regarding EDI formats is available on the Internet at <http://www.X12.org>.

(ii) EDI implementation guides are available on the Internet at <http://www.dfas.mil/ecedi>.

(4) Another electronic form authorized by the Contracting Officer.

(c) If the Contractor is unable to submit a payment request in electronic form, or DoD is unable to receive a payment request in electronic form, the Contractor shall submit the payment request using a method mutually agreed to by the Contractor, the Contracting Officer, the contract administration office, and the payment office.

(d) In addition to the requirements of this clause, the Contractor shall meet the requirements of the appropriate payment clauses in this contract when submitting payments requests.

PART III
LIST OF DOCS, EXHIBITS AND ATTACHMENTS
SECTION J

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PART III
LIST OF DOCS, EXHIBITS AND ATTACHMENTS
SECTION J

J01 NOT USED

J02 SMALL, HUBZONE SMALL, SMALL DISADVANTAGED & WOMEN-OWNED
SMALL BUSINESS SUBCONTRACTING PLAN

See the following pages for the subcontracting plan.

SMALL, HUBZONE SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS
SUBCONTRACTING PLAN

DATE: _____

CONTRACTOR: _____
ADDRESS: _____
SOLICITATION OR CONTRACT NUMBER: _____
ITEM/SERVICE: _____

The following, together with any attachments, is hereby submitted as a Subcontracting Plan to satisfy the applicable requirements of Public Law 95-507 as implemented by OFPP Policy Letter 80-2.

1. (a) The following percentage goals (expressed in terms of a percentage of total planned subcontracting dollars) are applicable to the contract cited above or to the contract awarded under the solicitation cited.

(i) Small Business Concerns: _____% of total planned subcontracting dollars under this contract will go to subcontractors who are small business concerns.

(ii) HUBZone Small Business Concerns: _____% of total planned subcontracting dollars under this contract will go to subcontractors who are small business concerns located in a historically underutilized business zone which is an area located within one or more qualified census tracts, qualified nonmetropolitan counties, or lands within the external boundaries of an Indian reservation and appear on the List of Qualified HUBZone Small Business Concerns maintained by the SBA. (<http://www.sba.gov/hubzone/>).

(iii) Small Disadvantaged Business Concerns: _____% of total planned subcontracting dollars under this contract will go to subcontractors who are small concerns owned and controlled by socially and economically disadvantaged individuals. This percentage is included in the percentage shown under 1.(a)(i) above, as a subset.

(iv) Women-Owned Small Business Concerns: _____% of total planned subcontracting dollars under this contract will go to subcontractors who are women-owned small business concerns. This percentage is included in the percentage shown under 1.(a)(i) above, as a subset.

(b) The following dollar values correspond to the percentage goals shown in (a) above.

(i) Total dollars planned to be subcontracted to small business concerns:
\$ _____.

(ii) Total dollars planned to be subcontracted to HUBZone small business concerns:
\$ _____.

(iii) Total dollars planned to be subcontracted to small disadvantaged business concerns: \$ _____ -
_____. This dollar amount is included in the amount shown under 1.(b)(i) above, as a subset.

(iv) Total dollars planned to be subcontracted to women-owned small business concerns:
\$ _____. This dollar amount is included in the amount shown under 1.(b)(i) above, as a subset.

(c) The total estimated dollar value of all planned subcontracting (to all types of business concerns) under this contract is \$ _____.

(d) The following principal products and/or services will be subcontracted under this contract, and the distribution among small, HUBZone small business, small disadvantaged, and women-owned small business concerns is as follows:

(Products/services planned to be subcontracted to small business concerns are identified by *, to HUBZone small business concerns by **, to small disadvantaged business concerns by *** and women-owned small business concerns by ****)

(Attachment may be used if additional space is required)

(e) The following method was used in developing subcontract goals (i.e., statement explaining how the product and service areas to be subcontracted were established, how the areas to be subcontracted to small, HUBZone small, small disadvantaged, and women-owned small business concerns were determined, and how small, HUBZone small, small disadvantaged, and women-owned small business concerns capabilities were determined, to include identification of source lists utilized in making those determination).

(f) Indirect and over head costs [_____] have [_____] have not been included in the goals specified in 1(a) and 1(b).

(g) If “have” is checked, explain the method used in determining the proportionate share of indirect and overhead cost to be allocated as subcontracts to small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

2. The following individual will administer the subcontracting program:

Name: _____
Address & Telephone: _____
Telephone: _____

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

General overall responsibility for this company’s Small Business Program, the development, preparation and execution of individual subcontracting plans and for monitoring performance relative to contractual subcontracting requirements contained in this plan, including but not limited to:

(a) Developing and maintaining bidders lists of small, HUBZone small, small disadvantaged, and women-owned small business concerns from all possible sources.

(b) Ensuring that procurement packages are structured to permit small, HUBZone small, small disadvantaged, and women-owned business concerns to participate to the maximum extent possible.

(c) Assuring inclusion of small, HUBZone small, small disadvantaged, and women-owned business concerns in all solicitations for products or services which they are capable of providing.

(d) Reviewing solicitations to remove statements, clauses, etc., which may tend to restrict or prohibit small, HUBZone small, small disadvantaged, and women-owned business participation.

- (e) Ensuring periodic rotation of potential subcontractors on bidders lists.
- (f) Ensuring that the bid proposal review board documents its reasons for rejecting low bids submitted by small, HUBZone small, small disadvantaged, and women-owned business concerns.
- (g) Ensuring the establishment and maintenance of records of solicitations and subcontract award activity.
- (h) Attending or arranging for attendance of company counselors at Business Opportunity Workshops, Minority Business Enterprise Seminars, Trade Fairs, etc.
- (i) Conducting or arranging for conduct of motivational training for purchasing personnel pursuant to the intent of P.O. 95-507.
- (j) Monitoring attainment of proposed goals.
- (k) Preparing and submitting periodic subcontracting reports required.
- (l) Coordinating contractor's activities during the conduct of compliance reviews by Federal Agencies.
- (m) Coordinating the conduct of contractor's activities involving its small, HUBZone small, small disadvantaged, and women-owned business subcontracting program.
- (n) Additions to (or deletions from) the duties specified above are as follows:

3. The following efforts will be taken to assure that small, HUBZone, small, small disadvantaged, and women-owned business concerns will have an equitable opportunity to compete for subcontracts:

- (a) Outreach efforts will be made as follows:
 - (i) Contacts with minority and small business trade associations
 - (ii) Contacts with business development organizations
 - (iii) Attendance at small and minority business procurement conferences
 - (iv) Sources will be requested from SBA's PASS system.
- (b) The following internal efforts will be made to guide and encourage buyers:
 - (i) Workshops, seminars and training programs will be conducted
 - (ii) Activities will be monitored to evaluate compliance with this subcontracting plan.
- (c) Small, HUBZone small, small disadvantaged, and women-owned business concern source lists, guides and other data identifying small, HUBZone small, small disadvantaged, and women-owned business concerns will be maintained and utilized by buyers in soliciting subcontracts.

(d) Additions to (or deletions from) the above listed efforts are as follows:

4. The bidder (contractor) agrees that the clause entitled Utilization of Small, HUBZone Small, Small Disadvantaged, and Women-Owned Small Business Concerns will be included in all subcontracts which offer further subcontracting opportunities, and all subcontractors except small business concerns who receive subcontracts in excess of \$500,000 will be required to adopt and comply with a subcontracting plan similar to this one. Such plans will be reviewed by comparing them with the provisions of Public Law 95-507, and assuring that all minimum requirements of an acceptable subcontracting plan have been satisfied. The acceptability of percentage goals shall be determined on a case-by-case basis depending on the supplies/services involved, the availability of potential small, HUBZone small, small disadvantaged, and women-owned subcontractors, and prior experience. Once approved and implemented, plans will be monitored through the submission of periodic reports, and/or, as time and availability of funds permit, periodic visits to subcontractors facilities to review applicable records and subcontracting program progress.

5. The bidder (contractor) agrees to submit such periodic reports and cooperate in any studies or surveys as may be required by the contracting agency or the Small business Administration in order to determine the extent of compliance by the bidder with the subcontracting plan and with the clause entitled Utilization of Small, HUBZone Small, Small Disadvantaged, and Women-Owned Small Business Concerns, contained in the contract.

6. The bidder (contractor) agrees that he will maintain at least the following types of records to document compliance with this subcontracting plan:

(a) Small, HUBZone Small, Small Disadvantaged, and Women-Owned Business concern source lists, guides and other data identifying SB/HZSB/SDB/WO vendors.

(b) Organizations contacted for small, HUBZone small, small disadvantaged, and women-owned business sources.

(c) On a contract-by-contract basis, records on all subcontract solicitations over \$100,000, indicating on each solicitation (1) whether small business concerns were solicited, and if not, why not; (2) whether HUBZone small business concerns were solicited, and if not, who not; (3) whether small disadvantaged business concerns were solicited, and if not, why not; (4) whether women-owned business concerns were solicited and if not, why not; and (5) reasons for the failure of solicited small, HUBZone small, small disadvantaged, or women-owned business concerns to receive the subcontract award.

(d) Records to support other outreach efforts: Contacts with Minority and Small Business Trade Associations, etc. Attendance at small and minority business procurement conferences and trade fairs.

(e) Records to support internal activities to guide and encourage buyers: Workshops, seminars, training programs, etc. Monitoring activities to evaluate compliance.

(f) On a contract-by-contract basis, records to support subcontract award data to include name and address or subcontractor .

(g) Records to be maintained in addition to the above are as follows:

Signed: _____
Typed Name: _____
Title: _____
Date: _____

Plan Accepted By: _____
Contracting Officer

Date: _____

NOTE TO CONTRACTING OFFICER: Upon incorporation of a plan into the contract, indicate herein the estimated dollar value of the contract:

\$ _____.

J03 SAMPLE CONSTRUCTION PROGRESS CHART

Contract clause H06 requires that the Contractor submit a construction progress plan. The successful offeror may request that the Government furnish a copy ENG Form 2454 in order to meet this requirement.

The Contractor may also generate a chart similar to that shown on the next page to meet the requirements of contract Clause H06.

J04 PERFORMANCE EVALUATION FOR SERVICE & SUPPLY CONTRACTS

In accordance with FAR 42.15, AFAR 42.15, and Army Acquisition Letter 98-1, this contract action is subject to the requirement for Contractor performance evaluation in the elements listed on the attached form.

At a minimum, the performance evaluation shall be completed within 45 days of completion of each year's performance. Additional (Interim) evaluations may be prepared if any element listed is being performed unsatisfactorily.

The period of evaluation will begin on the date of acknowledgment of receipt of the Notice to Proceed and will run concurrent with the performance period of the contract.

The Contractor shall be provided thirty (30) days to submit comments, rebut statements, or provide additional information before the final performance evaluation is issued. This period may be shortened if an interim unsatisfactory evaluation is being contemplated and time does not allow for a full thirty (30) days.

The Contractor may appeal a final performance evaluation to the Commander of the Contracting Activity. The appeal must be made within thirty (30) days, and must be a written request to the Contracting Officer stating the reasons why a further review of their performance evaluation is justified, and the circumstances which may be cause the Government to revise its performance rating. Interim evaluations are not subject to appeal.

Performance Assessment Report (PAR)

- Interim
- Final
- Addendum

Period Report: From _____ To _____

Section I

1a. Contractor:	2a. Contract Number:
Address:	2b. Modification Number:
	2c. Del/Task Order Number:
	2d. Initial Value (Base + Options): \$
Place of Performance:	2e. Current Value: \$
1b. Cage Code:	3a. Award Date:
1c. DUNS No.:	3b. Completion Date:

Section II

4a. Contractor POC: Name: Position/Title: Address: Phone No.: FAX: E-Mail Address:	4b. Gov't Contract Specialist: Name: Address: Phone No.: FAX: E-mail Address:
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Section III

5. Method of Contract:				
<input type="checkbox"/> Sealed Bid				
<input type="checkbox"/> Negotiated				
6. Type of Contract: (Check all that apply)				
<input type="checkbox"/> FFP	<input type="checkbox"/> FPR[R]	<input type="checkbox"/> CS	<input type="checkbox"/> CPFF[T]	<input type="checkbox"/> Rqmts
<input type="checkbox"/> FFP-EPA	<input type="checkbox"/> FFP-LOE	<input type="checkbox"/> CPIF	<input type="checkbox"/> Labor Hour	<input type="checkbox"/> BOA
<input type="checkbox"/> FPIF	<input type="checkbox"/> T&M	<input type="checkbox"/> CPAF	<input type="checkbox"/> ID	<input type="checkbox"/> Letter
<input type="checkbox"/> FPR[P]	<input type="checkbox"/> CR	<input type="checkbox"/> CPFF[C]	<input type="checkbox"/> IQ	<input type="checkbox"/> Other
7. Socio-economic Program:				
<input type="checkbox"/> SBSA	<input type="checkbox"/> 8(a)	<input type="checkbox"/> SBIR	<input type="checkbox"/> SBCDP	<input type="checkbox"/> Other
8. Competition:				
<input type="checkbox"/> Full and Open Competition		<input type="checkbox"/> Sole Source		<input type="checkbox"/> Other
9. Type of Supply/Services:				
<input type="checkbox"/> Commercial		<input type="checkbox"/> Non-Developmental		<input type="checkbox"/> Non-Commercial

Section IV

10. Business Sector:		
<input type="checkbox"/> Space	<input type="checkbox"/> Ground Vehicles	<input type="checkbox"/> Information Technology
<input type="checkbox"/> Ordnance	<input type="checkbox"/> Shipbuilding	<input type="checkbox"/> Science & Technology
<input type="checkbox"/> Aircraft	<input type="checkbox"/> Other Systems	<input type="checkbox"/> Services
<input type="checkbox"/> Training System	<input type="checkbox"/> Operations Support	<input type="checkbox"/> Health Care Services
11a. FSCs:		
11b. SICs:		

12. Description of Requirement:

Section V

(All business Sectors other than Systems)

The rating assigned to an element/sub-element must be supported by narrative rationale. Narratives are required for all ratings, and must clearly convey to the contractor, as well as to a Government source selection official who is not familiar with the instant contract, why the rating was assigned. This is especially important for any rating above or below "satisfactory." Narratives should be supported by quantifiable or verifiable documentation. While larger or more complex efforts warrant greater detail, the guideline for any narrative is "clear and concise."

14a. Quality of Product/Service

Rating: (check one)

Narrative rationale: _____

- Exceptional
- Very Good
- Satisfactory
- Marginal
- Unsatisfactory

14b. Schedule

Rating: (check one)

Narrative rationale: _____

- Exceptional
- Very Good
- Satisfactory
- Marginal
- Unsatisfactory

14c. Cost Control

Rating: (check one)

Narrative rationale: _____

- Exceptional
- Very Good
- Satisfactory
- Marginal
- Unsatisfactory

14d. Business Relations

Rating: (check one)

Narrative rationale: _____

- Exceptional
- Very Good
- Satisfactory
- Marginal
- Unsatisfactory

14e. Management of Key Personnel

Rating: (check one)

- Exceptional
- Very Good
- Satisfactory
- Marginal
- Unsatisfactory

Narrative rationale: _____

14f. Other (Optional)

Rating: (check one)

- Exceptional
- Very Good
- Satisfactory
- Marginal
- Unsatisfactory

Narrative rationale: _____

Section VI

15. Evaluator Name: Phone: FAX: E-Mail:	Signature: Date Approved by Evaluator:
16. Contracting Officer/PM Name: Phone: FAX: E-Mail:	Signature: Date Approved by Evaluator:
17. Agency Review Name: Phone: FAX: E-Mail:	Signature: Date Approved by Evaluator:
18. Contractor Review Name: Position/Title: Phone: FAX: E-Mail:	Comments provided? <input type="checkbox"/> Yes If YES, indicate number of <input type="checkbox"/> No pages attached () Date of Receipt of Contractor Response: _____
19. Resolution Authority Name: Phone: FAX: E-Mail:	Date Referred: _____ Date of Resolution: _____
20. Source Selection Availability Date of Final Review: _____	Date PAR entered into PPIMS: _____

Section V

Non-Systems Contracts Performance Elements: Assess contractor performance using the following elements:

- 14a. **Quality of Product or Service** - Assess the contractor's conformance to contract requirements, specifications and standards of good workmanship (e.g., commonly accepted technical, professional, environmental, or safety and health standards).
- 14b. **Schedule** - Assess the timeliness of the contractor against the completion of the contract, task orders, milestones, delivery schedules, administrative requirements (e.g. efforts that contribute to or effect the schedule variance).
- 14c. **Cost Control** (Not required for FFP and FFP w/EPA contracts) - Assess the contractor's effectiveness in forecasting, managing and controlling contract cost.
- 14d. **Business Relations** - Assess the integration and coordination of all activity needed to execute the contract, specifically the timeliness, completeness and quality of problem identification, corrective action plans, proposal submittals, the contractor's history of reasonable and cooperative behavior, customer satisfaction, timely award and management of subcontracts, and whether the contractor met small/small disadvantaged and women-owned business participation goals.
- 14e. **Mananernent of Key Personnel** (For services and information technology contracts only) -Assess the contractor's performance in selecting, retaining, supporting, and replacing, when necessary, key personnel

***Rating System:** use the following rating system to assess contractor performance for . all PPI elements (14a. through 14e.):

- (1) **Exceptional** - Performance meets contractual requirements and exceeds many to the Government's benefit. The contractual performance of the element or sub-element being assessed was accomplished with few minor problems for which corrective actions taken by the contractor were highly effective.
- (2) **Very Good** - Performance meets contractual requirements and exceeds some to the Government's benefit. The contractual performance of the element or sub-element being assessed was accomplished with some minor problems for which corrective actions taken by the contractor were effective.
- (3) **Satisfactory** - Performance meets contractual requirements. The contractual performance of the element or sub-element contains some minor problems for which corrective actions taken by the contractor appear or were satisfactory.
- (4) **Marginal** - Performance does not meet some contractual requirements. The contractual performance of the element or sub-element being assessed reflects a serious problem for which the contractor has not yet identified corrective actions. The contractor's proposed actions appear only marginally effective or were not fully implemented.
- (5) **Unsatisfactory** - Performance does not meet most contractual requirements and recovery is not likely in a timely manner. The contractual performance of the element or subelement contains serious problem(s) for which the contractor's corrective actions appear or were ineffective.

The rating* assigned to an element/sub-element must be supported by narrative rationale. Narratives are required for all ratings, and must clearly convey to the contractor, as well as to a Government source selection official who is not familiar with the instant contract, why the rating was assigned. This is especially important for any rating above or below "satisfactory." Narratives should be supported by quantifiable or verifiable documentation. While larger or more complex efforts warrant greater detail, the guideline for any narrative is "clear and concise."

Section K - Representations, Certifications and Other Statements of Offerors

CLAUSES INCORPORATED BY FULL TEXT

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

(a) The offeror certifies that --

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

(i) Those prices,

(ii) The intention to submit an offer, or

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

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

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

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

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

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

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

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

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

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.

(a) 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 _____

52.204-5 WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (MAY 1999)

(a) Definition. Women-owned business concern, as used in this provision, means a concern that is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) Representation. [Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (b)(1) of FAR 52.219-1, Small Business Program Representations, of this solicitation.] The offeror represents that it () is a women-owned business concern.

52.207-4 ECONOMIC PURCHASE QUANTITY--SUPPLIES (AUG 1987)

(a) Offerors are invited to state an opinion on whether the quantity(ies) of supplies on which bids, proposals

or quotes are requested in this solicitation is (are) economically advantageous to the Government.

Each offeror who believes that acquisitions in different quantities would be more advantageous is invited to recommend an economic purchase quantity. If different quantities are recommended, a total and a unit price must be quoted for applicable items. An economic purchase quantity is that quantity at which a significant price break occurs. If there are significant price breaks at different quantity points, this information is desired as well.

OFFEROR RECOMMENDATIONS				
ITEM	PRICE	QUANTITY	QUOTATION	TOTAL

(c) The information requested in this provision is being solicited to avoid acquisitions in disadvantageous quantities and to assist the Government in developing a data base for future acquisitions of these items. However, the Government reserves the right to amend or cancel the solicitation and resolicit with respect to any individual item in the event quotations received and the Government's requirements indicate that different quantities should be acquired.

52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (DEC 2001)

(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 paragraph (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.

52.215-6 PLACE OF PERFORMANCE (OCT 1997)

(a) The offeror or respondent, in the performance of any contract resulting from this solicitation, () intends, () does not intend (check applicable block) to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.

(b) If the offeror or respondent checks “intends” in paragraph (a) of this provision, it shall insert in the following spaces the required information:

Place of Performance(Street Address, City, State, County, Zip Code)	Name and Address of Owner and Operator of the Plant or Facility if Other Than Offeror or Respondent

52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS (APR 2002) - ALTERNATE I (APR 2002)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 336611.

(2) The small business size standard is 1000 employees.

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

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

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

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

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

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

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

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

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

(7) (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. As used in this provision--

Service-disabled veteran-owned small business concern--

(1) Means a small business concern--

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

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

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

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

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

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

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

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

(1) That is at least 51 percent owned by one or more women 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; or

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

(d) Notice.

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

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

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

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

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

52.219-22 SMALL DISADVANTAGED BUSINESS STATUS (OCT 1999)

(a) General. This provision is used to assess an offeror's small disadvantaged business status for the purpose of obtaining a benefit on this solicitation. Status as a small business and status as a small disadvantaged business for general statistical purposes is covered by the provision at FAR 52.219-1, Small Business Program Representation.

(b) Representations.

(1) General. The offeror represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either--

___ (i) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

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

(B) Where the concern is owned by one or more disadvantaged 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

(C) It is identified, on the date of this representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PROONet); or

___ (ii) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(2)___ For Joint Ventures. The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements at 13 CFR 124.1002(f) and that the representation in paragraph (b)(1) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: _____.]

(c) Penalties and Remedies. Anyone who misrepresents any aspects of the disadvantaged status of a concern for the purposes of securing a contract or subcontract shall:

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

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

(3) Be ineligible for participation in programs conducted under the authority of the Small Business Act.

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Major group codes 20 through 39.

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

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

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

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.

252.225-7000 BUY AMERICAN ACT--BALANCE OF PAYMENTS PROGRAM CERTIFICATE (APR 2003)

(a) Definitions. Domestic end product, foreign end product, qualifying country, and qualifying country end product have the meanings given in the Buy American Act and Balance of Payments Program clause of this solicitation.

(b) Evaluation. The Government--

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will evaluate offers of qualifying country end products without regard to the restrictions of the Buy American Act or the Balance of Payments Program.

(c) Certifications and identification of country of origin.

(1) For all line items subject to the Buy American Act and Balance of Payments Program clause of this solicitation, the offeror certifies that--

(i) Each end product, except those listed in paragraph (c)(2) or (3) of this provision, is a domestic end product; and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror certifies that the following end products are qualifying country end products:

(Line Item Number Country of Origin)

(Country of Origin)

(3) The following end products are other foreign end products:

(Line Item Number)

(Country of Origin) (If known)

252.225-7031 SECONDARY ARAB BOYCOTT OF ISRAEL (APR 2003)

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

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

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

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

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

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

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

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

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

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.

SECTION L Instructions, Conditions and Notices to Offerors

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L-1 CLAUSES INCORPORATED BY FULL TEXT

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

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" followed by the DUNS number that 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.

(End of provision)

B. 52.215-1 INSTRUCTIONS TO OFFERORS--COMPETITIVE ACQUISITION (MAY 2001)

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

“Discussions” are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer’s discretion, result in the offeror being allowed to revise its proposal.

In “writing or written” means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

“Proposal modification” is a change made to a proposal before the solicitation’s closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

“Proposal revision” is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

“Time,” if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) Amendments to solicitations. If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) Submission, modification, revision, and withdrawal of proposals.

(1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals and modifications to proposals shall be submitted in paper media in sealed envelopes or packages

(i) Addressed to the office specified in the solicitation, and

(ii) Showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror.

Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

- (2) The first page of the proposal must show--
 - (i) The solicitation number;
 - (ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);
 - (iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;
 - (iv) Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate on the offeror's behalf with the Government in connection with this solicitation; and
 - (v) Name, title, and signature of person authorized to sign the proposal. Proposals 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.
- (3) Submission, modification, or revision, of proposals.
 - (i) Offerors are responsible for submitting proposals, and any modifications, or revisions, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposal or revision is due.
 - (ii)(A) Any proposal, modification, or revision received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and--
 - (1) If it was transmitted through an electronic commerce method authorized by the solicitation, 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 proposals; or
 - (2) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or
 - (3) It is the only proposal received.

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

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

(iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals 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.

(v) Proposals may be withdrawn by written notice received at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision at 52.215-5, Facsimile Proposals. Proposals may be withdrawn in person by an offeror or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

(4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.

(5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR 52.225-17, Evaluation of Foreign Currency Offers, is included in the solicitation.

(6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) Offer expiration date. Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet (unless a different period is proposed by the offeror).

(e) Restriction on disclosure and use of data. Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall--

(1) Mark the title page with the following legend: This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed--in whole or in part--for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of--or in connection with-- the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [insert numbers or other identification of sheets]; and

(2) Mark each sheet of data it wishes to restrict with the following legend: Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(f) Contract award.

(1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.

(2) The Government may reject any or all proposals if such action is in the Government's interest.

(3) The Government may waive informalities and minor irregularities in proposals received.

(4) The Government intends to evaluate proposals and award a contract without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

(5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.

(6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.

(7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.

(8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.

(9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.

(10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.

(11) The Government may disclose the following information in post award debriefings to other offerors:

- (i) The overall evaluated cost or price and technical rating of the successful offeror;
- (ii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection;
- (iii) A summary of the rationale for award; and
- (iv) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(End of provision)

C. 52.216-1 TYPE OF CONTRACT (APR 1984)

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

(End of provision)

D. 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:

Mr. Robert Sharamatew, Chief, Contracting Division
U.S. Army Corps of Engineers, Philadelphia District
Wanamaker Building
100 Penn Square East, Rm 643 South
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.

(End of provision)

L-2 PROPOSAL REQUIREMENTS AND EVALUATION CRITERIA

A. GENERAL REQUIREMENTS

Offerors shall submit three copies of the entire Proposal for evaluation. The Proposal shall include an index of the complete Proposal to identify the content, and to assist in locating the specific elements or topics required to be addressed by the Offerors as outlined in this Section. Page separators or tabs can be used.

Page B-1 of the Solicitation must be filled in and included with the Proposal to reflect the offered price. This page is the Price Proposal, and must be separate or separable from the rest. Price information shall only be displayed on page B-1 and shall not be included anywhere else within the Proposal, to allow for the review by the Government technical representatives to take place without the influence of price.

The Offerors are advised that each Proposal submitted must be complete, and shall be organized to address the specific elements or topics required, in the sequence outlined in this Section. This is necessary to facilitate and expedite an effective review.

Offerors that submit Proposals that are not complete, may or may not be given the opportunity to submit any additional material, and may be considered non-responsive. As a minimum, the information required in this Section shall be included in each Proposal submitted. Additional data, which would serve to clarify the Proposal, should also be submitted. Any other information deemed necessary by the Contracting Officer for a clear understanding of the Proposal shall be furnished if requested.

Proposals shall not include alternative features offered as options within the Proposal. Each Proposal must be clear as to the services and features to be offered without contingency. This will facilitate a fair and equitable review and evaluation. The same Offeror, however, may send in more than one complete Proposal, to propose alternative features and price.

The Proposals will be reviewed for completeness and evaluated on their merit against the evaluation factors listed below.

Technical Factors:

Product
Past Performance and Experience
Management

Price Factor:

Price Reasonableness
Price Realism

The Technical Factors as a whole are more important than Price, however, Price remains a significant factor in determining "Best Value." This procurement is budgeted at 3.2 Million U.S. dollars. If offers exceed the budgeted price, cost becomes more important than technical, however, technical evaluation remains a significant factor in determining "Best Value".

B. TECHNICAL FACTORS

B1. PRODUCT EVALUATION CRITERIA

The Product Evaluation of the proposals is an assessment of the offered proposals based on a list of criteria. Listed below, in descending order of importance, are the technical evaluation factors and a description of the evaluation criteria. Refer to Section M for the relationship between technical, management, and cost items.

- (a) Performance; Performance as used here means the overall performance capability of the vessel, including such items as maximum bollard thrust available, maximum range, projected handling under tow, and lack of vibration.
- (b) Functionality; Functionality as used here means features built into the vessel that will make it safe and easy for the crew to use the vessel in performance of their mission. Examples would include; visibility for the operator, and location of winches and deck fittings.
- (c) Safety and Environmental; Safety and Environmental as used here refers to the features or characteristics that make the vessel safe for the crew and less of a risk to the environment. Primary consideration will be given to materials and features to preclude emissions.
- (d) Operating Efficiency; Operating Efficiency as used here means features built into the vessel that improve fuel usage.
- (e) Operating Reliability; Operating Reliability as used here means the likelihood of avoiding unscheduled downtime and is indicative of the quality of the equipment proposed.
- (f) Maintainability; Maintainability as used here means the ease with which equipment, machinery, and structure can be accessed, removed or repaired, reinstalled, painted, etc.
- (g) Durability; Durability as used here means the likelihood that the vessel and equipment furnished with the vessel will last.

Offerors are required to meet the standards and requirements of Section C of this Request for Proposal. Beyond meeting those requirements, the product offered will be evaluated on the technical criteria identified below and above.

B2. REQUIRED PRODUCT PROPOSAL SUBMITTALS

The purpose of this submittal is for the Government to evaluate the product proposed by the offeror. The proposal shall define the vessel in as complete terms as possible. The offeror may submit additional information beyond what is requested if he determines that will complete the description of his product offered.

Satisfaction of the Product Evaluation Criteria

The Offeror shall describe the way that the vessel satisfies the evaluation criteria listed in paragraph B1 (Product Evaluation Criteria). When addressing the criterion of Performance, the Offeror shall specifically provide:

- A. General Arrangement, Outboard Profile and Lines Plan. A Machinery Arrangement shall also be presented if not part of the General Arrangement.
- B. The Offeror's vessel specifications in order to describe what he will provide as part of this solicitation.

A better definition of the vessel and its features equates to less risk to the Government and will be considered favorable in the evaluation. Less definition of the vessel and its features equates to more risk for the Government and will be considered less favorable in the evaluation.

An Offeror's specifications will be combined with the required features in Section C of this solicitation to form a complete contract at the time of award. These two contract components must supplement each other and there must be no conflicts between them.

- C. The Offeror shall provide a short narrative history of the proposed hull form. A vessel with a proven history equates to less performance risk for the Government than a vessel without a proven history.

D. The following shall be identified:

- A description of the propulsion system; main engines (horsepower and RPM), reduction gear ratio, shift performance (identify shift time, max ahead to max astern), shafting, propellers (number of blades, diameter, pitch, developed area ratio) and the propulsion control system.
- Acknowledge and state that the vessel proposed meets a one compartment damaged stability standard as defined in Clause C150.
- Air draft and operator's height of eye above the waterline.
- Tank capacities and tank arrangement in the vessel.
- The measures taken to have the vessel conform to commercial standards for noise levels.
- Steering system and controls to be used for the vessel. Identify rudder travel time, hard over to hard over.
- Electrical system: system configuration and generator sets to be provided.
- Warranty period provided with the vessel and extent of coverage of the warranty.

B3. PAST PERFORMANCE AND EXPERIENCE EVALUATION CRITERIA

Past Performance means the Offeror's rating in formalized Government or customer surveys, including the Government's assessment of performance in any previous contracts if applicable. It also includes input from previous customers.

Contracts terminated by convenience of the Government in the past three years, and/or Contracts terminated for default in the past 5 years shall be reported if applicable.

Demonstrated experience during the past five years in construction of vessels of similar type and equivalent level of complexity will be evaluated, along with actual performance on those contracts.

The Government may at its discretion contact representatives of customers to obtain input pertaining to past performance.

B4. PAST PERFORMANCE AND EXPERIENCE SUBMITTAL REQUIREMENTS

The Offeror shall provide a discussion of the organization's Past Performance, making reference to ratings in formalized Government or customer surveys as applicable. List any contract that was terminated for convenience of the Government within the past three years, and/or any contract terminated for default during the past 5 years.

The Offeror shall also provide a discussion of the organization's experience during the past five years in the design, construction and testing of towboats with 1500 or greater hp. The Offeror shall describe the principal dimensions and power requirements of the vessels built, and shall provide a list of customers. Included in the list of customers shall be points of contact for reference, as well as telephone numbers where they may be reached.

B5. MANAGEMENT EVALUATION CRITERIA

The Management Evaluation Criterion for Award shall be the capability demonstrated by the Offeror to successfully perform and respond to the requirements of this project.

The Offeror shall demonstrate in the Proposal that his Organization has the proper design, quality assurance, production, financial and managerial resources available, and has proposed sufficient resources to successfully perform the work required.

B6. REQUIRED MANAGEMENT PROPOSAL SUBMITTALS

The following topics must be addressed in narrative form. Drawings or pictures to convey the information are encouraged. Each topic shall be addressed to the degree necessary to provide the reviewers with a clear understanding. As a minimum the information requested below shall be included in each Proposal submitted:

Organization

The Offeror shall provide clear and complete information on the organization as follows:

- Name and type of company.
- Brief history of company.
- Principal ownership, subsidiaries, and corporate affiliations.

Human Resources for this Project

The Offeror shall furnish resumes of the key design, construction and managerial personnel that will be involved in this project, indicating:

- Academic/Professional qualifications.
- Experience in related type of work.
- Functional position and job description as it will apply to this project, for each key individual.

Facilities and Equipment

The Offeror shall furnish a description of the facilities and major equipment available and planned to be used on this project. Shop facilities/equipment shall be briefly described and clearly identified in layout drawings or pictures included in the Proposal.

Project Sub-Contracting Plan

If applicable, the Offeror shall describe the extent of sub-contracting contemplated on this project, and the specific areas to be sub-contracted.

If any part of the Offeror's engineering, is to be sub-contracted, the Offeror shall identify the sub-Contractor, and submit the resumes of the key personnel involved.

Project Quality Control Plan

The Offeror shall make a brief description of his Quality Control/Quality Assurance Organization, and how it will be applied to this project. Copy of ISO certification shall be provided, if applicable.

Project Planning / Schedule

The Offeror shall submit with his Proposal, a Plan of Action and Project Schedule, including duration in calendar days for his performance during the contract. The planning and scheduling should outline approximate time during the contract for:

- Engineering
- Construction
- Test and Trials
- Delivery

The scheduling information, shall demonstrate a logical, orderly and workable approach to the project and the contract. Offered durations must be submitted in calendar day format, and shall not exceed the total length of the contract defined in Section F.

After Contract Award and the issuance of Notice to Proceed with Engineering, Construction, Testing and Delivery, the Contractor is required to perform to the offered Project Schedule.

B7. FINANCIAL CONDITION AND FINANCIAL RISK

In order to minimize financial risk to the Government, Contractors must choose and shall identify within their proposal one of the following two alternatives.

1. Bonding in conjunction with progress payments

If this alternative is selected by the contractor, the following contract clauses apply:

Section H, Clause H20 PROGRESS PAYMENT BASED ON PERCENTAGE OR STAGE OF COMPLETION;
Section I, 52.228-1 BID GUARANTEE;
Section I, 52.228-16 PERFORMANCE AND PAYMENT BONDS- OTHER THAN CONSTRUCTION.

A bid bond must be furnished with the original submittal as required by Section I, Clause 52.228-1 BID GUARANTEE. Progress payments will be made in accordance with contract Clause H20 PROGRESS PAYMENT BASED ON PERCENTAGE OR STAGE OF COMPLETION.

2. No bonding and no progress payments.

If this alternative is selected by the Contractor, the Contractor must arrange their own financing. No payments will be made by the Government until delivery and final acceptance, at which time full payment for the contract value will be made. Contractors must finance the design and construction with consideration to their schedule as identified in clause F01 PERFORMANCE and H01 CONTRACT ORGANIZATION, as well as their ultimate performance. Particular attention should be given to the periods of time that are not controlled by the Contractor and that are identified for Government activity to perform contract administration. Under this alternative, the following contract clauses will not be applicable:

Section H, Clause H20 PROGRESS PAYMENT BASED ON PERCENTAGE OR STAGE OF COMPLETION;
Section I, 52.228-1 BID GUARANTEE;
Section I, 52.228-16 PERFORMANCE AND PAYMENT BONDS- OTHER THAN CONSTRUCTION.

If this alternative is selected, the Offeror shall explain and/or demonstrate his approach to contract financing. The documentation provided will be used to assess the Government's financial risk in awarding a contract.

No matter which alternative is selected, the Offeror shall describe why the Government should be confident that this project will be successfully completed from a financial standpoint. Report briefly on the Offeror's financial resources.

C. PRICE FACTORS

C1. PRICE EVALUATION CRITERIA

The Price Evaluation Criteria for Award is "Price Reasonableness." The competitiveness of the Offeror's Price Proposal (page B-1) will be evaluated taking into consideration the most probable cost of doing business with the Offeror, based on the merits of the "Technical Proposal."

C2. PRICE SUBMITTAL REQUIREMENTS

Price Proposal

A price for the work outlined in this RFP for the entire job and for the spares shall be provided with the Proposal by filling in page B-1 of this Solicitation. Note that page B-1 must be returned with the Proposal in separate, or be separable from the rest of the Proposal.

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PART IV - REPRESENTATIONS AND INSTRUCTIONS
SECTION M

EVALUATION FACTORS FOR AWARD

The Government intends to award a contract on the basis of "Best Value". The Government will award a contract resulting from this solicitation to the responsible Offeror whose proposal, conforming to the solicitation, will be most advantageous to the Government.

The proposals will be reviewed for completeness against the content requirements outlined in Section L, and evaluated against the evaluation factors listed below:

Technical Factors:

Product
Past Performance and Experience
Management

Price Factor:

Price Reasonableness
Price Realism

The technical factors as a whole are more important than price. However, price remains a significant factor in determining "Best Value." The technical sub-factors are listed in descending order. The price sub-factors are of equal weighting.

In the event that the offers exceed the budget price identified in Section L, price becomes more important than the technical factors, however the technical factors remain significant.

Further discussion of these factors, format and specific topics to be addressed in the proposal, are listed and described in Section L, "Instructions, Conditions, and Notices to Offerors", which contains the specific proposal submittal requirements pursuant to this Solicitation. Offerors are advised that each proposal submitted shall be complete and in the format required, with information organized as specified in Section L.

Furthermore, each Proposal shall be compatible with Section C - Description / Specification.

All Proposals will be reviewed initially for Proposal submittal compliance and for compliance with the requirements of the technical specifications in Section "C".

The Government may award a contract on the basis of initial proposals received without discussions; therefore, each initial proposal should contain the Offeror's best terms.

The Government reserves the right to award the contract to the Offeror whose proposal is not the lowest in price.

For the purpose of an award decision, the price of the options will be considered in the evaluation.

Award shall be made to a single Offeror.

52.217-5 EVALUATION OF OPTIONS (JUL 1990)

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

(End of provision)