

Section A – Solicitation/Contact Form

SOLICITATION, OFFER AND AWARD		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CRF 700)		RATING	PAGE OF PAGES 1 291
2. CONTRACT NO.	3. SOLICITATION NUMBER NAMA-03-R-0018	4. SOLICITATION TYPE <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED BID (RFP)		5. DATE ISSUED 12/05/2003	6. REQUISITION/PURCHASE NUMBER
7. ISSUED BY National Archives and Records Administration (NAA) (301) 837-3100 8601 Adelphi Road RM3360 College Park MD 20740-6001		8. ADDRESS OFFER TO (If other than Item 7) National Archives and Records Administration Attn: Madan Kar 301-837-0736 8601 Adelphi Road RM B-550 College Park, MD 20740-6001			

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

SOLICITATION

9. Sealed offers in original and _____ copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if hand carried, in the depository located in _____ until 1200 ES local time 01/28/2004
(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 Madan Kar	B. TELEPHONE (NO COLLECT CALLS)			C. E-MAIL ADDRESS madan.kar@nara.gov
		AREA CODE 301	NUMBER 837-0736	EXT.	

11. TABLE OF CONTENTS

(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
<input checked="" type="checkbox"/>	A	SOLICITATION/CONTRACT FORM	2	<input checked="" type="checkbox"/>	I	CONTRACT CLAUSES	27
<input checked="" type="checkbox"/>	B	SUPPLIES OR SERVICES AND PRICE/COST	8	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH			
<input checked="" type="checkbox"/>	C	DESCRIPTION/SPECS /WORK STATEMENT	2	<input checked="" type="checkbox"/>	J	LIST OF ATTACHMENTS	159
<input checked="" type="checkbox"/>	D	PACKAGING AND MARKING	2	PART IV - REPRESENTATIONS AND INSTRUCTIONS			
<input checked="" type="checkbox"/>	E	INSPECTION AND ACCEPTANCE	3	<input checked="" type="checkbox"/>	K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	17
<input checked="" type="checkbox"/>	F	DELIVERIES OR PERFORMANCE	4	<input checked="" type="checkbox"/>	L	INSTR., CONDS., AND NOTICES TO OFFERORS	39
<input checked="" type="checkbox"/>	G	CONTRACT ADMINISTRATION DATA	9	<input checked="" type="checkbox"/>	M	EVALUATION FACTORS FOR AWARD	5
<input checked="" type="checkbox"/>	H	SPECIAL CONTRACT REQUIREMENTS	14				

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 J, Clause No. 52-232-8)	<input type="checkbox"/> 10 CALENDAR DAYS (%)	<input type="checkbox"/> 20 CALENDAR DAYS (%)	<input type="checkbox"/> 30 CALENDAR DAYS (%)	<input type="checkbox"/> CALENDAR DAYS (%)
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14. ACKNOWLEDGEMENT 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 NUMBER AREA CODE NUMBER EXT.	15C. CHECK IF REMITTANCE ADDRESS <input type="checkbox"/> 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)	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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STANDARD FORM 33 (Rev. 9-97)
Prescribed by GSA - FAR (48 CFR) 53.214(c)



NARA Electronic Records Archives (ERA)
Original Contract

Section B – Supplies or Services & Costs/Prices

B.1 Contract Base Period

Contract Line Item Number (CLIN)	Supplies and/or Services	Quantity	Unit	Amount
0001	System Analysis and Design: The Contractor shall perform System Analysis and Design of the Electronic Records Archives (ERA) System in accordance with the Statement of Objectives (SOO), Section J, Attachment 1 and Performance Work Statement (PWS) on a Firm Fixed Price basis. Provide data and reports in accordance with the Contract Data Requirements List (CDRL)	1	Lot	\$9,512,833
Firm Fixed Price, System Analysis and Design Phase				\$9,512,833



**NARA Electronic Records Archives (ERA)
Original Contract**

B.2 Option 1 – Option 1 Performance Period Shall Be 24 Months Following the Base Contract Period

Contract Line Item No. (CLIN)	Supplies and/or Services	Quantity	Unit	Estimated Cost
0101	Increment 1 - Development	1	Lot	NSP
0101AA	Development Includes all labor (program management, analysis, engineering, development, documentation, communications, facilities, facility buildout, installation, deployment, all software maintenance, training development, change management, etc.) and materials (hardware, software, equipment, etc.) associated with development of Increment 1. Initial analysis and design for Increment 2 Data and Reports; provide data and reports in accordance with the Contract Data Requirements List.	1	Lot	[REDACTED]
0101AB	Award Fee for CLIN 0101	1	Lot	[REDACTED]
0102	Increment 1 - Operations and Support	1	Lot	NSP
0102AA	Operations and Support Startup activities to prepare for Operations and Support of the ERA Operational System. Period of performance is 24 months from exercise of Option 1. Operations and Support for any operational releases; includes all labor for the operation and maintenance of equipment, system administration and support (computer and network operations, training, help desk), and materials (parts, supplies, media, etc.). Data and Reports; provide data and reports in accordance with the Contract Data Requirements List.	1	Lot	[REDACTED]
0102AB	Award Fee for CLIN 0102	1	Lot	[REDACTED]
Increment 1, Total Estimated Cost and Fee				\$117,821,607



**NARA Electronic Records Archives (ERA)
Original Contract**

B.3 Option 2 - Option 2 Performance Period Shall Be 12 Months Following Option 1

Contract Line Item No. (CLIN)	Supplies and/or Services	Quantity	Unit	Estimated Cost
0201	Increment 2 - Development	1	Lot	NSP
0201AA	Development Includes all labor (program management, analysis, engineering, development, documentation, communications, facilities, facility buildout, installation, deployment, all software maintenance, training development, change management, etc.) and materials (hardware, software, equipment, etc.) associated with development of Increment 2. Initial analysis and design for Increment 3. Provide data and reports in accordance with the Contract Data Requirements List.	1	Lot	[REDACTED]
0201AB	Award Fee for CLIN 0201	1	Lot	[REDACTED]
0202	Increment 2 - Operations and Support	1	Lot	NSP
0202AA	Operations and Support Operations and Support includes all labor for the operation and maintenance of equipment, system administration and support (computer and network operations, training, help desk), and materials (parts, supplies, media, etc.) Provide data and reports in accordance with the Contract Data Requirements List.	1	Lot	[REDACTED]
0202AB	Award Fee for CLIN 0202	1	Lot	[REDACTED]
Increment 2, Total Estimated Cost and Fee				\$86,975,637



**NARA Electronic Records Archives (ERA)
Original Contract**

B.4 Option 3 - Option 3 Performance Period Shall Be 12 Months Following Option 2

Contract Line Item No. (CLIN)	Supplies and/or Services	Quantity	Unit	Estimated Cost
0301	Increment 3 – Development	1	Lot	NSP
0301AA	Development Includes all labor (program management, analysis, engineering, development, documentation, communications, facilities, facility buildout, installation, deployment, all software maintenance, training development, change management, etc.) and materials (hardware, software, equipment, etc.) associated with development of Increment 3. Initial analysis and design for Increment 4. Provide data and reports in accordance with the Contract Data Requirements List.	1	Lot	[REDACTED]
0301BB	Award Fee for CLIN 0301	1	Lot	[REDACTED]
0302	Increment 3 - Operations and Support	1	Lot	NSP
0302AA	Operations and Support Operations and Support includes all labor for the operation and maintenance of equipment, system administration and support (computer and network operations, training, help desk), and materials (parts, supplies, media, etc.) Provide data and reports in accordance with the Contract Data Requirements List.	1	Lot	[REDACTED]
0302AB	Award Fee for CLIN 0302	1	Lot	[REDACTED]
Increment 3, Total Estimated Cost and Fee				\$92,392,561



**NARA Electronic Records Archives (ERA)
Original Contract**



**NARA Electronic Records Archives (ERA)
Original Contract**

B.5 Option 4 - Option 4 Performance Period Shall Be 12 Months Following Option 3

Contract Line Item No. (CLIN)	Supplies and/or Services	Quantity	Unit	Estimated Cost
0401	Increment 4 - Development	1	Lot	NSP
0401AA	Development Includes all labor (program management, analysis, engineering, development, documentation, communications, facilities, facility buildout, installation, deployment, all software maintenance, training development, change management, etc.) and materials (hardware, software, equipment, etc.) associated with development of Increment 4. Initial analysis and design for Increment 5. Provide data and reports in accordance with the Contract Data Requirements List.	1	Lot	[REDACTED]
0401AB	Award Fee for CLIN 0401	1	Lot	[REDACTED]
0402	Increment 4 - Operations and Support	1	Lot	NSP
0402AA	Operations and Support Operations and Support includes all labor for the operation and maintenance of equipment, system administration and support (computer and network operations, training, help desk), and materials (parts, supplies, media, etc.) Provide data and reports in accordance with the Contract Data Requirements List.	1	Lot	[REDACTED]
0402AB	Award Fee for CLIN 0402	1	Lot	[REDACTED]
Increment 4, Total Estimated Cost and Fee				\$59,593,475



**NARA Electronic Records Archives (ERA)
Original Contract**

B.6 Option 5 - Option 5 Performance Period Shall Be 12 Months Following Option 4

Contract Line Item No. (CLIN)	Supplies and/or Services	Quantity	Unit	Estimated Cost
0501	Increment 5 - Development	1	Lot	NSP
0501AA	Development Includes all labor (program management, analysis, engineering, development, documentation, communications, facilities, facility buildout, installation, deployment, all software maintenance, training development, change management, etc.) and materials (hardware, software, equipment, etc.) associated with development of Increment 5. Data and Reports; provide data and reports in accordance with the Contract Data Requirements List.	1	Lot	[REDACTED]
0501AB	Award Fee for CLIN 0501	1	Lot	[REDACTED]
0502	Increment 5 - Operations and Support	1	Lot	NSP
0502AA	Operations and Support Operations and Support includes all labor for the operation and maintenance of equipment, system administration and support (computer and network operations, training, help desk), and materials (parts, supplies, media, etc.) Data and Reports; provide data and reports in accordance with the Contract Data Requirements List.	1	Lot	[REDACTED]
0502AB	Award Fee for CLIN 0502	1	Lot	[REDACTED]
Increment 5, Total Estimated Cost and Fee				\$57,069,260



NARA Electronic Records Archives (ERA)
Original Contract

B.7 Option 6 - Option 6 Performance Period Shall Be 12 Months Following Option 5

Contract Line Item Number (CLIN)	Supplies and/or Services	Quantity	Unit	Amount
0601	Operations and Support of ERA Operational System.	1	Lot	NSP
0601AA	Operations and Support Operations and Support includes all labor, operation and maintenance of equipment, all system administration and support (computer and network operations, training, help desk), and materials (parts, supplies, media, etc.) Provide data and reports in accordance with the Contract Data Requirements List.	1	Lot	[REDACTED]
0601AB	Award Fee for CLIN 0601	1	Lot	[REDACTED]
Operations and Support of ERA Operational System, Total Estimated Cost and Fee				\$45,575,544



**NARA Electronic Records Archives (ERA)
Original Contract**

Total, base period and all options

Firm Fixed Price, System Analysis and Design Phase	\$9,512,833
Increment 1, Total Estimated Cost and Fee	\$117,821,607
Increment 2, Total Estimated Cost and Fee	\$86,975,637
Increment 3, Total Estimated Cost and Fee	\$92,392,561
Increment 4, Total Estimated Cost and Fee	\$59,593,475
Increment 5, Total Estimated Cost and Fee	\$57,069,260
Operations and Support of ERA Operational System, Total Estimated Cost and Fee	\$45,575,544
Total Price, Estimated Cost and Fee of the Contract	\$468,940,917



**NARA Electronic Records Archives (ERA)
Original Contract**

Section C – Performance Statement of Work (PWS)



Section D – Packaging and Marking

D-1 Submission Of Forms And Reports

All postage and fees relating to submitting information, including but not limited to, forms, reports, etc., to the Contracting Officer or the Contracting Officer's Representative (COR) shall be prepaid by the Contractor.

(End of Clause)

D-2 Marking Of Information Or Reports

All information or reports submitted shall prominently show on the cover of the report:

- 1 Name and business address of Contractor;
- 2 Contractor's point of contact for report and phone number;
- 3 Contract number and/or Order number;
- 4 Contracting Officer's name, phone number, and address; and
- 5 Name and address of COR.

(End of Clause)

D-3 Preservation, Packaging, and Packing

Preservation, packaging, and packing shall provide adequate protection against physical damage during shipment of all deliverable items in accordance with commercial practices.

(End of Clause)



Section E – Inspection and Acceptance

1.0 Clauses Incorporated By Reference

52.246-2	Inspection of Supplies – Fixed Price (Fixed Price Only)	AUG 1996
52.246-3	Inspection of Supplies – Cost Reimbursement (Cost Only)	MAY 2001
52.246-4	Inspection of Services – Fixed-Price (Fixed Price Only)	AUG 1996
52.246-5	Inspection of Services – Cost Reimbursement (Cost Only)	APR 1984
52.246-16	Responsibility For Supplies	APR 1984

2.0 Software Capability Evaluation

The contractor analysis and design and any other activities and deliverables (other than the Disposition/Scheduling Prototypes) are expected to be completed nine (9) months from contract award. Immediately following completion of that technical activity, the Government may at its option conduct independent capability assessments of the Contractor to determine the degree to which their corporate SW-CMM/CMMI Level 3 (or higher) processes and procedures have been institutionalized on the ERA project. Depending on whether the Contractor has represented itself as being compliant with the SW-CMM or the CMMI model, the evaluation will take the form of a SCE or SCAMPI, respectively. All SCEs or SCAMPIs will be led by SEI-Qualified lead evaluators or appraisers provided by the Government.

Offerors should note that the Government intends to conduct additional software capability evaluations during execution of the contract following down-select, however this will be limited to at most one (1) evaluation per contract option period (increment).

(End of Clause)

3.0 Contractor Quality Control Responsibility

The Contractor is responsible for the day-to-day inspection and monitoring of the Contractor's work performed to ensure compliance with contract requirements. The results of all Contractor quality control inspections conducted shall be documented on inspection reports and provided to the COR as requested.

(End of Clause)

4.0 Inspection And Acceptance - Reports And Data

Inspection and acceptance of all reports and data shall be as specified in the Contract Data Requirements List. The Government may accept, conditionally accept, or reject the Contractor delivered reports and data as specified in the individual Data Requirement Items. Rejected or conditionally accepted reports and data will state any corrective action required by the



**NARA Electronic Records Archives (ERA)
Original Contract**

Contractor. The Contractor shall make any necessary changes, modifications, or corrections to the reports or data. The Government shall take action on the corrected reports and data within the time limit specified in the individual data requirement items. Government action under this requirement shall not affect or limit any other rights the Government may have under this contract.

(End of Clause)



Section F – Deliveries Or Performance

1.0 CLAUSES INCORPORATED BY REFERENCE

52.211-17	Delivery of Excess Quantities (Fixed Price Only)	SEP 1989
52.242-15	Stop-Work Order (Fixed Price Only)	AUG 1989
52.242-15	Stop-Work Order Alternate 1 (Cost Only)	AUG 1989 APR 1984
52.242-17	Government Delay Of Work (Fixed Price Only)	APR 1984
52.247-34	Free on Board (FOB) Destination (Fixed Price Only)	NOV 1991

1.1 TERM OF CONTRACT PERFORMANCE

1.1.1 Base Year

Services to be furnished in this contract shall begin on the effective date or date of award, whichever is later, and shall continue thereafter for a period of 12 months.

1.1.2 Option Years

The period of performance for the option years are as follows:

- Option 1 performance period, if exercised, shall be 24 months following the Base Contract period.
- Option 2 performance period, if exercised, shall be 12 months following Option 1.
- Option 3 performance period, if exercised, shall be 12 months following Option 2.
- Option 4 performance period, if exercised, shall be 12 months following Option 3.
- Option 5 performance period, if exercised, shall be 12 months following Option 4.
- Option 6 performance period, if exercised, shall be 12 months following Option 5.

These periods of performance are illustrated in the following diagram, and are for informational purposes only

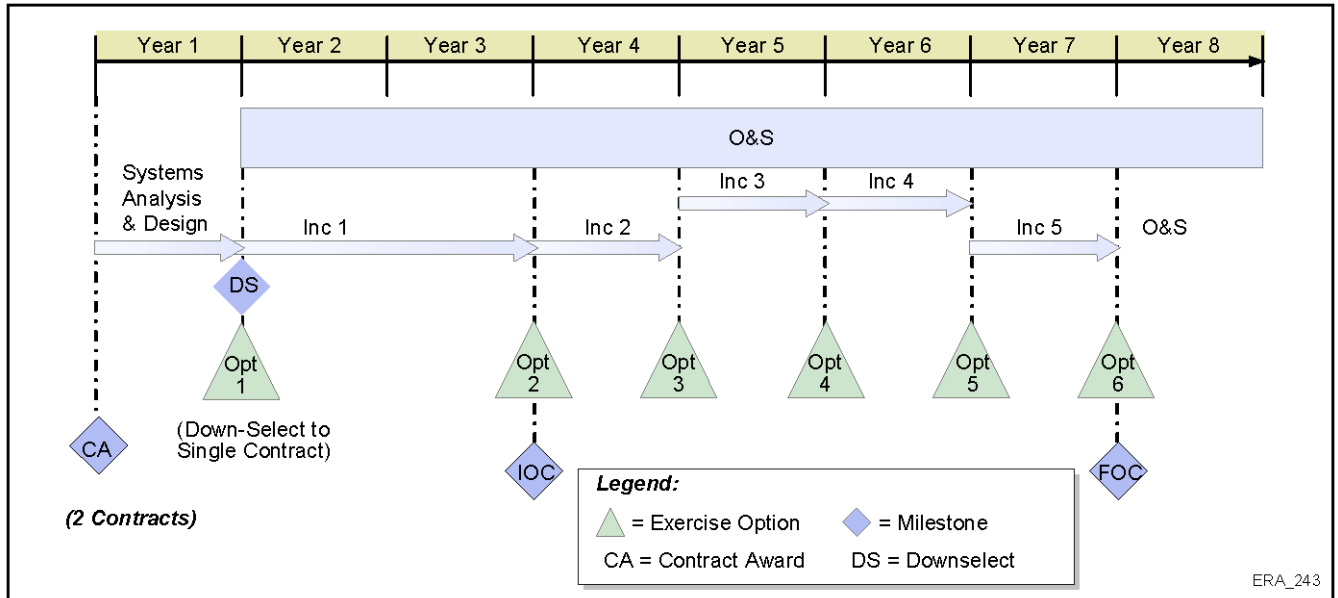


Figure 5.6-1. Program Milestones

2.0 PLACE OF PERFORMANCE

Work will be performed at Government provided and/or Contractor facilities, in accordance with FAR 52.215-6, Place of Performance (Oct 1997).

(End of Clause)

3.0 CONTRACTOR NOTICE TO THE GOVERNMENT OF DELAYS

In the event the Contractor encounters difficulty in meeting performance requirements, or when he/she anticipates difficulty in complying with the contract schedule or completion date, or whenever the Contractor has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately notify the Contracting Officer and the COR, in writing, giving pertinent details. However, the Contractor's data shall be informational only in character. This provision shall not be construed as a waiver by the Government of any delivery schedule or date, or any rights or remedies provided by law or under this contract.

(End of Clause)



Section G – Contract Administration Data
G-1 Government Contract Administration

a. This contract will be administered by:

National Archives and Records Administration
Acquisition Services Division, Code NAA
Room B-550
8601 Adelphi Road
College Park, MD 20740-6001

b. The Contracting Officer responsible for administering this contract is:

Madan Kar, Contracting Officer
Telephone: (301) 837-0736
Email: Madan.Kar@.nara.gov

- (1) Written communication to the Contracting Officer shall make reference to the contract number and shall be mailed, postage prepaid, to the above address.
- (2) The Contracting Officer has the overall responsibility for the administration of this contract. The Contracting Officer alone, without delegation, is authorized to take actions on behalf of the Government to amend, modify, or deviate from the contract terms, conditions, requirements, specifications, details and/or delivery schedules; make final decisions on disputed deductions from contract payments for non-performance or unsatisfactory performance; terminate the contract for convenience or default; and issue final decisions regarding contract questions or matters under dispute. However, the Contracting Officer may delegate certain other responsibilities to authorized representatives.

(End of Clause)

G-2 Designation of Contracting Officer’s Representative

- a. (1) The Contracting Officer’s Representative (COR) for this contract will be identified by letter after contract award.
- (2) The individual designated as COR to assist the Contracting Officer (CO) in the discharge of the Contracting Officer's responsibilities. The COR is responsible for monitoring, giving progress reports to the CO, providing technical direction and clarification to the Contractor, and overall technical surveillance of services to be performed under this contract. The COR should be contacted regarding questions or problems of a technical nature. Technical direction and clarification must be within the general scope of the work stated in the contract. Technical direction and clarification may not be used to: (1) assign additional work under the contract; (2) direct a change as defined in the appropriate changes clause of this contract; (3) increase or decrease the contract price or estimated contract amount (including fee), as applicable, the level of effort, or the time required for contract performance; or



NARA Electronic Records Archives (ERA) Original Contract

- (4) change any of the terms, conditions, or specifications of the contract. In no event will any understanding or agreement, modification, change order, or other matter deviating from the terms of the basic contract between the Contractor and any person other than the CO be effective or binding upon the Government.
 - (3) When, in the opinion of the Contractor, the COR requests effort outside the existing scope of the contract, the Contractor shall immediately notify the CO and follow-up in writing within in five (5) calendar days. The Contractor shall not proceed with the questioned work affected by the technical direction or clarification unless instructed otherwise by the CO.
- b. The responsibilities of the COR include, but are not limited to, the following:
- (1) Provides technical direction and ensures Quality Assurance (QA);
 - (2) Reviews and certifies invoices in accordance with invoicing instructions of the contract ensuring that payment is made only for satisfactory services or supplies received. Maintains file copies of all invoices and supporting documentation. Monitors the costs of cost-reimbursement, time-and-material, and labor hour type contracts to ensure that they appear to be reasonable for the efforts performed; this includes the type of labor and number of labor hours, travel locations/duration/number of travelers, and types and quantities of material as indicated in the Bill of Material. As a minimum, the COR must review invoices and any status reports provided by the Contractor to verify that the hours or cost incurred are reasonable for the Contractor's effort and contract deliverables provided. Upon certification of invoices, the COR shall provide a copy of the invoice and certification to the payment office and a copy to the contracting office.
 - (3) Monitors contract performance, provides inspection and acceptance of Contractor performance, certifying that the services are satisfactory and performed in accordance with the contract's terms and conditions. Whenever possible, the originator of the acquisition requirements should not also be the inspector/acceptor of the services; therefore, the level above the COR will sign as the originator/requestor of all acquisitions requiring a COR.
 - (4) Submits a written report to the CO addressing all aspects of the Contractor's performance, including cost effectiveness, quality, and timeliness of performance. This report shall be submitted within 60 days of contract and/or task/delivery order completion, but no less than annually.
 - (5) Ensures information received from the contractor is accurate and complete.
 - (6) Maintains a COR file, by contract and delivery order (if applicable) containing contract documentation including copies of all Alternate COR appointment letters and correspondence.



NARA Electronic Records Archives (ERA) Original Contract

- (7) Completes and forwards information regarding all Government property furnished to the contractor to the CO, retaining records of the date provided to the contractor and the condition of the property.
 - (8) Serves as the point-of-contact through which the Contractor can relay questions or problems of a technical nature to the CO.
 - (9) Confers with representatives of the Contractor regarding any non-performance or unsatisfactory performance; following through to assure that all non-performance or unsatisfactory performance is performed/corrected or payment adjustment is recommended to the CO.
 - (10) Reviews and evaluates Contractor's Indefinite Delivery Indefinite Quantity (IDIQ) estimates (if applicable to contract), furnishes comments and recommendations to the CO as appropriate.
 - (11) Advises the CO of any performance problems and makes recommendations for corrective action to correct performance issues.
 - (12) Furnishes the CO with any requests for change, deviation, or waiver (whether generated by Government personnel or Contractor personnel), including all supporting paperwork in connection with such change, deviation, or waiver.
 - (13) Receives and maintains a file of Non-Disclosure Agreements signed by Contractor's staff.
 - (14) In addition to the specific duties as listed above, the COR is also responsible for knowing the employment status of the contractor's employees working at the NARA sites of Archives I and Archives II. When the COR is notified that the contractor's employee is leaving the contract or the work site has changed, the COR must notify NARA Security Office (NASS) of the new status. The COR should also ensure that the contractor's employee returns the NARA issued identification and the proximity card for AII when they no longer need access to the buildings. The COR's signature is required on the Contractor's Identification Card Authorization in order for the contractor's employee to be issued a NARA identification badge and a proximity card in the case of an Archives II work site. An identification badge and proximity card will not be issued without a signed Authorization that includes an expiration date. Please refer to NARA Directive 272 for more information on contractor's employees identification badge and proximity card issuance.
- c. Nothing in the foregoing paragraphs of this clause shall be construed to excuse the Contractor from performing that portion of the contractual work statement, which is not affected, by the disputed technical direction or clarification.

(End of Clause)



G-3 Certification of Invoice

- a. The CO and COR will review a copy of each invoice for correctness of labor categories used, services performed, etc. The CO or the COR will certify the invoice and:
 - (1) Submit it to the payment office for payment; or
 - (2) Authorize reimbursement by Government purchase card.
- b. If the CO or COR disagrees with the invoice, the CO or COR, as appropriate, will immediately:
 - (1) Notify the paying office or withhold Government purchase card reimbursement;
 - (2) Contact the Contractor to resolve any discrepancies;
 - (3) Obtain a corrected invoice; and, as appropriate,
 - (4) Forward the corrected invoice to the paying office or authorize Government purchase card reimbursement.
- c. If only a portion of the invoice costs are in dispute, the CO or COR, if assigned, will certify only the undisputed costs and, as appropriate, submit the invoice to the payment office for partial payment or authorize only partial Government purchase card payment. The COR will work with the Contractor to resolve any remaining disputed costs.
- d. If the COR cannot resolve the invoice discrepancy with the Contractor, or if a problem has been noted with the Contractor's performance, the COR shall notify the CO, in writing, with details of the problem.

(End of Clause)

G-4 Invoice Submission Requirements

- a. (1) All original invoices (plus two copies) for firm-fixed-priced services not designated to be reimbursed by Government purchase card, shall be sent to:
General Services Administration
External Services Branch (6BCE)
P.O. Box 914760
Kansas City, MO 64141
- (2) The Contracting Officer identified in paragraph G-1 and the COR identified in paragraph G-2 shall be sent a copy of all invoices. The Contractor shall attach to all invoices sent to the CO and COR any NARA Performance Discrepancy Reports, including Contractor



NARA Electronic Records Archives (ERA) Original Contract

rebuttal comments, for any work covered by the invoice, regardless if rebuttal comments had been previously submitted during the invoice period.

- b. To constitute a "proper" invoice and to assist the Government in making timely payments, the invoice shall include the following information and/or attached documentation:
- (1) Name of the business concern and invoice date;
 - (2) Contract number;
 - (3) Description, price, and quantity of services actually delivered or rendered and segregated by CLIN and/or SUBCLIN number(s);
 - (4) Payment terms;
 - (5) Name, title, phone number, and complete mailing address of responsible official to whom payment is to be sent. The "remit to" address must correspond to the remittance address in the contract;
 - (6) Government Document Number (the Document Number is an 8 digit number that begins with NO);
 - (7) Organizational code; and
 - (8) Other substantiating documentation or information as required by the contract (such as invoice number).
 - (9) Tax ID Number (TIN)
- c. Invoices shall be submitted on the 13th business day of each month.

(End of Clause)

G-5 Payment

- a. Payments shall be made on a calendar month basis in arrears of services rendered upon submission of a proper invoice. Payments will be due on the 30th calendar day after receipt of a proper invoice, or on the 30th calendar day after the date the services were accepted by the Government, whichever is later. For a fixed-price services contract, in the event the contract begins or ends during the month, payment will be prorated based on the actual number of workdays per month.
- (1) **No contract payments will be made by check.** Payment will be made electronically in accordance to FAR 52.232-33, Payment by Electronic Funds Transfer – Central Contractor Registration.
 - (2) The date of payment by wire transfer shall be considered to be the date payment is made.
 - (3) For payment purposes, the date of completion of performance of service under the contract shall be the last day of the month in which services were provided.
- b. The Contractor shall be paid for the work called for in Section C as set forth in the "Line Item Description" located in **Section B** of this Contract. Payment for supplies/services, minus any deductions from the invoiced price made pursuant to Section E, shall be made monthly upon submission of the Contractor's properly certified invoices.



(End of Clause)

G-6 Adjusting Payment

Under the terms and conditions of this contract, payment may be adjusted if any services do not conform with contract requirements. The COR will inform the Contractor in writing of the type and dollar amount of proposed payment adjustment deductions with reference to the appropriate contract term or condition on or before the 10th working day of the month succeeding the performance period for which the deductions are to be made.

(End of Clause)

G-7 Final Payment

Before final NARA payment is made, the Contractor shall furnish to the Contracting Officer a written release of all claims against the Government arising by virtue of the contract, other than claims in stated amounts as may be specifically excluded by the Contractor from the operation of the release. If the Contractor's claim to amounts payable under the contract has been assigned under the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), a release may also be requested of the assignee. To ensure that all necessary adjustments for non-performance or unsatisfactory performance have been made and a release of claims has been submitted before the contract is closed out, the final NARA payment will be made in thirty (30) calendar days after receipt of a proper invoice, date of completion of performance, or receipt of release of claims by the Contracting Officer, whichever is later.

(End of Clause)

G-8 Contractor's Point of Contact for DCAA Contract Auditor

Offerors are requested to identify the DCAA point of contact for contract audits.

Name: Ms. Ellie Marchione
Address: 9211 Corporate Blvd, Rockville, MD 20850
Telephone: 301-640-4368
FAX No.: 301-640-4385

(End of Clause)

G-9 Earned Value Management System (EVMS) Assessment

On an annual basis, the Government may conduct a monitoring session and perform an assessment of the developer's EVMS. For up to 14 business days per fiscal year, at a time mutually agreeable to both the Government and the developer, the developer shall make the appropriate staff, records, and data available to the Government for EVMS monitoring. With the exception of the first review and if a contractor has an approved EVMS system and is monitored on an ongoing basis by an on site Government Agency, subsequent reviews may not be required



NARA Electronic Records Archives (ERA) Original Contract

at the Government's discretion. Contractor shall show evidence of approval of their EVMS process on an annual basis. The goal of the monitoring will be to ensure that the developer's EVMS processes are being followed and that those processes comply with EIA Standard EIA-748-A, Earned Value Management Systems, January 2002. At the conclusion of each monitoring session, the Government will assess the results of its data collection, prepare a list of items that require correction or further explanation, and go over the list with the developer. The developer will be responsible for correcting any instances where its EVMS process are not being following or when its EVMS processes are contrary to the EIA-748-A standard and ensuring that those instances are not repeated.

(End of Clause)

G-10 Earned Value Management Systems (EVMS) Integrated Baseline Reviews (IBRs)

The developer shall make themselves available for up to four (4) mutually-agreed-upon Integrated Baseline Reviews (IBRs) per contract year. The purpose of the IBRs is to assess the adequacy of the developers Performance Measurement Baseline (PMB) and facilitate the ERA Program Director's ownership of that baseline and management control of the contract. The goals of the IBR are as follows:

- a) Confirm the integrity of the PMB,
- b) Foster the use of EVM as a means of communication,
- c) Provide confidence in the validity of contractor reporting,
- d) Identify risks associated with the PMB, and
- e) Present revised PMBs to the NARA CCB for approval.

(End of Clause)

G-11 Subcontractor Reporting

The following standard form is prescribed for use in reporting small, small disadvantaged and women-owned small business subcontracting data, as specified in Part 19:

- (a) *SF 294 (Rev. 10/01), Subcontracting Report for Individual Contracts.* (See 19.704(a)(10).) SF 294 is authorized for local reproduction.

The form can be found at:

<http://w3.gsa.gov/web/c/newform.nsf/d1e6bbd58f7402fb8525696c006ac591/2d0f9cf1baf4124485256b100070d8af?OpenDocument>

(End of Clause)



Section H – Special Contact Requirements

H-1 Government and NARA ERA Support Contractor’s Personnel (NARA ERA PMO)

- (a) During performance of this contract, Government and NARA Electronic Records Archives (ERA) Support Contractors’ personnel may be present at the contractor’s facility and have other contacts with contractor personnel. Additionally, the contractor will be required to interact and cooperate with various NARA ERA Support Contractors’ personnel supporting Government working groups. The Government personnel and its support contractors will interact with the contractor, review products and work in process, and provide clarifications from time to time; however, these contractor personnel will not formally approve or disapprove deliverables. Neither shall support contractors (such as the ERA Program Management Office (PMO) support or Independent Verification & Validation (IV&V) contractors) have any authority to direct the contractor. The contractor shall not construe interaction with these personnel as direction by the Government or as modifications to the contract. On the other hand, the contractor, in performing its requirements, is expected to communicate, cooperate, and grant access across the program, whether those communications, cooperation, or access be with authorized contractor support personnel or Government personnel. The CO shall be the only individual authorized to modify any terms and conditions of this contract. The contracting officer’s representative(s) may direct technical effort, as required, within the scope of the contract. If the Contractor receives information from support contractor personnel that it believes will impact cost or make a change to contract terms and conditions, it must immediately notify the CO. When in doubt, the CO shall make the appropriate determinations.

- (b) The contractor further agrees to include in each subcontract a clause requiring compliance by the subcontractor and succeeding levels of subcontractors with the response and access provisions of paragraph (a) above, subject to coordination with the contractor. This agreement does not relieve the contractor of its responsibility to manage its subcontracts effectively and efficiently nor is it intended to establish privity of contract between the Government (or the ERA PMO support contractor) and such subcontractors.

(End of Clause)

H-2 Standards Of Conduct

- (a) When the Contractor is onsite at a federal building, the Contractor shall be responsible for maintaining satisfactory standards of employee competency, conduct, appearance, and integrity. Each employee or supervisor of the Contractor is expected to adhere to the rules associated with that federal building, and to adhere to standards of behavior that reflect credit on themselves, their employer, and the Federal Government.

- (b) The Contractor shall be responsible for taking such disciplinary action, including suspension without pay or removal from the worksite, with respect to its employees, as may be necessary to enforce those standards.



NARA Electronic Records Archives (ERA) Original Contract

- (c) Where applicable, the requirements of this clause shall be expressly incorporated into subcontract(s) and shall be applicable to all subcontractor employees who may perform services or work at the federal building and grounds of this contract.

(End of Clause)

H-3 Work On A Government Installation

In performing on-site work under this contract on a Government installation or in a Government building, the Contractor shall;

- (a) Conform to the specific safety requirements established by the contract.
- (b) Comply with the safety rules of the Government installation that concern related activities not directly addressed in this contract.
- (c) Take all reasonable steps and precautions to prevent accidents and preserve the life and health of Contractor and Government personnel connected in any way with performance under this contract.
- (d) Take such additional immediate precautions as the Contracting Officer or Contracting Officer's Representative (COR) may reasonably require for safety and accident prevention purposes.
- (e) Conform with all required security requirements.

(End of Clause)

H-4 Key Personnel

- (a) The Contractor agrees to assign to the contract those key persons whose resumes were submitted with the Contractor's proposal as required to fill the requirements of the contract. The Contractor agrees to assign key personnel to the contract on a full time basis. No substitution or addition of personnel shall be made except in accordance with this clause.
- (b) The Contractor agrees that during the first 24 months of the contract period, no key personnel substitutions will be permitted, unless such substitutions are necessitated by an individual's sudden illness, death, or termination of employment. In any of these events, the Contractor shall promptly notify the CO and provide the information required by paragraph (d) below.
- (c) If key personnel, for whatever reason, become unavailable for work under this contract for a continuous period exceeding 30 working days, or are expected to devote substantially less effort to the work than indicated in its proposal, the Contractor shall propose a substitution of such personnel, in accordance with paragraph (d) below.
- (d) All proposed key personnel substitutions shall be submitted, in writing, to the CO at least 30 days, or 90 days if a security clearance is to be obtained, in advance of the proposed



**NARA Electronic Records Archives (ERA)
Original Contract**

substitution. Each request shall provide a detailed explanation of the circumstances necessitating the proposed substitution; a complete resume(s) for the proposed substitute(s); the hourly rates of the incumbent(s) and the proposed substitute(s); and any other information required by the CO to approve or disapprove the proposed substitution(s). All proposed substitutes (no matter when they are proposed during the performance period) shall have qualifications that are equal to or higher than the qualifications of the person being replaced.

- (e) In the event the Contractor designates additional key personnel as deemed appropriate for the requirement, the Contractor shall submit to the CO for approval the information required in paragraph (d) above.
- (f) The CO shall evaluate requests for substitution and addition of personnel and promptly notify the Contractor, in writing, whether a request is approved or disapproved.
- (g) If the CO determines that suitable and timely replacement of key personnel who have been reassigned, terminated, or have otherwise become unavailable to perform under the contract is not reasonably forthcoming, or that a resultant reduction of productive effort would impair the successful completion of the contract, the contract may be terminated by the CO for default or for the convenience of the Government, as appropriate. Alternatively, at the CO's discretion, if the CO finds the Contractor to be at fault for the condition, the CO may equitably adjust (downward) the contract price to compensate the Government for any delay, loss, or damage as a result of the Contractor's action.
- (h) Designated key personnel and positions (to be provided by Contractor)

Name (Last, First, MI)

Position

Relick, Clyde	Program Director
Harris, William R.	Architect and Evolutionist
MacDonald, William H.	Development Manager
Hansen, Steve	Chief Engineer
Robinson, Fred Y.	Requirements Manager Engineer
Margolis, Linda	Test and Integration Architect
Malik, Adnan	Deployment, Operations, and Support Manager
Bedford, Kenneth	Software Architect
Rogers, Roy S.	Standards and Metadata Subject Matter Expert
Hunter, Gregory	Principal Archivist
Evans, Mark	Digital Preservation Focal Point
McGovern, Bill	Field Operations Manager

(End of Clause)

H-5 Security Requirements

Selective effort to be performed under this contract will require access to and protection of Sensitive but Unclassified (SBU)/ Top Secret/Sensitive Compartmented Information (TS/SCI)



NARA Electronic Records Archives (ERA) Original Contract

sensitive and/or other classified or sensitive information/data. The contractor shall ensure that all appropriate security and protection actions are taken (including providing cleared personnel and procedures) consistent with the security requirements.

This contract requires the contractor to have access to sensitive unclassified government automated information systems (AIS) in categories AIS-I, II and III. As a minimum contractor employees must be the subject of a completed favorable Single Scope Background Investigation (SSBI) prior to being granted access and performing in category AIS-I positions. As a minimum contractor personnel prior to being granted access and performing in categories AIS II and III positions must be the subject of a completed favorable National Agency Check and Inquiries (NACI).

The contractor will comply with NARA security policies and procedures when contract performance occurs at a NARA installation or NARA facility in accordance with the Visitor Group Security Agreement (see DD-254, Section J Attachment 10).

NARA anticipates that two (2) personnel cleared for TS/SCI access will be required during the base contract period (System Analysis and Design Phase). Staff required for this phase must possess current Single Scope Background Investigations at contract award. Requirements for further cleared personnel will be addressed during the System Analysis and Design Phase.

The following forms must be completed by the Offeror prior to contract award.

- Standard Form 328, Certificate Pertaining to Foreign Interests. Offerors who have either a Department of Defense or a Department of Energy Facility Clearance need not resubmit the foreign ownership information unless specifically requested to do so. Instead, provide your DOE Facility Clearance code or your DOD assigned Commercial and Government Entity (CAGE) code. If uncertain, consult the office which issued this solicitation;
 - DD Form 441, Department of Defense Security Agreement; and
 - DD Form 441-1, Appendage to Department of Defense Security Agreement.
- These forms are available from the Defense Security Service at <http://www.dss.mil/seclib/forms.htm>.

The unclassified instances of ERA will be examined for compliance with OMB directives, NIST Guidelines, FIPS, and the following statutory/regulatory items:

1. OMB Circular A-130, "Management of Federal Information Resources";
2. Appendix III, "Security of Federal Automated Information Resources," updated 2000;
3. Privacy Act of 1974, Pub. L. 93-579 (and Amendments);
4. Freedom of Information Act of 1986, Public Law 99-570;
5. Information Technology Management Reform Act of 1996 (Clinger-Cohen), Public Law 104-106;
6. Government Paperwork Elimination Act of 1998, Public Law 105-277;
7. Treasury and General Government Appropriations Act for Fiscal Year 2001, Public Law 106-554;



NARA Electronic Records Archives (ERA) Original Contract

8. Federal Information Security Management Act of 2002 (FISMA), Public Law 107-347, 44 USC Sec. 3541;
9. Census - Information as confidential, 13 USC Sec. 9(a);
10. Executive Order 12958, Classified National Security Information, and amendment Executive Order 13292;
11. Executive Order 12968, Access to Classified Information;
12. Executive Order 13011, "Federal Information Technology," 1996;
13. Executive Order 13231, "Critical Infrastructure Protection in the Information Age," 2001;
14. National Industrial Security Program Operating Manual, DoD 5220.22M and changes;
15. NARA 202, Information Security Manual;
16. NARA 804 Security Directive; and
17. NARA IT Security Handbook.

(End of Clause)

H-6 Identification/Building Pass

Contractor personnel requiring frequent access to NARA facilities should be presented to the Contracting Officer's Representative (COR) for approval. Approved Contractor personnel shall make their personnel available for photo identification badges on a schedule to be determined by the COR. The badges will be made by the Government utilizing supplies, materials and equipment provided by the Government. Each Contractor employee shall sign the appropriate badge at the time of photographing.

- (a) To obtain an ID and building pass, at a minimum a National Agency Check and Inquiries (NACI) investigation will be conducted. The contractor will be responsible for providing the SF 85, Questionnaire for Non-sensitive Positions, the FD258, Fingerprint Card, and the OF 306, Declaration for Federal Employment to NASS on the first day the contractor will be reporting to NARA. For positions at the High Risk position sensitivity designation (such as computer administrator) NASS will work with the contractor to obtain the appropriate background investigation prior to the individual reporting for duty. For Critical Sensitive position sensitivity designations (access to national security classified information), the contractor will be responsible for obtaining the appropriate investigation prior to the contractor reporting for duty. Industry can request background investigations through the Defense Industrial Security Clearance Office (DISCO), located in Columbus, Ohio. DISCO processes, issues and maintains industrial security program facility clearances and industrial security personnel security clearances. The DISCO Customer Service number is 888-282-7682. For the next several months, industry will continue to submit clearance requests via the Electronic Personnel Security Questionnaire (EPSQ) and follow existing procedures for submitting signed releases and fingerprint cards. The EPSQ program can be downloaded from the <http://www.dss.mil> web site. Sometime in FY04, industry will transition to OPM's e-QIP software to submit clearance requests. Advance notification and appropriate instructions for use of e-QIP will be provided to ensure a smooth and orderly transition.



NARA Electronic Records Archives (ERA) Original Contract

- (b) The Contractor is responsible for ensuring that each of his/her employees performing work at NARA sites under this contract display their photo-identification badges at all times they are present on-duty in the building. Refusal or repeated neglect to display the photo-identification may result in an unsuitable determination.
- (c) Upon termination, resignation or other event leading to a contract employee leaving duty under this contract, the Contractor is responsible for returning all Government identification, building passes, keys, and other Government property issued to that employee. Failure on the part of the Contractor may result in the Contractor's liability for all costs associated with correcting the resultant breach in building security.
- (d) The Contractor shall notify the COR when the employee badges are lost. It shall be the responsibility of the Contractor to pay for replacement badges at the current replacement cost per badge.
- (e) The requirements of this clause are applicable to and shall be flowed down to all subcontractors who will work at the Archives facility(ies).

(End of Clause)

H-7 Change Of Contract Type

In accordance with the spirit of FAR 16.103(c), Negotiating Contract Type, NARA intends, by negotiation, to change contract type CLINs from Cost Reimbursement to Fixed Price as requirements become known. The change of contract type may be initiated by either the Government or the Contractor.

(End of Clause)

H-8 Organizational Conflict Of Interest (OCI)

The primary purpose of this clause is to aid in ensuring that:

- (a) The Contractor's objectivity and judgment are not biased because of its present, or future interests, (financial, contractual, organizational, or otherwise) associated with work under this contract;
- (b) The Contractor does not obtain an unfair competitive advantage by virtue of its access to non-public information regarding the Government's program plans and actual or anticipated resources;
- (c) The Contractor does not obtain any unfair competitive advantage by virtue of its access to proprietary information belonging to others;
- (d) The Contractor will be ineligible to participate in any capacity in contracts, subcontracts, or proposals thereof (solicited or unsolicited) which stem directly from the Contractor's performance of work under this contract unless the Contractor is the sole source;



NARA Electronic Records Archives (ERA) Original Contract

- (e) If the Contractor, in the performance of this contract, obtains access to information such as plans, policies, reports, studies, financial plans, or data which has not been released or otherwise made available to the public, the Contractor agrees that without prior written approval of the CO, it will not: (a) use such information for any private purpose unless the information has been released or otherwise made available to the public, (b) compete for work based on such information for a period of one year after the completion of this contract, or until such information is released or otherwise made available to the public, whichever occurs first, (c) submit an unsolicited proposal to the Government which is based on such information until one (1) year after such information is released or otherwise made available to the public, or (d) release such information unless such information has previously been released or otherwise made available to the public by the Government;
- (f) The Contractor must include this clause, including this paragraph, in consulting agreements and subcontracts of all tiers. The terms “Contract,” “Task Order,” “Contractor,” and “Contracting Officer” will be appropriately modified by the Contractor to preserve the Government's rights; and
- (g) The Contractor represents that it has disclosed to the CO, prior to award, all facts relevant to the existence or potential existence of OCI as that term is used in FAR Subpart 9.5. The Contractor represents that if it discovers an OCI or potential conflict of interest after award, a prompt and full disclosure must/will be made in writing to the CO not later than two (2) days after the discovery is made. This disclosure must include a description of the action the Contractor has taken or proposes to take in order to avoid or mitigate such conflicts.
- (h) The Contractor will be excluded from bidding future work only if it is determined by the Government that the contractor has received an unfair competitive advantage by its knowledge gained from having access to proprietary or source selection information.

(End of Clause)

H-9 Prohibition Regarding The Release Of Information

The Contractor agrees not to issue, release, circulate, publicize, publish, distribute, or disseminate in any way or fashion any information regarding this contract/program to the public or within its organization, subcontractors, consultants, and other government officials not directly working on this contract with out prior written approval by the CO.

(End of Clause)

H-10 Non-Disclosure Agreements

The Contractor must ensure that all employees scheduled to perform work on this contract (including subcontractors and consultants) review, understand, and execute the Section J Attachment (5) “Non-disclosure Agreement” prior to starting NARA contracted assigned work.



Original Non-disclosure Agreements must be submitted to the COR within three working days of an employee starting work.

(End of Clause)

H-11 Required Insurance

- a. In accordance with the clause of this contract entitled "INSURANCE--WORK ON A GOVERNMENT INSTALLATION" (FAR 52.228-5), the Contractor shall acquire and maintain during the entire performance period of this contract insurance of at least the following kinds and minimum amounts set forth below.

Table with 2 columns: TYPES OF INSURANCE and MINIMUM AMOUNT. Rows include Workmen's Compensation, Employee's Liability Insurance, General Liability Insurance (Comprehensive), and Vehicle Liability Insurance (Comprehensive) with various sub-items and amounts.

- b. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.

(End of Clause)

H-12 Notice To Offerors Regarding Deliverable Technical Data And Computer Software, Obligations Associated Therewith And Rights Therein

1. Deliverables

Technical data and computer software to be delivered under this procurement are identified on the CDRL # 28. The List, as provided by the contractor, is incorporated as part of this contract. The Government's rights in technical data and computer software provided in your proposal are set out in this clause. In addition to the technical data and computer software set out in the CDRL # 28, the Government reserves the right to order additional technical data and computer software pursuant to the clause at FAR 52.227-16,



NARA Electronic Records Archives (ERA) Original Contract

Additional Data Requirements. That clause enables the Contracting Officer to order, within a period of three years after acceptance of all items to be delivered under the contract, any data first produced or specifically used in contract performance. Data ordered pursuant to the clause at FAR 52.227-16 will also be furnished with the degree of rights provided for in this clause, as it modifies the FAR clauses cited herein.

2. Rights in Technical Data and Computer Software

- (a) Maximum flexibility in product availability and costs is desired. Software products may be obtained in conjunction with a software vendor's standard commercial license agreement, standard FAR 52.227-14 data rights, or terms and conditions defined below, based upon contractor's assessment of various factors (desirability of the product, availability at terms and conditions defined in 2(b) below, cost impacts, risk factors and mitigation plan). This analysis shall result in an implementation methodology tailored for the desired software.
- (b) The resulting contract will contain the clause set out at FAR 52.227-14, Rights in Data---General, with Alternate IV. This special provision, however, will have the effect of modifying that clause. Accordingly, to the extent that this provision provides for a different rights regimen than that set out in FAR 52.227-14 the terms of this clause shall govern.

To the extent that any provision of FAR 52.227-14 permits the contractor to narrow the scope of disclosure of the technical data or computer software called out in the CDRL # 28 if the data would be considered limited rights data or the computer software would be considered restricted rights computer software pursuant to the terms of FAR 52.227-14, such provision will not be applicable to this procurement. The Offeror agrees to furnish all technical data and computer software listed within CDRL # 28 with the degree of detail and disclosure to be specified by the Government. For example, submission of form, fit and function information in lieu of detailed engineering data will not be sufficient.

The contractor may assert copyright in any deliverable technical data or computer software that qualifies for copyright under 17 U.S.C. 401 et seq. The contractor grants a non-exclusive, non-transferable, copyright license to the Government to do, or have done on its behalf, anything which the copyright holder has the right to control, provided such actions are for a Government purpose. In the interest of brevity, use (to include any right or action afforded the copyright holder) by or for the Government will be termed Government Purpose Rights. For the purposes of this clause, a Government purpose does not include providing the information to any third party for the purpose of competing with the contractor in the commercial marketplace. Work performed for the Government will not be considered to be "in the commercial marketplace". The contractor agrees to provide the Government with Government Purpose Rights in all data delivered under this contract with the exception of commercial computer software.

For the purposes of this clause, commercial computer software is defined as that computer software sold to the general public in the commercial open market. As to



NARA Electronic Records Archives (ERA) Original Contract

commercial computer software required to be delivered under this contract, the contractor agrees to furnish same with “Special Purpose License Rights”. The term “Special Purpose License Rights” as used in this clause shall be the same as Government Purpose Rights as set out above, with the further limitation that the benefits of the copyright may only be utilized by the Government and its contractors for the performance of the ERA Program mission (including other agencies’ ERA related use) and that Program’s successors. Further, nothing in this clause enables the Government or any of its contractors to utilize the benefits of the copyright in commercial computer software furnished with Special Purpose License Rights for any commercial purpose. Please note that standard commercial computer software licenses do not appear appropriate for this purchase and it will be the contractor’s responsibility to secure the rights described herein for the Government.

3. Escrow Arrangements

The contractor recognizes that the Government is balancing multiple competing interests in this procurement. First, the Government requires the ability to utilize, and have utilized, the computer software furnished hereunder, and its associated documentation, for potentially a long period of time. Second, the Government wants to reduce costs to the greatest extent practicable through the use of commercial computer software and/or modified versions of such software. Third, the Government wants to use the latest version of such commercial computer software to the extent that is practicable but does not want to abandon any given version of commercial computer software because that version is no longer supported if the newer version does not meet the Government’s needs. In order to ensure the Government will always have access to source code and associated documentation for any commercial computer software program, or modified version thereof, which is utilized in this project, the contractor agrees to provide for and maintain escrow accounts for each such software program, which is not sold in sufficient quantities as to ensure with a high degree of confidence that the vendor of the software will provide effective support to that software for the duration of this contract. This escrow account shall contain the source code and associated documentation for such programs, at all times reflecting the most current version of that source code that is being marketed to industry and the last deployed version of the source code incorporated into the ERA system related and documentation. The programs and documentation stored in these accounts will be accessible to the Government in the event that the originating organization: (1) has gone out of business, no longer maintaining or interested in maintaining, modifying or supporting the software.

(End of Clause)

H-13 Drug- And Alcohol-Free Workforce

a. Definitions. As used in this clause --



NARA Electronic Records Archives (ERA) Original Contract

“Employee,” “Conviction,” and “Controlled Substance” are as defined in FAR 52.223-6, Drug Free Workplace. The use of a controlled substance in accordance with the terms of a valid prescription, or other uses authorized by law shall not be subject to this clause.

“Employee in a sensitive position” means a contractor or subcontractor employee who has been granted access to classified information; a contractor or subcontractor employee who performs the duties of a security guard; a contractor or subcontractor employee who operates a motor vehicle for the purpose of providing transportation services to persons (e.g., shuttle service); a contractor or subcontractor employee who performs child care center services; a contractor or subcontractor employee in other positions that the Government, contractor or subcontractor determines could reasonably be expected to affect safety, security, national security, or functions other than the foregoing requiring a high degree of trust and confidence.

“Use, in violation of applicable law or Federal regulation, of alcohol” means having, while on duty or during a pre-employment interview, an alcohol concentration of 0.04 percent by weight or more in the blood, as measured by chemical test of the individual’s breath or blood. An individual’s refusal to submit to such test is presumptive evidence of use, in violation of applicable law or Federal regulation, of alcohol.

- b. (1) The Contractor shall institute and maintain a program for achieving a drug- and alcohol-free workforce. As a minimum, the program shall provide for pre-employment, reasonable suspicion, random, post-accident, and periodic recurring (follow-up) testing of contractor employees in sensitive positions for use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. The Contractor may establish its testing or rehabilitation program in cooperation with other contractors or organizations.
- (2) The Contractor’s program shall test for the controlled substances use, including marijuana and cocaine.
- (3) The Contractor’s program shall conform to the “Mandatory Guidelines for Federal Workplace Drug Testing Programs” published by the Department of Health and Human Services (59 FR 29908, June 9, 1994) and the procedures in 49 CFR part 40, “Procedures for Transportation Workplace Drug Testing Programs,” in which references to “DOT” shall be read as “NARA.” and the split sample method of collection shall be used.
- c. (1) The Contractor’s program shall provide, where appropriate, for the suspension, disqualification, or dismissal of any employee in a sensitive position in any instance where a test conducted and confirmed under the Contractor’s program indicates that such individual has used, in violation of applicable law or Federal regulation, alcohol or a controlled substance.
- (2) The Contractor’s program shall further prohibit any such individual from working in a sensitive position on a NARA contract, unless such individual has completed a program of rehabilitation described in paragraph (d) of this clause.



NARA Electronic Records Archives (ERA) Original Contract

- (3) The Contractor's program shall further prohibit any such individual from working in any sensitive position on a NARA contract if the individual is determined under the Contractor's program to have used, in violation of applicable law or Federal regulation, alcohol or a controlled substance and the individual meets any of the following criteria:
- (i) The individual had undertaken or completed a rehabilitation program described in paragraph (d) of this clause prior to such use;
 - (ii) Following such determination, the individual refuses to undertake such a rehabilitation program;
 - (iii) Following such determination, the individual fails to complete such a rehabilitation program; or
 - (iv) The individual used a controlled substance or alcohol while on duty.
- d. The Contractor shall institute and maintain an appropriate rehabilitation program which shall, as a minimum, provide for the identification and opportunity for treatment of employees whose duties include responsibility for safety-sensitive, security, transportation, or National security functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.
- e. The requirements of this clause shall take precedence over any state or local Government laws, rules, regulations, ordinances, standards, or orders that are inconsistent with the requirements of this clause.
- f. For any collective bargaining agreement, the Contractor will negotiate the terms of its program with employee representatives, as appropriate, under labor relations laws or negotiated agreements. Such negotiation, however, cannot change the requirements of this clause. Employees covered under collective bargaining agreements will not be subject to the requirements of this clause until those agreements have been modified, as necessary; provided, however, that if one year after commencement of negotiation the parties have failed to reach agreement, an impasse will be determined to have been reached and the Contractor will unilaterally implement the requirements of this clause.
- g. The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts in which work is performed by an employee in a sensitive position, except subcontracts for commercial items (see FAR parts 2 and 12).

(End of clause)

H-14 Permits And Licenses

In performance of work under this contract, the Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work.

(End of Clause)



H-15 Interpretation Of Contract: Notice Of Ambiguities

- a. This written contract and any and all identified writings or documents incorporated by reference herein or physically attached hereto constitute the parties' complete agreement, and no other prior or contemporaneous agreements either written or oral shall be considered to change, modify or contradict it. Any ambiguity in this contract will not be strictly construed against the drafter of the contract language but shall be resolved by applying the most reasonable interpretation under the circumstances, giving full consideration to the intentions of the parties at the time of contracting.
- b. It shall be the obligation of the Contractor to exercise due diligence to discover and to bring to the attention of the Government at the earliest possible time any ambiguities, discrepancies, inconsistencies, or conflicts in or between the statement of work, specifications and any applicable drawings or other documents incorporated by reference herein. Failure to comply with such obligations shall be deemed a waiver and release of any and all claims for extra costs or delays arising out of such ambiguities, discrepancies, inconsistencies and conflicts.

(End of Clause)

H-16 Cooperation With Other On-Site Contractors

- a. When the Government undertakes or awards other contracts for additional work at the facilities, the Contractor shall: (1) fully cooperate with the other Contractors and Government employees and (2) carefully fit its own work to such other additional contracted work as may be directed by the Contracting Officer 's Representative (COR). The Contractor shall not commit or permit any act which will interfere with the performance of work awarded to another Contractor or with the performance of other Government employees.
- b. In any case where, in the course of fulfilling the contract requirements, the Contractor disturbs any work guaranteed under another separate contract, the Contractor shall restore such disturbed work to a condition satisfactory to the COR and guarantee such restored work to the same extent as it was guaranteed under the other contract.

(End of Clause)



Section I – Contract Clauses

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/vffara.htm>

<http://www.arnet.gov/far/>

52.202-1	Definitions	DEC 2001
52.203-3	Gratuities	APR 1984
52.203-5	Covenant Against Contingent Fees	APR 1984
52.203-6	Restrictions On Subcontractor Sales To The Government	JUL 1995
52.203-7	Anti-Kickback Procedures	JUL 1995
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	JAN 1997
52.203-10	Price Or Fee Adjustment For Illegal Or Improper Activity	JAN 1997
52.203-12	Limitation On Payments To Influence Certain Federal Transactions	JUN 2003
52.204-2	Security Requirements	AUG 1996
52.204-4	Printed or Copied Double-Sided on Recycled Paper	AUG 2000
52.208-9	Contractor Use of Mandatory Sources of Supply or Services	FEB 2002
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	JUL 1995
52.211-5	Material Requirements	AUG 2000
52.232-13	Notice of Progress Payments (Fixed Price Only)	APR 1984
52.215-2	Audit and Records--Negotiation	JUN 1999
52.215-8	Order of Precedence--Uniform Contract Format	OCT 1997
52.215-10	Price Reduction for Defective Cost or Pricing Data (Cost Only)	OCT 1997
52.215-11	Price Reduction for Defective Cost or Pricing Data—Modifications (Fixed Price Only)	OCT 1997
52.215-12	Subcontractor Cost or Pricing Data (Cost Only)	OCT 1997
52.215-13	Subcontractor Cost or Pricing Data—Modifications (Fixed Price Only)	OCT 1997
52.215-14	Integrity of Unit Prices	OCT 1997
52.215-15	Pension Adjustments and Asset Reversions	DEC 1998



NARA Electronic Records Archives (ERA)
Original Contract

52.215-16	Facilities Capital Cost of Money	JUN 2003
52.215-17	Waiver of Facilities Capital Cost of Money (Cost Only) Used if FCCOM is not proposed; by the contractor	OCT 1997
52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions	OCT 1997
52.215-19	Notification of Ownership Changes	OCT 1997
52.215-20	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data	OCT 1997
52.215-21	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data -- Modifications Alternate I (c) Submit the cost portion of the proposal via the following electronic media: Microsoft Excel document	OCT 1997
52.216-7	Allowable Cost and Payment paragraph (a)(3): "30 th " (Cost Only)	DEC 2002
52.219-8	Utilization of Small Business Concerns	OCT 2000
52.219-9	Small Business Subcontracting Plan	JAN 2002
52.219-16	Liquidated Damages-Subcontracting Plan	JAN 1999
52.219-25	Small Disadvantaged Business Participation Program- Disadvantaged Status and Reporting	OCT 1999
52.222-2	Payment for Overtime Premiums \$0.00 (Cost Only)	JUL 1990
52.222-19	Child Labor - Cooperation with Authorities and Remedies	SEP 2002
52.222-20	Walsh-Healy 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
52.223-5	Pollution Prevention and Right-to-Know Information	AUG 2003
52.223-6	Drug Free Workplace	MAY 2001
52.223-14	Toxic Chemical Release Reporting	AUG 2003
52.225-13	Restrictions on Certain Foreign Purchases	OCT 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
52.227-3	Patent Indemnity	APR 1984



NARA Electronic Records Archives (ERA)
Original Contract

52.227-16	Additional Data Requirements	JUN 1987
52.228-5	Insurance – Work on a Government Installation	JAN 1997
52.229-3	Federal, State And Local Taxes (Fixed Price Only)	APR 2003
52.230-2	Cost Accounting Standards	APR 1998
52.230-6	Administration of Cost Accounting Standards	NOV 1999
52.232-1	Payments (Fixed Price Only)	APR 1984
52.232-8	Discounts For Prompt Payment (Fixed Price Only)	FEB 2002
52.232-9	Limitation On Withholding Of Payments	APR 1984
52.232-11	Extras (Fixed Price Only)	APR 1984
52.232-16	Progress Payments (Fixed Price Only)	APR 2003
52.232-17	Interest	JUN 1996
52.232-18	Availability Of Funds	APR 1984
52.232-20	Limitation of Cost (Cost Only)	APR 1984
52.232-22	Limitation of Funds (Cost Only)	APR 1984
52.232-23 Alt I	Assignment of Claims (Jan 1986) - Alternate I	APR 1984
52.232-25	Prompt Payment	OCT 2003
52.232-33	Payment by Electronic Funds Transfer--Central Contractor Registration	OCT 2003
52.233-1	Disputes	JUL 2002
52.233-3	Protest After Award (Fixed Price Only)	AUG 1996
52.233-3	Protest After Award Protest After Award, Alternate 1 (Cost Only)	AUG 1996 JUN 1985
52.242-1	Notice of Intent to Disallow Costs (Cost Only)	APR 1984
52.242-3	Penalties for Unallowable Costs (Cost Only)	MAY 2001
52.242-4	Certification of Final Indirect Costs (Cost Only)	JAN 1997
52.242-13	Bankruptcy	JUL 1995
52.243-1	Changes-Fixed Price (Fixed Price Only)	AUG 1987
52.243-2	Changes-Cost Reimbursement (Cost Only)	AUG 1987
52.243-6	Change Order Accounting	APR 1984
52.243-7	Notification of Changes (b) 15; (d) 7	APR 1984
52.244-2	Subcontracts, Alternate II	AUG 1998



**NARA Electronic Records Archives (ERA)
Original Contract**

52.244-5	Competition In Subcontracting (Cost Only)	DEC 1996
52.244-6	Subcontracts for Commercial Items	MAY 2004
52.245-2	Government Property (Fixed-Price Contracts) (Fixed Price Only)	JUN 2003
52.245-5	Government Property (Cost-Reimbursement, Time- And-Material, or Labor-Hour Contracts) (Cost Only)	JUN 2003
52.245-9	Use and Charges	APR 1984
52.245-14	Use of Government Facilities	APR 1984
52.245-19	Government Property Furnished "As Is"	APR 1984
52.246-23	Limitation Of Liability	FEB 1997
52.247-63	Preference for U.S.-Flag Air Carriers	JUN 2003
52.247-67	Submission of Commercial Transportation Bills to the General Services Administration for Audit	JUN 1997
52.249-2	Termination For Convenience Of The Government (Fixed Price Only)	SEP 1996
52.249-6	Termination (Cost-Reimbursement) (Cost Only)	SEP 1996
52.249-8	Default (Fixed-Price Supply and Service) (Fixed Price Only)	APR 1984
52.249-14	Excusable Delays (Cost Only)	APR 1984
52.251-1	Government Supply Sources (Fixed Price Only)	APR 1984
52.253-1	Computer Generated Forms	JAN 1991

CLAUSES INCORPORATED BY FULL TEXT

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

- (a) The Government may extend the term of this contract by written notice to the Contractor within thirty (30) days; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least sixty (60) days before the contract expires. The preliminary notice does not commit the Government to an extension.
- (b) If the Government exercises this option, the extended contract shall be considered to include this option clause.
- (c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed eight (8) years.

(End of clause)



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

- (a) Definition. "HUBZone small business concern," as used in this clause, means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration (SBA).
- (b) Evaluation preference.
- (1) Offers will be evaluated by adding a factor of 10 percent to the price of all offers, except--
- i. Offers from HUBZone small business concerns that have not waived the evaluation preference;
 - ii. Otherwise successful offers from small business concerns;
 - iii. Otherwise successful offers of eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is exceeded (see 25.402 of FAR); and
 - iv. Otherwise successful offers where application of the factor would be inconsistent with a Memorandum of Understanding (MOU) or other international agreement with a foreign government.
- (2) The factor of 10 percent shall be applied on a line item basis or to any group of items on which award may be made. Other evaluation factors described in the solicitation shall be applied before application of the factor.
- (3) A concern that is both a HUBZone small business concern and a small disadvantaged business concern will receive the benefit of both the HUBZone small business price evaluation preference and the small disadvantaged business price evaluation adjustment (see FAR clause 52.219-23). Each applicable price evaluation preference or adjustment shall be calculated independently against an Offeror's base offer.

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

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

___ Offeror elects to waive the evaluation preference.

- (d) Agreement. A HUBZone small business concern agrees that in the performance of the contract, in the case of a contract for—
- (1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other HUBZone small business concerns;



NARA Electronic Records Archives (ERA) Original Contract

- (2) Supplies (other than procurement from a non-manufacturer of such supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other HUBZone small business concerns;
 - (3) General construction, at least 15 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other HUBZone small business concerns; or
 - (4) Construction by special trade contractors, at least 25 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other HUBZone small business concerns.
- (e) A HUBZone joint venture agrees that in the performance of the contract, the applicable percentage specified in paragraph (d) of this clause will be performed by the HUBZone small business participant or participants.
- (f) A HUBZone small business concern non-manufacturer agrees to furnish in performing this contract only end items manufactured or produced by HUBZone small business manufacturer concerns. This paragraph does not apply in connection with construction or service contracts.

(End of clause)

52.219-23 - Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (JUN 2003), Alternate I (JUN 2003)

- (a) *Definitions.* As used in this clause-
- "Small disadvantaged business concern" means an Offeror that represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either-
- (1) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and
 - i. No material change in disadvantaged ownership and control has occurred since its certification;
 - ii. 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
 - iii. It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net).
 - (2) 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



NARA Electronic Records Archives (ERA) Original Contract

13 CFR124, 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. In this case, in order to receive the benefit of a price evaluation adjustment, an Offeror must receive certification as a small disadvantaged business concern by the Small Business Administration prior to contract award; or

(3) Is a joint venture as defined in 13 CFR 124.1002(f).

"Historically black college or university" means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense (DoD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

"Minority institution" means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k, including a Hispanic-serving institution of higher education, as defined in Section 316(b)(1) of the Act (20 U.S.C. 1101a)).

(b) *Evaluation adjustment.*

(1) The Contracting Officer (CO) will evaluate offers by adding a factor of five (5) percent to the price of all offers, except-

- i. Offers from small disadvantaged business concerns that have not waived the adjustment;
- ii. An otherwise successful offer of eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is equaled or exceeded (see section 25.402 of the FAR);
- iii. An otherwise successful offer where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government;
- iv. For DoD, NASA, and Coast Guard acquisitions, an otherwise successful offer from a historically black college or university or minority institution; and
- v. For DoD acquisitions, an otherwise successful offer of qualifying country end products (see sections 225.000-70 and 252.225-7001 of the Defense FAR Supplement).

(2) The CO will apply the factor to a line item or a group of line items on which award may be made. The CO will apply other evaluation factors described in the solicitation before application of the factor. The factor may not be applied if using the adjustment would cause the contract award to be made at a price that exceeds the fair market price by more than the factor in paragraph (b)(1) of this clause.

(c) *Waiver of evaluation adjustment.* A small disadvantaged business concern may elect to waive the adjustment, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of this clause do not apply to offers that waive the adjustment.



___ Offeror elects to waive the adjustment.

(d) *Agreements.*

(1) A small disadvantaged business concern, that did not waive the adjustment, agrees that in performance of the contract, in the case of a contract for—

- i. Services, except construction, at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern;
- ii. Supplies (other than procurement from a non-manufacturer of such supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern;
- iii. General construction, at least 15 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern; or
- iv. Construction by special trade contractors, at least 25 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.

(2) A small disadvantaged business concern submitting an offer in its own name shall furnish in performing this contract only end items manufactured or produced by small business concerns in the United States or its outlying areas. This paragraph does not apply to construction or service contracts.

(End of clause)

52.225-5 Trade Agreements (June 2004)

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

“Caribbean Basin country” means any of the following countries: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago.

“Caribbean Basin country end product”

(1) Means an article that—

(i)

(A) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(B) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed; and



**NARA Electronic Records Archives (ERA)
Original Contract**

(ii) Is not excluded from duty-free treatment for Caribbean countries under 19 U.S.C. 2703(b).

(A) For this reason, the following articles are not Caribbean Basin country end products:

- (1) Tuna, prepared or preserved in any manner in airtight containers;
- (2) Petroleum, or any product derived from petroleum;
- (3) Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Harmonized Tariff Schedule of the United States (HTSUS) column 2 rates of duty apply (*i.e.*, Afghanistan, Cuba, Laos, North Korea, and Vietnam); and
- (4) Certain of the following: textiles and apparel articles; footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel; or handloomed, handmade, and folklore articles;

(B) Access to the HTSUS to determine duty-free status of articles of these types is available at <http://www.customs.ustreas.gov/impoexpo/impoexpo.htm>. In particular, see the following:

- (1) General Note 3(c), Products Eligible for Special Tariff treatment.
- (2) General Note 17, Products of Countries Designated as Beneficiary Countries under the United States—Caribbean Basin Trade Partnership Act of 2000.
- (3) Section XXII, Chapter 98, Subchapter II Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).
- (4) Section XXII, Chapter 98, Subchapter XX Goods Eligible for Special Tariff Benefits under the United States—Caribbean Basin Trade Partnership Act; and

(2) Refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the acquisition, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“Designated country” means any of the following countries:

Aruba, Austria, Bangladesh, Belgium, Benin, Bhutan, Botswana, Burkina Faso, Burundi, Canada, Cape Verde, Central African Republic, Chad, Comoros, Cyprus, Czech Republic, Denmark, Djibouti, Equatorial Guinea, Estonia, Finland, France, Gambia, Germany, Greece, Guinea, Guinea-Bissau, Haiti, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kiribati, Korea- Republic of, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Malawi, Maldives, Mali, Malta, Mozambique, Nepal, Netherlands, Niger, Norway, Poland, Portugal, Rwanda, Sao Tome and Principe, Sierra Leone, Singapore, Slovak Republic, Slovenia, Somalia,



NARA Electronic Records Archives (ERA) Original Contract

Spain, Sweden, Switzerland, Tanzania U.R., Togo, Tuvalu, Uganda, United Kingdom, Vanuatu, Western Samoa, Yemen.

“Designated country end product” means an article that--

- (1) Is wholly the growth, product, or manufacture of a designated country; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“End product” means those articles, materials, and supplies to be acquired under the contract for public use.

“Free Trade Agreement country” means Canada, Chile, Mexico, or Singapore.

“Free Trade Agreement country end product” means an article that--

- (1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“U.S.-made end product” means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

- (b) *Delivery of end products.* The Contracting Officer has determined that the Trade Agreements Act and NAFTA apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products except to the extent that, in its offer, it specified delivery of other end products in the provision entitled “Trade Agreements Certificate.”
- (c) United States law will apply to resolve any claim of breach of this contract.



(End of Clause)

52.227-3-- Patent Indemnity (Apr 1984)

Alternate II is hereby included by reference and the following Paragraph (c) is added and is hereby incorporated into FAR 52.227-3

“(c) This patent indemnification shall be applicable to any patent claims or suits against the Government arising out of any activity occurring pursuant to this contract regarding the making, use, or sale of any item, or materials; or the practicing of any processes; which, in either case, have been sold or offered for sale by the contractor or its subcontractors hereunder to the public, in the commercial open market, and to such items, materials, or processes with relatively minor modifications thereto.”

(End of clause)

52.227-14-- Rights in Data – General (Jun 1987), ALT IV (Jun 1987)

(a) *Definitions.* "Computer software," as used in this clause, means computer programs, computer databases, and documentation thereof.

"Data," as used in this clause, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

"Form, fit, and function data," as used in this clause, means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, as well as data identifying source, size, configuration, mating, and attachment characteristics, functional characteristics, and performance requirements; except that for computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithm, process, formulae, and flow charts of the software.

"Limited rights," as used in this clause, means the rights of the Government in limited rights data as set forth in the Limited Rights Notice of subparagraph (g)(2) if included in this clause.

"Limited rights data," as used in this clause, means data (other than computer software) that embody trade secrets or are commercial or financial and confidential or privileged, to the extent that such data pertain to items, components, or processes developed at private expense, including minor modifications thereof.

"Restricted computer software," as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and is



NARA Electronic Records Archives (ERA) Original Contract

confidential or privileged; or is published copyrighted computer software, including minor modifications of such computer software.

"Restricted rights," as used in this clause, means the rights of the Government in restricted computer software, as set forth in a Restricted Rights Notice of subparagraph (g)(3) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract, including minor modifications of such computer software.

"Technical data," as used in this clause, means data (other than computer software) which are of a scientific or technical nature.

"Unlimited rights," as used in this clause, means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) *Allocation of rights.*

(1) Except as provided in paragraph (c) of this clause regarding copyright, the Government shall have unlimited rights in --

- i. Data first produced in the performance of this contract;
- ii. Form, fit, and function data delivered under this contract;
- iii. Data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and
- iv. All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (g) of this clause.

(2) The Contractor shall have the right to --

- i. Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, unless provided otherwise in paragraph (d) of this clause;
- ii. Protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in paragraph (g) of this clause;
- iii. Substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action, in accordance with paragraphs (e) and (f) of this clause; and
- iv. Establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided in subparagraph (c)(1) of this clause.

(c) *Copyright --*



NARA Electronic Records Archives (ERA) Original Contract

- (1) *Data first produced in the performance of this contract.* Except as otherwise specifically provided in this contract, the Contractor may establish claim to copyright subsisting in any data first produced in the performance of this contract. When claim to copyright is made, the Contractor shall affix the applicable copyright notices of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. For data other than computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license for all such data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government. For computer software, the Contractor grants to the Government and others acting on its behalf, a paid up, nonexclusive, irrevocable worldwide license for all such computer software to reproduce, prepare derivative works, and perform publicly and display publicly, by or on behalf of the Government.
- (2) *Data not first produced in the performance of this contract.* The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains the copyright notice of 17 U.S.C. 401 or 402, unless the Contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (c)(1) of this clause; *provided*, however, that if such data are computer software the Government shall acquire a copyright license as set forth in subparagraph (g)(3) of this clause if included in this contract or as otherwise may be provided in a collateral agreement incorporated in or made part of this contract.
- (3) *Removal of copyright notices.* The Government agrees not to remove any copyright notices placed on data pursuant to this paragraph (c), and to include such notices on all reproductions of the data.
- (d) *Release, publication and use of data.*
 - (1) The Contractor shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, except to the extent such data may be subject to the Federal export control or national security laws or regulations, or unless otherwise provided in this paragraph of this clause or expressly set forth in this contract.
 - (2) The Contractor agrees that to the extent it receives or is given access to data necessary for the performance of this contract which contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless otherwise specifically authorized in writing by the Contracting Officer.
- (e) *Unauthorized marking of data.*
 - (1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract are marked with the notices specified in subparagraph (g)(2) or (g)(3) of this clause and use of such is not



NARA Electronic Records Archives (ERA) Original Contract

- authorized by this clause, or if such data bears any other restrictive or limiting markings not authorized by this contract, the Contracting Officer may at any time either return the data to the Contractor, or cancel or ignore the markings. However, the following procedures shall apply prior to canceling or ignoring the markings.
- i. The Contracting Officer shall make written inquiry to the Contractor affording the Contractor 30 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;
 - ii. If the Contractor fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 30-day period (or a longer time not exceeding 90 days approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.
 - iii. If the Contractor provides written justification to substantiate the propriety of the markings within the period set in subdivision (e)(1)(i) of this clause, the Contracting Officer shall consider such written justification and determine whether or not the markings are to be canceled or ignored. If the Contracting Officer determines that the markings are authorized, the Contractor shall be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer shall furnish the Contractor a written determination, which determination shall become the final agency decision regarding the appropriateness of the markings unless the Contractor files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government shall continue to abide by the markings under this subdivision (e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination becoming final (in which instance the Government shall thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.
- (2) The time limits in the procedures set forth in subparagraph (e)(1) of this clause may be modified in accordance with agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request thereunder.
 - (3) This paragraph (e) does not apply if this contract is for a major system or for support of a major system by a civilian agency other than NASA and the U.S. Coast Guard agency subject to the provisions of Title III of the Federal Property and Administrative Services Act of 1949.
 - (4) Except to the extent the Government's action occurs as the result of final disposition of the matter by a court of competent jurisdiction, the Contractor is not precluded by this paragraph (e) from bringing a claim under the Contract Disputes Act, including pursuant to the Disputes clause of this contract, as applicable, that may arise as the



NARA Electronic Records Archives (ERA) Original Contract

result of the Government removing or ignoring authorized markings on data delivered under this contract.

(f) *Omitted or incorrect markings.*

(1) Data delivered to the Government without either the limited rights or restricted rights notice as authorized by paragraph (g) of this clause, or the copyright notice required by paragraph (c) of this clause, shall be deemed to have been furnished with unlimited rights, and the Government assumes no liability for the disclosure, use, or reproduction of such data. However, to the extent the data has not been disclosed without restriction outside the Government, the Contractor may request, within 6 months (or a longer time approved by the Contracting Officer for good cause shown) after delivery of such data, permission to have notices placed on qualifying data at the Contractor's expense, and the Contracting Officer may agree to do so if the Contractor--

- i. Identifies the data to which the omitted notice is to be applied;
- ii. Demonstrates that the omission of the notice was inadvertent;
- iii. Establishes that the use of the proposed notice is authorized; and
- iv. Acknowledges that the Government has no liability with respect to the disclosure, use, or reproduction of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(2) The Contracting Officer may also:

- i. Permit correction at the Contractor's expense of incorrect notices if the Contractor identifies the data on which correction of the notice is to be made, and demonstrates that the correct notice is authorized; or
- ii. Correct any incorrect notices.

(g) *Protection of limited rights data and restricted computer software.*

(1) When data other than that listed in subdivisions (b)(1)(i), (ii), and (iii) of this clause are specified to be delivered under this contract and qualify as either limited rights data or restricted computer software, if the Contractor desires to continue protection of such data, the Contractor shall withhold such data and not furnish them to the Government under this contract. As a condition to this withholding, the Contractor shall identify the data being withheld and furnish form, fit, and function data in lieu thereof. Limited rights data that are formatted as a computer database for delivery to the Government are to be treated as limited rights data and not restricted computer software.

(2) -- (3) [Reserved]

(h) *Subcontracting.* The Contractor has the responsibility to obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government such



rights, the Contractor shall promptly bring such refusal to the attention of the Contracting Officer and not proceed with subcontract award without further authorization.

- (i) *Relationship to patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

(End of Clause)

52.227-21 Technical Data Declaration, Revision, And Withholding Of Payment -- Major Systems (Jan 1997)

- (a) *Scope of clause.* This clause shall apply to all technical data (as defined in the Rights in Data -- General clause included in this contract) that have been specified in this contract as being subject to this clause. It shall apply to all such data delivered, or required to be delivered, at any time during contract performance or within 3 years after acceptance of all items (other than technical data) delivered under this contract unless a different period is set forth herein. The Contracting Officer may release the Contractor from all or part of the requirements of this clause for specifically identified technical data items at any time during the period covered by this clause.

- (b) *Technical data declaration.*

(1) All technical data that are subject to this clause shall be accompanied by the following declaration upon delivery:

Technical Data Declaration (Jan 1997)

The Contractor, _____, hereby declares that, to the best of its knowledge and belief, the technical data delivered herewith under Government contract No. _____ (and subcontract _____, if appropriate) are complete, accurate, and comply with the requirements of the contract concerning such technical data.

(End of declaration)

(2) The Government shall rely on the declarations set out in paragraph (b)(1) of this clause in accepting delivery of the technical data, and in consideration thereof may, at any time during the period covered by this clause, request correction of any deficiencies which are not in compliance with contract requirements. Such corrections shall be made at the expense of the Contractor. Unauthorized markings on data shall not be considered a deficiency for the purpose of this clause, but will be treated in accordance with paragraph (e) of the Rights in Data -- General clause included in this contract.

- (c) *Technical data revision.* The Contractor also agrees, at the request of the Contracting Officer, to revise technical data that are subject to this clause to reflect engineering design changes made during the performance of this contract and affecting the form, fit, and function of any item (other than technical data) delivered under this contract. The Contractor may submit a



NARA Electronic Records Archives (ERA) Original Contract

request for an equitable adjustment to the terms and conditions of this contract for any revisions to technical data made pursuant to this paragraph.

(d) *Withholding of payment.*

(1) At any time before final payment under this contract the Contracting Officer may, in the Government's interest, withhold payment to the Contractor of 10% of the total contract price or amount unless a lesser withholding is specified in the contract if in the Contracting Officer's opinion respecting any technical data that are subject to this clause, the Contractor fails to --

- (i) Make timely delivery of such technical data as required by this contract;
- (ii) Provide the declaration required by paragraph (b)(1) of this clause;
- (iii) Make the corrections required by subparagraph (b)(2) of this clause; or
- (iv) Make revisions requested under paragraph (c) of this clause.

(2) Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has delivered the data and/or has made the required corrections or revisions. Withholding shall not be made if the failure to make timely delivery, and/or the deficiencies relating to delivered data, arose out of causes beyond the control of the Contractor and without the fault or negligence of the Contractor.

(3) The Contracting Officer may decrease or increase the sums withheld up to the sums authorized in subparagraph (d)(1) of this clause. The withholding of any amount under this paragraph, or the subsequent payment thereof, shall not be construed as a waiver of any Government rights.

(End of Clause)

52.239-1 Privacy Or Security Safeguards (Aug 1996)

- (a) The Contractor shall not publish or disclose in any manner, without the Contracting Officer's written consent, the details of any safeguards either designed or developed by the Contractor under this contract or otherwise provided by the Government.
- (b) To the extent required to carry out a program of inspection to safeguard against threats and hazards to the security, integrity, and confidentiality of Government data, the Contractor shall afford the Government access to the Contractor's facilities, installations, technical capabilities, operations, documentation, records, and databases.
- (c) If new or unanticipated threats or hazards are discovered by either the Government or the Contractor, or if existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of the other party.

(End of clause)



52.244-2 SUBCONTRACTS (AUG 1998), ALTERNATE II (AUG 1998)

(a) Definitions. As used in this clause—

“Approved purchasing system” means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the FAR.

“Consent to subcontract” means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.

“Subcontract” means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) This clause does not apply to subcontracts for special test equipment when the contract contains the clause at FAR 52.245-18, Special Test Equipment.

(c) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (d) or (e) of this clause.

(d) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that—

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds--

i. For a contract awarded by the DoD, the Coast Guard, or the NASA, the greater of the simplified acquisition threshold or five (5) percent of the total estimated cost of the contract; or

ii. For a contract awarded by a civilian agency other than the Coast Guard and the NASA, either the simplified acquisition threshold or five (5) percent of the total estimated cost of the contract.

(e) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts:

(f) (1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (c), (d), or (e) of this clause, including the following information:

i. A description of the supplies or services to be subcontracted.

ii. Identification of the type of subcontract to be used.



NARA Electronic Records Archives (ERA) Original Contract

- iii. Identification of the proposed subcontractor.
 - iv. The proposed subcontract price.
 - v. The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.
 - vi. The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.
 - vii. A negotiation memorandum reflecting—
 - (A) The principal elements of the subcontract price negotiations;
 - (B) The most significant considerations controlling establishment of initial or revised prices;
 - (C) The reason cost or pricing data were or were not required;
 - (D) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;
 - (E) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;
 - (F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and
 - (G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.
- (2) If the Contractor has an approved purchasing system and consent is not required under paragraph (c), (d), or (e) of this clause, the Contractor nevertheless shall notify the Contracting Officer reasonably in advance of entering into any (i) cost-plus-fixed-fee subcontract, or (ii) fixed-price subcontract that exceeds either the simplified acquisition threshold or 5 percent of the total estimated cost of this contract. The notification shall include the information required by paragraphs (f)(1)(i) through (f)(1)(iv) of this clause.
- (g) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination—
- (1) Of the acceptability of any subcontract terms or conditions;
 - (2) Of the allowability of any cost under this contract; or
 - (3) To relieve the Contractor of any responsibility for performing this contract.
- (h) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).



NARA Electronic Records Archives (ERA) Original Contract

- (i) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.
- (j) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.
- (k) Paragraphs (d) and (f) of this clause do not apply to the following subcontracts, which were evaluated during negotiations--

(End of clause)

52.248-1 VALUE ENGINEERING (FEB 2000)

- (a) General. The Contractor is encouraged to develop, prepare, and submit Value Engineering Change Proposals (VECPs) 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.



NARA Electronic Records Archives (ERA) Original Contract

"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 re-determination, 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.



NARA Electronic Records Archives (ERA) Original Contract

"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 c(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.



NARA Electronic Records Archives (ERA) Original Contract

- (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 VECPs 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 forty-five (45) calendar days after the contracting office receives it. If additional time is required, the Contracting Officer will notify the Contractor within the forty-five (45) day period and provide the reason for the delay and the expected date of the decision. The Government will process VECPs 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)	N/A	N/A	N/A	N/A
Incentive (fixed-price or cost) (other than award fee)	N/A	N/A	N/A	N/A
Cost-reimbursement (includes cost-plus-award-fee; excludes other cost-type incentive Contracts)	When incentivized, will be done under the Award Fee Program	When incentivized, will be done under the Award Fee Program	When incentivized, will be done under the Award Fee Program	When incentivized, will be done under the Award Fee Program

(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.



NARA Electronic Records Archives (ERA) Original Contract

- (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,



NARA Electronic Records Archives (ERA) Original Contract

- 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 FAR, 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



**NARA Electronic Records Archives (ERA)
Original Contract**

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 VECP 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 FAR.)

(End of clause)



Section J – List of Documents, Exhibits, and Other Attachments

List of Attachments

1. Statement of Objectives (SOO)
2. ERA Requirements Document (RD)
3. RESERVED
4. Contract Data Requirements List with Data Item Descriptions
5. Non-Disclosure Agreement
6. RESERVED
7. RESERVED
8. RESERVED
9. RESERVED
10. DD-254 Form
11. Program Work Breakdown Structure (PWBS)
12. RESERVED
13. Cost Element Structure Data Dictionary
14. CDRL Data Item Descriptions
15. Contract Work Breakdown Structure
16. Integrated Plan
17. Integrated Schedule
18. Subcontracting Plan
19. Other Information