OMB Approval 2700-0042

AWARD/CONTRACT

1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350) ▶ RATING

PAGE 1 OF PAGES

2. CONTRACT (Proc. Inst. Ident.) NO. HSTS01-05-C-AOP081

3. EFFECTIVE DATE November 19, 2004

4. REQUISITION/PURCHASE REQUEST/PROJECT NO. 21-05-205AOP-081/21-05-215AOP-87

5. ISSUED BY CODE
Transportation Security Administration
601 S. 12th Street, Arlington, VA 22202
Arlington, VA 22202

6. ADMINISTERED BY (If other than Item 5) CODE
Vicki Granat (571) 227-2998
Vicki.granat@dhs.gov

7. NAME AND ADDRESS OF CONTRACTOR (No., street, county, state and ZIP Code)
Covenant Aviation Security, LLC
270 Remington Blvd., Suite B
Bolingbrook, IL 60440
(630) 771-0800, FAX (630) 771-1199
TIN # 35-2161799 DUNS# 12-617-4635

8. DELIVERY ☐ FOB ORIGIN ☐ OTHER (See below)

9. DISCOUNT FOR PROMPT PAYMENT

10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN ITEM 12

CODE FACILITY CODE

11. SHIP TO/MARK FOR CODE

12. PAYMENT WILL BE MADE BY CODE
United States Coast Guard Finance Center
TSA Commercial Invoices
P.O. Box 4111
Chesapeake, VA 23328-4111

13. AUTHORITY FOR USING OTHER FULL AND OPEN COMPETITION:
☐ 10 U.S.C. 2304(c)( ) ☐ 41 U.S.C. 253(c)( )

14. ACCOUNTING AND APPROPRIATION DATA
See Section G.

15A. ITEM NO.	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT
	See Section B Schedule				

15G. TOTAL AMOUNT OF CONTRACT ▶

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CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE

17. ☐ CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)

18. ☐ AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.

19A. NAME AND TITLE OF SIGNER (Type or print)
Robert L. Coe - CEO

20A. NAME OF CONTRACTING OFFICER
Richard A. Gieber

19B. NAME OF CONTRACTOR
(Signature of person authorized to sign)

19C. DATE SIGNED 11/19/04

20B. UNITED STATES OF AMERICA
BY (Signature of Contracting Officer)

20C. DATE SIGNED 11/19/04

Letter Contract

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SECTION B – SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 Description of Services and Amounts

BASE YEAR

Item	Description	Lot		Amount
0001	Security Screening Services for SFO Airport	1 lot		
			Estimated Cost	$TBD
			Base Fee (TBD%)	$TBD
			Award Fee* (TBD%)	$TBD
			Total Amount	$7,000,448(NTE)

**Represents Award Fee Pool Amount.*

*** Note that all CLIN amounts are subject to Clause I.20, Limitation of Gov't Liability*

Item	Description	Qty	NTE Amount
0002	Other Direct Cost (ODCs) - Travel and Uniforms. (All costs shall be non-fee bearing – See H.15.)	1 lot	$49,958 (NTE)

Item	Description	Qty	NTE Amount
0003	Data submission for CLIN 0001	1 lot	NSP

SIX MONTH OPTION (IF EXERCISED)

Option Item	Description	Lot		Amount
0004	Security Screening Services for SFO Airport	1 lot		
			Estimated Cost	$TBD
			Base Fee (%)	$TBD
			Award Fee* (%)	$TBD
			Total Amount	$52,102,978 (NTE)

**Represents Award Fee Pool Amount.*

Option Item	Description	Qty	NTE Amount
0005	Other Direct Cost (ODCs) - Travel and Uniforms. (All costs shall be non-fee bearing – See H.15.)	1 lot	$563,614 (NTE)

Option Item	Description	Qty	NTE Amount
0006	Data submission for CLIN 0004	1 lot	NSP

BASE YEAR

Item	Description	Lot		Amount
0007	Security Screening Services for TUP Airport	1 lot	Fixed Price	$TBD
			Award Fee* (%)	$TBD
			Total Amount	$170,011(NTE)

**Represents Award Fee Pool Amount.*

Item	Description	Qty	NTE Amount
0008	Other Direct Cost (ODCs) - Travel and Uniforms. (All costs shall be non-fee bearing – See H.15.)	1 lot	$5,336(NTE)

Item	Description	Qty	NTE Amount
0009	Data submission for CLIN 0007	1 lot	NSP

SIX MONTH OPTION (IF EXERCISED)

Option Item	Description	Lot		Amount
0010	Security Screening Services for TUP Airport	1 lot	Fixed Price	$TBD
			Award Fee* (%)	$TBD
			Total Amount	$419,248 (NTE)

**Represents Award Fee Pool Amount.*

Option Item	Description	Qty	NTE Amount
0011	Other Direct Cost (ODCs) - Travel and Uniforms. (All costs shall be non-fee bearing – See H.15.)	1 lot	$19,207

Option Item	Description	Qty	NTE Amount
0012	Data submission for CLIN 00010	1 lot	NSP

B.2 Work Days/Productive Time

Productive time is time during which the employee is stationed at his or her post and performing assigned duties. Mere availability to perform job duties is not considered productive time and will not be compensated. Rest periods of short duration that promote the efficiency of the employee (which are usually less than 20 minutes) are customarily paid as productive time and may be counted as hours worked. However meal breaks are not productive time and are not compensated unless the employee performs substantial work during the meal break and contractor provides sufficient documentation to support the cost as work time. Merely being on call is insufficient to establish that the employee performed substantial work during meal breaks. A productive work year for an FTE has been identified as 1,872 hours with 208 hours of vacation and holidays (which are allowable fringe benefits that are non-productive hours) for a total of 2080 hours (52 weeks x 40 hours per week = 2080 hours per year)

B.3 Allotment of Funds

CLINS 0001-0003 (and 0004-0006, if option is exercised) are incrementally funded with respect to both cost and fee pursuant to the LIMITATION OF FUNDS Clause. The amounts presently available and allotted to this are shown in the chart below. This chart breaks out the funding by individual Contract Line Item Number (CLIN). The contractor agrees to segregate, track and bill all costs in the same manner as obligated.

	Section B Contract Value	Amount Previously Funded	Increase In Funding	Total Amount Funded	Estimated. Expenditure Period for Funding
Item 0001					
Est. Cost	TBD	$0	TBD		Dec 18, 2004
Base Fee	TBD	$0	TBD		Dec 18, 2004
Award Fee	TBD	$0	TBD		Dec 18, 2004
Total Amount	TBD	$0	$7,000,448	$7,000,448	Dec 18, 2004
Item 0002			$49,958 (NTE)	$49,958 (NTE)	Dec 18, 2004
Est. Cost (no fee)					
Total Base Year			$7,050,406	$7,050,406	Dec 18, 2004

(End of Clause)

CLINS 0007-0010 are Fixed Price Award fee CLINs and are not incrementally funded. Since this is an Undefinitized Contract Action, funding has been provided for the two (2) months to allow time for definitization. The amounts reflected herein will be adjusted upon definitization.

	Section B Contract Value	Amount Previously Funded	Increase In Funding	Total Amount Funded	Estimated. Expenditure Period for Funding
Item 0007					
Fixed Price	TBD	$0	TBD		Jan 18, 2005
Award Fee	TBD	$0	TBD		Jan 18, 2005
Total Amount	TBD	$0	$170,011	$170,011	Jan 18, 2005
Item 0008			$5,336(NTE)	$5,336(NTE)	Jan 18, 2005
Est. Cost (no fee)					
Total Base Year			$175,347	$175,347	Jan 18, 2005

B.4 Summary of Award Fee Pools and Award Fee Amounts Earned Item 0001 and Item 0004

Period	Award Fee Period	Pool $	Earned $	% Earned	Mod #	Mod Date
1	Nov 19, 2004 – May 18, 2005	TBD				
2	May 19, 2005- Nov 18, 2005	TBD				
TOTAL						

Period	Award Fee Period	Pool $	Earned $	% Earned	Mod #	Mod Date
3	Nov 19, 2005 – May 18, 2005	TBD				

	Total Pool	Earned To Date			
	TBD				

*See H.2 for Pool Percentages.

B.4 Summary of Award Fee Pools and Award Fee Amounts Earned Item 0007 and Item 0010

Period	Award Fee Period	Pool $	Earned $	% Earned	Mod #	Mod Date
1	Nov 19, 2004 – May 18, 2005	TBD				
2	May 19, 2005- Nov 18, 2005	TBD				
TOTAL						

Period	Award Fee Period	Pool $	Earned $	% Earned	Mod #	Mod Date
3	Nov 19, 2005 – May 18, 2005	TBD				

	Total Pool	Earned To Date			
	TBD				

*See H.2 for Pool Percentages.

B.5 Compensation and Other Benefits

Pursuant to Section 108 of the Aviation and Transportation Security Act (ATSA) (Public Law 107-71), codified at 49 U.S.C.§44919(f) (screening pilot program) and 49 U.S.C. §44920(c) (opt-out program), qualified screening companies will provide compensation and other benefits to contract screeners "...that are not less than the level of compensation and other benefits provided to such Federal Government personnel...". TSA must verify that each screening company is in compliance with this statute. In order to perform this verification, the contractor shall include this information in their initial proposal for the basic award, and then quarterly thereafter.

TSA has interpreted the statute to require contract screening companies to provide pay and benefits at a loaded cost (direct hour plus percentage cost of fringe benefits) that equals or exceeds the loaded cost of the pay and benefits provided by the Federal Government. This approach: (1) provides the contractor with flexibility to trade additional pay against other benefits, or to enhance certain benefits and reduce others; (2) enables the contractor to determine and provide the best package necessary for the recruitment and retention of quality screeners; and (3) increases flexibility while permitting recruitment and retention of quality screeners. Therefore, the contractors must propose at least the minimum loaded rate. Notwithstanding this paragraph, the Contractor shall not include costs which this contract and TSA have determined to be unallowable under Cost Accounting Standards.

The contractor's certification must include: (1) a break out of direct labor rates (unloaded) for each category of screener; (2) a fringe rate inclusive of all its components; and (3) a loaded rate that consists of the direct labor rate and the fringe rate. The contractor's rates will be compared to the loaded cost of the pay and benefits that would be provided by the Federal Government in the relevant area as provided in the following charts. The rates as shown on line 5 have been established as the *Minimum Loaded Rate*.

San Francisco Airport (SFO)	Screener	Lead Screener	Supv Screener
TSA Avg Direct Labor Rate	$ 12.01	$ 15.65	$ 18.65
TSA's Locality Pay	24.21%	24.21%	24.21%
TSA's DL Rate w/Locality Pay	$ 14.92	$ 19.44	$ 23.17
TSA's Fringe Rate	44.75%	44.75%	44.75%
Minimum Loaded Rate for SFO	$ 21.59	$ 28.14	$ 33.53

Tupelo Airport (TUP)	Screener	Lead Screener	Supv Screener
TSA Avg Direct Labor Rate	$ 12.01	$ 15.65	$ 18.65
TSA's Locality Pay	10.90%	10.90%	10.90%
TSA's DL Rate w/Locality Pay	$ 13.32	$ 17.36	$ 20.68
TSA's Fringe Rate	44.75%	44.75%	44.75%
Minimum Loaded Rate for TUP	$ 19.28	$ 25.12	$ 29.94

(The above data is based on rate information dated January 11, 2004.
This information will be updated as new rates become available.)

The following chart represents the Components of the TSA's Fringe Rate. This information is provided to the Contractor for informational purposes.

TSA FRINGE RATE COMPONENTS
Retirement (complete share of weighted CSRS/FERS cost plus retiree health, social security and Thrift Savings Plan (TSP)
Insurance & Health
Medicare
Misc. Fringe (inclusive of Workman Compensation, Bonuses, Unemployment, etc.)
Other (Holidays, Leave, Vacation)

(End of Clause)
(END OF SECTION B)

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Title of Requirement

This Statement of Work (SOW) is for Airport Security Screening Services under the Private Screening Pilot Program, also referred to as the PP5 Program.

Requiring Office/Organization

Screening Partnership Program (SPP) Office
Department of Homeland Security (DHS)
Transportation Services Administration (TSA)
601 South 12th Street, Room: E4-335 N
Arlington, VA 22202

Introduction

The mission of the Screening Partnership Program (SPP) is to partner with the private sector to bring best practices and innovation into the management of security screening operations to ensure safe, courteous, and efficient passenger and baggage screening.

The Transportation Security Administration (TSA) has established the following strategic objectives to guide the Program.

Maintain security: Contract and Federal screeners must perform equally well to ensure airport security and compliance with Federal passenger and baggage screening Standard Operating Procedures (SOPs) that are available at individual airport locations through the FSD staff.

Provide world-class customer service: While security is always TSA's most important objective, ensuring a courteous, professional, and efficient process for passengers and other members of the aviation community is a critical part of the Program's mission.

Implement cost efficiencies: TSA expects Federal Security Director (FSD) staffs and contractors in the Program to identify and implement improved processes that result in cost efficiencies.

Respect the screening workforce: TSA believes that both Federal and contract screeners are valuable national assets and individuals who deserve effective support and respect, appropriate compensation, recognition for their work, and opportunities to excel. TSA will ensure that private screeners are held to the same certification requirements as Federal screeners. TSA will also work with Program participants to ensure that the skills and experience of existing Federal screeners are recognized in a meaningful way, and that their needs and preferences are addressed to the greatest possible extent.

Create a partnership that leverages strengths of the private and public sectors: TSA seeks to incorporate the innovation and efficiency that the private sector may provide with the existing federal performance standards. TSA believes that the Program can only achieve its objectives if private screening contractors and TSA work in close partnership, leveraging innovations and efficiencies of the private sector with those of the Federal screener workforce.

Scope

The TSA security screening services scope is intended to meet the mandate of the Aviation and Transportation Security Act (ATSA), 49 U.S.C. Section 44919 – namely, that the aviation security program allows the flexibility and innovativeness of the private sector, resulting in improved service delivery and cost savings, while maintaining TSA's high standards for security. The scope is designed to accommodate changes in TSA's SOP for security screening based on:

the evolution of threats,
the availability of new screening technologies, and
fluctuations in air traffic that might mandate different staffing models.

Moreover, the scope seeks to meet the needs of our stakeholders as they contribute to TSA's mission delivery.

This SOW includes five task areas covering the scope of services to be provided by the Contractor:

- Human Resources Support Services (Section 10.1), Option 2 SFO; Option 4 TUP
- Training for Security Screeners (Section 10.2), Option 1 SFO and TUP
- Security Screening Services - Technical (Section 10.3);
- Management Support (Section 10.4); and
- Miscellaneous Requirements (Section 10.1.5)

Project Background and Objectives

The TSA screener workforce is unique in both the public and private sectors in that many of the job requirements are specified by ATSA. These requirements are summarized in Appendix 1. The standards associated with these requirements, as well as additional job-related requirements established by TSA, are provided in Appendix 2.

TSA currently uses a phased selection process to ensure that applicants for the screener job have the requisite knowledge, skills, and abilities to be successful in training and performing effectively on the job in delivering world class security and customer service. This process also ensures that all persons deployed as screeners meet all ATSA and TSA requirements and standards, as listed in Appendixes 1, 2, and 5. See Table 1 for a summary of the processes.

Table 1. Summary of Recruiting, Assessment, and Hiring Processes

A Recruitment	B Computer-Based Test (CBT)	C Additional Assessments	D Pre-Hire Credentialing	E Job Offer & EOD/ Orientation	F Post-Hire Background Check
	Previously "Phase I" Assessment	Previously "Phase II" Assessment			Previously "Phase III" Assessment
Includes: Hiring Plan Candidate Application Other Recruitment Tools	Includes: Computer-Based Testing	Includes: Structured Interview Color Vision Test Medical Evaluation (Medical Exam Guidelines (GFI) Physical Ability Test Screener Lift Test Drug Screen/Urine Dipstick Test Produce list of eligible screener candidates	Includes: Electronic-86 or SF-86 Initiation Fingerprints/Photo (TBD) Preliminary Background/Credit checks	Includes: 1. Hiring and On-Boarding Entry-on-Duty (EOD) of eligible screeners 2. EOD orientation/ processing	Includes: 1. OPM/ANACI Background Check

Table 2. Contractor's Assessment Options

Option #	(A) Recruiting	(B) CBT	(C) & (D) Additional Assessments/Pre-Hire Credentialing	(E) Job Offer & EOD/ Orientation	(F) Post-Hire Background Check
1	Contractor	Contractor	Contractor	Contractor	TSA
2	Contractor	TSA	Contractor	Contractor	TSA
3	Contractor	Contractor	TSA*	Contractor	TSA
4	Contractor	TSA	TSA*	Contractor	TSA

See page C-4, "Scope" for option selected by Contractor.

* If the PP5 Contractor chooses Option 3 or Option 4, for the segment C and D work TSA may use a combination of TSA Assessment Contractor support and FSD staff support.

Note: Contractor may reference *Next-Generation Hiring Guidelines* on the TSA website.

After successfully completing Phases A through D, an applicant becomes eligible for employment and may be hired after successful completion of the required New Hire Basic Training (classroom) and OJT (see Table 5, Training Summary). Continued employment is contingent upon successfully passing the post-hire OPM background check, which is normally completed within 4 to 6 months.

After being hired, an individual must successfully re-certify in accordance with the requirement for an annual proficiency review in ATSA. (See Table 5.)

Applicable and Referenced Information

Applicable law, policy, and specifications are identified in the table below.

Table 3. Applicable and Referenced Information

Document ID	Relevant Section	Title/Description	Version/Effective Date
49 U.S.C. Section 44919		Aviation and Transportation Security Act	
	All	ATSA Employment Standards for Security Screeners	
	All	Additional TSA Requirements	
	As quoted in appendixes 3 and 4	Principles for the Validation and Use of Employee Selection Procedures	
	All	TSA's Background Investigation Requirements	
49 U.S.C. § 44936(b)(1)(B)	As quoted in Appendix 5	28 Disqualifying Offenses	
TSA General IT Security Clauses for Contracts	As quoted in Appendix 12	Sensitive Security Information (SSI)	Rev 1.2 dated 4/26/2004
© Human Performance Systems, Inc.	As attached in Appendix 14	Medical Guidelines for Transportation Security Screeners	August 10, 2004

Deliverables/Meeting Requirements

Deliverables are grouped in three categories: (1) Consumables (SOW 7.1); (2) Reports (SOW 7.2); and (3) Plans (SOW 7.3). All requirements for meetings are shown in Section 7.3 below:

7.1 Consumables

The Contractor shall be responsible for purchasing all consumables (rubber gloves, paper towels, cleansers, swabs, and so on) necessary to perform security screening services at the passenger and checked baggage checkpoints, as set forth in this SOW and required by TSA SOPs. Appendix 7 contains a list of sources (provided for informational purposes) from which TSA currently obtains such items.

7.2 Reports/Plans

The Contractor shall provide all reports as listed in Table 4. This table provides the following information: due date of reports; distribution list; and format of report. The contractor also agrees to provide other reports as needed.

For those reports that are not delivered to the Contracting Officer (CO), the contractor agrees to submit a copy of the transmittal letter to the CO in order to document the contract file that all reports/plans have been delivered to the appropriate parties.

Table 4. Reports/Plans

(Updated in Mod Two) No.	Item	Section/ Paragraph	Due Date or Frequency	Recipient	Details (media format, number of copies)
1	Monthly Contractor Financial Management (Applicable to SFO CLINs only)	C.7.2.1	15th of following month	COTR, SUB-COTRs, and Contracting Officer	Email and hard copy
2	Quarterly Contractor Financial Management (Applicable to SFO CLINs only)	C.7.2.2	15th of month following end of Government quarter	COTR, SUB-COTRs, and Contracting Officer	Email and hard copy
3	Copy of forwarding letter for all reports	C.7.2	Whenever a report is distributed	Contracting Officer	Hard copy
4	PEP Self-Evaluation, Semi-annual	C.7.2.3	Within 15 days after the end of each evaluation period	COTR and SUB-COTRs	See Attachment J.3, Performance Evaluation Plan
5	Monthly Staffing Details/Employee Rosters	C.7.2.4	5th of following month	COTR and SUB-COTRs	Email and hard copy
6	Submission of information for the Performance Measurement Information System (PMIS)	C.7.2.5	As required by PMIS or Airport COTR	SUB-COTRs	Electronic data submitted via web
7	Bi-Weekly Staff Summary	C.7.2.6	Every two weeks based on Contractor's pay period end date.	COTR and SUB-COTRs	Electronic Copy Via Email
8	Work Hours	C.7.2.7			
9	Absence Details	C.7.2.8			
10	Separation Details	C.7.2.9			
11	Injury	C.7.2.10			
12	Absence Summary	C.7.2.11			
13	Light Duty	C.7.2.12			
14	DELETED via Modification Two (2)				

No.	Item	Section/ Paragraph	Due Date or Frequency	Recipient	Details (media, format, number of copies)
15	SF 294, Subcontracting Report for Individual Contracts	C.7.2.14	April 30 & Oct 30	COTR and SUB-COTRs	Electronic Copy Via Email
16	SF295, Summary Subcontract Report	C.7.2.15	Annually on Oct 30	COTR and SUB-COTRs	
17	Quarterly Claims Status Report	C.7.2.16	10 days after end of Government quarter	TSA Claims Management Office (CMO), COTR and SUB-COTRs	
18	Record of maintenance performed on Government equipment.	C.10.5.3	Maintenance records will be maintained in accordance with the SOP requirements	SUB-COTRs	Prepared in Contractor Format and records kept with equipment and available for SUB-COTR review as requested
19	DELETED via Modification P00002				
20	Quality Control Plan (QCP)	C.7.3.1 and E.2	Within 30 days after Modification Two (2)	COTR and SUB-COTRs	Hard Copy. See Clause E.2 for format.
21	Claims Plan	C.7.3.2	30 days after contract award	TSA Claims Management Office (CMO), COTR and SUB-COTRs	Email and hard copy
22	American-Owned & Controlled Certification	H.25	At Award	Contracting Officer	Hard copy
23	Invoices	G.8	As soon as practical following the close of the contractor's billing cycle.	See Section G.8	See Section G.8
24	Quarterly Suitability Requirements List for Screeners and Non-Screener Employees	H.20(g)	2 weeks after Government quarter	COTR and SUB-COTRs	Electronic Copy Via Email
25	Monthly Employment Changes for Screeners and Non-Screener Employees	H.20(g)	5th of following month	COTR and SUB-COTRs	Electronic Copy Via Email
26	GFP/GFE List	I.80	Due 10 days after Modification Two (2) and January 30 thereafter (if option exercised) and at contract close out.	TSA Property Management, COTR and SUB-COTRs and Contracting Officer	Electronic Copy Via Email

7.2.4 Monthly Staffing Details

The Monthly Staffing Details Report shall include:

- Staffing Roster, including name, position, date of hire, current employment status, and last four digits of Social Security Number
- Staffing Level, including head count and FTE count broken down by position
- Staffing Attrition, including attrition percentage for the current month and a 12-month average for the preceding 12-month period (rolling)

7.2.5 Performance Measurement Information System (PMIS) Data

The contractor is required to provide the COTR with daily entries for input into the Performance Measurement Information System (PMIS). PMIS is an automated system that is used to collect performance data to demonstrate progress in meeting goals. This tool helps TSA headquarters and field staff to manage daily activities, provides intelligence for decision making, and identify gaps between strategic objectives, annual goals, and actual achievement.

7.2.6 Staff Summary

The contractor shall provide a weekly summary of actual headcounts/Full Time Equivalents (FTE) by labor category.

7.2.7 Work Hours

The contractor shall provide number of scheduled hours, overtime, and holiday paid hours.

7.2.8 Absentee Details

The contractor shall provide a daily breakdown by reason (vacation, sick leave, unapproved absences, on-the-job injury (OJI), etc.) of all absences in the workforce.

7.2.9 Separation Details

The contractor shall provide a detailed report on each employee separation, without violating the employee's right to privacy.

7.2.10 Injury

The contractor shall provide a complete breakdown of each on-the-job-injury including location, how it occurred, body part injured, any trend in similar injuries, and corrective actions to prevent recurrence.

7.2.11 Absence Summary

The contractor shall provide a detailed report on the number of lost days for the reporting period and a cumulative report for the year.

7.2.12 Light Duty

The contractor shall provide a list of those employees on light or limited duty and the date they are expected to return to full duty.

7.2.13 DOT Form 4220.43, Contractor Report of Government Property

7.2.14 SF 294, Subcontracting Report for Individual Contracts

The SF294 captures data from contract inception up through the reporting period. The SF294 is required for those contractors with individual plans or master plans with individual goals. The SF294 is not required for contractors that have submitted a Commercial Subcontracting Plan.

7.2.15 SF 295, Summary Subcontract Report

The SF295 captures subcontracting data for the preceding twelve months ending September 30. The SF295 is required from all contractors regardless of the type of Subcontracting Plans submitted.

7.2.16 Quarterly Claims Status Report

The Contractor shall provide a Quarterly Claims Status Report which includes all approvals, denials, settlements, and the number of pending claims that require further adjudication.

7.3 Plans

7.3.1 Quality Assurance Plan (QAP)

The Contractor's Quality Assurance Plan (QAP) will be the basis for providing an appropriate quality of services. The results of self-audits and other measures implemented by the Contractor will be used to certify to Congress that the level of screening services and protection provided at the airport under the contract is equal to or greater than the level that would be provided at the airport by Federal Government personnel, as required by ATSA. The QAP will be used to determine if TSA needs to take corrective action. This plan will identify areas that require improvement with a timeline to mitigate these deficiencies. Successful mitigation and superior performance will be considered in the determination of award fees. Conversely, the Contractor's failure to remedy deficiencies by the required date or the inability to remedy deficiencies may form the basis for TSA to take one or all of the following actions:

terminate the contract, or
decide not to exercise option(s)

The QAP shall be delivered within 30 days of contract award. Contractor shall provide TSA a QAP that incorporates the results of negotiation discussions of the proposed plan.

7.3.2 Claims Plan

The Contractor shall submit a Claims Plan for review with their proposal, with a final plan to be delivered 30 days after award. Recipients are the TSA Claims Management Office (CMO), CO, Airport COTR, and Headquarters COTR.

Claims plans must include:

- Contractor's own Notice of Inspection (NOI) for TSA CMO approval, absent of any TSA insignia or reference, and which includes an appropriate toll-free telephone number or email address for passengers to obtain claims submission information;
- Contractor's letters of acceptance and denial of claims for CMO/Legal review;
- Contractor's own claims submission form (the SF-95 is not to be used by the Contractor); and
- Copy of appropriate state's tort law.

7.4 Meetings

The PP5 Contractor and TSA representative(s) shall participate in monthly Program Management Reviews (PMRs) and other meetings as required.

Performance/Delivery Period

The period of performance for all services (as addressed in this SOW) is shown in Section F.2. The delivery schedule for all reports/plans is shown in Table 4, as reflected in SOW paragraph 7.2.

Place/Location of Performance/Delivery

San Francisco International Airport
Tupelo Regional Airport

Technical Requirements

10.1 Human Resources Support Services

10.1.1 Recruiting

The Contractor shall recruit qualified, professional, and diverse screener applicants.

10.1.2 Assessment, Hiring, Credentialing

The Contractor shall ensure that all persons designated to be deployed as screeners meet all statutory and TSA specified requirements for employment.

Any services from TSA's HR Contractor must be requested through the FSD for the government-furnished services. Any cost for TSA's HR Contractor services will be paid directly to TSA's HR Contractor by TSA.

If the assessment or any phase of the assessment is performed by the contractor, the contractor shall propose any costs associated with doing so.

If the PP5 Contractor chooses to utilize TSA's HR Contractor to conduct any portion of the assessment as listed in options 2, 3, or 4, then TSA's HR Contractor will provide the applicable assessment data to the airport COTR via e-mail. The COTR will then submit that data to the screening contractor.

The contractor shall be responsible for maintaining applicant assessment data for those parts of the assessment process they perform. This data shall be retained by the Contractor until further notice from the TSA Contracting Officer. The Contractor shall promptly provide this data to the TSA Contracting Officer (or his/her designee) upon request.

The contractor shall provide all credentialing data as outlined in Appendix 5.

The Contractor shall ensure that all applicants meet the following selection requirements:

demonstrate medical ability to perform the job by meeting the Screener Medical Guidelines (See Appendix 14);

meet the requirement to speak English (currently assessed in the interview – See Appendices 1 and 2);

demonstrate physical ability to perform all aspects of the screener job without substantive risk of injury to self or others, including the requirement to repeatedly lift and carry seventy (70) pounds as well as the other physical requirements described in Appendices 1 and 2 (including color vision and aural acuity); and

Successfully complete a background investigation including credit and criminal checks. (see Appendix 5 for Background Investigation Requirements and Disqualifying Offenses)

All applicants will be required to pass these tests, interviews, and other evaluations demonstrating that they have the necessary skills and abilities for security screener job performance.

TSA will perform screener certification after initial screener training is complete. This certification will consist of a test administered by TSA. Should the contractor satisfy the SOW by providing the assessing and hiring in a manner that is currently being used at the federal airports, then the certification test shall not change from what is currently being used by TSA.

10.1.2.1 Candidate Selection

The contractor shall ensure that the selection process maps to the requirements specified in Appendices 1 and 2. For example, if a written test will be used to measure some requirements while others will be measured in an in-person interview, the specifications for the selection system should be spelled out clearly. Appendices 3 and 4 provide legal, professional, and technical guidelines for selection procedures. The information in Appendices 3 and 4 are not specific requirements that the contractor must abide by.

TSA will not be certifying the process through which the contractor will assess, hire, or train. However, TSA will continue to require that screeners hired by the contractor successfully complete the certification tests currently administered upon completion of "on the job training" (OJT). Regardless of assessment option, these tests will be the same as those currently used to certify new federal screener hires.

Acceptable performance requires that 1) the proposed selection process results in the selection of eligible, qualified candidates who meet all specified requirements and 2) candidates have no sustainable basis for challenging selection process components.

10.2 Training for Security Screeners

TSA has designed, developed, and deployed national screener technical training to the screener workforce, including screeners, lead screeners, and supervisory screeners. Enhancements and modifications will continue to be made to this curriculum to ensure compliance with the Aviation Operations Standard Operating Procedures (SOP's) and to further improve screener performance. The contractor shall be obligated to revise its training to reflect these enhancements and modifications.

10.2.1 Standards

Initial Screener Training Requirements: Passenger and baggage screeners that are successful in the selection process must also successfully complete classroom training, on-the-job training (OJT), and testing leading to certification. Hours required vary by course but will not be less than 40 hours of classroom training or less than 60 hours of OJT, in accordance with current TSA standards.

Screener Annual Re-Certification Requirements: TSA will provide and administer recertification tests.

Screener Training Testing and Re-certification: Both passenger and checked baggage screeners must pass tests at the end of training and be re-certified annually.

TSA will administer the testing for initial screener training, prior to deployment, and re-certification.

Note: *It should be noted that the training referenced in this document pertains exclusively to the technical aspects of performing screening operations.*

10.2.2 Training Services Specific Requirements

Table 5. Training Summary

Curriculum Development	
Basic Training - New Hire and Cross-Training Curriculum	TSA designs and provides standard Dual Functioning Screener (DFS) curriculum.
Recurrent Curriculum (Quarterly Average of Three Hours per Screener per Week)	All required screener training curricula will be provided by TSA. Supplemental training may be proposed. All costs should be proposed consistent with the contractor's accounting practices.
Miscellaneous Security Training Curriculum	TSA-provided. Contractor may supplement as desired and appropriate. TSA periodically identifies other security-related training that all screeners must complete (e.g., Security Sensitive Information Awareness, Threat Identification).

Delivery	
Basic Training - New Hire & Cross Training Delivery	Option 1 (~~Required/Not required under contract~~): Contractor participates in the TSA Approved Instructor (TAI) program. Contractor must request hardware and software training support materials from the TSA Training Coordinator. Training materials will be held at the contractor training facility only as needed and then promptly return them upon completion. Option 2 (~~Required~~/Not required under contract): Contractor does not participate in the TAI program but provides instructors they recognize as competent to deliver screener training. The Training Coordinator initiates request for training material using the Training Support Request form. Option 3 (~~Required~~/Not required under contract): Contractor contracts directly with TSA Training Contract contractor for approved instructors.
Recurrent Training Delivery	TSA-provided videos and Web-based training that is supplemented by local curriculum and delivered as desired to meet the minimum requirement of three hours of training per screener, per week, averaged over a calendar quarter.
Miscellaneous Security Training Delivery	TSA-provided, except for any supplemental contractor developed training. TSA may identify other security-related training that all screeners must complete (e.g., SSI Awareness, Threat Identification); TSA will provide such training products to the Contractor, who must ensure its timely completion.
OJT Delivery	TSA-provided guidance and checklists.

Delivery	
Initial Certification Test Delivery	TSA will be responsible for the administration of all tests to include scoring. TSA may authorize the use of TSA approved instructors to proctor and administer tests as required with oversight by the TSA Training Coordinator. All test results will be provided to the training coordinator for verification and reporting.

Ongoing Technical Training	
TSA establishes recurrent technical training requirements and provides tools used to test screener performance.	
TIP	Threat Image Projection (TIP) is computer software that allows fictional images of threats to be digitally displayed in the image of actual passengers' bags or projects entirely fictitious bags with a threat object onto the x-ray monitor. TSA provided; mandatory use utilizing TSA standards.
Remedial Training	TSA requires that a screener receive a minimum of three hours of remediation for failing a covert test. Contractor provides targeted remediation that meets TSA's standard of a minimum of three hours of remediation.
Annual Re-certification	TSA will administer. Administration will be consistent with approach used for Federal screener workforce.

Professional Development	
Professional Development and Other General Training	TSA will <u>not</u> provide general training (i.e., leadership or other training intended to support career development) or assume responsibility for the professional development of the Contractor's screener workforce. Contractor provided. The Contractor is responsible for designing, developing, and implementing training for its screeners and supervisors (in areas other than technical screening performance requirements).

Quality Assurance
TSA will conduct quality assurance reviews of screener training to be consistent with approach used for Federal screener workforce.

Records Management
Official screener training records shall be kept in the TSA Online Learning Center (OLC). The TSA Training Coordinator is responsible for establishing and maintaining training records in the TSA Online Learning Center (including test performance) of contract employees and is wholly responsible for assuring the accuracy of such data. If the PP5 airport contracts with the TSA Training Contract contractor, the TSA Training Contract contractor will enter the training results into the OLC.

10.3 Security Screening Services (Technical)

Under this contract, TSA requires security screening services and other related services to provide and administer security screening operations that are timely, standard, stable, reliable, secure, flexible, responsive, compliant, and cost-effective in meeting needs of TSA and its stakeholders.

The TSA security screening services scope is intended to meet the mandate of ATSA, 49 USC Section 44919—namely, that the aviation security program allow the flexibility and innovativeness of the private sector, resulting in improved service delivery and cost-savings, while maintaining TSA's high standards for security. Moreover, this scope is designed to accommodate changes in TSA's SOP for security screening as threats evolve and new screening technologies become available, fluctuations in air traffic which might mandate different staffing models and the needs of our stakeholders as they contribute to TSA's mission delivery.

10.3.1 Passenger and Baggage Screening

The Contractor shall furnish all labor, supervision, management, and services necessary to manage and maintain a professional, uniformed security screening workforce in accordance with the SOPs in effect as of contract award. The contractor is responsible for providing the required workforce, with the required qualifications, in the required quantities in coordination with the FSD and/or FSD staff. The contractor must also provide all facilities, equipment, and materials, not otherwise provided by the Government, needed to manage screening and the screener workforce. A list of Government-Furnished Equipment, Materials, and Information is provided in Appendix 6.

Contractor shall provide checkpoint screening and checked baggage screening in order to prevent the introduction of explosives, improvised explosive devices, and prohibited articles into the sterile areas of each airport through the application of X-ray imaging technologies, explosive detection systems, explosive trace detection systems, metal detection systems, physical search and other detection innovations.

Cargo screening is the primary responsibility of Air Carrier Operators. However, the contractor shall screen cargo as requested by the FSD during periods of elevated threat level and/or during periods of low or no passenger throughput in order to maintain a high level of airport security.

10.4 Management Support

The contractor shall administer the total work effort associated with providing security screening services. Included in this function will be a full range of duties including, but not limited to, planning, staffing, scheduling, reporting, establishing and maintaining records, customer service, and quality control. The contractor shall provide an adequate staff of personnel with the necessary expertise to ensure the performance of the work in accordance with sound and efficient management practices and to meet security and customer satisfaction service requirements as determined by the FSD. The FSD and/or FSD staff will provide Federal Full-Time-Equivalents (FTEs) staffing requirements to the contractor. If the contractor varies from this FTE staffing plan, it needs to be adequately justified by the contractor to the FSD and/or the FSD staff. Increases in staffing will need to be justified to the Contracting Officer, as well as the Program Office. Decreases in staffing are subject to FSD oversight.

The contractor shall provide screeners to meet operational needs as defined by the FSD. The contractor shall respond to the FSD and/or FSD staff to resolve daily FSD/FSD staff-determined operational issues. This does not preclude the contractor from identifying and proposing flexibilities and innovations to the FSD.

The contractor has the responsibility/authority to determine screeners' operational performance and compliance. However, the FSD and FSD staff can exercise the authority to override contractor decision as necessary. The FSD staff may be required to take unilateral action with contractor supervision and personnel to ensure that infractions of the TSA screening SOPs, directives, or memorandums are rectified during a shift. This TSA management act will not be a standard practice, but typically only initiated when security is jeopardized.

10.4.1 Supervision

The Contractor shall provide on-site baggage and checkpoint supervision of all employees at all times that a screening location is staffed. The supervisors must ensure that security screening checkpoints are staffed according to the requirements set forth in the Screening Checkpoint and Checked Baggage SOPs and, as appropriate, to maintain constant vigilance; that employees are properly uniformed and present a neat appearance; minimize passenger wait times while maintaining appropriate levels of security; and that each employee is familiar with their screening locations and duties as required by the SOPs. Baggage and checkpoint supervisory personnel, or Key Personnel, in charge of work under this contract, must be available at all times to receive and implement orders or special instructions from the Federal Security Director (and staff), or Contracting Officer concerning matters which affect the operation, protection and/or security of assigned areas. The contractor will be required to arrange for continuous supervisory observation and evaluation of all screening personnel and take appropriate corrective measures for all infractions noted in the course of performing assigned screening duties. The contractor will perform monthly self-audits and self-testing evaluations.

10.4.2 Scheduling

The Contractor will be responsible for scheduling security screeners and shall work closely with the FSD to satisfy all operational requirements in accordance with the Passenger and Checked Baggage SOPs and ATSA.

10.5 Miscellaneous Requirements

10.5.1 Standards of Conduct

The contractor shall abide by the standards of conduct as defined in the applicable SOPs and in Section H of the contract.

10.5.2 Uniforms

The Contractor will be required to develop a process to manage the inventory, custody, control and disposition of screener uniforms in order to ensure that uniforms are accounted for at all times.

The specifications for new or replacement uniform purchasing is located in Appendix 9.

Uniforms are to be handled and controlled in accordance with the directives as shown in Appendix 10. The contractor will develop a process for controlling the distribution and collection of uniforms that will ensure that all uniform parts with TSA distinctive identification can be accounted for.

The contractor shall issue guidance to its employees that the employees are employees of the contractor and are not employees of TSA.

10.5.3 Maintenance, Use and Inventory of Equipment, Property, and Materials

The Contractor shall provide daily and weekly preventative maintenance of screening equipment as outlined in Appendix 11. TSA will provide training for this maintenance. The Contractor shall provide a written maintenance use and inventory programs for all property, equipment and materials that will be used in the performance of this contract. The maintenance program shall include preventative maintenance, major repair and replacement for Contractor furnished equipment and preventative maintenance for Government Furnished Property, Equipment and Material.

The Government will provide other than preventative maintenance, either directly or through a separate contract, for all Government Furnished Property, Equipment and Material. Use procedures shall ensure that the property, equipment and materials will be used only for those purposes authorized in the contract. The inventory program shall include procedures for conducting physical inventories, including scheduling, responsibilities, and record keeping for all property, equipment and materials used by the Contractor.

The Contractor shall be responsible for purchasing all consumables (rubber gloves, paper towels, cleansers, swabs, etc.) necessary to perform security screening services at the passenger and checked baggage checkpoints, as set forth in the SOW and required by TSA SOPs. Appendix 7 contains a list of suggested sources from which TSA currently obtains such items.

(End of SOW)

Government-Furnished Equipment and Information

TSA will provide the following Government Furnished Equipment (GFE):

Table 6. Government-Furnished Equipment

Item ID	Quantity	Description	Delivery Location	Delivery Date
1		TBD		
2				
3				

Table 7. Government-Furnished Information

Item ID	Quantity	Description	Delivery Location	Delivery Date
1		TBD		
2				
3				

Requirements for Handling Sensitive and/or Proprietary Information

The contractor agrees to handle all sensitive and/or proprietary information in accordance with the instructions and directives listed in Appendixes 12 and 13.

APPENDIX 1: ATSA EMPLOYMENT STANDARDS FOR SECURITY SCREENERS

The basic employment standards required by Section 111 of ATSA are:

To be a U.S. citizen (or U.S. National [Homeland Security Act])
To possess a high school diploma, general equivalency diploma, or one year of equivalent work experience that the Under Secretary has determined to be sufficient for the individuals to perform the duties of the position
To demonstrate screener aptitudes by having a satisfactory or better score on a Federal security screening personnel selection examination.
To demonstrate English proficiency to include reading, speaking, and writing in English
- Carry out written and oral instructions regarding proper performance of screening duties
- Read English language identification media, credentials, airline tickets, and labels on items normally encountered in screening process
- Provide direction to and understand and answer questions from English-speaking individuals undergoing screening
- Write incident reports and statements and log entries into security records in the English language

Basic aptitudes and physical abilities, including color perception, visual and aural acuity, physical coordination, and motor skills
- Able to distinguish on screening equipment monitor the appropriate imaging standard
- Able to distinguish each color displayed on every type of screening equipment and explain what each color signifies
- Able to hear and respond to the spoken voice and to audible alarms in an active checkpoint environment
- Able to perform physical searches by efficiently and thoroughly manipulating and handling baggage, containers, and other objects
- Able to perform pat-downs or handheld metal detector searches of individuals with sufficient dexterity and capability to thoroughly conduct the procedures over an individual's entire body

To have the ability to demonstrate daily a fitness for duty without impairment due to illegal drugs, sleep deprivation, medication, or alcohol
To successfully pass an employment investigation background check (including a criminal history record check)
To not pose a national security risk or threat
To satisfactorily complete all initial, recurrent, and appropriate specialized training required by the security program

APPENDIX 2: ADDITIONAL TSA REQUIREMENTS

In keeping with the intent of Congress, TSA has defined the security screener work in a way to create a national workforce of skilled, well-trained employees. Based on the ATSA and TSA's research, the work of the security screener includes the following critical work functions:

Control Entry and Exit Points
Perform Security Screening of Persons
Perform Security Screening of Property and Baggage

It is important to note that screeners must be willing and able to:

- Work in an indoor, climate-controlled environment, including irregular hours, weekends, and holidays.
- Continuously and effectively interact with the public, giving directions and responding to inquiries in a reasonable tone and manner;
- Maintain focus and awareness within an environment containing numerous distractions, people, and noise;
- Complete full hand-wand screening of people in the standing position which includes the requirement to reach and wand the individual from floor to over head;
- Do a full leg squat;
- Stand and remain standing for periods up to 3 hours without sitting;
- Pick-up (off the ground) from a standing position an object weighing 70 pounds, transport the object a minimum of 8 feet, and place the object on a table top a minimum of 36 inches in height. This must be done without assistance a minimum of 12 times in 30 minutes;
- Lift and/or assist another individual to lift (from the ground) an object weighing 70 pounds, transport the object a minimum of 8 feet, and place the object on a table top a minimum of 36 inches in height. This must be done a minimum of 12 times in 30 minutes.
- Work within a stressful environment which includes noise from alarms, machinery, and people, distractions, time pressure, disruptive and angry passengers, and the requirement to identify and locate potentially life threatening devices and devices intended on creating massive destruction;
- Make effective decisions in both crisis and routine situations;
- Give directions and commands to team of up to 4 individuals at a time (lead and supervisory screeners);
- Make time critical decisions for an entire shift of 23 people in the absence of the supervisor (lead screener);

In order to successfully perform this work, security screeners must possess the following knowledge, skills, and abilities:

English proficiency (e.g., reading, writing, speaking, listening, understanding)
Mental abilities (e.g., visual observation and identification, mental rotation)
Interpersonal Skills (e.g., customer service, dependability)
Work Values (e.g., responsibility, honesty, integrity)

Physical Abilities (e.g., repeatedly lifting and carrying baggage up to 40 lbs, identifying objects by touch)

For lead/supervisory screener positions: Leadership and Supervisory Skills (e.g., managing people, decision making, negotiating).

In addition, all security screeners must meet the following Medical Standards:

Distant vision correctable to 20/30 or better in the best eye and 20/100 or better in the worse eye

Near vision correctable to 20/50 or better binocular

Color perception (e.g., red, green, blue, yellow, orange, purple, brown, black, white, gray) by passing the Farnsworth D-15 color vision test; note: color filters (e.g., contact lenses) for enhancing color discrimination are prohibited

Hearing as measured by audiometry cannot exceed: a) an average hearing loss of 30 decibels (ANSI) at 500, 1000, 2000, and 3000Hz in each ear, b) single readings of 50 decibels at 2000 or 3000Hz in each ear, c) single reading of 55 decibels at 4000Hz in each ear

Adequate joint mobility, dexterity and range of motion, strength, and stability (to lift and move up to 70lbs), as well as a complete medical evaluation including cardiovascular system, hypertension, etc.

Drug-free as assessed through a drug test

Demonstrate daily fitness for duty free from impairment from illegal drugs, sleep deprivation, medication, or alcohol.

APPENDIX 3: DEFINITION OF "SELECTION PROCEDURE"
For Informational Purposes Only

Excerpt from the *Principles for the Validation and Use of Employee Selection Procedures*

Selection Procedures Defined

Selection procedures refer to any procedure used singly or in combination to make a personnel decision including, but not limited to, paper-and-pencil tests, computer-administered tests, performance tests, work samples, inventories (e.g., personality, interest), projective techniques, polygraph examinations, individual assessments, assessment center evaluations, biographical data forms or scored application blanks, interviews, educational requirements, experience requirements, reference checks, background investigations, physical requirements (e.g., height or weight), physical ability tests, appraisals of job performance, computer-based test interpretations, and estimates of advancement potential. These selection procedures include methods of measurement that can be used to assess a variety of individual characteristics that underlie personnel decision-making. ... Personnel decisions are employment-related decisions to hire, train, place, certify, compensate, promote, terminate, transfer, and/or take other actions that affect employment status.

APPENDIX 4: OVERVIEW OF PRINCIPLES

For Informational Purposes Only

Excerpt from the *Principles for the Validation and Use of Employee Selection Procedures*

The essential principle in the evaluation of any selection procedure is that evidence be accumulated to support an inference of job relatedness. Selection procedures are demonstrated to be job-related when evidence supports the accuracy of inferences made from scores on, or evaluations derived from, those procedures with regard to some important aspect of work behavior (e.g., quality or quantity of job performance, performance in training, advancement, tenure, termination, or other organizationally pertinent behavior). Although this document focuses on individual performance, group and organizational performance may also be relevant criteria. Any claim of validity made for a selection procedure shall be documented with appropriate research evidence built on the principles discussed in this document. Promotional literature or testimonial statements should not be used as evidence of validity.

The *Principles* embraces the *Standards*' definition of validity as "the degree to which accumulated evidence and theory support specific interpretations of test scores entailed by proposed uses of a test" (AERA et al., 1999, p. 184). Validity is the most important consideration in developing and evaluating selection procedures. Because validation involves the accumulation of evidence to provide a sound scientific basis for the proposed score interpretations, it is the interpretations of these scores required by the proposed uses that are evaluated, not the selection procedure itself. The *Standards* notes that validation begins with "an explicit statement of the proposed interpretation of test scores, along with a rationale for the relevance of the interpretation to the proposed use. The proposed interpretation refers to the constructs or concepts the test is intended to measure" (AERA et al., 1999, p. 9). Examples of such constructs or concepts include arithmetic proficiency, managerial performance, ability to design a Web page, oral presentation skills, conscientiousness, and ability to trouble-shoot technical problems with equipment on an assembly line. A clear description of the construct or conceptual framework that delineates the knowledge, skills, abilities, processes, and characteristics to be assessed should be developed.

In the early 1950s, three different aspects of test validity were discussed— content, criterion related, and construct. Since that time, the conceptualization of validity evidence has undergone some modification, moving from three separate aspects of validity evidence to the current *Standards*' view of validity as a unitary concept with different sources of evidence contributing to an understanding of the inferences that can be drawn from a selection procedure. Nearly all information about a selection procedure, and inferences about the resulting scores, contributes to an understanding of its validity. Evidence concerning content relevance, criterion relatedness, and construct meaning is subsumed within this definition of validity. The validity of any inference can be determined through a variety of different strategies for gathering evidence. The *Standards* notes that while different strategies for gathering evidence may be used, the primary

inference in employment contexts is that a score on a selection procedure predicts subsequent work behavior. Even when the validation strategy used does not involve empirical predictor-criterion linkages, such as when a user relies on test content to provide validation evidence, there is still an implied link between the test score and a criterion. Therefore, even when different strategies are employed for gathering validation evidence, the inference to be supported is that scores on a selection procedure can be used to predict subsequent work behavior or outcomes.

Professional judgment should guide the decisions regarding the sources of evidence that can best support the intended interpretation and use. The quality of validation evidence is of primary importance. In addition, where contradictory evidence exists, comparisons of the weight of evidence supporting specific inferences to the weight of evidence opposing such inferences are desirable. The *Standards* discusses five sources of evidence that can be used in evaluating a proposed interpretation of selection procedure test scores for a particular use: (a) relationships between predictor scores and other variables, such as test-criterion relationships, (b) content, (c) internal structure of the test, (d) response processes, and (e) consequences of testing. Given that validity is a unitary concept, such categorizations refer to various sources of evidence rather than distinct types of validity. It is not the case that each of these five sources is an alternative approach to establishing job relatedness. Rather, each provides information that may be highly relevant to some proposed interpretations of scores, and less relevant, or even irrelevant to others.

APPENDIX 5: TSA'S BACKGROUND INVESTIGATION REQUIREMENTS

The investigative requirements for all screeners (Federal and PP5) are implemented in segments. See Table 1, Summary of Recruiting, Assessment and Hiring Processes for summary information.

See Table 1, Contractor's Options, which indicates the options for whether the Contractor or TSA performs pre-hire assessment and credentialing.

Below are the steps for the pre-hire and post-hire investigation processes, followed by the suitability factors used in evaluating the results of the investigations. TSA uses OPM's adjudicative standards outlined in its Suitability Processing Handbook in making final determinations. In addition, TSA has specific guidelines for adjudicating financial and falsification issues.

Pre-Hire Background Investigation Process

These processes may be performed in the order the contractor finds most effective and cost efficient unless otherwise noted.

Collect the Electronic SF86 Form and other security and release forms
Review for completeness
If the SF86 has been electronically signed and released to the agency more than 120 days prior to the scheduled ANACI, have the candidate update the SF86.
Original signatures are required for the SF86

Schedule Pre-Hire Investigation.
It is recommended that the contractor use the FBI "Name Check" process which can be conducted by TSA's Credentialing Program Office (CPO). The required form can be obtained by sending an email request to namecheck@dhs.gov. The CPO will use the returned information to provide a pass/fail result to the contractor.
Alternatively, the contractor may select a Investigation Services Provider capable of obtaining the following information:
Criminal History Record – search of Federal, county, and local law enforcement records using on-line searches of felony and misdemeanor records and at least two of the following:
Submitting written requests for law enforcement records when public record access is not allowed
Searching the Contractor's national criminal record database, and/or
Physically retrieving felony and/or misdemeanor records from Federal, county, and local courthouses in all locations where the subject has lived for the most recent ten years.
Credit Reports – One report from each of three major consumer credit reporting agencies, for a total of three reports. Bad debt is defined as debt that is more than 180 days past due or which has been referred for collection or judgment.

This requirement is pending.
Collect Electronic Fingerprint (from applicant/contractor site/ other arrangements)

Fingerprints are required for the post-hire credentialing process. They may be transmitted to AAAE for processing at any time, however, it is recommended that only fingerprints for likely hires be submitted as there is a fee for each set of prints processed.
The AAAE currently processes prints in the eft electronic file format.
Contact the Contracting officer for the current AAAE point of contact

Provide TSA's Credentialing Program Office with an Orientation Roster of candidates and their applicable security information (e.g., SF86) and releases (e.g., medical, Fair Credit Reporting Act) at:

Transportation Security Administration
Credentialing Program Office
Intake File Management
601 South 12th Street, East Tower, 8th Floor
Arlington, VA 22202

Post-Hire Background Investigation Process Performed by TSA

Regardless of the assessment option chosen these steps will be performed by TSA upon receipt of required information from the contractor. The contractor will be required to provide the following:

Orientation Roster
SF86
Electronic fingerprint as described above

If any screener is found to be ineligible as a result of the OPM/ANACI post-hire background investigation, the Contractor will be notified by TSA per the draft procedures represented in Figure 1 below.

Note: An NCIC can be accomplished in lieu of a second set of fingerprints in cases where the first was unclassifiable and the Contractor's classifiable rating is >95%+, as long as this is accomplished by TSA. The Contractor will not have access to NCIC.

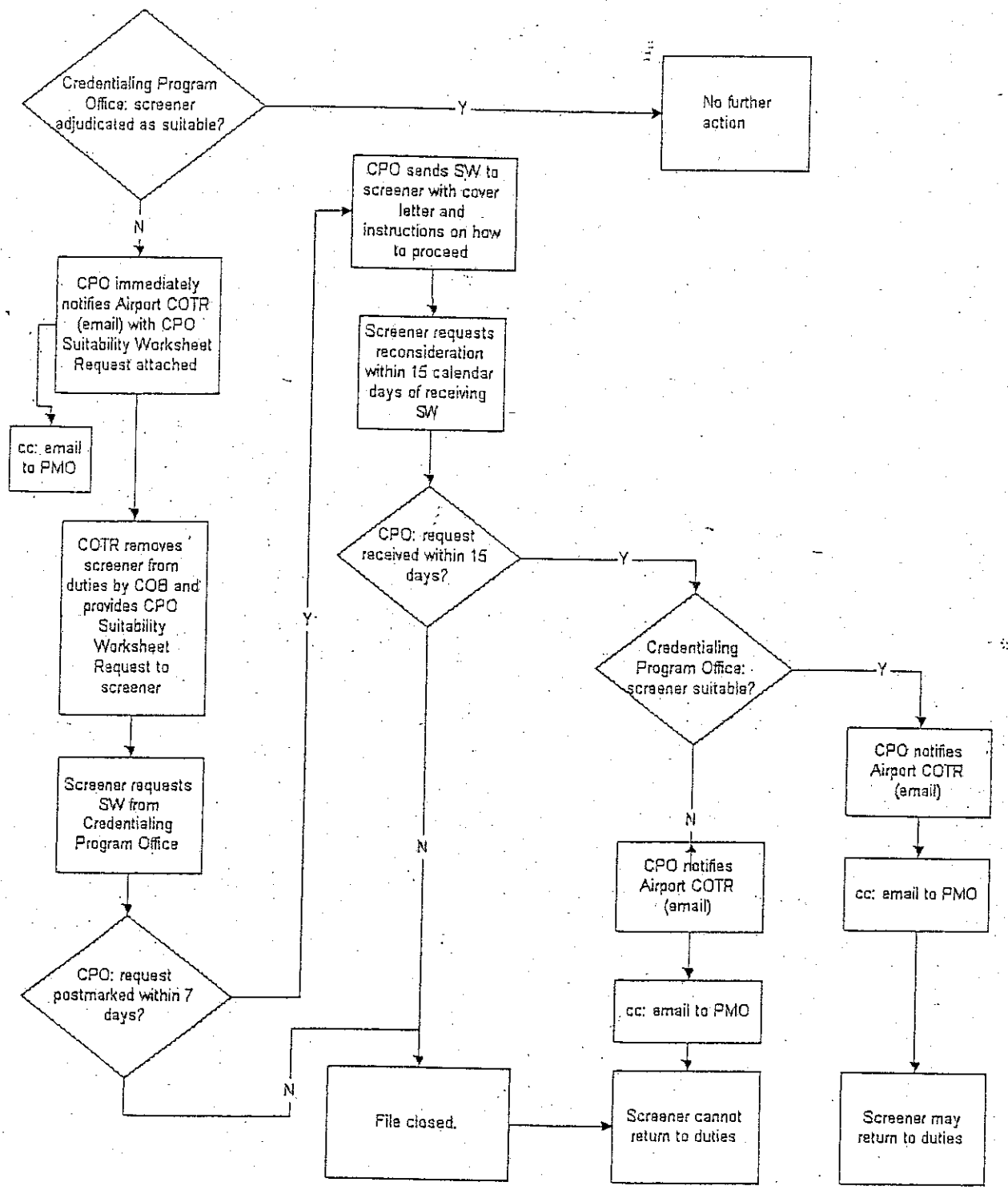

Figure 1. Failed Adjudication Flow Chart

HSTS01-05-C-AOP081 (SFO/TUP)

Credentialing Program Office (CPO)

Suitability Worksheet Request

Section A TSA COTR Use

This form was provided to _____ by

_____ Print Screener Name COTR

Signature

on _____.

Date

Receipt acknowledged by _____.

Screener Signature

Section B Instructions to Screener

This request form must be postmarked within 7 calendar days of the date in Section A above.

Complete Section C below and make a copy for your records.

Mail the original signed request to:

Larry Parker
CPO, 8th Floor
TSA Headquarters
601 South 12th St.
Arlington, VA 22202-4220

Section C Screener Use

Date _____

This is an official request for the CPO Suitability Worksheet related to my background investigation file.

Screener Name _____ (print)

Screener SSN _____

Screener Address _____

_____

_____

Screener Signature

28 Disqualifying Offenses
49 U.S.C. § 44936(b)(1)(B)

1) Forgery of certificates, false marking of aircraft, and other aircraft registration violation; *49 U.S.C. 46306.*
2) Interference with air navigation; *49 U.S.C. 46308.*
3) Improper transportation of a hazardous material; *49 U.S.C. 46312.*
4) Aircraft piracy; *49 U.S.C. 46502.*
5) Interference with flight crew members or flight attendants; *49 U.S.C. 46504.*
6) Commission of certain crimes aboard aircraft in flight; *49 U.S.C. 46506.*
7) Carrying a weapon or explosive aboard aircraft; *49 U.S.C. 46505.*
8) Conveying false information and threats; *49 U.S.C. 46507.*
9) Aircraft piracy outside the special aircraft jurisdiction of the United States; *49 U.S.C. 46503(b).*
10) Lighting violations involving transporting controlled substances; *49 U.S.C. 46315.*
11) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements; *49 U.S.C. 46314.*
12) Destruction of an aircraft or aircraft facility; *49 U.S.C. 46312.*
13) Murder.
14) Assault with intent to murder.
15) Espionage.
16) Sedition.
17) Kidnapping or hostage taking.
18) Treason.
19) Rape or aggravated sexual abuse.
20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.
21) Extortion.
22) Armed or felony unarmed robbery.
23) Distribution of, or intent to distribute, a controlled substance.
24) Felony Arson.
25) Felony involving a threat.
26) Felony involving --
i. Willful destruction of property;
ii. Importation or manufacture of a controlled substance;
iii. Burglary;
iv. Theft;
v. Dishonesty, fraud, or misrepresentation;
vi. Possession or distribution of stolen property;
vii. Aggravated assault;
viii. Bribery; or
ix. Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year.
27) Violence at international airports; *18 U.S.C. 37.*
28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph.

Additional Standards for Security Screener Background Checks Suitability Determinations

Effective October 9, 2003, the following disqualifying factors will be applied prospectively. These are in addition to the 28 Disqualifying Factors in *49U.S.C. § 44936(b)(1)(B)* and OPM's Suitability Guidelines.

wo convictions, whether felony or misdemeanor, within the past 5 years, and where one of those convictions is within the last 3 years and consists of one of the below listed disqualifying offenses. Regardless of the above, the applicant can have no convictions in the past year of any of the below-listed disqualifying offenses:

Destruction of property
Importation or manufacture of a controlled substance
Burglary
Theft
Dishonesty, fraud, or misrepresentation
Smuggling
Possession or distribution of stolen property
Battery and/or assault to include indecent assaults
Bribery
Being under the influence of a controlled substance
Extortion
Terrorism related offenses
Obstruction of justice
Racketeering

Note: A positive finding during prescreening will place the applicant in a "yellow" status. A "yellow" status indicates that the applicant will not be hired unless the issue is resolved in their favor, but they will be given the opportunity to provide information to demonstrate that they meet standards.

Incarceration during any period within the previous 5 years based on a felony conviction.

Note: *This standard is for any felony conviction, not just those listed by Congress.*

Any conviction, felony or misdemeanor, of a theft offense committed as an adult (age 21) – or a similar crime against property – within the past 5 years.

Effective September 1, 2004, the following enhanced suitability standards outlined below will be applied prospectively to new applicants and current employees. These are in addition to the 28 Disqualifying Factors in *49U.S.C. § 44936(b)(1)(B)* and OPM's Suitability Guidelines.

Expanding look-back period from five years to 15 years for any felony or misdemeanor conviction related to money, property or services.

Expanding look-back period from five years to 15 years for any felony misdemeanor conviction related to sexual assault, drugs, or fraud.

Expanding criteria so that any conviction for any felony or misdemeanor conviction for crimes relating to reliability and good judgment (lesser crimes) within the last five years, as opposed to three or more within the last three years, is disqualifying.

Expanding criteria so that any conviction for any felony or misdemeanor for three or more for domestic or child abuse offenses within the last 15 years (one within the last five years), as opposed to three or more within the last five years, is disqualifying.

Candidates will be banned from employment with TSA for the duration of their listing in the sexual offender registry, regardless of the seriousness of the offense.

Probation or parole violations will be judged by the seriousness of underlying crime using date of violation, not date on which the underlying crime occurred.

Financial Standards

The standard for financial responsibility is based on credit history, disregard for debts, or abuse of fiduciary trust. Currently, TSA uses a standard of $5,000 cumulative "bad debt." This attachment provides further definition of this standard and describes processes related to the financial standard for both pre- and post-employment adjudications.

The standard for finding an applicant screener *ineligible based on financial responsibility* is based on:

Cumulative "bad debt" that exceeds $5,000, or any amount of debt associated with a Federal and/or State tax lien, or any amount of back child support payments*

A history of not meeting financial obligations as evidenced through a bankruptcy with continuing debt being accumulated

Deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, income tax evasion, expense account fraud, filing deceptive loan statements and other financial breaches of trust

Inability or unwillingness to satisfy debts

Unexplained affluence

Financial problems seemingly related to gambling, drug abuse or alcohol

*"Bad Debt" is defined as past due accounts consisting of the following:

Accounts placed for collection

Account assigned to attorney/collection agency

Unpaid balance reported as loss by grantor

Repossessions

R9 rated accounts

Court judgments not satisfied

Foreclosures

Debts not dismissed through bankruptcy

Acceptable offsets included in the consumer credit report, developed through investigative results or a Letter of Interrogatory (LOI), may include the following:

Debts included in bankruptcy
Participation in credit counseling service
Debt consolidation service
Evidence of disputed accounts
Bankruptcy discharge
Debts incurred as a result of a serious medical condition, including an immediate family member
Debts incurred as a result of period of unemployment with attempts to resolve once gainful employment obtained
Debts associated with divorce where ownership of the debt is alleged to belong solely to the spouse
Disputed debts where the creditor identifies and outstanding balance and the response indicates that it has been paid or is not a legitimate debt
Documentation from the creditor substantiating partial payment arrangements

A debt reported multiple times should be counted only once toward the cumulative amount of debt. As examples,
an outstanding balance may be shown for the creditor, reported by a collection agency, and then by a court following judgment, or
a debt may be sold to another creditor or collection agency.

APPENDIX 6 - REMOVED

APPENDIX 7: SUGGESTED VENDORS FOR THE PURCHASING OF CONSUMABLES

Garrett Metal Detectors
Hand Wands

http://www.garrett.com/security/sec-pro-han.asp

Superwand #1165800

GE Ion Track
ETD Consumables

POC: Sandy Friede
(800) 433-5346

EP002500	Fuse, 220VAC 3.15A
EP002509	Fuse, 220VAC 6.3A
M0001140	Sample Traps
M0001142	E-Mode Calibration Traps
MP003214	Fan Filter
MP003223	Filter (with Washer, MP009556)
MP005810	Explosive Dopant
MP011008	O-Ring, .176ID
MP011016	O-Ring, #2-016
MP035019	Dryer Material (Molecular Sieve)
MP075000	Cotton Gloves
MP075001	Saturated Wipes
MP075002	Saturated Swabs
MP075003	Canned Air
PA005007	Membrane Kit
PA005033	Sample Collection Envelopes
PA005060	Thermal Printer Paper
PA005061	Mini-Maintenance Kit, Itemizer
PA005066	Cleaning Kit, Itemizer
PA005069	Maintenance Log Book
13037	Filter Cap Seal
MP004403	Fan Filter Assembly

Note: Several of the items listed singly above are included in the PA0066 and PA005061 kits. In most cases, it is more cost-efficient to purchase the items singly rather than the kits.

IT Solutions
Checkpoint tables, chairs, and mats

POC: Gene Stevens
(301) 595-2060

E6447S5273BL	Anti Fatigue Mat
E42959	Divestiture/Composure/GP Table 48"
E42900	Divestiture/Composure/GP Table 72"
Flexon 2149	Passenger Chair
E42236-6	X-Ray Operator Chair

Lavi Industries
Checkpoint and crowd management equipment and supplies

POC: Steven Greisman
(800) 624-6225 x150

Item	Description
3000WB	Beltrac® 3000 Post With Wrinkle Black Finish 7 Foot With Black Belt
3000DL/WB	Beltrac® 3000 Post Double -Line With Wrinkle Black Finish 7 Foot With Black Belts
921	Literature Holder
50-4501SA/SET	22" X 28" Directrac® With Curved Base, Including a Poster Holder Cartridge.
50-4580SA	22" X 28" Poster Holder Cartridge Only
925	Five Pockets Brochure Holder for Directrac®
3000GATE/1L	Access Control Post and Single Gate, With Spring Loaded Hinges.
3000GATE/1R	Access Control Post and Single Gate, With Spring Loaded Hinges.
3000GATE/2	Access Control 2 Posts and double Gats, With Spring Loaded Hinges.
GATE/1L	Single Gate Left, With Spring Loaded Hinges. (POST NOT INCLUDED)
GATE/1R	Single Gate Right, With Spring Loaded Hinges. (POST NOT INCLUDED)
50-1131V/MB	11" X 14" Vertical Sign Holder for Beltrac® Posts Including Clear Inserts
50-4546SA	8-1/2" x 11" QuickClip Sign Frame With

Item	Description
	Double Tape Mounting
80-5000/4	Non Metallic Barrier, 54" tall, Gray, with Clear Panel, 4'
80-5000/3	Non Metallic Barrier, 54" tall, Gray, with Clear Panel, 3'
80-5000/2	Non Metallic Barrier, 54" tall, Gray, with Clear Panel, 2'
80-50GATE/3	Floor mounted Latching Gate, 36" with 2 Posts, Clear Panel
50-3033/7	Privacy Booth, 7' Tall 7 Posts and 6 Panels
50-FP300/3/TSA/CL	36" X 50" Black Frame with Clear Polycarbonate Panel w/ Hinges
50-FP300/4/TSA/CL	48" X 50" Black Frame with Clear Polycarbonate Panel w/ Hinges
50-FP300/5/TSA/CL	60" X 50" Black Frame with Clear Polycarbonate Panel w/ Hinges
50-3005WB	5FT Black Post for use with Polycarbonate Panel
50-3004WB	4FT Black Post for use with Polycarbonate Panel
60-PB301	4' Privacy Booth Fabric Panel
60-PB302	5' Privacy Booth Fabric Panel
50-3006WB/TSA	66" Beltrac Post
50-FP300/3/TSA	36" x 50" Panel Black Sintra
50-FP300/4/TSA	48"x 50" Panel Black Sintra
50-FP300/5/TSA	60" x 50" Panel Black Sintra
80-910TSR	Single Line Replacement Mechanism with Black Belt

National Industries for the Blind
Gloves

www.jwod.com
Phone: 1-877-438-5963
Fax: 1-877-329-5963

Blue Nitrile Gloves
Vinyl Gloves

Rubbermaid
X-ray bins, Mats

G3447S0023BL	Anti-fatigue Mat
G33349-G	Large, Grey X-ray Bins
G3155404	Wanding Station Mats with footprints
E42939BKIM11	X-ray Operator chair

Smiths Detection
ETD/EDS Consumables

POC: Sheila Sayah
(908) 222-9100

Item	Description
15883	Sample Swabs (less than 12)
5883-P	Sample Swabs (more than 12)
1809055-K	Charcoal Refill M400 2-Pack
1809055-P	Charcoal Refill M400 4-Pack
4809054-K	Drierite Refill M400 2-Pack
4809054-P	Drierite Refill M400 4-Pack
13977	Calibration Standard-Exp
2812602	Calibration Token
14020-A	LLAPU Refill w/ ind. Bottle
3814086	LLAPU Indicating Bottle
11223	Sample Ring
3812109	Swab Sampler -Wand
1815277	Swab Sampler Rubber Button
15038	Swab Sampler Velcro Hook
15037	Swab Sampler Disk
10527	Inlet Liner
15559	Inlet Liner Gasket

Item	Description
15030	Condenser Tube
6811333	Indicating Bottle
PRINTM400	Printer Station 400
PRINTM400B	Printer Station 400B
ERC38LB-UC	Printer Ribbon
197004	Printer Paper
10655	Fan Filter Kit
15175	O-Ring
15152	Filter Fan Assembly
11653	Failter Fan Assembly
13725	Sinterid Filter
15530	O-Ring
11654	Fan Filter
15992	Sponge
15991	Sponge
11017	Plug
11018	Plug
15176	Llapn Gasket
14061	Dririte Refill
15746	Charcoal Refill

Thermo Electron Corp
EGIS II Preventative maintenance Items

POC: David Geary
(978) 232-6056

Item	Description
41669500	Fan Filter
41203900	Printer Paper
41606601	Standard Solution
41341600	Air Dryer
412341500	Ozone Scrubber
4012990	Pump Oil
40578800	DI Bags (H2 Generator)
41341400	Ozone Converter

40067300	Oil Mist Filter
40572000	Dessicant (H2 Generator)
40319600	Q-Tips
40271900	Distilled Water
40318200	Replace Snout Filter
4150660	Sample Tickets

Trace Detection
Sample Swabs

POC: Paul Weber
(609) 844-7580

Smiths Ionscan 400B ETD Machine Sampler Swabs

APPENDIX 8: ACRONYMS USED IN THE STATEMENT OF WORK

Acronym	Meaning
AA	Airport Authority
AAAE	American Association of Airport Executives
ANACI	Access National Agency Check and Inquiries
ATSA	Aviation and Transportation Security Act
CBT	Computer-based Test
CFE	Contractor-furnished Equipment
CO	Contracting Officer
COTR	Contracting Officer's Technical Representative
CPO	Credentialing Program Office
CPS	Cooperative Personnel Services
DHS	Department of Homeland Security
DOT	Department of Transportation
EOD	Entry on Duty
FBI	Federal Bureau of Investigation
FDO	Fee Determining Official
FPRD	Fingerprint Results Distribution
FSD	Federal Security Director
FTE	Full-time Equivalent
GFE	Government Furnished Equipment
GFI	Government Furnished Information
HR	Human Resources
LOI	Letter of Interrogatory
NDA	Non-Disclosure Agreement
OEM	Original Equipment Manufacturer
OJI	On-the-job Injury
OJT	On-the-job Training
OLC	On-line Learning Center
OPM	Office of Personnel Management
ORI	Origination Routing Issuance

Acronym	Meaning
PMIS	Performance Measurement Information System
PMR	Program Management Review
PP5	Private Screener Pilot Program
QAP	Quality Assurance Plan
QVL	Qualified Vendor List
SON	Submitting Office Number
SOO	Statement of Objective
SOP	Standard Operating Procedure
SORT	Screener Objective Recognition Test
SOW	Statement of Work
SPP	Screening Partnership Program
SSI	Sensitive Security Information
TAI	TSA Approved Instructors
TC	Training Contract
TIP	Threat Image Projection
TSA	Transportation Security Administration
VPN	Virtual Private Network
WPT	Work Performance and Training

APPENDIX 9:
TSA SCREENER UNIFORM PROGRAM

New Hires:

Initial Garments Received: TSA provides each new hire with the following initial uniform set:

Garment	Qty	Garment	Qty
Long Sleeve Shirts	3	Tie	2
Short Sleeve Shirts	3	Shoulder Boards (rank)	2
Trousers	3	Sweater Vest	1
Black Leather Belt	1	Nameplate	1
Black Socks	3	Team Jacket	1

Contractors have flexibility to order a different mix of garments based on local circumstances and contractor preference and coordination with the FSD. Contractor plans must be included in the proposal.

Existing Screeners:

TSA is providing the following new items to every existing screener in the country. Contractors can choose to do the same. Or, you may choose to add other items. For example, TSA is not providing any burgundy polo shirts or coveralls to baggage screeners. Contractors can choose to provide the burgundy shirts in place of some white shirts. TSA provides:

Garment	Qty	Garment	Qty
Long Sleeve Shirts	3	Shoulder Boards (rank)	2
Short Sleeve Shirts	3	Sweater Vest	1
Trousers	2		

Special Requirements. If screeners have special needs due to documented medical conditions, such as skin reactions to particular types of materials, contractors shall provide justification documentation and obtain FSD approval to deviate from the standard material used in screener uniforms.

APPENDIX 10
List of Directives Pertaining to Uniforms

PMO 4000-1	Interim Guidance on Personal Property Accountability, Management, and Control (Plus Change 1)
PMO 4000-18	Utilization and Disposal of TSA Uniforms
HRM Letter 735-2	Interim Uniformed Employees Appearances and Responsibilities
AVO 400.33.2-1 (AVO 3720-1)	Uniformed Employees' Responsibilities for Appearance and Conduct
AVO 400.33.2-2 (AVO 3720-2)	Uniformed Appearance – Wearing of Skirts by Screeners
AVO 400.33.2-4 (AVO 3720-4)	Revisions to HRM Letter 735-2
AVO 400.25.3-1 (AVO 4400-3)	Use of Personal Funds to Purchase Screener Uniforms
AVO 400.25.3-2 (AVO 4400-4)	Retrieval and Disposal of TSA Uniforms (amends a portion of 4400-3 – returning of uniforms)
AVO 400.25.3-3 (AVO 4400-5)	Screener Uniform Allowance and Expanded Uniform Menu (baggage screener uniform)
400.25.3-4 (AVO 4400-7)	Failure of Former Employees to Return TSA-Issued Items
400.25.3-5 (AVO 6100-7)	Reimbursement for Alterations to Uniforms or Purchase of Temporary Uniforms
AVO 400.50.1-9	Use of Gloves by TSA Screeners

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List of Directives Pertaining to Uniforms

PMO 4000-1	Interim Guidance on Personal Property Accountability, Management, and Control (Plus Change 1)
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400.25.3-4 (AVO 4400-7)	Failure of Former Employees to Return TSA-Issued Items
Reimbursement for Alterations to Uniforms or Purchase of (AVO 6100-7)	Temporary Uniforms
AVO 400.50.1-9	Use of Gloves by TSA Screeners

APPENDIX 11: EQUIPMENT MAINTENANCE REQUIREMENTS

Attached is a list of all the equipment for which the Contractor is required to provide preventive maintenance. The list also contains the estimated hours for performing each step. Contractors should use the attached schedule for proposing preventive maintenance after vetting the list with the FSD/COTR.

Explosives Trace Detection Equipment:

Thermo Detection EGIS II
Recommended Operator Preventative Maintenance Actions:

Perform Every Shift:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Run a Performance Check.	10 min		Unused sample collector ticket EGIS II, P/N 41023100	

Perform Daily:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Inspect the Standard Solution.	10 min	Flashlight		
2. Inspect and Clean the Fan Filters, Replace as necessary.	30 min	Vacuum Cleaner, Soft Brush		Filter, EGIS II, P/N 41669500
3. Inspecting/Replacing the Printer Paper, Replace as necessary.	5 min		Roll, Paper, EGIS II, P/N 41203900	
4. Checking/Refilling the Water Tank in the Hydrogen Gas Generator.	10 min	Funnel	Distilled Water	
5. Inspecting the Desiccant in the Hydrogen Gas Generator.	1 min			
6. Checking the Power LED in the Hydrogen Gas Generator.	1 min			
7. Checking the No-Hydrogen-Flow LED in the hydrogen Gas Generator.	1 min			
8. Checking the Change-Water LED in the Hydrogen Gas Generator.	1 min			
9. Inspecting the Ozone Air Dryer and the Ozone Scrubber.	5 min			
10. Replace the Snout Filter.	15 min	Snout Filter Tool, EGIS II P/N 4031840, Key to top cover, EGIS II P/N 41235400, Flashlight	Lond-handled, wooden-handled Q-tips EGIS II P/N 40319600, Isotropyl alcohol	Snout Filter, EGIS II P/N 40318200

Explosives Detection Equipment:

InVision CTX 2500/5000/5500
Recommended Operator Preventative Maintenance Actions:

Perform Every Shift:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Perform Image Quality Test. (Requires an IQ Bag)	5 min.	Image Quality Bag P/N TBD		
2. Check that each X-Ray lamp is on during scanning.	1 min.			Red Lamps P/N 3901-0001 (12V, 12W)
3. Check that "X-Ray On" message appears during scanning.	1 min.			
4. Clean/remove baggage labels, clean adhesive and dirt from Curtains. (Disable X-Ray during cleaning.)	30 min.		Alcohol Wipes, Alcohol Swab, Q-Tips, Household Cleaner	
5. Check X-Ray Curtains for torn or missing stripe(s). Replace as necessary. (Disable X-Ray during check.)	15 min to 1 hour.	Tool Kit		SP Entrance: Inner Layer P/N 106244-1, Outer Layer P/N 106244-2, SP Middle: P/N 106650-1, CT Exit: Inner Layer P/N 106200-1, Center Layer P/N 106200-2, Outer Layer P/N 106200-1

InVision CTX 2500/5000/5500 (continued):
Weekly and as Required Operator Maintenance Actions:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Check all lamps for proper operation. (Are they lighted?) Replace as necessary.	15 min per lamp			CTX ON Lamp (green) P/N 3901-0301 (130V, 20 mA), X-Ray ON Lamp (red) P/N 3901-0001 (12V, 12W), Console Button Lamps P/N 3901-0963 (14V), A/C Distribution Panel P/N 3901-1203 (120V)
2. On the CTX 5500 DS perform the procedure "Checking the Scan Projection Door and Operator Console Switch Interlock". Ensure the interlock is operable.	5 min			
3. Check Emergency (E) Stop to confirm proper operation.	5 min per button			
4. Check printer's color graduation.				

5. Inspect/Clean/Remove/Replace Air Filters.	30 min per filter			Air Filter P/N 2602-1223
6. Inspect the Scan Projection (SP) and Computed Tomography (CT) belts for wear.	15 min			
7. Clean the CTX and the surrounding area, including monitor screen and desk.	10 min			

Explosives Detection Equipment:

InVision CTX 9000
Recommended Operator Preventative Maintenance Actions:

Perform Each Shift, Daily or as required:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Perform Image Quality Test. (Requires an IQ Bag, part number 100090-1)	15 min	IQ Bag, P/N 100090-1		
2. Ensure the four amber fault lamps are illuminated.	1 min			
3. Ensure the four green power indicator lamps are illuminated when system is on.	1 min			
4. Ensure the four red X-Ray indicator lamps are illuminated during scanning.	1 min			
5. Ensure the main panel X-Ray indicator lamp illuminates during scanning.	1 min			
6. During scanning, check that each GUI indicator to confirm the x-ray is on.	1 min			
7. Visually check the E-Stop button for damage.	1 min			
8. Check the air conditioner for unusual vibrations or noises.	5 min			
9. Clean the monitor screens, desk and surrounding area with InVision approved cleaner.	20 min		Windex and Lint free cloths	
10. Clean the area around the machine	30 min	Vacuum Cleaner		

InVision CTX 9000 (continued)

Perform Monthly or as required:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required

1. Replace any CTX Lamp or LED as necessary.	5 min per lamp			CTX Lamp P/N 600802-2
2. Check Interlocks	1 min			

Explosives Detection Equipment:

L3 Communications eXaminer 3DX 6000, Stand Alone Explosive Detection System
Recommended Operator Preventative Maintenance Actions:

Perform Each Shift, Daily or as required:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Perform Image Quality Test.	15 min	Requires an IQ Bag, P/N 100090-1		
2. Clean Equipment Cabinet Surfaces	20 min		Kim Whipes, ethyl or isopropyl alcohol	
3. Clean Floor Area around equipment.	10 min	Vacuum cleaner, mop, sponge		
4. Verify all Panel Lights are operational. Two main power lights, two X-Ray lights.				
5. Check E-Stops for proper operation.	15 min			
6. Check Air Conditioner Drain, Empty Condisate Water.	5 min			
7. Check Air Conditioned Exhaust	1 min	Vacuum Cleaner		
8. Check equipment for unusual or unfamiliar sounds	1 min			
9. Check Air Intake Louvers for Air Flow into Equipment Cabinet	2 min	Vacuum Cleaner		
10. Check Air Exhaust Louvers for Air Flow out of Equipment Cabinet	2 min	Vacuum Cleaner		
11. Remove Foreign Material from Conveyors, Rollers and Chain Drives.	10 min		Kim Whipes, ethyl or isopropyl alcohol	
12. Check conveyor for wear and proper tracking.	10 min			
13. Clean conveyor belt.	30 min		Isopropyl Alcohol, Kim Wipes	

L3 Communications eXaminer 3DX 6000, Stand Alone Explosive Detection System (continued):

Monthly, As Required Maintenance Actions:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Visually check the condition of cables and cable fastenings.	10 min			

2. Check A/C Filter for restricted airflow. Replace as necessary.	10 min	Vacuum Cleaner, 8 mm wrench		Filter Analogic P/N 151-000015, Filter Adhesive Analogic Part
3. Visually check the air conditioner for water condensate. Remove condisate.	10 min		Kim Wipes	
4. Listen for changes in audible noises emitted by the equipment. These should include blower noise and bearing noise.	15 min			
5. Visually check the cleanliness of baggage sensor holes.	15 min	Vacuum Cleaner	Canned Air	
6. Remove excessive dust and dirt from the IAS Computer. Ensure IAS Computer Cable Connections are secure.	15 min	Vacuum Cleaner	Canned Air	
7. Inspect all assemblies for oil leaks.	30 min		Kim Wipes	
8. Verify all cooling fans are operating properly.	15 min			
9. Ensure entrance and exit tunnel curtains are positioned properly and secure. Ensure the curtains are clean.	30 min	TBD	Kim Whipes, ethyl or isopropyl alcohol	
10. Check equipment for oil leaks. Remove excessive oil.	20 min		Kim Wipes	

L3 Communications eXaminer 3DX 6000, Stand Alone Explosive Detection System (continued):

Quarterly, as required Maintenance Actions:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Check conveyor for wear and proper tracking.	30 min			
2. Clean conveyor belt.	30 min		Isopropyl Alcohol, Kim Wipes	

Walk Through Metal Detectors

Garrett PD6500i
Recommended Operator Preventative Maintenance Actions:

Perform Daily or as required:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Inspect/Clean Metal Detector	15 min		Soft Lint Free Cloth Soapy Water.	
1. Inspect/Clean Metal Detector area	15 min	Vacuum Cleaner		

Metorex
Recommended Operator Preventative Maintenance Actions:

Perform Daily or as required:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Inspect/Clean Metal Detector	15 min		Soft Lint Free Cloth Soapy Water.	
1. Inspect/Clean Metal Detector area	15 min	Vacuum Cleaner		

Ceia Metal Detector 02PN20
Recommended Operator Preventative Maintenance Actions:

Perform Daily or as required:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Inspect/Clean Metal Detector	15 min		Soft Lint Free Cloth Soapy Water.	
1. Inspect/Clean Metal Detector area	15 min	Vacuum Cleaner		

X-Ray Equipment:

Heimann Systems X-ray Inspection Units, HI-Scan 6040i and HI-Scan 7555i Series HiTraX.
Recommended Operator Preventative Maintenance Actions:

Perform Daily or as required:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Check the lead curtains for defects prior to energizing equipment. If shielding is defective repair prior to energizing equipment.	10 min			
2. Check the conveyor system for tears and heavy dirt on conveyor belts, driving chains and rollers as well as Parts jammed in the conveyor system. Clean as required	30 min		Lint Free Cloths, Windex	
3. Check for mechanical damages to cables and electrical and electronic modules.	10 min			
4. Check the safety roller between the X-Ray unit conveyor and the feed/discharge conveyors.	10 min			
5. Ensure all rollers operate freely.	10 min			
6. Clean the monitor screens, desk and surrounding area.	10 min		Lint Free Cloths, Windex	

Explosives Trace Detection Equipment:

Barringer Ionscan 400 and 400B
Recommended Operator Preventative Maintenance Actions:

Perform Every Shift:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Clean Sampling Table and IONSCAN 400B	10 min		Clean Swab Methanol or Isopropanol	Teflon O-Ring in Sample Tray Lid
2. Inspect LLAPU/APU	5 min			
3. Inspect/Replace Printer Paper	5 min			Printer Paper
4. Inspect/Clean/Replace Cooling Fan Air Filters	20 min	Vacuum Cleaner	Can Compressed Air	Air Filter

Perform After Heavy Alarm:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Clean Sampling Slide and Inlet Flange, replace teflon ring as necessary.			Clean Swab Methanol or Isopropanol	Teflon Ring in Slide Lid

Daily Maintenance Actions:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Visual inspection of the air purification unit. Replace as necessary.	30 min			Air Purification Unit, Barringer P/N TBD
2. Inspect/Replace LLAPU/APU	TBD			
3. Inspect/Replace Printer Paper	10 min		Printer Paper, Barringer P/N TBD	
4. Inspect/Clean/Replace Air Filters	30 min		Cloth, Alchol, Water	Foam Filter Element, Barringer P/N TBD

Barringer Ionscan 400 and 400B (continued):

Weekly or More Often Maintenance Actions:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Perform System Bake Out	30 min to 120 min			

Explosives Trace Detection Equipment:

Ion Track ITEMISER Windows
Recommended Operator Preventative Maintenance Actions:

Perform Maintenance Action Every Shift:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Inspect/Clean Work Table and Itemizer 98.	3 min		Alcohol Wipe P/N MP075001, 70% Isopropyl Alchohol, 70% and paper towels	
2. Inspect/Clean/Replace Cooling Fan/Cabinet Fan Filters.	3 min		70% Isopropyl Alchohol, 70% and paper towels, Air Filter P/N PA003214	
3. Inspect/Clean the Touch Screen Front Surface.	1 min		Alcohol Wipe P/N MP075001	
4. Inspect/Replace Printer Paper.	1 min		Printer Paper, P/N PA005060	
5. Check for any Indicated System Faults.	1 min			
6. Perform Manual Calibration	5 mins	E-mode Calibration traps M0001142-E, Sample Traps M0001140-E		
5. Verify Clean Plasmagram	1 min			

Ion Track ITEMISER Windows (continued):

Weekly Maintenance Actions:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Inspect/Clean the Vapor Desorber Unit Sample Filter and Membrane.	10 min		Cleaning Kit P/N 005066	Sample Filter P/N MP003223, Rubber Washer P/N MP009556, O-Ring P/N MP011016, MP011021
2. Inspect/Replace Explosive Dopant Material.	2 min		Dopant Liquid P/N MP005810	O-Ring P/N TBD
3. Clean the Sample Air Line	5 min		Cotton Gloves P/N MP075000, Canned Air P/N MP075003	
4. Perform Shift Maintenance	15 min			

Monthly or As Required Maintenance Actions:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Replace Dryer Material	5 min	Small Slotted Screwdriver	Dryer Material P/N MP035019	O-Ring P/N TBD

2. Inspect/Replace Explosive Dopant Material.	5 min		Dopant Liquid P/N MP005810	O-Ring P/N TBD
3. Replace the Membrane.	30 minutes active, 4 hours burn-in	Wooden Probe	Alcohol Swab P/N MP075001	Membrane P/N PA005007
4. Clean the Sample Air Line	5 min		Cotton Gloves P/N MP075000, Canned Air P/N MP075003	
5. Perform Shift Maintenance	15 min			

Annual Maintenance Actions:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required

X-Ray Systems:

Rapiscan

Recommended Operator Preventative Maintenance Actions:

Perform Daily or as required:

Maintenance Action:	Estimated Duration	Tools Required	Consumables Required	Parts Required
1. Clean exterior the system (ensure sensors are kept clean)	10 min	None	Soft Lint Free Cloth Soapy Water	None
2. Clean equipment area	30 min	Vacuum Cleaner		None
3. Check conveyor belt for cleanliness and proper tracking. Clean as necessary.	30 min	None	Isopropyl Alcohol	None
4. Check photo cells for cleanliness. Clean as necessary	30 min	None	Kim Wipes, Canned Air	None
5. Check X-Ray Curtains for cleanliness and torn or missing strips. Clean as necessary.	20 min	None	Alcohol Wipes, Isopropyl Alcohol	None
6. Clean Computer Filter, replace as necessary.	20 min	TBD	Soft Lint Free Cloth Soapy Water	Air Filet P/N TBD

APPENDIX 12: SENSITIVE SECURITY INFORMATION (SSI)
(TSA General IT Security Clauses for Contracts, Rev 1.2 dated 4/26/2004)

Clause # 1. Protection of Sensitive Information.
The Contractor shall protect all DHS "sensitive information" to include TSA "sensitive security information (SSI)" to which the Contractor is granted physical or electronic access by adhering to the specific IT security requirements of this contract.

Note: Where DHS subsequently appears, it will automatically equate to DHS/TSA, unless otherwise stated or obvious separation is required. Where sensitive information subsequently appears, it will refer as well to SSI. If the two policies conflict the stricter will apply.

Sources:

DHS MD11042, *Safeguarding Sensitive But Unclassified (For Official Use Only) Information, 11 May 04.*

For TSA, sensitive information includes what is known as SSI. SSI protection requirements are defined in the TSA document entitled, *Interim Sensitive Security Information (SSI) Policies and Procedures for Safeguarding and Control*, 13 Nov 02.

Clause #2. Information Technology Security Program
If performance of the contract requires that DHS data be stored or processed on Contractor-owned information systems, the Contractor shall establish and maintain an IT Security Program. This program shall, at a minimum, contain the following elements:

(a) Handling of DHS sensitive information and IT resources to include media protection, access control, auditing, network security, and rules of behavior

(b) Training and Awareness for Contractor personnel

(c) Security Incident Reporting

(d) Contingency Planning

(e) Security Reviews

(f) Contract Closeout Actions

Clause #2a. Handling of Sensitive Information and IT Resources
The Contractor shall protect DHS sensitive information and all government provided and contractor-owned IT systems used to store or process DHS sensitive information. The Contractor shall adhere to the following requirements for handling sensitive information:

(a) **Media Protection.** The Contractor shall ensure that all hardcopy and electronic media (including backup and removable media) that contain DHS sensitive information are appropriately marked and secured when not in use. Any sensitive information stored on media to be surplused, transferred to another individual, or returned to the manufacturer shall be purged from the media before disposal. Disposal shall be performed using DHS approved sanitization methods. The Contractor shall establish and implement procedures to ensure sensitive information cannot be accessed or stolen. These procedures shall address the handling and

protection of paper and electronic outputs from systems (computers, printers, faxes, copiers) and the transportation and mailing of sensitive media.

(b) **Access Control.** The Contractor shall control user access to DHS sensitive information based on positive user identification and authentication mechanisms. Access control measures employed shall provide protection from unauthorized alternation, loss, unavailability, or disclosure of information. The Contractor shall ensure its personnel are granted the most restrictive set of access privileges needed for performance of authorized tasks. The Contractor shall divide and separate duties and responsibilities of critical IT functions to different individuals so that no individual has all necessary authority or systems access privileges needed to disrupt or corrupt a critical process.

(c) **Auditing.** The Contractor shall ensure that its contractor-owned IT systems used to store or process DHS sensitive information maintain an audit trail sufficient to reconstruct security relevant events. Audit trails shall include the identity of each person and device accessing or attempting to access the system, the time and date of the access and the log-off time, activities that might modify, bypass, or negate security safeguards, and security-relevant actions associated with processing. The Contractor shall periodically review audit logs and ensure that audit trails are protected from modification, authorized access, or destruction and are retained and regularly backed up.

(d) **Network Security.** The Contractor shall monitor its networks for security events and employ intrusion detection systems capable of detecting inappropriate, incorrect, or malicious activity. Any interconnections between contractor-owned IT systems that process or store DHS sensitive information and IT systems not controlled by DHS shall be established through controlled interfaces and documented through formal interconnection security agreements. The Contractor shall employ boundary protection devices to enforce access control between networks, including Internet and extranet access. The Contractor shall ensure its email systems are secure, properly configured, and that network protection mechanisms implemented. The Contractor shall conduct periodic vulnerability assessments and tests on its IT systems containing DHS sensitive information to identify security vulnerabilities.

(e) **Rules of Behavior.** The Contractor shall develop and enforce Rules of Behavior for contractor-owned IT systems that process or store DHS sensitive information. (See TSA 1400.3, Chapter 3, Section 3 – Privacy and Acceptable Use Agreement)

Clause #2b. Training and Awareness

(a) The Contractor shall ensure that all contractor personnel (including subcontractor personnel) who are involved in the management, use, or operation of any IT systems that handle DHS sensitive information, receive annual training in security awareness, accepted security practices, and system rules of behavior.

(b) The Contractor shall ensure that contractor personnel (including subcontractor personnel) with significant IT security responsibilities receive specialized annual training tailored to their specific security responsibilities.

(c) The training and awareness conducted under this clause shall promote a consistent understanding of the principles and concepts of telecommunications and IT systems security.

(d) DHS training and awareness resources may be available for the Contractor's use in implementing the requirements of this clause. The COTR will inform the Contractor of any available DHS training resources.

Clause #2c. Security Incident Reporting

The Contractor shall establish and maintain a computer incident response capability. The Contractor shall report computer security incidents.

Clause #2d. Contingency Planning

If performance of the contract requires that DHS data be stored or processed on Contractor-owned information systems, the Contractor shall develop and maintain contingency plans to be implemented in the event normal operations are disrupted. All contractor personnel involved with contingency planning efforts shall be identified and trained in the procedures and logistics needed to implement these plans. The Contractor shall conduct periodic tests to evaluate the effectiveness of these contingency plans. The plans shall at a minimum address emergency response, backup operations, and post-disaster recovery.

Clause #2e. Security Review and Reporting

(a) The Contractor shall include security as an integral element in the management of this contract. The Contractor shall conduct reviews and report the status of the implementation and enforcement of the security requirements contained in this contract. Such reviews and reporting shall be conducted in accordance with the provisions of Section B (SOW) of this contract.

(b) The government plans to conduct periodic reviews to ensure that the security requirements contained in this contract are being implemented and enforced. The Contractor shall afford DHS, including the Office of Inspector General and other government oversight organizations, access to the Contractor's and subcontractors' facilities, installations, operations, documentation, databases, and personnel used in the performance of this contract. Access shall be provided to the extent necessary for the government to carry out a program of inspection, investigation, and audit to safeguard against threats and hazards to the integrity, availability, and confidentiality of DHS data or the function of computer systems operated on behalf of DHS, and to preserve evidence of computer crime.

Clause #2f. Contract Closeout

At the expiration of this contract, the Contractor shall return all sensitive DHS information and IT resources provided during the life of this contract. The Contractor shall certify that all DHS information has been purged from any contractor-owned system used to store or process DHS information. Electronic media must be sanitized (overwritten or degaussed).

Clause # 3. Personnel Security

(a) All Contractor personnel (including subcontractor personnel) must have favorably adjudicated background investigations commensurate with the sensitivity level of the position held before being granted access to DHS sensitive information.

(b) The Contractor shall ensure all contractor personnel are properly submitted for appropriate clearances.

(c) The Contractor shall ensure appropriate controls have been implemented to prevent contractor personnel from obtaining access to DHS sensitive information before a favorably adjudicated background investigation has been completed and appropriate clearances have been issued. At the option of the government, interim access may be granted pending completion of a pre-employment check. Final access may be granted only upon favorable completion of an appropriate background investigation based on the risk level assigned to this contract by the Contracting Officer.

(d) The Contractor shall ensure its personnel have a validated need to access DHS sensitive information and are granted the most restrictive set of access privileges needed for performance of authorized tasks.

(e) The Contractor shall ensure that its personnel comply with applicable Rules of Behavior for all DHS and contractor-owned IT systems to which its personnel have been granted access privileges.

(f) The Contractor shall implement procedures to ensure that system access privileges are revoked for contractor personnel whose employment is terminated or who are reassigned to other duties and no longer require access to DHS sensitive information.

(g) The Contractor shall conduct exit interviews to ensure that contractor personnel who no longer require access to DHS sensitive information understand their obligation not to discuss or disclose DHS sensitive information to which they were granted access under this contract.

Source:

- DHS MD Number: 11050.1, Personnel Security Program, Attachment A.

Clause #4. Physical Security

The Contractor shall ensure that access to Contractor buildings, rooms, work areas and spaces, and structures that house DHS sensitive information or IT systems through which DHS sensitive information can be accessed, is limited to authorized personnel. The Contractor shall ensure that controls are implemented to deter, detect, monitor, restrict, and regulate access to controlled areas at all times. Controls shall be sufficient to safeguard IT assets and DHS sensitive information against loss, theft, destruction, accidental damage, hazardous conditions, fire, malicious actions, and natural disasters.

Source:

- DHS MD11050.1, Physical Protection of Facilities and Real Property

APPENDIX 13: NON-DISCLOSURE AGREEMENT

DEPARTMENT OF HOMELAND SECURITY NON-DISCLOSURE AGREEMENT

I, _____, an individual official, employee, consultant, or subcontractor of or to _____ (the Authorized Entity), intending to be legally bound, hereby consent to the terms in this Agreement in consideration of my being granted conditional access to certain information, specified below, that is owned by, produced by, or in the possession of the United States Government.

(Signer will acknowledge the category or categories of information that he or she may have access to, and the signer's willingness to comply with the standards for protection by placing his or her initials in front of the applicable category or categories.)

Initials: Protected Critical Infrastructure Information (PCII)

I attest that I am familiar with, and I will comply with all requirements of the PCII program set out in the Critical Infrastructure Information Act of 2002 (CII Act) (Title II, Subtitle B, of the Homeland Security Act of 2002, Public Law 107-296, 196 Stat. 2135, 6 USC 101 et seq.), as amended, the implementing regulations thereto (6 CFR Part 29), as amended, and the applicable PCII Procedures Manual, as amended, and with any such requirements that may be officially communicated to me by the PCII Program Manager or the PCII Program Manager's designee.

Initials: Sensitive Security Information (SSI)

I attest that I am familiar with, and I will comply with the standards for access, dissemination, handling, and safeguarding of SSI information as cited in this Agreement and in accordance with 49 CFR Part 1520, "Protection of Sensitive Security Information," "Policies and Procedures for Safeguarding and Control of SSI," as amended, and any supplementary guidance issued by an authorized official of the Department of Homeland Security.

Initials: Other Sensitive but Unclassified (SBU)

As used in this Agreement, sensitive but unclassified information is an over-arching term that covers any information, not otherwise indicated above, which the loss of, misuse of, or unauthorized access to or modification of could adversely affect the national interest or the conduct of Federal programs, or the privacy to which individuals are entitled under

Section 552a of Title 5, as amended, but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy. This includes information categorized by DHS or other government agencies as: For Official Use Only (FOUO); Official Use Only (OUO); Sensitive Homeland Security Information (SHSI); Limited Official Use (LOU); Law Enforcement Sensitive (LES); Safeguarding Information (SGI); Unclassified Controlled Nuclear Information (UCNI); and any other identifier used by other government agencies to categorize information as sensitive but unclassified.

I attest that I am familiar with, and I will comply with the standards for access, dissemination, handling, and safeguarding of the information to which I am granted access as cited in this Agreement and in accordance with the guidance provided to me relative to the specific category of information.

I understand and agree to the following terms and conditions of my access to the information indicated above:

1. I hereby acknowledge that I have received a security indoctrination concerning the nature and protection of information to which I have been provided conditional access, including the procedures to be followed in ascertaining whether other persons to whom I contemplate disclosing this information have been approved for access to it, and that I understand these procedures.

2. By being granted conditional access to the information indicated above, the United States Government has placed special confidence and trust in me and I am obligated to protect this information from unauthorized disclosure, in accordance with the terms of this Agreement and the laws, regulations, and directives applicable to the specific categories of information to which I am granted access.

3. I attest that I understand my responsibilities and that I am familiar with and will comply with the standards for protecting such information that I may have access to in accordance with the terms of this Agreement and the laws, regulations, and/or directives applicable to the specific categories of information to which I am granted access. I understand that the United States Government may conduct inspections, at any time or place, for the purpose of ensuring compliance with the conditions for access, dissemination, handling and safeguarding information under this Agreement.

4. I will not disclose or release any information provided to me pursuant to this Agreement without proper authority or authorization. Should situations arise that warrant the disclosure or release of such information I will do so only under approved circumstances and in accordance with the laws, regulations, or directives applicable to the specific categories of information. I will honor and comply with any and all dissemination restrictions cited or verbally relayed to me by the proper authority.

5. (a) For PCII - (1) Upon the completion of my engagement as an employee, consultant, or subcontractor under the contract, or the completion of my work on the PCII Program, whichever occurs first, I will surrender promptly to the PCII Program Manager or his designee, or to the appropriate PCII officer, PCII of any type whatsoever that is in my possession.
(2) If the Authorized Entity is a United States Government contractor performing services in support of the PCII Program, I will not request, obtain, maintain, or use PCII unless the PCII Program Manager or Program Manager's designee has first made in writing, with respect to the contractor, the certification as provided for in Section 29.8(c) of the implementing regulations to the CII Act, as amended.
(b) For SSI and SBU - I hereby agree that material which I have in my possession and containing information covered by this Agreement, will be handled and safeguarded in a manner that affords sufficient protection to prevent the unauthorized disclosure of or inadvertent access to such information, consistent with the laws, regulations, or directives applicable to the specific categories of information. I agree that I shall return all information to which I have had access or which is in my possession 1) upon demand by an authorized individual; and/or 2) upon the conclusion of my duties, association, or support to DHS; and/or 3) upon the determination that my official duties do not require further access to such information.

6. I hereby agree that I will not alter or remove markings, which indicate a category of information or require specific handling instructions, from any material I may come in contact with, in the case of SSI or SBU, unless such alteration or removal is consistent with the requirements set forth in the laws, regulations, or directives applicable to the specific category of information or, in the case of PCII, unless such alteration or removal is authorized by the PCII Program Manager or the PCII Program Manager's designee. I agree that if I use information from sensitive document or other medium, I will carry forward any markings or other required restrictions to derivative products, and will protect them in the same matter as the original.

7. I hereby agree that I shall promptly report to the appropriate official, in accordance with the guidance issued for the applicable category of information, any loss, theft, misuse, misplacement, unauthorized disclosure, or other security violation, I have knowledge of and whether or not I am personally involved. I also understand that my anonymity will be kept to the extent possible when reporting security violations.

8. If I violate the terms and conditions of this Agreement, such violation may result in the cancellation of my conditional access to the information covered by this Agreement. This may serve as a basis for denying me conditional access to other types of information, to include classified national security information.

9. (a) With respect to SSI and SBU, I hereby assign to the United States Government all royalties, remunerations, and emoluments that have resulted, will result, or may result from any disclosure, publication, or revelation of the information not consistent with the terms of this Agreement.

(b) With respect to PCII I hereby assign to the entity owning the PCII and the United States Government, all royalties, remunerations, and emoluments that have resulted, will result, or may result from any disclosure, publication, or revelation of PCII not consistent with the terms of this Agreement.

10. This Agreement is made and intended for the benefit of the United States Government and may be enforced by the United States Government or the Authorized Entity. By granting me conditional access to information in this context, the United States Government and, with respect to PCII, the Authorized Entity, may seek any remedy available to it to enforce this Agreement including, but not limited to, application for a court order prohibiting disclosure of information in breach of this Agreement. I understand that if I violate the terms and conditions of this Agreement, I could be subjected to administrative, disciplinary, civil, or criminal action, as appropriate, under the laws, regulations, or directives applicable to the category of information involved and neither the United States Government nor the Authorized Entity have waived any statutory or common law evidentiary privileges or protections that they may assert in any administrative or court proceeding to protect any sensitive information to which I have been given conditional access under the terms of this Agreement.

11. Unless and until I am released in writing by an authorized representative of the Department of Homeland Security (if permissible for the particular category of information), I understand that all conditions and obligations imposed upon me by this Agreement apply during the time that I am granted conditional access, and at all times thereafter.

12. Each provision of this Agreement is severable. If a court should find any provision of this Agreement to be unenforceable, all other provisions shall remain in full force and effect.

13. My execution of this Agreement shall not nullify or affect in any manner any other secrecy or non-disclosure Agreement which I have executed or may execute with the United States Government or any of its departments or agencies.

14. These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958, as amended; Section 7211 of Title 5, United States Code (governing disclosures to Congress); Section 1034 of Title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); Section 2302(b)(8) of Title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 USC 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including Sections 641, 793, 794, 798, and 952 of Title 18, United States Code, and Section 4(b) of the Subversive Activities Act of 1950 (50 USC 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said

Executive Order and listed statutes are incorporated into this agreement and are controlling.

15. Signing this Agreement does not bar disclosures to Congress or to an authorized official of an executive agency
or the Department of Justice that are essential to reporting a substantial violation of law.

16. I represent and warrant that I have the authority to enter into this Agreement.

17. I have read this Agreement carefully and my questions, if any, have been answered. I acknowledge that the briefing officer has made available to me any laws, regulations, or directives referenced in this document so that I may read them at this time, if I so choose.

Typed/Printed Name: Govt/Dept/Agency/Business Address: Phone:

I make this Agreement in good faith, without mental reservation or purpose of evasion.
Signature: Date:

WITNESS:
Typed/Printed Name: Govt/Dept/Agency/Business Address: Phone:

Signature: Date:

APPENDIX 14: MEDICAL GUIDELINES FOR TRANSPORTATION SECURITY SCREENERS

crobat Docume

To be included under separate cover – See J.6.

End of Medical Guidelines

SECTION D – PACKAGING AND MARKING

D.1 Packaging and Marking

PACKAGING

The contractor shall be responsible for the preservation packaging and packing of all items to be delivered under the terms of the contract in such a manner that adequate protection is provided against corrosion, deterioration, and physical damage during shipment and handling from the source of supply to the ultimate destination. The contractor shall be fully liable for any damage, deterioration, or losses incurred during shipment, handling, and installation which is attributable to improper packaging.

Reports and other documentation shall be packaged, packed and marked to ensure arrival at destination in a satisfactory condition. Containers and wrapping shall conform to commercial practice.

MARKING OF REPORTS

All reports delivered by the Contractor to the Government under this contract, shall be accompanied by a transmittal letter, and shall prominently show on the cover of the report:

(1) Name and business address of the Contractor
(2) Contract number
(3) Recipient: To be provided to the Contractor under separate cover after contract award

SECTION E – INSPECTION AND ACCEPTANCE

E.1. 3.10.4-4 Inspection of Services - Both Fixed-Price & Cost Reimbursement (February 2003)

(a) 'Services,' as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.
(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.
(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, without additional charge if a fixed-price contract, all reasonable facilities and assistance for the safe and convenient performance of these duties.
(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount, or if a cost reimbursement type contract, for no additional fee. When the defects in services cannot be corrected by reperformance, the Government may:

(1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and

(2) reduce the contract price, or any fee payable under the contract, to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may:

(1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service, (or if a cost reimbursement contract, reduce any fee payable by an amount that is equitable under the circumstances), or

(2) terminate the contract for default.

(End of clause)

E.2 1.13-5 Contractor Quality Control (See SOW 2.6.1)

The Contractor shall operate a comprehensive quality control program, which will assure services will be performed to contract requirements. The quality control program shall identify performance problems and potential problems and seek to eliminate these problems prior to their having an impact on the contract.

The Contractor shall establish and maintain a complete Quality Control Plan (QCP) to ensure the requirements of the contract are provided as specified. One copy of the Contractor's final QCP shall be provided to the Contracting Officer and one copy to the Contracting Officer's Representative (COR) not later than the thirty (30) days after award. The Contractor shall provide a complete copy to the Contracting

Officer and COR as any updates/changes occur. The Contractor shall retain copies of all documents/records generated in the quality control process for at least one year after expiration of the contract and shall present them to the Contracting Officer or COR upon request.

At a minimum, the plan shall:

(a) Provide the Contractor's organizational structure and functional statements showing the relationship with work items in contract;

(b) Detail a quality control inspection program covering all general and specific tasks included in SOW. It shall specify tasks or areas to be inspected on either a scheduled or unscheduled basis, and the manner in which inspections are to be conducted.

(c) Detail method/s of identifying deficiencies before performance becomes unacceptable in accordance with this Performance Work Statement;

(d) Detail how Contractor personnel will be trained;

(e) Detail how survey administration will be tracked and maintained;

(f) Review services to be examined for quality;

(g) Specify forms to be used.

The Contractor shall maintain a quality control file of all inspections, to include corrective actions taken. The file shall be available in electronic (Microsoft Word or other format that the government can use without incurrence of additional expense) and paper format. The file shall be subject to Government Review at the Government's discretion by the Contracting Officer, COR or other Government official appointed by the Contracting Officer.

The Contractor shall provide status reports on the quality or progress towards delivering quality items on a TBD basis. Reporting frequency may be adjusted by the Contracting Officer of COR based upon his/her confidence in the Contractor's performance level of accomplishing the required tasks. The Contractor shall provide status reports via the method (e.g., electronic or paper) requested by the Project Manager.

(End of clause.)

End of Section E

SECTION F – DELIVERIES OR PERFORMANCE

F.1 3.10.1-9 Stop-Work Order - Alternate I (February 2003)

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

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the termination for default or the termination for convenience clause of this contract.

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

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

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

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

(End of clause)

F.2 Period of Performance

The period of performance for CLINs 0001, 0002, 0007 and 0008 of this contract shall be from the effective date of award through November 18, 2005. Option CLINs 0004, 0005, 0010 and 0011 shall be a six-month option period beginning November 19, 2005, pending exercise of option, and ending May 18, 2006.

All reports required under CLIN 0003, 0006, 0009 and 0012 shall be delivered in accordance with the schedule as provided in the Statement of Work, Paragraph 7.2, Table 4.

F.3 Delivery of Reports

Unless otherwise specified, copies of all technical reports shall be sent to the local AIRPORT COTR and HQ COTR, with a copy of the transmittal letter to the Contracts Administrator. Copies of all cost related reports shall be sent to the AIRPORT COTR, HQ COTR, and the Contracts Administrator.

The Government prefers to receive all reports electronically in standard MS Office (e.g. Word, Excel, etc.) or compatible file format either via e-mail or on a standard disk (ZIP, CD, DVD, etc.) that is readable PC.

End of Section F

SECTION G – CONTRACT ADMINISTRATION DATA

G.1 3.2.4-5 Allowable Cost and Payment (February 2003)

(a) Invoicing. The Government shall make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with the (TSA) "Contract Cost Principles", TSAAMS clause 3.3.2-1, in effect on the date of this contract and the terms of this contract (upon request, the Contracting Officer will provide a copy of the TSA Cost Principles). The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract. Any payments for costs under this contract, particularly for costs of Indirect Rates under paragraph (d), shall be subject to the provisions of the Limitation of Costs clause, TSAAMS 3.3.1-12, or the Limitation of Funds clause, TSAAMS 3.3.1-14, if applicable. The Contractor shall be responsible to manage and control the allowable cost of performance of the contract, such that payments for any allowable costs, including Indirect Rates under paragraph (d), shall not exceed the estimated cost set forth in the schedule, or the funded amount, less an allowance for fee, if the contract is incrementally funded.

(b) Reimbursing costs.

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

(i) Those costs the Contractor has incurred and recorded at the time of the request for reimbursement;

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

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

(B) Direct labor;

(C) Direct travel;

(D) Other direct in-house costs; and

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

(iii) The amount of payments that have been paid to the Contractor's subcontractors under similar cost standards.

(2) Contractor contributions to any pension or other post retirement benefit, profit-sharing or employee stock ownership plan funds that are paid quarterly or more often may be included in indirect costs for payment purposes: provided, that the Contractor pays the contribution to the fund within 30 days after the close of the period covered. Payments made 31 days or more after the close of a period shall not be included until the Contractor actually makes the payment. Accrued costs for such contributions that are paid less often than quarterly shall be excluded from indirect costs for payment purposes until the Contractor actually makes the payment.

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

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

(c) Small business concerns. A small business concern may be paid more often than every 2 weeks and may invoice and be paid for recorded costs for items or services purchased directly for the contract, even though the concern has not yet paid for those items or services.

(d) Final indirect cost rates.

(1) Final annual indirect cost rates and the appropriate bases shall be established for the period covered by the indirect cost rate proposal.

(2) The Contractor shall, within 120 days after the expiration of each of its fiscal years, or by a later date approved by the Contracting Officer, submit to the cognizant Contracting Officer responsible for negotiating its final indirect cost rates and, if required by agency procedures, to the cognizant audit activity proposed final indirect cost rates for that period and supporting cost data specifying the contract and/or subcontract to which the rates apply. The proposed rates shall be based on the Contractor's actual cost experience for that period. The appropriate Government representative and Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

(3) The Contractor and the appropriate Government representative shall execute a written understanding setting forth the final indirect cost rates. The understanding shall specify (i) the agreed-upon final annual indirect cost rates, (ii) the bases to which the rates apply, (iii) the periods for which the rates apply, (iv) any specific indirect cost items treated as direct costs in the settlement, and (v) the affected contract and/or subcontract, identifying any with advance agreements or special terms and the applicable rates. The understanding shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. The understanding is incorporated into this contract upon execution.

(4) Failure by the parties to agree on a final annual indirect cost rate may be the basis of a claim under the "Contract Disputes" clause.

(e) Billing rates. Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the Contracting Officer or by an authorized

representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates-

(1) Shall be the anticipated final rates; and

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

(f) Quick-close-out procedures. When the Contractor and Contracting Officer agree, the quick-close-out procedures may be used.

(1) Procedures. Settlement of indirect cost rates shall apply to this contract, in advance of the determination of final indirect cost rates, if:

(i) The contract is physically complete;

(ii) The amount of unsettled indirect cost to be allocated to this contract is not more than $500,000 and the cumulative unsettled indirect costs to be allocated to one or more contracts in a single fiscal year do not exceed 15 percent of the estimated, total unsettled indirect costs allocable to cost-type contracts for that fiscal year; and

(iii) Agreement can be reached on a reasonable estimate of allocable dollars.

(2) The settlement shall be final for this contract and no adjustment shall be made to other contracts for over- or under-recoveries of costs allocated or allocable to this contract.

(3) The settlement shall not be considered a binding precedent when establishing the final indirect costs for other contracts.

(g) Audit. At any time or times before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be (1) reduced by amounts found by the Contracting Officer not to constitute allowable costs or (2) adjusted for prior overpayments or underpayments.

(h) Final payment.

(1) The Contractor shall submit a completion invoice or voucher, designated as such, promptly upon completion of the work, but no later than one year (or longer, as the Contracting Officer may approve in writing) from the completion date. Upon approval of that invoice or voucher, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.

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

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

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

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

(B) Claims (including reasonable incidental expenses) based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided, that the claims are not known to the Contractor on the date of the execution of the release, and that the Contractor gives notice of the claims in writing to the Contracting Officer within 6 years following the release date or notice of final payment date, whichever is earlier; and

(C) Claims for reimbursement of costs, including reasonable incidental expenses, incurred by the Contractor under the patent clauses of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

(End of clause)

G.2 <u>Contracting Officer</u>

a) The Contracting Officer for this contract is the only person authorized to approve changes in any requirements under this contract. Notwithstanding any clauses contained elsewhere in this contract the authority remains solely with the contracting officer.

(b) In the event the contractor effects any change at the direction of any person other than the contracting officer the change will be considered to have been made without authority and no adjustment will be made to the contract cost or price to cover any increase in costs incurred as a result of the change.

(c) The contractor shall submit any requests for modifications to this contract to the contracting officer with a copy to the Contracting Officer's Technical Representative.

(d) The Contracting Officer for this contract shall be identified under separate letter.

(e) All correspondence related to this contract shall be directed to the Contracting Officer. All references to the Contracting Officer shall refer to the person identified in paragraph (d) of this clause.

G.3 3.10.1-22 Contracting Officer's Technical Representative

(a) The Contracting Officer may designate other Government personnel (known as the Contracting Officer's Technical Representative) to act as his or her authorized representative for contract administration functions which do not involve changes to the scope, price, schedule, or terms and conditions of the contract. The designation will be in writing, signed by the Contracting Officer, and will set forth the authorities and limitations of the representative(s) under the contract. Such designation will not contain authority to sign contractual documents, order contract changes, modify contract terms, or create any commitment or liability on the part of the Government different from that set forth in the contract.

(b) The Contractor shall immediately contact the Contracting Officer if there is any question regarding the authority of an individual to act on behalf of the Contracting Officer under this contract.

(c) The Headquarters Contracting Officer's Technical Representative shall be identified under separate letter.

(End of clause)

G.4 Technical Direction by COTR

Performance of the work under this contract shall be subject to the technical direction of COTRs. The term "technical direction" is defined to include, without limitation, the following:

a. Directions to the Contractor which redirect tasks, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the Statement of Work, specifications, and standards of operation provided there is no cost or schedule impact or change in the contract requirements;
b. Provision of written information to the Contractor which assists in the interpretation of specifications and standards of operation or technical portions of the work description;
c. Review and, where required by the contract, approval of technical reports, specifications and technical information to be delivered by the Contractor to the Government under this contract.

Technical directions should be issued in writing by the COTR and must be within the scope of work. The COTR does not have the authority to, and may not issue technical direction which:

a. Constitutes an assignment of additional work outside the Statement of Work or outside the standards of operation;
b. Constitutes a changes as defined in the changes clauses of this contract;
c. In any manner causes an increase or decrease in the total estimated contract cost, any fixed fee or the time required for contract performance;
d. Changes any of the expressed terms or conditions of the contract; or
e. Interferes with the contractor's right to perform the terms and conditions of the contract.

G.5 Correspondence

All correspondence shall be prepared and addressed to the CO designated.

Correspondence of a purely technical nature and all specified reports and submittals in accordance with the project specifications shall be sent to the COTR designated.

G.6 3.3.1-25 Mandatory Information for Electronic Funds Transfer (EFT) Payment - Central Contractor Registration (CCR) (February 2003)

(a) Method of payment. For any payment to be made after June 1, 2001, the Contractor shall provide EFT information to the CCR database. Payments by the TSA under this contract, including invoice and contract financing payments, will be made by EFT, except as provided in paragraph (a)(1). If payment is made by EFT, the TSA may, at its option, also forward the associated payment information by electronic transfer. As used in this clause, the term "EFT" refers to the funds transfer and may also include the information transfer.

(1) In the event the TSA is unable to release one or more payments by EFT, the Contractor agrees to either:

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the TSA to extend the payment due date until such time as the TSA can make payment by EFT (but see paragraph (d) of this clause).

(b) Mandatory submission of Contractor's EFT information.

(1) The Contractor is required, as a condition to any payment under this contract, to provide the Central Contractor Registration (CCR) database with the information required in the CCR to make payment by EFT. The Contractor may register to the CCR online at www.ccr.gov, or call the CCR Assistance Center toll free at (888)-227-2423 and request the necessary registration forms. The Contractor must have a DUNS number to begin registration. To obtain a DUNS number, call Dun & Bradstreet, Inc. at (800) 234-3867. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

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

(c) Mechanisms for EFT payment. The TSA may make payment by EFT through either an Automated Clearing House (ACH) subject to the banking laws of the United States or the Federal Reserve Wire Transfer System at the TSA's option. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment.

(1) Notwithstanding the provisions of any other clause of this contract, the TSA is not required to make any payment under this contract until after the correct EFT payment information from the Contractor has been provided to the CCR database. No invoice or contract financing request shall be deemed to be valid, as defined by the Prompt Payment Act, until correct EFT information is received into the CCR database.

(2) Changes made to an existing record in the CCR database will become effective not later than the 30th day after receipt in the CCR database. However, the Contractor may request that no further payments be made until the changed EFT information is

implemented into the CCR database. If such suspension would result in a late payment under the Prompt Payment clause of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) Contractor EFT arrangements. The Contractor shall designate a single financial agent capable of receiving and processing the electronic funds transfer using the EFT methods described in paragraph (c) of this clause. The Contractor shall pay all fees and charges for receipt and processing of transfers.

(f) Liability for uncompleted or erroneous transfers.

(1) If an uncompleted or erroneous transfer occurs because the TSA failed to use the Contractor-provided EFT information in the CCR database in the correct manner, the TSA remains responsible for

(i) making a correct payment,

(ii) paying any prompt payment penalty due, and

(iii) recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because Contractor-provided EFT information in the CCR database was incorrect, or was revised within 30 days at the time of TSA release of the EFT payment transaction instruction to the Federal Reserve System, and:

(i) If the funds are no longer under the control of the payment office, the TSA is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the TSA retains the right to either make payment by mail or suspend the payment in accordance with paragraph (d) of this clause.

(g) EFT and prompt payment.

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

(2) When payment cannot be made by EFT because of incorrect EFT information provided by the Contractor to the CCR database, no interest penalty is due after the date of the uncompleted or erroneous payment transaction, provided that notice of the defective EFT information is issued to the Contractor within 7 days after the TSA is notified of the defective EFT information.

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

the Contractor, in the absence of a proper assignment of claims acceptable to the TSA, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(i) Liability for change of EFT information by financial agent. The Contractor agrees that the Contractor's financial agent may notify the TSA of a change to the routing transit number, Contractor account number, or account type. The TSA shall use the changed data in accordance with paragraph (d)(2) of this clause. The Contractor agrees that the information provided by the agent is deemed to be correct information as if it were provided by the Contractor. The Contractor agrees that the agent's notice of changed EFT data is deemed to be a request by the Contractor in accordance with paragraph (d)(2) that no further payments be made until the changed EFT information is implemented by the payment office. The TSA is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(End of clause)

G.7 <u>3.3.1-17 Prompt Payment (February 2003)</u>

Notwithstanding any other payment clause in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. All days referred to in this clause are calendar days, unless otherwise specified.
(a) Invoice Payments.

(1) For purposes of this clause, invoice payment means a Government disbursement of monies to a Contractor under a contract or other authorization for supplies or services accepted by the Government. This includes payments for partial deliveries that have been accepted by the Government, final payments under T&M and labor-hour contracts, and final cost or fee payments where amounts owed have been settled between the Government and the Contractor.

(2) Except as indicated in subparagraph (a)(3) and paragraph (c) of this clause, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(i) The 30th day after the designated billing office has received a proper invoice from the Contractor.

(ii) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor. On a final invoice where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement. However, if the designated billing office fails to annotate the invoice with the actual date of receipt, the invoice payment due date shall be deemed to be the 30th day after the date the Contractor's invoice is dated, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(3) An invoice is the Contractor's bill or written request for payment under the contract for supplies delivered or services performed. An invoice shall be prepared and submitted to the designated billing officer specified in the contract. A proper invoice must include the items listed in subdivisions (a)(3)(i) through (a)(3)(viii) of this clause. If the invoice does not comply with these requirements, then the Contractor will be notified of the defect within 7 days after receipt of the invoice at the designated billing office. Untimely

notification will be taken into account in the computation of any interest penalty owed the Contractor in the manner described in subparagraph (a)(6) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date.

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

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

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

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

(viii) Any other information or documentation required by other requirements of the contract (such as evidence of shipment).

(4) An interest penalty shall be paid automatically by the Government, without request from the contractor, if payment is not made by the due date and the conditions listed in subdivisions (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable.

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

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

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(5) The interest penalty shall be as specified in the "Interest" clause. The interest penalty amount, interest rate and the period for which the interest penalty was computed, will be separately stated by the designated payment office on the check, in accompanying remittance advice, or, in the case of wire transfers, by an appropriate electronic data message accompanying the wire transfer. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(3) of this clause, then the due date on the corrected invoice will be adjusted by subtracting the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments

will be made by the designated payment office for errors in calculating interest penalties, if requested by the Contractor.

(i) For the sole purpose of computing an interest penalty that might be due the contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in this contract) after the contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or contractor compliance with a contract provision. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

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

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

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

(C) Any period of delay caused by incorrect electronic funds transfer (EFT) information, in accordance with the EFT clause of this contract.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under Federal Aviation Administration (TSA) contract disputes resolution procedures. Interest penalties of less than $1.00 need not be paid.

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

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

(b) Contract Financing Payments.

(1) For purposes of this clause, contract financing payments mean Government disbursements of monies to a Contractor under a contract clause or other authorization without regard to acceptance of supplies or services by the Government. Contract financing payments include but are not limited to payments made according to commercial terms and installment payments. They also include interim vouchers under T&M, labor-hour, and cost reimbursement contracts (regardless of whether goods or services were delivered and received by the Government).

(2) For contracts that provide for contract financing payments, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Payments shall be made on the 30th day after receipt of a proper payment request by the designated billing office. In the event that an audit or other review of a specific payment request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

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

(c) If this contract contains the Fast Payment Procedures, payments will be made within 15 days after the date of receipt of the invoice.

(End of clause)

G.8 Invoicing Address

The Payment Address in Block 12 of the SF 26 will read as follows:

Send hard copies of invoices to the following:

United States Coast Guard Finance Center
TSA Commercial Invoices
P.O. Box 4111
Chesapeake, VA 23326-4111

Send hard copies and soft copies to the following:

Contract Administrator

Airport COTR

Headquarters COTR

All Contractors shall use the SF 1034 PUBLIC VOUCHER Form with support that breaks out the costs by: Individual CLIN, Individual Cost Element, Base Fee, Award Fee, Current Period Billing, and Cumulative to Date Billing Amounts.

Line Items and Funding Information

Line Item	Amount	Fund Cite
0001	$7,000,448	5 AV05XA000D-2005-PSS010-GE0020-2500-SB00AOP000-2B11SFO000000000-252R 61006600 (P)
0002	$49,958	5 AV05XA000D-2005-PSS010-GE0020-2500-2B00AOP000-2B11SFO000000000-252R 61006600 (P)
0007	$170,011	5 AV05XA000D-2005-PSS010-GE0020-2500-2B00AOP000-2B14TUP000000000-252R 61006600 (P)
0008	$5,336	5 AV05XA000D-2005-PSS010-GE0020-2500-2B00AOP000-2B14TUP000000000-252R 61006600 (P)

SECTION H – SPECIAL CONTRACT REQUIREMENTS

H.1 Performance Evaluation Plan

A performance evaluation plan shall be unilaterally established by the Government and used for the determination of award fee. The plan will include the criteria used to evaluate (at a minimum) the technical, schedule, cost and customer service areas of the contract and the percentage of award fee (if any) available for each area. The performance evaluation plan contains all the specific award fee evaluation criteria and is included as Attachment J.3 to this contract. The performance evaluation plan may, consistent with the contract, be revised unilaterally by the Government at any time during the period of performance. Notification of any changes will be provided to the contractor 30 calendar days prior to the start of the evaluation period to which any change will apply.

H.2 Distribution of Award Fee

(a) The total amount of award fee available under this contract is assigned according to the following evaluation periods and amounts:

CLIN	Evaluation Periods	% of Award Fee Pool*
0001	1st Period	50%
0001	2nd Period	50%
		100%
0007	1st Period	50%
0007	2nd Period	50%
		100%
Option CLIN		
0004	3rd Period	100%
0010	3rd Period	100%

*This represents the total possible portion of the award fee for the defined period of performance available for each evaluation period. (See Section B-4 for Award Fee Pools and Award Fees Earned.)

H.3 Determination of Award Fee

(a) The Government shall, at the conclusion of each specified evaluation period(s), evaluate the contractor's performance for a determination of award fee earned. The contractor agrees that the determination as to the amount of the award fee earned will be made by the Government Fee Determination Official (FDO) and such determination is binding on both parties and shall not be subject to appeal under the "Disputes" clause or to any board or court.

(b) It is agreed that the evaluation of contractor performance shall be in accordance with the Performance Evaluation Plan (Attachment J.3) and that the contractor shall be promptly advised in writing of the determination and reasons why the award fee was or was not earned. It is further agreed that the contractor may submit a self-evaluation of performance of each period under consideration. While it is recognized that the basis for the determination of the fee shall be the evaluation by the Government, any self-evaluation

which is received within fifteen (15) business days after the end of the period being evaluated may be given such consideration, if any, as the FDO shall find appropriate.

H.4 Disclosure of Information –Official Use Only

a. Any TSA Information made available or to which access is provided, and which is marked or should be marked "Official Use Only", shall be used only for the purpose of carrying out the provisions of this contract and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Disclosure to anyone other than an officer or employee of the contractor or subcontractor at any tier shall require prior written approval of the TSA. Requests to make such disclosure should be addressed to the TSA contracting officer.

b. Each officer or employee of the contractor or subcontractor at any tier to whom "Official Use Only" information may be made available or disclosed shall be notified in writing by the contractor that "Official Use Only" information disclosed to such officer or employee can be used only for the purpose and to the extent authorized herein, and that further disclosure of any such "Official Use Only" information, by any means, for a purpose or to an extent unauthorized herein, may subject the offender to criminal sanctions imposed by 18 U.S.C. Sections 641 and 3571. Section 641 of 18 U.S.C. provides, in pertinent part, that whoever knowingly converts to his use or the use of another, or without authority sells, conveys, or disposes of any record of the United States or whoever receives the same with the intent to convert it to his use or gain, knowing it to have been converted, shall be guilty of a crime punishable by a fine or imprisoned up to 10 years or both.

c. Contractor employees, prior to beginning work, shall sign a non-disclosure agreement to be furnished to the contracting officer.

d. The contractor shall comply with 6 C.F.R. Part 5 (effective January 27, 2003) concerning the production or disclosure of official information in connection with legal proceedings including litigation to which TSA and/or the Department of Homeland Security is not a party. If the contractor is served with subpoenas, summonses, and/or demands for official information or action, the contractor shall contact the contracting officer immediately and obtain written approval by the appropriate approval officials before any such information, documents or testimony may be produced.

H.5 Identification of Headquarters Contractor Employees

During the period of this contract, the rights of ingress and egress to and from any office for Contractor representatives shall be made available as necessary to perform this contract. All contractor employees, whose duties under this contract require their presence at any Department of Homeland Security (DHS) facility, or any other Government facility, or a facility operated for DHS, or other Government agencies under contract, shall be clearly identifiable by a distinctive badge furnished by the Government. All prescribed information shall immediately be delivered to the TSA Security Office for cancellation or disposition upon the termination of the employment of any Contractor personnel. All on-site contractor personnel are responsible for adherence to the security regulations applicable to that site.

H.6 Non-Personal Services

(a)As stated in the Federal Register, Volume 57, No. 190, page 45096, dated September 30, 1992, Policy Letter on Inherently Governmental Functions, no personal services shall be performed under this contract. No Contractor employee will be directly supervised by the Government. All individual employee assignments, and daily work direction, shall be given by the applicable employee supervisor. If the Contractor believes any Government action or communication has been given that would create a personal services relationship between the Government and any Contractor employee, the Contractor shall promptly notify the CO of this communication or action.

(b)The Contractor shall not perform any inherently Governmental actions under this contract. No Contractor employee shall hold him or herself out to be a Government employee, agent, or representative.

No Contractor employee shall state orally or in writing at any time that he or she is acting on behalf of the Government. In all communications with third parties in connection with this contract, Contractor employees shall identify themselves as Contractor employees and specify the name of the company for which they work. In all communications with other Government Contractors in connection with this contract, the Contractor employee shall state that they have no authority to in any way change the contract and that if the other Contractor believes this communication to be a direction to change their contract, they should notify the CO for that contract and not carry out the direction until a clarification has been issued by the CO.

(c) The Contractor shall insure that all of its employees working on this contract are informed of the substance of this clause. Nothing in this clause shall limit the Government's rights in any way under any other provision of the contract, including those related to the Government's right to inspect and accept the services to be performed under this contract. The substance of this clause shall be included in all subcontracts at any tier.

H.7 Disclosure of Conflicts of Interest (AUGUST 2002)

It is the Transportation Security Administration (TSA) policy to award contracts to only those offerors whose objectivity is not impaired because of any related past, present, or planned interest, financial or otherwise, in organizations regulated by TSA or in organizations whose interests may be substantially affected by Agency activities. Based on this policy:

(a) The offeror shall provide a statement in its proposal which describes in a concise manner all past, present or planned organizational, financial, contractual or other interest(s) with an organization regulated by TSA, or with an organization whose interests may be substantially affected by Agency activities, and which is related to the work under this solicitation. The interest(s) described shall include those of the proposer, its affiliates, proposed consultants, proposed subcontractors and key personnel of any of the above. Past interest shall be limited to within one year of the date of the offeror's technical proposal. Key personnel shall include any person owning more than 20% interest in the offeror, and the offeror's corporate officers, its senior managers and any employee who is responsible for making a decision or taking an action on this contract where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

(b) The offeror shall describe in detail why it believes, in light of the interest(s) identified in (a) above, that performance of the proposed contract can be accomplished in an impartial and objective manner.

(c) In the absence of any relevant interest identified in (a) above, the offeror shall submit in its proposal a statement certifying that to its best knowledge and belief no affiliation exists relevant to possible conflicts of interest. The offeror must obtain the same information from potential subcontractors prior to award of a subcontract.

(d) The Contracting Officer will review the statement submitted and may require additional relevant information from the offeror. All such information, and any other relevant information known to TSA, will be used to determine whether an award to the offeror may create a conflict of interest. If any such conflict of interest is found to exist, the Contracting Officer may:

(1) disqualify the offeror, or

(2) determine that it is otherwise in the best interest of the United States to contract with the offeror and include appropriate provisions to mitigate or avoid such conflict in the contract awarded.

(e) The refusal to provide the disclosure or representation, or any additional information required, may result in disqualification of the offeror for award. If nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated. If after award the Contractor discovers a conflict of interest with respect to the contract awarded as a result of this solicitation, which could not reasonably have been known prior to award, an immediate and full disclosure shall be made in writing to the Contracting

Officer. The disclosure shall include a full description of the conflict, a description of the action the Contractor has taken, or proposes to take, to avoid or mitigate such conflict. The Contracting Officer may, however, terminate the contract for convenience if he or she deems that termination is in the best interest of the Government.

H.8 Contractor Responsibilities

(a)The Contractor shall provide all management, administrative, clerical, and supervisory functions required for the effective and efficient performance of this contract.

(b)The Contractor shall save and hold harmless and indemnify the Government against any and all liability, claims, and costs of whatever kind and nature for injury to or death of any person or persons and for loss or damage to any property occurring in connection with, or in any way incident to, or arising out of, the occupancy, use, service, operations, or performance of work under the terms of this contract, resulting in whole or in part from the negligent acts or omissions of the Contractor.

(c)The Government shall not be liable for any injury to the Contractor's personnel or damage to the Contractor's property unless such injury or damage is due to negligence on the part of the Government and is recoverable under the Federal Torts Claims Act, or pursuant to another Federal statutory authority. The Government will be liable only to the extent liability exists under the Federal Torts Claim Act.

(d)A smooth and orderly transition between the Contractor and a predecessor or successor Contractor is necessary to ensure minimum disruption to vital Government business. The Contractor shall cooperate fully in the transition.

(e)The Contractor shall adhere to the same professional and ethical standards of conduct required of Government personnel. The Contractor shall not:

(1) Discuss with unauthorized persons any information obtained in the performance of work under this contract;

(2) Conduct business not directly related to this contract on Government premises;

(3) Use computer systems and/or other Government facilities for company or personal business other than work related; or

(4) Recruit on Government premises or otherwise act to disrupt official Government business.

H.9 Insurance

The Support of Anti-terrorism by Fostering Effective Technologies Act of 2002, Subtitle G of Title VIII of the Homeland Security Act of 2002 (§§ 861-65)], called the "SAFETY Act," applies to terrorist acts as defined in the Act. To the extent that a contractor is not covered by the SAFETY Act the Contractor shall secure, pay the premiums for and keep in force until the expiration of this contract, and any renewal thereof, adequate insurance, such insurance to specifically include liability assumed by the Contractor under this contract. Where the SAFETY Act certification applies, contractors must maintain insurance levels required for certification under the Act as determined by DHS.

Where SAFETY Act coverage does not apply, the Contractor shall secure, pay the premiums for and keep in force until the expiration of this contract, and any renewal thereof, adequate insurance as provided below, such insurance to specifically include liability assumed by the Contractor under this contract.

i. Workman's compensation insurance as required by law of the State.

ii. Comprehensive bodily injury liability insurance with limits of not less than $500,000 for each accident.

iii. Property damage liability with a limit of not less than $100,000 for each accident.

iv. Automotive bodily injury liability insurance with limits of not less than $200,000 for each person and $500,000 for each accident, and property damage liability insurance, with a limit of not less than $40,000 for each accident.

Each policy of insurance shall contain an endorsement that any cancellation or material change in the coverage adversely affecting the Government's interest shall not be effective unless the insurer or the contractor gives written notice of cancellation or change, as required by the Contracting Officer. When the coverage is provided by self-insurance, the Contractor shall not change or decrease the coverage without the Contracting Officer's prior approval.

(End of Clause)

H.10 Third Party Liability

TSA is not authorized to grant indemnification under Public Law 85-804. It is the responsibility of the Contractor to apply for SAFETY Act coverage through the Department of Homeland Security. The Government will not indemnify the contractor nor any subcontractors, directly or indirectly. The Government will be liable only to the extent liability exists under the Federal Torts Claim Act. See 28 U.S.C. § 1346(b) and 28 U.S.C. §§ 2671-2680.

(1)Except as otherwise required by the Department of Homeland Security for SAFETY ACT coverage, the Contractor shall provide and maintain workers' compensation, employer's liability, comprehensive general liability (bodily injury), comprehensive automobile liability (bodily injury and property damage) insurance, and such other insurance as TSA may require under this contract.

(2) The Contractor may, with the approval of the Contracting Officer, maintain a self-insurance program; provided that, with respect to workers' compensation, the Contractor is qualified pursuant to statutory authority.

(3) All insurance required by this paragraph shall be in a form and amount and for those periods as the Contracting Officer may require or approve and with insurers approved by the Contracting Officer.

(b) The Contractor agrees to submit for the Contracting Officer's approval, to the extent and in the manner required by the Contracting Officer, any other insurance that is maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement of insurance premiums.

(c) The Contractor shall be reimbursed:

(1) For that portion (i) of the reasonable cost of insurance allocable to this contract, and (ii) required or approved under this clause; the cost of premiums may be adjusted upward or downwards based on SAFETY ACT certification,

(d) The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities)-

(1) For which the Contractor is otherwise responsible under the express terms of any clause specified in the "Schedule" or elsewhere in the contract;

(2) For which the Contractor has failed to insure or to maintain insurance as required by the Contracting Officer; or

(3) That result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of:

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(f) The provisions of paragraph (e) of this clause shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of this contract, other than insurance required in accordance with this clause, provided that such cost is allowable under the Allowable Cost and Payment clause of this contract.

(End of clause)

H.11 Section 508 Standards

The Rehabilitation Act of 1973, as amended, insures that Federal employees with disabilities will be able to use information technology to do their jobs and that members of the public who are seeking information from Federal sources will be able to use information technology to access the information on equal footing with people who do not have disabilities. Information on the Section 508 standards can be viewed at www.section508.gov. Work performed under this contract will be subject to compliance with the standards in effect as of the date of contract award.

H.12 Key Personnel

(a) The personnel and/or facilities as specified below are considered essential to the work being performed hereunder and may, with the consent of the contracting parties, be changed from time to time during the course of the contract by adding or deleting personnel and/or facilities, as appropriate.

(b) Prior to removing, replacing, or diverting any of the specified individuals or facilities, the Contractor shall notify, in writing, and receive consent from, the Contracting Officer reasonably in advance of the action and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract.

(c) No diversion shall be made by the Contractor without the written consent of the Contracting Officer. The Contracting Officer may ratify, in writing, the change and such ratification shall constitute the consent of the Contracting Officer required by this clause.

(d) The following personnel are hereby designated Key Personnel under this contract:

Name*	Position*
[redacted]	VP and GM SFO Airport
	Site Manager at Tupelo

*To be filled in by the contractor as part of their proposal.

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H.14 Subcontract

H.13 Aviation and Transportation Security Act Requirements

The contractor shall comply with all requirements of Public Law 107-71, the "Aviation and Transportation Security Act."

H.14 Subcontract Flow-down

All terms and conditions of this contract shall apply to any subcontracts which are directly or indirectly involved in the performance of this contract.

H.15 Non-Fee Bearing Costs (Travel/Uniforms)

All long-distance travel associated with the performance of this contract shall be governed by the Federal Travel Regulations, including all applicable, meal, incidental, and other expenses. Local travel will not be reimbursed under this contract. All travel must be approved in writing by the Airport COTR. Travel shall be a non-fee-bearing expense. All costs associated with uniforms shall be non-fee bearing.

H.16 Representations and Certifications

Part IV of the Uniform Contract Format shall not be physically included in the contract, but Section K, Representations, Certifications, and Other Statements of Offerors shall be deemed incorporated by reference in the contract. *Section K shall be filled out by the contractor and included as part of their proposal submission in response to the RFP.*

H.17 RESERVED

H.18 Service Contract Act Applicability

Screeners, Lead Screeners, and Supervisory Screeners: These personnel are exempt from the Service Contract Act (3.6.2-28), the SCA Minimum Wages and Fringe Benefits clause (3..6.2-32), and the Statement of Equivalent Rates for Federal Hires (3.6.2-29). Contractor shall ensure that all Screener, Lead Screeners, and Supevisory Screener' personnel wages and benefits comply with the requirements of the Section 108 of the Aviation Transportation Security Act (ATSA). Additionally, the contractor agrees to comply with Section B.4 – COMPENSATION AND OTHER BENEFITS.

All other personnel not listed above: The Contractor agrees to comply with J.2 – WAGE DETERMINATIONS for all non-screener personnel.

H.19 Passenger and Baggage Claims

While TSA wants to ensure that claims of passengers at airports are dealt with fairly and promptly, the resolution of passenger and baggage claims is a matter of state law and must be resolved between the contractor and the claimant. If a claimant files a claim with the TSA, it will be referred to the contractor for processing. The contractor will then process all passenger and baggage claims in accordance with state tort law. See Section H.8 (b) for other related information.

In accordance with Section H.8 (b), the limitation of liability under the Federal Tort Claims Act (FTCA) specifies that TSA will not pay for claims under the contract unless TSA employees are at fault. The

FTCA creates liability only for acts or omissions of an employee of the Government "while acting within the scope of his office or employment." See 28 U.S.C. § 1346(b).

The Contractor shall insert a Notice of Inspection (NOI) into a passenger's baggage if it is selected for search. The Contractor shall obtain approval from TSA regarding the content of the notice before using the NOI. The NOI shall not reference TSA or contain any TSA insignia. The NOI shall reference the contract as the authority under which inspection of passenger baggage is authorized. The NOI shall provide information on how to obtain a claim submission form, which shall be a Contractor-created form separate from the Standard Form 95.

TSA reserves the right to audit the Contractor's claims processing at any time.

TSA provides the following guidance when dealing with claims:

1. Hold claim information for a minimum of two years.

2. Support a claim resolution period of 60 days, with the exception of extraordinary circumstances (i.e. further adjudication).

H.20 3.13-6 Contractor Personnel Suitability Requirements (February 2003)

(a) This clause applies to the extent that this contract requires contractor employees, subcontractors, or consultants to have unescorted access to TSA: (1) facilities, (2) sensitive information, and/or (3) resources regardless of the location where such access occurs.

Position Risk Level will be decided by the TSA Office of Transportation Vetting and Credentialing upon receipt of the required security paperwork from all Contract personnel having access to TSA facilities and/or information as described above. The Position Risk Level assigned will be based on the Contractor occupation listed on the forms.

(c) The required security paperwork must be submitted no later than 30 calendar days after contract award (or date of modification, if this provision is included by modification to an existing contract), for each employee in a listed position, provided no previous background investigations can be supported as described below, the contractor shall submit the following documentation to the TSA Servicing Security Element (SSE) for an employment suitability determination. The SSE is located at: TSA Headquarters, East Building, 8th Floor, 601 South 12th Street, Arlington, Virginia 22202-4220.

- Standard Form (SF) 85P, Questionnaire for Public Trust Positions, revised September 1995. The SF 85P shall be completed in accordance with the instruction sheet.

- One fingerprint card (FD-258). Fingerprinting facilities are available through the SSE and local police department. All fingerprint cards shall be written in black ink or typewritten with all answerable question blocks completed and shall be signed and dated within the 60 calendar day period preceding the submission.

The type of investigation conducted will be determined by the position risk level designation for all duties, functions, and/or tasks performed and shall serve as the basis for granting a favorable employment suitability authorization. If an employee has had a previous Government-directed background investigation, it may be accepted by the TSA. However, the TSA reserves the right to conduct further investigations, if

necessary. For each contractor employee for which a previous background investigation was completed, the Contractor shall provide, in writing to the SSE, the name, date of birth, place of birth, and social security number of the employee, the name of the investigating entity, type of background investigation conducted, and approximate date the previous background investigation was completed in addition to the documents required above.

The Contractor shall submit the required information with a transmittal letter referencing the contract number and this request to:

Office of Transportation Vetting and Credentialing, TSA Headquarters, East Building, 8th Floor, 601 South 12th Street, Arlington, Virginia 22202-4220.

The transmittal letter shall also include a list of all of the names of contractor employees and their positions for which completed forms will be submitted to the SSE pursuant to this Clause. A copy of the transmittal letter shall also be provided to the Contracting Officer.

(d) The contractor shall submit the information required by Section (c) of this Clause for any new employee not listed in the Contractor's initial thirty (30) day submission who is hired into any position identified in Section (c) of this Clause.

(e) The contracting officer will provide notice to the contractor when any contractor employee is found to be unsuitable or otherwise objectionable, or whose conduct appears contrary to the public interest, or inconsistent with the best interest of national security. The contractor shall take appropriate action, including the removal of such employee from working on this TSA contract, at their own expense.

(f) No contractor employee shall work in a high, moderate, or low risk position unless the SSE has received all forms necessary to conduct any required investigation and has authorized the contractor employee to begin work. However, if this provision is added by modification to an existing contract, contractor employees performing in the positions listed above may continue work on the contract pending:

(1) the submittal of all necessary forms within 30 calendar days, and

(2) completion of a suitability investigation by the SSE

If the necessary forms are not submitted by the Contractor to the SSE within 30 days of the effective date of the modification, the contractor employee shall be denied access to TSA facilities, sensitive information and/or resources until such time as the forms are submitted and the SSE has authorized the contractor employee to begin work.

(g) As applicable, the Contractor shall submit quarterly reports providing the following information to the Contracting Officer with a copy to the SSE and the Operating Office on or before the fifth (5th) day following each report period: A complete listing by full name in alphabetical order with the social security number, of all contractor personnel who had access to an TSA facility, sensitive information and/or resources anytime during the report period (date of birth and social security number shall be omitted from CO and Operating Office copies of report(s). Additionally, the Contractor shall submit to the SSE and CO on or before the fifth (5th) day of each month, any employment changes made during the reporting period. Examples of such changes are terminations (to include name, SSN, hire date), and name changes. All lists must be in alphabetical order and have the name of the contractor and the contract number.

(h) The Contractor shall notify the CO within one (1) day after any employee identified pursuant to Section (c) of this Clause is terminated from performance on the contract.

(i) The Contracting Officer may also, after coordination with the SSE and other security specialists, require contractor employees to submit any other security information (including additional fingerprinting) deemed reasonably necessary to protect the interests of the TSA. In this event, the Contractor shall provide, or cause each of its employees to provide such security information to the SSE, and the same transmittal letter requirements of Section (c) of this Clause shall apply.

(j) The contactor and/or subcontractor(s) will immediately contact the [TBD] in the event an employee is arrested (detained by law enforcement for any offenses, other than minor traffic offenses) or is involved in theft of government property or the contractor becomes aware of any information that may raise a question about the suitability of a contractor employee.

(k) Failure to submit information required by this clause within the time required may be determined by the Contracting Officer to be a material breach of the contract.

(l) If subsequent to the effective date of this contract, the security classification or security requirements under this contract are changed by the Government and if the changes cause an increase or decrease in direct contract costs or otherwise affect any other terms or condition of this contract, the contract shall be subject to an equitable adjustment.

(m) The contractor agrees to insert terms that conform substantially to the language of this clause, including paragraph (l) but excluding any reference to the Changes clause of this contract, in all subcontracts under this contract that involve access [Completed by the Contracting Officer.

(End of clause)

H. 21 *Qualified Screening Companies* and *Private Entity* Definitions

The Aviation Transportation Security Act (ATSA) provides the qualification criteria for the security screening pilot and the private security screening programs under which ATSA must treat an entity as a "qualified private screening company" (*see generally 49 U.S.C. Sections 44919 and 44920*). Pursuant to ATSA, the entity must:

(1) be a private company,

(2) employ individuals that meet all he requirements applicable to Federal Government personnel who perform screening services,

(3) provide compensation and other benefits to such individuals that are not less than the level of compensation and other benefits provided to Federal Government personnel,

(4) provide a level of screening services and protection equal to or greater than the level that would be provided at the airport by Federal Government personnel, and

(5) the private company must be owned and controlled by a citizen of the United States, to the extent that the Under Secretary determines that there are private screening companies owned and controlled by such citizens (*id*). ATSA specifically defines qualification of private screening companies to be owned and controlled by a citizen of the United States.

Qualified Screening Company has been defined as a company "owned and controlled by a citizen of the United States". TSA also interprets ATSA to require that a qualified private screening company be a private entity that is:

(1) a partnership of which each member is U.S. citizen, or

(2) a corporation or association organized under the laws of the United States or a State, the District of Columbia or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States and in which at least 75 percent of the voting interest is owned and controlled by persons that are citizens of the United States.

The Contractor agrees to comply with the information as provided above.

H.22 U. S. Citizens and Use of Foreign Nationals and Aliens on TSA Contracts

(1) For all screeners, lead screeners, and supervisory screeners, the contractor agrees to only employ U.S. Citizens.

(2) For all other employees not listed above, the contractor agrees to the following. (a) Each employee of the Contractor, engaged in performing work on this contract or that will have access to information of a sensitive nature, shall be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by Alien Registration Receipt Card Form I-151, or who presents other evidence from the Immigration and Naturalization Service that employment will not affect his/her immigration status.

(b) Aliens and foreign nationals proposed under this contract must meet the following conditions in accordance with TSA procedures:

- must have resided within the United States for 3 of the last 5 years unless a waiver of this requirement is requested and approved by the TSA SSO,
- a risk or sensitivity level designation can be made for the position; and
- the appropriate security screening can be adequately conducted
- If DHS or other Federal agencies order services under this contract and their security requirements are different than those delineated above, the contract will be modified accordingly to address the specific security requirements.

H.24 Small Business Subcontracting Plan

Contractor shall submit a Small Business Subcontracting Plan as part of their proposal for this effort. This plan, once approved by the Contracting Officer, will be incorporated into this contract as Attachment J.6 hereto.

H.25 Owned and Controlled by US Citizens

Contractor shall certify that the company is American-owned and controlled. Certification shall be incorporated in Section K of the contract.

SECTION I – CONTRACT CLAUSES

FULL TEXT

I.1 **3.1.8-1 Cancellation, Recission, and Recovery of Funds for Illegal or Improper Activity** (February 2003) Government receives information that a contractor or person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may-

(1) Cancel the screening information request, if the contract has not been awarded or issued; or

(2) Rescind the contract with respect to which-

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

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

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

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

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.
(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

(End of clause)

I.2 **3.1.8-2 Price or Fee Adjustment for Illegal or Improper Activity** (February 2003)
(a) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of subsection 27 (a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in the TSA's Acquisition Management System (TSAMS).
(b) The price or fee reduction referred to in paragraph (a) of this clause shall be-

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

I.3 3.2.2.3-8 Audit and Records (February 2003)

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

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

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

(1) The proposal for the contract, subcontract, modification;

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

(3) Pricing of the contract, subcontract, or modification; or

(4) Performance of the contract, subcontract or modification.

(d) Comptroller General--

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

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

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

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

(2) the data reported.

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

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

(2) Records relating to appeals under the Contract Disputes clause or to litigation or the settlement of contract disputes arising under or relating to this contract shall be made available until such appeals, litigation, or contract disputes are finally resolved.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed $1,000,000, and

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

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

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

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

(End of clause)

I.4 3.2.2.3-25 Price Reduction for Defective Cost or Pricing Data (February 2003)

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

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

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

(3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

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

(1) the actual subcontract or

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

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

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

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

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

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

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

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

(B) The Contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted before such date.

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

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

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the date of agreement on price.

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

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

(2) A penalty equal to the amount of the overpayment if the Contractor or subcontractor knowingly submitted cost or pricing data which were incomplete, inaccurate, or non-current.

(End of clause)

I.5 3.2.2.3-26 Price Reduction for Defective Cost or Pricing Data--Modifications (February 2003)

(a) This clause shall become operative only for any modification to this contract involving a pricing adjustment expected to exceed $550,000, except that this clause does not apply to any modification awarded on the basis of price competition, catalog or market price, or prices set by law or regulation.

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

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

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

(3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause.

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

(1) the actual subcontract or

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

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

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

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

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

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

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

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

(B) The Contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted before such date.

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

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

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the date of agreement on price.

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

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

(2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data which were incomplete, inaccurate, or non-current.

(End of clause)

I.6 **3.2.2.3-27 Subcontractor Cost or Pricing Data** (February 2003)

(a) Before awarding any subcontract expected to exceed $1,000,000, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed $1,000,000 the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless award is based on price competition, catalog or market price, or prices set by law or regulation.

(b) The Contractor shall require the subcontractor to certify that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(c) In each subcontract that exceeds $550,000, when entered into, the Contractor shall insert --

(1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of cost or pricing data for the subcontract.

(2) the substance of the clause, Subcontractor Cost or Pricing Data - Modifications

(End of clause)

I.7 3.2.2.3-28 Subcontractor Cost or Pricing Data - Modifications (February 2003)
(a) The requirements of paragraphs (b) and (c) of this clause shall

(1) become operative only for any modification to this contract involving a pricing adjustment expected to exceed $550,000, and

(2) be limited to such modifications.

(b) Before awarding any subcontract expected to exceed $550,000, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed $550,000, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless award is based on price competition, catalog or market price, or prices set by law or regulation.
(c) The Contractor shall require the subcontractor to certify that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.
(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds $550,000 on the date of agreement on price or the date of award, whichever is later.

(End of clause)

I.8 3.2.2.3-30 Termination of Defined Benefit Pension Plans (February 2003)

The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate a defined benefit pension plan or otherwise recapture such pension fund assets. If pension fund assets revert to the Contractor or are constructively received by it under a termination or otherwise, the Contractor shall make a refund or give a credit to the Government for its equitable share. The Contractor shall include the substance of this clause in all subcontracts requiring cost and price data and exceeding $1,000,000 under this contract.

(End of clause)

I.9 3.2.2.3-32 Waiver of Facilities Capital Cost of Money (February 2003)
The Contractor did not include facilities capital cost of money as a proposed cost of this contract. Therefore, it is an unallowable cost under this contract.

(End of clause)

I.10 3.2.2.3-33 Order of Precedence (February 2003)
Any inconsistency in this RFI/RFP or contract shall be resolved by giving precedence in the following order:

(a) the Schedule (*including the Standard Operating Procedures*);
(b) representations and other instructions;
(c) contract clauses;
(d) other documents, exhibits, and attachments;
(e) the specifications; and
(f) the drawings.

(End of clause)

I.11 3.2.2.3-36 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (February 2003)

The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate or reduce a PRB plan. If PRB fund assets revert, or inure, to the Contractor or are constructively received by it under a plan termination or otherwise, the Contractor shall make a refund or give a credit to the Government for its equitable share. The Contractor shall include the substance of this clause in all subcontracts under this contract which exceed $1,000,000 and for which cost and price data are required. The resulting adjustment to prior years' PRB costs will be determined and applied.

(End of clause)

I.12 3.2.2.3-37 Notification of Ownership Changes (February 2003)
(a) The Contractor shall make the following notifications in writing.

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

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

(b) The Contractor shall:

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

(2) provide the Contracting Officer or designated representative ready access to the records upon request;

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

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

(c) The Contractor shall include the substance of this clause in all subcontracts under this contract when it is anticipated that cost or pricing data will be required or for which any pre-award or post-award cost determination will be subject to the contract.

(End of clause)

I.13 3.2.2.3-75 Requests for Contract Information (February 2003) Any contract resulting from this SIR will be considered a public document, subject to release under the Freedom of Information Act (FOIA), 5 U.S.C. Section 552. Unless covered by an exemption described in the Act, all information contained in the contract, including unit price, hourly rates and their extensions, may be released to the public upon request. Offerors are therefore urged to mark any sensitive documents submitted as a result of this Screening Information Request SIR that may be deemed as trade secrets, proprietary information, or privileged or confidential financial information.

[End of Clause]

I.14 3.2.2.7-6 Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (February 2003)

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

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

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

(1) The name of the subcontractor.

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

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

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

(End of clause)

I.15 3.2.3-2 Cost Accounting Standards (February 2003)

(a) Unless the contract is exempt from CAS rules, the provisions of CAS rules are incorporated herein by reference and the Contractor, in connection with this contract, shall--

(1) (CAS-covered Contracts Only) By submission of a Disclosure Statement, disclose in writing the Contractor's cost accounting practices as required by CAS rules, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the Contractor and which contain a Cost Accounting Standards (CAS) clause. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(2) Follow consistently the Contractor's cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in cost accounting practices is made for the purposes of any contract or subcontract subject to CAS requirements, the change must be applied prospectively to this contract and the Disclosure Statement must be amended accordingly. If the contract price or cost

allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a)(4) or (a)(5) of this clause, as appropriate.

(3) Comply with all CAS, including any modifications and interpretations indicated thereto contained in CAS rules, in effect on the date of award of this contract or, if the Contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the Contractor's signed certificate of current cost or pricing data. The Contractor shall also comply with any CAS (or modifications to CAS) which hereafter become applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)(i) Agree to an equitable adjustment as provided in the Changes clause of this contract if the contract cost is affected by a change which, pursuant to subparagraph (a)(3) of this clause, the Contractor is required to make to the Contractor's established cost accounting practices.

(ii) Negotiate with the Contracting Officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of subparagraph (a)(4) of this clause; provided that no agreement may be made under this provision that will increase costs paid by the United States.

(iii) When the parties agree to a change to a cost accounting practice, other than a change under subdivision (a)(4)(i) of this clause, negotiate an equitable adjustment as provided in the Changes clause of this contract.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with an applicable Cost Accounting Standard, or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States, together with interest thereon computed in accordance with the "Interest" clause, from the time the payment by the United States was made to the time the adjustment is effected. In no case shall the Government recover costs greater than the increased cost to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the Contractor made a change in its cost accounting practices of which it was aware or should have been aware at the time of price negotiations and which it failed to disclose to the Government.

(b) If the parties fail to agree whether the Contractor or a subcontractor has complied with an applicable CAS rule and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute.

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the obligation to comply with all CAS in effect on the subcontractor's award date or if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data. This requirement shall apply only to negotiated subcontracts in excess of $500,000 where the price negotiated is not based on-

(1) Established catalog or market prices of commercial items sold in substantial quantities to the general public; or

(2) Prices set by law or regulation, and except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in CAS rules.

(End of clause)

I.16 3.2.3-3 Disclosure and Consistency of Cost Accounting Practices (February 2003)

(a) The Contractor, in connection with this contract, shall--

(1) Comply with the requirements of CAS rules, Consistency in Estimating, Accumulating, and Reporting Costs; Consistency in Allocating Costs Incurred for the Same Purpose; Accounting for Unallowable Costs; and Cost Accounting Standard-Cost Accounting Period, in effect on the date of award of this contract as indicated in CAS rules.

(2) (CAS-covered Contracts Only) If it is a business unit of a company required to submit a Disclosure Statement, disclose in writing its cost accounting practices as required by CAS rules. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(3)

(i) Follow consistently the Contractor's cost accounting practices. A change to such practices may be proposed, however, by either the Government or the Contractor, and the Contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract, and the Disclosure Statement, if affected, must be amended accordingly.

(ii) The Contractor shall, when the parties agree to a change to a cost accounting practice and the Contracting Officer has made the finding required CAS rules, that the change is desirable and not detrimental to the interests of the Government, negotiate an equitable adjustment as provided in the Changes clause of this contract. In the absence of the required finding, no agreement may be made under this contract clause that will increase costs paid by the United States.

(4) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with the applicable CAS or to follow any cost accounting practice, and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the annual rate of interest established under the Internal Revenue Code of 1986 (26 U.S.C. 6621), from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the Contractor has complied with an applicable CAS, rule, or regulation as specified in CAS rules and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute.

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, and records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts, which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts of any tier, except that-

(1) If the subcontract is awarded to a business unit which pursuant CAS rules is required to follow all CAS, the clause entitled "Cost Accounting Standards", shall be inserted in lieu of this clause; or

(2) This requirement shall apply only to negotiated subcontracts in excess of $500,000 where the price negotiated is not based

(i) Established catalog or market prices of commercial items sold in substantial quantities to the general public; or

(ii) Price set by law or regulation; or

(3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified CAS rules.

(End of clause)

I.17 3.2.3-5 Administration of Cost Accounting Standards (February 2003)

For the purpose of administering the Cost Accounting Standards (CAS) requirements under this contract, the Contractor shall take the steps outlined in paragraphs (a) through (g) of this clause:

(a) Submit to the Contracting Officer a description of any cost accounting practice change, the total potential impact of the change on contracts containing a CAS clause, and a general dollar magnitude of the change which identifies the potential shift of costs between CAS-covered contracts by contract type (i.e., firm-fixed-price, incentive, cost-plus-fixed fee, etc.) and other contractor business activity. As related to CAS-covered contracts, the analysis should identify the potential impact on funds of the various Agencies/Departments (i.e., Department of Energy, National Aeronautics and Space Administration, Army, Navy, Air Force, other Department of Defense, other Government) as follows:

(1) For any change in cost accounting practices required to comply with a new or modified CAS in accordance with subparagraph (a)(3) and subdivision (a)(4)(i) of the clause "Cost Accounting Standards" within 60 days (or such other date as may be mutually agreed to) after award of a contract requiring this change.

(2) For any change in cost accounting practices proposed in accordance with subdivision (a)(4)(ii) or (iii) of the clause "Cost Accounting Standards" or with subparagraph (a)(3) of the clause "Disclosure and Consistency of Cost Accounting Practices" not less than 60 days (or such other date as may be mutually agreed to) before the effective date of the proposed change.

(3) For any failure to comply with an applicable CAS or to follow a disclosed practice (as contemplated by subparagraph (a)(5) of the clause "Cost Accounting Standards" or by subparagraph (a)(4) of the clause "Disclosure and Consistency of Cost Accounting Practice":

(i) Within 60 days (or such other date as may be mutually agreed to) after the date of agreement with the initial finding of noncompliance, or

(ii) In the event of Contractor disagreement with the initial finding of noncompliance, within 60 days of the date the Contractor is notified by the Contracting Officer of the determination of noncompliance.

(b) After an Contracting Officer determination of materiality, submit a cost impact proposal in the form and manner specified by the Contracting Officer within 60 days (or such other date as may be mutually agreed to) after the date of determination of the adequacy and compliance of a change submitted pursuant to paragraph (a) of this clause. The cost impact proposal shall be in sufficient detail to permit evaluation, determination, and negotiation of the cost impact upon each separate CAS-covered contract and subcontract.

(1) Cost impact proposals submitted for changes in cost accounting practices required to comply with a new CAS in accordance with subparagraph (a)(3) and subdivision (a)(4)(i) of the clause "Cost Accounting Standards" shall identify the applicable standard and all contracts and subcontracts containing the clause in this contract entitled Cost Accounting Standards, which have an award date before the effective date of that standard.

(2) Cost impact proposals submitted for any change in cost accounting practices proposed in accordance with subdivisions (a)(4) (ii) or (iii) of the clause "Cost Accounting Standards" or with subparagraph (a)(3) of the clause "Disclosure and Consistency of Cost Accounting Practices" shall identify all contracts and subcontracts containing the clause "Cost Accounting Standards" and "Disclosure and Consistency of Cost Accounting Practices."

(3) Cost impact proposals submitted for failure to comply with an applicable CAS or to follow a disclosed practice as contemplated by subparagraph (a)(5) of the clause "Cost Accounting Standards" or by subparagraph (a)(4) of the clause "Disclosure and Consistency of Cost Accounting Practices" shall identify the cost impact on each separate CAS covered contract from the date of failure to comply until the noncompliance is corrected.

(c) If the submissions required by paragraphs (a) and (b) of this clause are not submitted within the specified time, or any extension granted by the Contracting Officer, an amount not to exceed 10 percent of each subsequent amount determined payable related to the Contractor's CAS-covered prime contracts, up to the estimated general dollar magnitude of the cost impact, may be withheld until such time as the required submission has been provided in the form and manner specified by the Contracting Officer.

(d) Agree to appropriate contract and subcontract amendments to reflect adjustments established in accordance with subparagraphs (a)(4) and (a)(5) of the CAS clause or with subparagraphs (a)(3) or (a)(4) of the "Disclosure and Consistency of Cost Accounting Practices" clause.

(e) For all subcontracts subject either to the CAS clause or to the Disclosure and Consistency of Cost Accounting Practices clause-

(1) So state in the body of the subcontract, in the letter of award, or in both (self-deleting clauses shall not be used);

(2) Include the substance of this clause in all negotiated subcontracts. In addition, within 30 days after award of the subcontract, submit the following information to the Contractor's cognizant contract administration office for transmittal to the contract administrative office cognizant of the subcontractor's facility:

(i) Subcontractor's name and subcontract number.

(ii) Dollar amount and date of award.

(iii) Name of Contractor making the award.

(iv) Any changes the subcontractor has made or proposes to make to cost accounting practices that affect prime contracts or subcontracts containing the CAS clause or Disclosure and Consistency of Cost Accounting Practices clause, unless these changes have already been reported. If award of the subcontract results in making one or more CAS effective for the first time, this fact shall also be reported.

(f) Notify the Contracting Officer in writing of any adjustments required to subcontracts under this contract and agree to an adjustment, based on them, to this contract price or estimated cost and fee. This notice is due within 30 days after proposed subcontract adjustments are received and shall include a proposal for adjusting the higher tier subcontract or the prime contract appropriately.

(g) For subcontracts containing the CAS clause, require the subcontractor to comply with all Standards in effect on the date of award or of final agreement on price, as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data, whichever is earlier.

(End of clause)

I.18 3.2.4-6 Fixed Fee (February 2003)
(a) The TSA shall pay the Contractor for performing this contract the fixed fee specified in the Schedule.

(b) Payment of the fixed fee shall be made as specified in the Schedule; provided, that after payment of 85 percent of the fixed fee, the Contracting Officer may withhold further payment of fee until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed 15 percent of the total fixed fee or $100,000, whichever is less.

(End of clause)

I.19 3.2.4-21 Execution and Commencement of Work (February 2003)
The Contractor shall indicate acceptance of this letter contract by signing two (2) copies of the contract and returning them to the Contracting Officer not later than Nov 18, 2004. Upon acceptance by both parties the Contractor shall proceed with performance of the work, including the purchase of necessary materials.

(End of clause)

I.20 3.2.4-22 Limitation of Government Liability (February 2003)
(a) In performing this contract, the Contractor is not authorized to make expenditures or incur obligations exceeding $7,050,406 under CLINs 0001 through 0003 and $175,347 under CLINs 0007 through 0009.

(b) The maximum amount for which the Government shall be liable if this contract is terminated is $7,402,926 under CLINs 0001 through 0003 and $175,347 under CLINs 0007 through 0009.

(End of clause)

I.21 Contract Price Definitization (February 2003)
(a) A combination Cost Plus Award Fee (CPAF) (SFO) and a Fixed Price Award Fee (TUP) contract is contemplated. The Contractor agrees to begin promptly negotiating with the Contracting Officer the price and any price related terms of the contract. The Contractor agrees to submit additional cost or pricing data (if needed to support their proposal.

(b) The schedule for negotiating the price of this contract is [insert target date for definitization of the contract price and dates for submission of proposal, beginning of negotiations, and, if appropriate, submission of make-or-buy and subcontracting plans and cost or pricing data].

- Enter into Negotiations: 11/30/2004
- Completion of Negotiations: 12/15/2004
- Issuance of Definitive Contract: 12/17/2004

(c) If agreement on the contract price is not reached by the target date in paragraph (b) above, or within any extension of it granted by the Contracting Officer, the Contracting Officer may, with the approval of the head of the contracting activity, determine a reasonable price or fee, subject to Contractor appeal as provided in the "Contract Disputes" clause. In any event, the Contractor shall proceed with completion of the contract, subject only to the "Limitation of Government Liability" clause.

(1) After the Contracting Officer's determination of price or fee, the contract shall be governed by-

(i) All clauses required by the TSA Acquisition Management System on the date of execution of this letter contract for either fixed-price or cost-reimbursement contracts, as determined by the Contracting Officer under this paragraph (c);

(ii) All clauses required by law as of the date of the Contracting Officer's determination; and

(iii) Any other clauses, terms, and conditions mutually agreed upon.

(2) To the extent consistent with subparagraph (c)(1) above, all clauses, terms, and conditions included in this letter contract shall continue in effect, except those that by their nature apply only to a letter contract.

(d) The definitive contract resulting from this letter contract will include a total negotiated TBD in no event to exceed $152,826,082.

(End of clause)

I.22 3.2.4-24 Payments of Allowable Costs Before Definitization (February 2003)

(a) Reimbursement rate. Pending the completion of the negotiation to definitize the estimated cost and fee of this letter contract, the Government shall promptly reimburse the Contractor for all allowable costs under this contract at the following rates:

(1) One hundred percent of approved costs representing payments to subcontractors under fixed-price subcontracts, provided, that the Government's payments to the Contractor shall not exceed 80 percent of the allowable costs of those subcontractors.

(2) One hundred percent of approved costs representing cost-reimbursement subcontracts, provided, that the Government's payments to the Contractor shall not exceed 85 percent of the allowable costs of those subcontractors.

(3) Eighty-five percent of all other approved costs.

(b) Limitation of reimbursement. To determine the amounts payable to the Contractor under this letter contract, the Contracting Officer shall determine allowable costs in accordance with the applicable TSA contract cost principles. The total reimbursement made under this paragraph shall not exceed 85 percent of the maximum amount of the Government's liability, as stated in this contract.

(c) Invoicing. Payments shall be made promptly to the Contractor when requested as work progresses, but (except for small business concerns) not more often than every 2 weeks, in amounts approved by the

Contracting Officer. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost incurred by the Contractor in the performance of this contract.

(d) Allowable costs. For the purpose of determining allowable costs, the term costs includes:

(1) Costs that the contractor has incurred and recorded at the time of the request for reimbursement;
(2) When the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for--

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

(ii) Direct labor;

(iii) Direct travel;

(iv) Other direct in-house costs; and

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

(3) The amount of payments that have been paid to the Contractor's subcontractors under similar cost standards.

(e) Small business concerns. A small business concern may receive more frequent payments than every 2 weeks and may invoice and be paid for recorded costs for items or services purchased directly for the contract, even though it has not yet paid for such items or services.

(f) Audit. At any time before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of costs audited. Any payment may be (1) reduced by any amounts found by the Contracting Officer not to constitute allowable costs or (2) adjusted for overpayments or underpayments made on preceding invoices or vouchers.

(End of clause)

I.23 3.2.4-34 Option to Extend Services (February 2003)
The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within the period specified in the Schedule.

(End of clause)

I.24 3.2.4-35 Option to Extend the Term of the Contract (February 2003)
(a) The Government may extend the term of this contract by written notice to the Contractor within 5 days; provided, that the Government shall give the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

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

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 24 months.

(End of clause)

I.25 3.2.5-1 Officials Not to Benefit (February 2003)
No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

(End of clause)

I.26 3.2.5-3 Gratuities or Gifts (August 2002)

(a) The TSA may terminate this contract for default if, after notice and a hearing, the TSA Office of Dispute Resolution for Acquisition determines that the Contractor, the contractor's agent, or other representative:

(1) Offered or gave a gratuity or gift to an employee of the TSA; and

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

(b) If this contract is terminated under paragraph (a) of this clause, the TSA is entitled to pursue the same remedies as in a breach of contract.

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

(End of clause)

I.27 3.2.5-4 Contingent Fees (February 2003)
(a) The Contractor warrants that no person or selling agency has been employed or retained to solicit or obtain this contract for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bonafide, established commercial or selling agencies employed by the contractor for the purpose of obtaining business.

(b) For breach or violation of this warranty, the Government has the right to annul this contract without liability or to deduct from the contract price or otherwise recover, the full amount of the contingent fee.

(c) Definitions.

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

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

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

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

(End of clause)

I.28 3.2.5-5 Anti-Kickback Procedures (February 2003)
(a) Definitions.

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

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

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

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

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

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

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

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

(b) The contractor warrants that it has not and will not be:

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

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

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

(c)

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

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of

this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the Inspector General of the Department of Transportation or the Department of Justice.

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

(4) The Contracting Officer may

(i) offset the amount of the kickback against any moneys owed by the United States under the prime contract and/or

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

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

(End of clause)

I.29 3.2.5-6 Restrictions on Subcontractor Sales to the TSA (February 2003)

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

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

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

(End of clause)

I.30 3.2.5-7 Disclosure Regarding Payments to Influence Certain Federal Transactions (February 2003).

(a) Definitions.

(1) "The Act," as used in this clause, means section 1352, title 31, United States Code.

(2) "Agency," as used in this clause, means executive agency, within the meaning of 5 U.S.C. 101, 102, and 104(I), and any wholly owned Government corporation within the meaning of 31 U.S.C. 9101..

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

(i) The awarding of any Federal contract.

(ii) The making of any Federal grant.

(iii) The making of any Federal loan.

(iv) The entering into of any cooperative agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

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

(b) Prohibitions. The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that:

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

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

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

(4) This certification and disclosure is a prerequisite for making or entering into this contract imposed by the Act. Any person who makes a prohibited expenditure or fails to file or amend a disclosure form, shall be subject to a civil penalty of not less than $10,000 and not more than $100,000, for each such failure.

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

(1) Agency and legislative liaison by own employees.

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

(ii) For purposes of subdivision (c)(1)(i) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

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

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

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

(iv) The following agency and legislative liaison activities are permitted where they are prior to the RFI/RFP of any covered Federal action:

(A) Providing any information not specifically requested but necessary for an agency to make an informed

decision about initiation of a covered Federal action;

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

(C) Capability presentations by persons seeking awards from an agency pursuant to the provisions of a law authorizing such actions;

(v) Only those services expressly authorized by subdivision (c)(1)(i) of this clause are permitted under this clause.

(2) Professional and technical services.

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

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

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

(ii) For purposes of subdivision (c)(2)(i) of this clause, 'professional and technical services' shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a submittal/offer by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's submittal/offer, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a submittal/offer are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

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

(iv) Only those services expressly authorized by subdivisions (c)(2)(i) and (ii) of this clause are permitted under this clause.

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

(d) Disclosure.

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

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

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

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

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

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

(4) All subcontractor disclosure forms shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall submit all disclosures to the Contracting Officer at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor.

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

(f) Penalties.

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

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

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

(End of clause)

I.31 3.2.5-8 Whistleblower Protection for Contractor Employees (February 2003)
The contractor agrees not to discharge, demote or otherwise discriminate against an employee as a reprisal for disclosing information to a Member of Congress, or an authorized official of an agency or of the Department of Justice, relating to a violation of law related to this contract (including the competition for or negotiation of a contract).
Definitions:
(1) "Authorized official of the agency" means an employee responsible for contracting, program management, audit, inspection, investigation, or enforcement of any law or regulation relating to TSA procurement or the subject matter of the contract.

(2) "Authorized official of the Department of Justice" means any person responsible for the investigation, enforcement, or prosecution of any law or regulation.

(End of clause)

I.32 3.3.1-10 Availability of Funds (February 2003)

Funds are not presently available for this contract. The government's obligation under this contract is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the government for any payment may arise until funds are made available to the Contracting Officer for this contract and until the Contractor receives notice of such availability, in writing from the Contracting Officer.

(End of clause)

I.33 3.3.1-12 Limitation of Cost (February 2003)

(a) The parties estimate that performance of this contract, exclusive of any fee, will not cost the TSA more than (1) the estimated cost specified in the "Schedule" or, (2) if this is a cost-sharing contract, the TSA 's share of the estimated cost specified in the "Schedule". The Contractor agrees to use its best efforts to perform the work specified in the "Schedule" and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the TSA 's and the Contractor's share of the cost.

(b) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that-

(1) The costs the Contractor expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost specified in the "Schedule"; or

(2) The total cost for the performance of this contract, exclusive of any fee, will be either greater or substantially less than had been previously estimated.

(c) As part of the notification, the Contractor shall provide the Contracting Officer a revised estimate of the total cost of performing this contract.

(d) Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause-

(1) The TSA is not obligated to reimburse the Contractor for costs incurred in excess of:

(i) the estimated cost specified in the "Schedule" or,

(ii) if this is a cost-sharing contract, the estimated cost to the TSA specified in the "Schedule";

(2) The Contractor is not obligated to continue performance under this contract (including actions under the "Termination" clause of this contract) or otherwise incur costs in excess of the estimated cost specified in the "Schedule", until the Contracting Officer:

(i) notifies the Contractor in writing that the estimated cost has been increased and

(ii) provides a revised estimated total cost of performing this contract.

If this is a cost-sharing contract, the increase shall be allocated in accordance with the formula specified in the "Schedule".

(e) No notice, communication, or representation in any form other than that specified in subparagraph (d)(2) above, or from any person other than the Contracting Officer, shall affect this contract's estimated

cost to the TSA . In the absence of the specified notice, the TSA is not obligated to reimburse the Contractor for any costs in excess of the estimated cost or, if this is a cost-sharing contract, for any costs in excess of the estimated cost to the TSA specified in the "Schedule", whether those excess costs were incurred during the course of the contract or as a result of termination.
(f) If the estimated cost specified in the "Schedule" is increased, any costs the Contractor incurs before the increase that are in excess of the previously estimated cost shall be allowable to the same extent as if incurred afterward, unless the Contracting Officer issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.
(g) Change orders shall not be considered an authorization to exceed the estimated cost to the TSA specified in the "Schedule", unless they contain a statement increasing the estimated cost.
(h) If this contract is terminated or the estimated cost is not increased, the TSA and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract, based upon the share of costs incurred by each.

(End of clause)

I.34 3.3.1-14 Limitation of Funds (February 2003)
(a) The parties estimate that performance of this contract will not cost the TSA more than:

(1) The estimated cost or price specified in the "Schedule" or,

(2) If this is a cost-sharing contract, the TSA 's share of the estimated cost specified in the "Schedule".

The Contractor agrees to use its best efforts to perform the work specified in the "Schedule" and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the TSA 's and the Contractor's share of the cost.
(b) The "Schedule" specifies the amount presently available for payment by the TSA and allotted to this contract, the items covered, the TSA's share of the cost if this is a cost-sharing contract, and the period of performance it is estimated the allotted amount will cover. The parties contemplate that the TSA will allot additional funds incrementally to the contract up to the full estimated cost to the TSA specified in the "Schedule", exclusive of any fee. The Contractor agrees to perform, or have performed, work on the contract up to the point at which the total amount paid and payable by the TSA under the contract approximates but does not exceed the total amount actually allotted by the TSA to the contract.
(c) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that the costs it expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of:

(1) the total amount so far allotted to the contract by the TSA or,

(2) if this is a cost-sharing contract, the amount then allotted to the contract by the TSA plus the Contractor's corresponding share. The notice shall state the estimated amount of additional funds required to continue performance for the period specified in the "Schedule".

(d) Sixty days before the end of the period specified in the "Schedule", the Contractor shall notify the Contracting Officer in writing of the estimated amount of additional funds, if any, required to continue timely performance under the contract or for any further period specified in the "Schedule" or otherwise agreed upon, and when the funds will be required.
(e) If, after notification, additional funds are not allotted by the end of the period specified in the "Schedule" or another agreed-upon date, upon the Contractor's written request the Contracting Officer will terminate this contract on that date in accordance with the provisions of the "Termination" clause of this contract. If the Contractor estimates that the funds available will allow it to continue to discharge its obligations beyond that date, it may specify a later date in its request, and the Contracting Officer may terminate this contract on that later date.

(f) Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause--

(1) The TSA is not obligated to reimburse the Contractor for costs incurred in excess of the total amount allotted by the TSA to this contract; and

(2) The Contractor is not obligated to continue performance under this contract (including actions under the "Termination" clause of this contract) or otherwise incur costs in excess of (i) the amount then allotted to the contract by the TSA or, (ii) if this is a cost-sharing contract, the amount then allotted by the TSA to the contract plus the Contractor's corresponding share, until the Contracting Officer notifies the Contractor in writing that the amount allotted by the TSA has been increased and specifies an increased amount, which shall then constitute the total amount allotted by the TSA to this contract.

(g) The estimated cost shall be increased to the extent that:

(1) the amount allotted by the TSA or,

(2) if this is a cost-sharing contract, the amount then allotted by the TSA to the contract plus the Contractor's corresponding share, exceeds the estimated cost specified in the "Schedule."

If this is a cost-sharing contract, the increase shall be allocated in accordance with the formula specified in the "Schedule."

(h) No notice, communication, or representation in any form other than that specified in subparagraph (f)(2) above, or from any person other than the Contracting Officer, shall affect the amount allotted by the TSA to this contract. In the absence of the specified notice, the TSA is not obligated to reimburse the Contractor for any costs in excess of the total amount allotted by the TSA to this contract, whether incurred during the course of the contract or as a result of termination.
(i) When and to the extent that the amount allotted by the TSA to the contract is increased, any costs the Contractor incurs before the increase that are in excess of

(1) the amount previously allotted by the TSA or,

(2) if this is a cost-sharing contract, the amount previously allotted by the TSA to the contract plus the Contractor's corresponding share, shall be allowable to the same extent as if incurred afterward, unless the Contracting Officer issues a termination or other notice and directs that the increase is solely to cover termination or other specified expenses.

(j) Change orders shall not be considered an authorization to exceed the amount allotted by the TSA specified in the "Schedule", unless they contain a statement increasing the amount allotted.
(k) Nothing in this clause shall affect the right of the TSA to terminate this contract. If this contract is terminated, the TSA and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract, based upon the share of costs incurred by each.
(l) If the TSA does not allot sufficient funds to allow completion of the work, the Contractor is entitled to a percentage of the fee specified in the "Schedule" equaling the percentage of completion of the work contemplated by this contract, if applicable.

(End of clause)

I.35 3.3.1-15 Assignment of Claims (February 2003)
(a) The Contractor may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal

lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.
(b) Any assignment or reassignment authorized under this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.
(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

(End of clause)

I.36 3.3.2-1 TSA Cost Principles (February 2003)

(a) Transportation Security Administration (TSA) "Contracting Cost Principles" shall be used for:

(1) The pricing of contracts, subcontracts, and modifications to contracts and subcontracts whenever cost analysis is performed; and

(2) the determination, negotiation, or allowance of cost when required by a contract clause.

(b) TSA Cost Principles are incorporated by reference in this contract as the basis for:

(1) Determining reimbursable costs under:

(i) Cost-reimbursement contracts and cost-reimbursement subcontracts under these contracts preformed by commercial organizations, and

(ii) The cost-reimbursement portion of time-and -materials contracts except when material is priced on a basis other than at cost;

(2) Negotiating indirect cost rates, when:

(i) TSA has division or corporate contract administration responsibilities;

(ii) Quick Close-out procedures are used; or

(iii) Indirect rate caps are negotiated in the contract.

(3) Proposing, negotiating, or determining costs under terminated contracts;

(4) Price revision of fixed-price incentive contracts;

(5) Price redetermination of price redetermination contracts; and

(6) Pricing changes and other contract modifications.

(c) When contract administration responsibilities rest with another Government agency, the TSA will apply the cost principles of the administering agency for the determination or negotiation of indirect rates not covered by (2)(ii) or (2)(iii) above.

(d) Upon request, the Contracting Officer will provide a copy of the TSA "Contract Cost Principles." Until TSA develops its own Contract Cost Principles, TSA will adopt FAA's Contract Cost Principles, available at: http://fast.faa.gov/procurement_guide/html/3-3-2.htm

(End of Clause)

I.37 3.5-1 Authorization and Consent (February 2003)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent,

(1) Embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or,

(2) Used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with;

(i) Specifications or written provisions forming a part of this contract or

(ii) Specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States may be determined solely by the provisions of the Indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

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

(End of clause)

I.38 3.5-2 Notice and Assistance Regarding Patent and Copyright Infringement (February 2003)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed under this contract, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information may be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) The Contractor agrees to include, and require inclusion of, this clause in all subcontracts at any tier for supplies or services (including construction and architect-engineer subcontracts and those for material, supplies, models, samples, or design or testing services).

(End of clause)

I.39 3.5-3 Patent Indemnity (February 2003)

(a) The Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property (hereinafter referred to as construction work) under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work.

(b) This indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to.

(1) An infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor,

(2) An infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance, or

(3) A claimed infringement that is unreasonably settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

(End of clause)

I.40 3.5-13 Rights in Data - General (February 2003)

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

(2) "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.

(3) "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.

(4) "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.

(5) "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.

(6) "Restricted computer software," as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and is confidential or privileged; or is published copyrighted computer software; including minor modifications of such computer software.

(7) "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.

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

(9) "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) Allocations 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.

(1) Data first produced in the performance of this contract. Unless provided otherwise in paragraph (d) of this clause, the Contractor may establish, without prior approval of the

Contracting Officer, claim to copyright subsisting in scientific and technical articles based on or containing data first produced in the performance of this contract and published in academic, technical or professional journals, symposia proceedings or similar works. The prior, express written permission of the Contracting Officer is required to establish claim to copyright subsisting in all other 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 in such copyrighted 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 in its behalf, a paid-up nonexclusive, irrevocable worldwide license in such copyrighted 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 may 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 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 may 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 may 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 there under.

(3)Reserved.

(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 filing a claim under the "Contract Disputes" clause of this contract, as applicable, that may arise as the 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, may 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;

(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 may withhold such data and not furnish them to the Government under this contract. As a condition to this withholding, the Contractor may identify the data being withheld and furnish form, fit, and function data in lieu thereof. Limited rights data that are formatted as a computer data base for delivery to the Government are to be treated as limited rights data and not restricted computer software.

(2) Reserved.

(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)

I.41 3.5-16 Rights in Data - Special Works (February 2003)

(a) Definitions.

(1) Data, as used in this clause, means recorded information regardless of form or the medium 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.

(2) 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 whatsoever, and to have or permit others to do so.

(b) Allocation of Rights.

1) The Government shall have—

(i) Unlimited rights in all data delivered under this contract, and in all data first produced in the performance of this contract, except as provided in paragraph (c) of this clause for copyright.

(ii) The right to limit exercise of claim to copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in such data, in accordance with subparagraph (c)(1) of this clause.

(iii) The right to limit the release and use of certain data in accordance with paragraph (d) of this clause.

(2) The Contractor shall have, to the extent permission is granted in accordance with subparagraph (c)(1) of this clause, the right to establish claim to copyright subsisting in data first produced in the performance of this contract.

(c) Copyright.

(1) Data first produced in the performance of this contract.

(i) The Contractor agrees not to assert, establish, or authorize others to assert or establish, any claim to copyright subsisting in any data first produced in the performance of this contract without prior written permission of the Contracting Officer. When claim to copyright is made, the Contractor may affix the appropriate copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) to such data when 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. 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.

(ii) If the Government desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in subdivision (c)(1)(i) of this clause, the Contracting Officer may direct the Contractor to establish, or authorize the establishment of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(2) Data not first produced in the performance of this contract. The Contractor may 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 contain 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.

(d) Release and use restrictions. Except as otherwise specifically provided for in this contract, the Contractor may not use for purposes other than the performance of this contract, nor may the Contractor release, reproduce, distribute, or publish any data first produced in the performance of this contract, nor authorize others to do so, without written permission of the Contracting Officer.

(e) Indemnity. The Contractor may indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication, or use of any data furnished under this contract, or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the Contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; nor do these provisions apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

(End of clause)

I.42 3.6.1-3 Use of Small Business Concerns (February 2003)

(a) It is the policy of the Transportation Security Administration (TSA) that small business concerns, small disadvantaged business concerns, HUBZone small business concerns, veteran-owned small business concerns, service-disabled veteran owned small business concerns, and women-owned small business concerns shall be provided the opportunities to participate in performing TSA contracts, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the TSA that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with these small business concerns.

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

(c) *Definitions.* As used in this contract:

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

"Service-disabled veteran-owned small business concern" –

(1) Means a small business concern –

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause).

I.43 3.6.1-4 Small, Small Disadvantaged, Women-Owned, Veteran-Owned and Service-Disabled Veteran Owned Small Business Subcontracting Plan (August 2002)

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

(b) Definitions:

(1) Commercial product, as used in this clause, means a product in regular production that is sold in substantial quantities to the general public and/or industry at established catalog or market prices. It also means a product which, in the judgment of the Contracting Officer, differs only insignificantly from the Contractor's commercial product.

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

(3) The terms "small disadvantaged business" shall mean a small business concern:

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

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

(iii) This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian Organization, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one of these entities which ahs its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian Organization. The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans and other minorities, or any other individual found to be disadvantaged by the TSA. The contractor shall presume that socially and economically disadvantaged entities also include Indian Tribes and Native Hawaiian Organizations.

(4) The term "small business concern owned and controlled by women" shall mean a small business concern:

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

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

(5) The term "service disabled veteran owned small business concern" shall mean a small business that is 51 percent owned and controlled by a service disabled veteran(s).

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, which separately addresses subcontracting with small business concerns, with small disadvantaged business concerns, with women-owned small business concerns, veteran owned small

business concerns and service-disabled veteran owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business concerns, small disadvantaged business concerns, women-owned small business concerns and service-disabled veteran owned small business concerns with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

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

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

(2) A statement of--

(i) Total dollars planned to be subcontracted;

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

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

(iv) Total dollars planned to be subcontracted to women-owned small business concerns: and

(v) Total dollars planned to be subcontracted to service-disabled veteran owned small business concerns.

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

(i) small business concerns,

(ii) small disadvantaged business concerns,

(iii) women-owned small business concerns and (iv) service-disabled veteran owned small business concerns.

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

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Marketing and Access Network (PRO-NET) of the Small Business Administration, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, small disadvantaged and women- owned small business concerns trade associations). A firm may rely on the information contained in PRO-NET as an accurate

representation of a concern's size and ownership characteristics for purposes of maintaining a small business source list. A firm may rely on PRO-NET as its small business source list. Use of the PRO-NET as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, publicizing subcontracting opportunities) in this clause.

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

(i) small business concerns,

(ii) small disadvantaged business concerns,

(iii) women-owned small business concerns, and

(iv) service-disabled veteran owned small business concerns.

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

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

(9) Assurances that the offeror will include the clause in this contract titled ''Utilization of Small, Small Disadvantaged, Women-Owned, and Service-Disabled Veteran Owned Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) who receive subcontracts in excess of $5,000,000 ($1,000,000 for construction of any public facility) to adopt a plan similar to the plan agreed to by the offeror.

(10) Assurances that the offeror will:

(i) Cooperate in any studies or surveys as may be required,

(ii) Submit periodic reports in order to allow the Government to determine the extent of compliance by the offeror with the subcontracting plan,

(iii) Submit Subcontracting Reports for Individual Contracts (SF-294) in electronic format (MS Excel File Size 4KB) to the Contracting Officer. Submit SF- 295, Summary Subcontract Report, in accordance with the instructions on the SF 295.

(iv) Ensure that its subcontractors agree to submit Subcontracting Reports for Individual Contracts and Standard Form 295.

(11) A recitation of the types of records the offeror will maintain to demonstrate procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of its efforts to locate small, small disadvantaged, women-owned, and service-disabled veteran owned small business

concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (e.g., PRO-NET), guides, and other data that identify small, small disadvantaged, women-owned and service-disabled veteran owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small, small disadvantaged women-owned, or service-disabled veteran owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than $100,000, indicating

(A) Whether small business concerns were solicited and if not, why not,

(B) Whether small disadvantaged business concerns were solicited and if not, why not,

(C) Whether women-owned small business concerns were solicited and if not, why not,

(D) Whether service-disabled veteran owned small business concerns were solicited and if not, why not, and

(E) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact the following:

(A) Trade associations,

(B) Business development organizations, and

(C) Conferences and trade fairs to locate small, small disadvantaged, women-owned, and service-disabled small business sources.

(v) Records of internal guidance and encouragement provided to buyers through

(A) Workshops, seminars, training, etc., and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors

having company or division-wide annual plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small, small disadvantaged, women-owned, and service-disabled veteran owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the contractor's lists of potential small, small disadvantaged, women-owned, and service-disabled veteran owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small, small disadvantaged, women-owned, and service-disabled veteran owned small business concerns in all ``make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small, small disadvantaged, women-owned, and service-disabled veteran owned small business concerns,.

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

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

(1) The master plan has been approved,

(2) The offeror provides copies of the approved master plan and evidence of its approval to the Contracting Officer, and

(3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) (1) If a commercial product is offered, the subcontracting plan required by this clause may relate to the offeror's production generally, for both commercial and noncommercial products, rather than solely to the Government contract. In these cases, the offeror shall, with the concurrence of the Contracting Officer, submit one company-wide or division-wide annual plan.

(2) The annual plan shall be reviewed for approval by the agency awarding the offeror its first prime contract requiring a subcontracting plan during the fiscal year, or by an agency satisfactory to the Contracting Officer.

(3) The approved plan shall remain in effect during the offeror's fiscal year for all of the offeror's commercial products.

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

(i) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract titled "Use Of Small, Small Disadvantaged, Women-Owned, and Service-Disabled Veteran Owned Small Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

(End of clause)

I.44 3.6.1-6 Liquidated Damages--Subcontracting Plan (February 2003)

(a) Failure to make a good faith effort to comply with the subcontracting plan, as used in this clause, means the lack of a good faith effort to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract titled "Small, Small Disadvantaged, Women-Owned, Veteran-Owned, and Service-Disabled Veteran Owned Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) If, at contract completion, or in the case of a commercial product plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract titled "Small, Small Disadvantaged, Women-Owned, and Service-Disabled Veteran Owned Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal or, in the case of a commercial products plan, that portion of the dollar amount allocable to Government contracts by which the Contractor failed to achieve each subcontract goal.

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

(d) With respect to commercial product plans; i.e., company- wide or division-wide subcontracting plans approved under paragraph (g) of the clause in this contract titled "Small, Small Disadvantaged, Women-Owned, and Service-Disabled Veteran Owned Small Business Subcontracting Plan," the Contracting Officer of the agency that originally approved the plan will exercise the functions of the Contracting Officer under this clause on behalf of all agencies that awarded contracts covered by that commercial product plan.

(e) The Contractor shall have the right of appeal from any final decision of the Contracting Officer.

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

(End of clause)

I.45 3.6.2-2 Convict Labor (February 2003)

The Contractor agrees not to employ any person undergoing sentence of imprisonment in performing this contract except as provided by 18 U.S.C. 4082(c)(2) and Executive Order 11755.

(End of clause)

I.46 3.6.2-5 Prohibition of Segregated Facilities (February 2003) (a) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between sexes.

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

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

(End of clause)

I.47 3.6.2-7 Preaward On-Site Equal Opportunity Compliance Review (February 2003)

An award in the amount of $10 million or more will not be made under this screening information request unless the offeror and each of its known first-tier subcontractors (to whom it intends to award a subcontract of $10 million or more are found, on the basis of a compliance review, to be able to comply with the provisions of the "Equal Opportunity" clause of this screening information request.

(End of clause)

I.48 3.6.2-9 Equal Opportunity (February 2003)

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

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

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to,

(i) employment,

(ii) upgrading,

(iii) demotion,

(iv) transfer,

(v) recruitment or recruitment advertising,

(vi) layoff or termination,

(vii) rates of pay or other forms of compensation, and

(viii) selection for training, including apprenticeship.

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

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

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

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

(7) The Contractor shall furnish to the TSA all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EEO-1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed within 12 months preceding the date of award.

(8) The Contractor shall permit access to its books, records, and accounts by the TSA or the Office of Federal Contract Compliance Programs (OFCCP) for the purposes of investigation to ascertain the Contractor's compliance with the applicable rules, regulations, and orders.

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

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

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the TSA may direct as a means of enforcing these terms and conditions,

including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

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

(End of clause)

I.49 3.6.2-12 Affirmative Action for Special Disabled and Vietnam Era Veterans (February 2003)

(a) Definitions.

(1) "Appropriate office of the State employment service system," as used in this clause, means the local office of the Federal-State national system of public employment offices assigned to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(2) "Openings that the Contractor proposes to fill from within its own organization," as used in this clause, means employment openings for which no one outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) will be considered and includes any openings that the Contractor proposes to fill from regularly established 'recall' lists.

(3) "Openings that the Contractor proposes to fill under a customary and traditional employer-union hiring arrangement," as used in this clause, means employment openings that the Contractor proposes to fill from union halls, under their customary and traditional employer-union hiring relationship.

(4) "Suitable employment openings," as used in this clause--(1) Includes, but is not limited to, openings that occur in jobs categorized as—

(i) Production and non-production;

(ii) Plant and office; (iii) Laborers and mechanics;

(iv) Supervisory and non-supervisory;

(v) Technical; and

(vi) Executive, administrative, and professional positions compensated on a salary basis of less than $25,000 a year; and (2) Includes full-time employment, temporary employment of over 3 days, and part-time employment, but not openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement, nor openings in an educational institution that are restricted to students of that institution.

(b) General.

(1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against the individual because the

individual is a special disabled or Vietnam Era veteran. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified special disabled and Vietnam Era veterans without discrimination based upon their disability or veterans' status in all employment practices such as—

(i) Employment;

ii) Upgrading;

iii) Demotion or transfer;

(iv) Recruitment;

(v) Advertising;

(vi) Layoff or termination;

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

(viii) Selection for training, including apprenticeship.

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

(c) Listing openings.

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

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

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

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

(5) Under the most compelling circumstances, an employment opening may not be suitable for listing, including situations when:

(i) the Government's needs cannot reasonably be supplied,

(ii) listing would be contrary to national security, or

(iii) the requirement of listing would not be in the Government's interest.

(d) Applicability.

(1) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(2) The terms of paragraph (c) above of this clause do not apply to openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(e) Postings.

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

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

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

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

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

(End of clause)

I.50 3.6.2-13 Affirmative Action for Workers With Disabilities (February 2003)

(a) General.

(1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because

of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as--

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

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

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

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

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

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

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

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

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

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

(b) Postings.

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

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

(ii) The rights of applicants and employees.

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

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

(c) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.
(d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of $10,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

(End of clause)

I.51 3.6.2-14 Employment Reports on Special Disabled Veterans and Veterans of Vietnam Era (February 2003)
(a) The contractor shall report at least annually, as required by the Secretary of Labor, on:

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

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

(b) The above items shall be reported by completing the form titled 'Federal Contractor Veterans' Employment Report VETS-100.'
(c) Reports shall be submitted no later than March 31 of each year beginning March 31, 1988.
(d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date: (1) As of the end of any pay period during the period January through March 1st of the year the report is due, or (2) as of December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).
(e) The count of veterans reported according to paragraph (a) of this clause shall be based on voluntary disclosure. Each contractor subject to the reporting requirements at 38 U.S.C. 2012(d) shall invite all special disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program at 38 U.S.C. 2012 to identify themselves to the contractor. The invitation shall state that the information is voluntarily provided, that the information will be kept confidential, that disclosure or refusal to provide the information will not subject the applicant of employee to any adverse treatment and that the information will be used only in accordance with the regulations promulgated under 38 U.S.C. 2012.
(f) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary.

(End of clause)

I.52 3.6.2-16 Notice to the Government of Labor Disputes (February 2003) (a) If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract to which a labor dispute may delay the timely performance of this contract; except that each subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any

actual or potential labor dispute, the subcontractor shall immediately notify the next higher tier subcontractor or the prime Contractor, as the case may be, of all relevant information concerning the dispute.

(End of clause)

I.53 3.6.2-17 Payment for Overtime Premiums (February 2003)

(a) The use of overtime is authorized under this contract if the overtime premium cost does not exceed $271,820 SFO/$3,452 TUP* or the overtime premium is paid for work--

(1) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(3) To perform tests, industrial processes, laboratory procedures, loading or unloading of transportation conveyances, and operations in flight or afloat that are continuous in nature and cannot reasonably be interrupted or completed otherwise; or

(4) That will result in lower overall costs to the Government.

(b) Any request for estimated overtime premiums that exceeds the amount specified above shall include all estimated overtime for contract completion and shall--

(1) Identify the work unit; e.g., department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime;

(2) Demonstrate the effect that denial of the request will have on the contract delivery or performance schedule;

(3) Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and

(4) Provide reasons why the required work cannot be performed by using multi-shift *operations or by employing additional personnel.*

**[insert either "zero" or the dollar amount agreed to during communications. The inserted figure does not apply to the exceptions in subparagraph (a)(1) through (a)(4) of the clause.]*

(End of clause)

I.54 3.6.2-28 Service Contract Act of 1965, as Amended (February 2003)

Reference H.18 "Service Contract Act Applicability" for exception.

(a) Definitions.

(1) Act, as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.).

(2) Contractor, as used in this clause or in any subcontract, shall be deemed to refer to the subcontractor, except in the term Government Prime Contractor.

(3) Service employee, as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) Applicability. This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in subpart C of 29 CFR Part 4.

(c) Compensation.

(1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2) (i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv) (A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final

determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) Adjustment of Compensation. If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished there under to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) Obligation to Furnish Fringe Benefits. The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with subpart D of 29 CFR Part 4.
(e) Minimum Wage. In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.
(f) Successor Contracts. If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.
(g) Notification to Employees. The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.
(h) Safe and Sanitary Working Conditions. The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are

unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) Records.

(1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Act-

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) Pay Periods. The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(k) Withholding of Payments and Termination of Contract. The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost

(l) Subcontracts. The Contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) Collective Bargaining Agreements Applicable to Service Employees. If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) Seniority List. Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names, of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) Rulings and Interpretations. Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.

(p) Contractor's Certification.

(1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.

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

(q) Variations, Tolerances, and Exemptions Involving Employment. Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by P. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business.

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency or injury may be employed at wages lower than the

minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.
(s) Tips. An employee engaged in an occupation in which the employee customarily and regularly receives more than $30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations 29 CFR part 531. However, the amount of credit shall not exceed $1.34 per hour beginning January 1, 1981. To use this provision-

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit;

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(t) Disputes Concerning Labor Standards. The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the "Disputes" clause of this contract. Disputes

within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(End of clause)

I.55 3.6.2-29 Statement of Equivalent Rates for Federal Hires (February 2003)
In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332. This Statement is for Information Only: It Is Not a Wage Determination.

Employee Class	Monetary Wage-Fringe Benefits

(End of clause)

I.56 3.6.2-32 SCA Minimum Wages and Fringe Benefits (Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA)) (August 2002)

Reference H.18 "Service Contract Act Applicability" for exception.

An SCA wage determination applicable to this work has been requested from the U.S. Department of Labor. If an SCA wage determination is not incorporated herein, the offerors shall consider the economic terms of the collective bargaining agreement (CBA) between the incumbent Contractor ___N/A_____ and the _____N/A_____ (union). If the economic terms of the collective bargaining agreement or the collective bargaining agreement itself is not attached to the solicitation, copies can be obtained from the Contracting Officer. Pursuant to Department of Labor Regulation, 29 CFR 4.1b and paragraph (g) of the clause "Service Contract Act of 1965, As Amended," the economic terms of that agreement will apply to the contract resulting from this RFI/RFP, notwithstanding the absence of a wage determination reflecting such terms, unless it is determined that the agreement was not the result of arm's length negotiations or that after a hearing pursuant to section 4(c) of the Act, the economic terms of the agreement are substantially at variance with the wages prevailing in the area.

(End of clause)

I.57 3.6.3-7 Waste Reduction Program (February 2003)
(a) Definition. "Waste reduction," as used in this clause, means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.
(b) Consistent with the requirements of Section 701 of Executive Order 12873, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. Any such program shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6901, et seq.) and implementing regulations.

(End of clause)

I.58 3.6.3-11 Toxic Chemical Release Reporting (February 2003)

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

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

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

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

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

(4) The facility does not fall within Standard Industrial Classification Code (SIC) designations 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or

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

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

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

(2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall--

(i) Submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible; and

(ii) Continue to file the annual Form R for the life of the contract for such facility.

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

(e) Except for acquisitions of commercial items shall--

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

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

(End of clause)

I.59 3.6.3-16 Drug Free Workplace (January 2004)

(a) Definitions. As used in this clause,

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

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

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

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

5. "Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract.

6. "Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

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

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

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

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

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

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

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

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

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

(4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as

a condition of continued employment on this contract, the employee will:

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

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

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

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

(i) Taking appropriate personnel action against such employee, up to and including termination; or
(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

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

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

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

(End of clause)

I.60 3.6.4-2 Buy American Act - Supplies (February 2003)
(a) The Buy American Act (41 U.S.C. 10) and Executive Order No. 10582, dated December 17, 1954, as amended, provide that the Government give preference to domestic end products.
(b) Definitions:

(1) "Components," as used in this clause, means those articles, materials, and supplies incorporated directly into the end products.

(2) "Domestic end product," as used in this clause, means (1) an unmanufactured end product mined or produced in the United States, or (2) an end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as the products referred to in subparagraphs (c)(2) or (3) of this clause shall be treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

(3) "End products," as used in this clause, means those articles, materials, and supplies to be acquired for public use under this contract.

(4) "Foreign offer," as used in this clause, means an offered price for a foreign end product, including transportation to destination and duty (whether or not a duty free entry certificate is issued).

(c) The Contractor shall deliver only domestic end products, except those--

(1) For use outside the United States;

(2) That the TSA determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;

(3) For which the TSA determines that domestic preference would be inconsistent with the public interest; or

(4) For which the TSA determines the cost to be unreasonable.

(i) Unless the TSA determines otherwise, the offered price of a domestic end product is unreasonable when the lowest acceptable domestic offer exceeds the lowest acceptable foreign offer, inclusive of duty, by:

(A) More than 6 percent, if a domestic offer is from a large business that is not a labor surplus area concern; or

(B) More than 12 percent, if a domestic offer is from a small business concern or any labor surplus area concern.

(ii) The evaluation in subparagraph (i) above shall be applied on an item by item basis or to any group of items on which award may be made, as specifically provided by the screening information request.

(iii) If an award of more than $250,000 would be made to a domestic concern if the 12 percent factor were applied, but not if the 6 percent factor were applied, the TSA will decide whether award to the domestic concern would involve unreasonable cost.

(End of clause)

I.61 **3.6.4-10 Restrictions on Certain Foreign Purchases** (February 2003)

(a) Unless advance written approval of the Contracting Officer is obtained, the Contractor shall not acquire for use in the performance of this contract--

(1) Any supplies or services originating from sources within the communist areas of North Korea, Vietnam, Cambodia, or Cuba;

(2) Any supplies that are or were located in or transported from or through North Korea, Vietnam, Cambodia, or Cuba; or

(3) Arms, ammunition, or military vehicles produced in South Africa, or manufacturing data for such articles.

(b) The Contractor shall not acquire for use in the performance of this contract supplies or services originating from sources within Iraq, any supplies that are or were located in or transported from or through Iraq, or any supplies or services from entities controlled by the Government of Iraq.

(c) The Contractor agrees to insert the provisions of this clause, including this paragraph (c), in all subcontracts hereunder.

(End of clause)

I. 62 3.7-1 Privacy Act Notification (February 2003)
The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations (49 CFR Part 10). Violation of the Act may involve the imposition of criminal penalties.

(End of clause)

I.63 3.7-2 Privacy Act (February 2003)
(a) The Contractor agrees to--

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations (49 CFR Part 10) issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies--

(i) The systems of records; and

(ii) The design, development, or operation work that the contractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Act; and

(3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor is considered to be an employee of the agency.
(c) (1) 'Operation of a system of records,' as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

(2) 'Record,' as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

(3) 'System of records on individuals,' as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(End of clause)

I.64 3.8.2-10 Protection of Government Buildings, Equipment, and Vegetation (February 2003)
The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.

(End of clause)

I.65 3.8.4-5 Government Supply Sources (February 2003)

The Contracting Officer may issue the Contractor an authorization to use Government supply sources in the performance of this contract. Title to all property acquired by the Contractor under such an authorization shall vest in the Government unless otherwise specified in the contract. Such property shall not be considered to be Government-furnished property, as distinguished from Government property. The provisions of the "Government Property-Basic Clause", except its paragraphs (a) and (b), shall apply to all property acquired under such authorization.

(End of clause)

I.66 3.9.1-1 Contract Disputes (February 2003)

All contract disputes arising under or related to this contract shall be resolved through the Transportation Security Administration (TSA) dispute resolution system at the FAA Office of Dispute Resolution for Acquisition (ODRA) and shall be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. A contractor may seek review of a final TSA decision only after its administrative remedies have been exhausted.

(b) The filing of a contract dispute with the ODRA may be accomplished by mail, overnight delivery, hand delivery, or by facsimile. A contract dispute is considered filed on the date it is received by the ODRA.

(c) Contract disputes are to be in writing and shall contain:

(1) The contractor's name, address, telephone and fax numbers and the name, address, telephone and fax numbers of the contractor's legal representative(s) (if any) for the contract dispute;

(2) The contract number and the name of the Contracting Officer;

(3) A detailed chronological statement of the facts and of the legal grounds for the contractor's positions regarding each element or count of the contract dispute (i.e., broken down by individual claim item), citing to relevant contract provisions and documents and attaching copies of those provisions and documents;

(4) All information establishing that the contract dispute was timely filed;

(5) A request for a specific remedy, and if a monetary remedy is requested, a sum certain must be specified and pertinent cost information and documentation (e.g., invoices and cancelled checks) attached, broken down by individual claim item and summarized; and

(6) The signature of a duly authorized representative of the initiating party.

(d) Contract disputes shall be filed at the following address:

Office of Dispute Resolution, AGC-70
Federal Aviation Administration
800 Independence Avenue S.W. Room 323
Washington, DC 20591
Telephone: (202) 267-3290, Facsimile: (202) 267-3720

(2) other address as specified in 14 CFR Part 17.

(e) A contract dispute against the TSA shall be filed with the ODRA within two (2) years of the accrual of the contract claim involved. A contract dispute by the TSA against a contractor (excluding contract disputes alleging warranty issues, fraud or latent defects) likewise shall be filed within two (2) years after the accrual of the contract claim. If an underlying contract entered into prior to the effective date of this part provides for time limitations for filing of contract disputes with the ODRA which differ from the aforesaid two (2) year period, the limitation periods in the contract shall control over the limitation period of this section. In no event will either party be permitted to file with the ODRA a contract dispute seeking an equitable adjustment or other damages after the contractor has accepted final contract payment, with the exception of TSA claims related to warranty issues, gross mistakes amounting to fraud or latent defects. TSA claims against the contractor based on warranty issues must be filed within the time specified under applicable contract warranty provisions. Any TSA claims against the contractor based on gross mistakes amounting to fraud or latent defects shall be filed with the ODRA within two (2) years of the date on which the TSA knew or should have known of the presence of the fraud or latent defect.

(f) A party shall serve a copy of the contract dispute upon the other party, by means reasonably calculated to be received on the same day as the filing is to be received by the ODRA.

(g) After filing the contract dispute, the contractor should seek informal resolution with the Contracting Officer.

(h) The TSA requires continued performance with respect to contract disputes arising under this contract, in accordance with the provisions of the contract, pending a final TSA decision.

(i) The TSA will pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the contract dispute, or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on contract disputes shall be paid at the rate fixed by the Secretary of the Treasury that is applicable on the date the Contracting Officer receives the contract dispute and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary until payment is made.

(j) Additional information and guidance about the ODRA dispute resolution process for contract disputes can be found on the ODRA Website at http://www.faa.gov.

(End of clause)

I.67 3.9.1-2 Protest After Award. (February 2003)

(a) Upon receipt of a notice that a protest has been filed with the FAA Office of Dispute Resolution for Acquisition (ODRA), or a determination that a protest is likely, the (Undersecretary or his designee may instruct the Contracting Officer) to direct the Contractor to stop performance of the work called for by this contract. The order to the Contractor shall be in writing, and shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision or other resolution of the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) For other than cost-reimbursement contracts, terminate the work covered by the order as provided in the "Default" or the "Termination for Convenience of the Government" clause(s) of this contract; or

(3) For cost-reimbursement contracts, terminate the work covered by the order as provided in the "Termination" clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after the final resolution of the protest, the Contractor shall resume work. The Contracting Officer shall make for other than cost-reimbursement contracts, an equitable adjustment in the delivery schedule or contract price, or both; and for cost-reimbursement contracts, an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected; and the contract shall be modified, in writing, accordingly, if--

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

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

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

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

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

(End of clause)

I.68 3.10.1-1 Notice of Intent To Disallow Costs (February 2003)

(a) Notwithstanding any other clause of this contract--

(1) The Contracting Officer may at any time issue to the Contractor a written notice of intent to disallow specified costs incurred or planned for incurrence under this contract that have been determined not to be allowable under the contract terms; and

(2) The Contractor may, after receiving a notice under subparagraph (1) above, submit a written response to the Contracting Officer, with justification for allowance of the costs. If the Contractor does respond within 60 days, the Contracting Officer shall, within 60 days of receiving the response, either make a written withdrawal of the notice or issue a written decision.

(b) Failure to issue a notice under this "Notice of Intent to Disallow Costs" clause shall not affect the Government's rights to take exception to incurred costs.

(End of clause)

I.69 3.10.1-3 Penalties for Unallowable Costs (February 2003)

(a) Definition. Proposal, as used in this clause, means either-

(1) A final indirect cost rate proposal submitted by the Contractor after the expiration of its fiscal year which:

(i) Relates to any payment made on the basis of billing rates; or

(ii) Will be used in negotiating the final contract price;

(2) The final statement of costs incurred and estimated to be incurred under the "Incentive Price Revision" clause (if applicable), which is used to establish the final contract price.

(b) Contractors which include unallowable indirect costs in a proposal may be subject to penalties, as described in paragraph (d) below.

(c) The Contractor shall not include in any proposal any cost which is unallowable, as defined in the TSA Contract Cost Principles.

(d) If the Contracting Officer determines that a cost submitted by the Contractor in its proposal is unallowable , the Contractor shall be assessed a penalty equal to:

(1) The amount of the disallowed cost allocated to this contract; plus

(2) Simple interest, to be computed:

(i) On the amount the Contractor was paid (whether as a progress or billing payment) in excess of the amount to which the Contractor was entitled; and

(ii) Using the applicable rate effective for each six-month interval prescribed by the Secretary of the Treasury pursuant to Pub. L. 92-41 (85 Stat. 97).

(e) If the Contracting Officer determines that a cost submitted by the Contractor in its proposal includes a cost previously determined to be unallowable for that Contractor, then the Contractor will be assessed a penalty in an amount equal to two times the amount of the disallowed cost allocated to this contract.

(f) Determinations under paragraphs (d) and (e) of this clause, if disputed, may be the basis of a claim under the "Contract Disputes" clause.

(g) The Contracting Officer may waive the penalties in paragraph (d) or (e) of this clause if the contractor demonstrates that the error was unintentional, or the proposal is withdrawn prior to commencement of an audit.

(h) Payment by the Contractor of any penalty assessed under this clause does not constitute repayment to the Government of any unallowable cost which has been paid by the Government to the Contractor.

(End of clause)

I.70 3.10.1-7 Bankruptcy (February 2003)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

(End of clause)

I.71 3.10.1-13 Changes—Cost-Reimbursement - Alternate II (February 2003)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Description of services to be performed.

(2) Time of performance (i.e., hours of the day, days of the week, etc.).

(3) Place of performance of the services.

(4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.

(5) Method of shipment or packing of supplies.

(6) Place of delivery.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the Contracting Officer shall make an equitable adjustment in the:

(1) estimated cost, delivery or completion schedule, or both;

(2) amount of any fixed fee; and

(3) other affected terms and shall modify the contract accordingly.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.
(d) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
(e) Notwithstanding the terms and conditions of paragraphs (a) and (b) above, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance of this contract, shall not be increased or considered to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. Until this modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point established in the "Limitation of Cost or Limitation of Funds" clause of this contract.

(End of clause)

I.72 3.10.1-24 Notice of Delay (February 2003)
If the Contractor becomes unable to complete the contract work at the time(s) specified because of technical difficulties, notwithstanding the exercise of good faith and diligent efforts in the performance of the work called for hereunder, the Contractor shall give the Contracting Officer written notice of the anticipated delay and the reasons therefore. Such notice and reasons shall be delivered promptly after the condition creating the anticipated delay becomes known to the Contractor, but in no event less than forty-five (45) days before the completion date specified in this contract, unless otherwise directed by the Contracting Officer. When the notice is required, the Contracting Officer may extend the time specified in the Schedule for the period determined in the best interest of the Government.

(End of clause)

I.73 3.10.2-2 Subcontracts - Cost-Reimbursement and Ceiling Priced Contracts (February 2003)
(a) Subcontract, as used in this clause, includes but is not limited to purchase orders, and changes and modifications to purchase orders. The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract if:

(1) The proposed subcontract is of the cost-reimbursement, time-and-materials, or labor-hour type;

(2) The proposed subcontract is fixed-price and exceeds either $100,000 or 5 percent of the total estimated cost of this contract;

(3) The proposed subcontract has experimental, developmental, or research work as one of its purposes; or

(4) This contract is not a facilities contract and the proposed subcontract provides for the fabrication, purchase, rental, installation, or other acquisition of special test equipment valued in excess of $25,000 or of any items of facilities.

(b) (1) In the case of a proposed subcontract that (i) is of the cost-reimbursement, time-and-materials, or labor-hour type and is estimated to exceed $25,000, including any fee, (ii) is proposed to exceed $100,000, or (iii) is one of a number of subcontracts with a single subcontractor, under this contract, for the same or related supplies or services that, in the aggregate, are expected to exceed $100,000, the advance notification required by paragraph (a) above shall include the information specified in subparagraph (2) below.

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

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

(iii) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the competition obtained.

(iv) The proposed subcontract price and the Contractor's cost or price analysis.

(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.

(c) The Contractor shall obtain the Contracting Officer's written consent before placing any subcontract for which advance notification is required under paragraph (a) above. However, the Contracting Officer may ratify in writing any such subcontract. Ratification shall constitute the consent of the Contracting Officer.
(d) If the Contractor has an approved purchasing system and the subcontract is within the scope of such approval, the Contractor may enter into the subcontracts described in subparagraphs (a)(1) and (a)(2) of this clause without the consent of the Contracting Officer.
(e) Even if the Contractor's purchasing system has been approved, the Contractor shall obtain the Contracting Officer's written consent before placing subcontracts identified below:
_____N/A_____
_____
(f) 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.

g) No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.
(h) 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.
(i) (1)Reserved.

(2) Additionally, the Contractor shall include in each cost- reimbursement subcontract under this contract a requirement that the subcontractor insert the substance of the appropriate modified subparagraph referred to in subparagraph (1) above in each lower tier price redetermination or incentive price revision subcontract under that subcontract.

(j) To facilitate small business participation in subcontracting, the Contractor agrees to provide payments on subcontracts under this contract that are fixed-price subcontracts with small business concerns in conformity with the standards for customary payments, as in effect on the date of this contract. The Contractor further agrees that the need for such financing payments will not be considered a handicap or adverse factor in the award of subcontracts.
(k) The Government reserves the right to review the Contractor's purchasing system.

(End of clause)

I.74 3.10.2-5 Competition in Subcontracting (February 2003)
The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

(End of clause)

I.75 3.10.2-6 Subcontracts for Commercial Items and Commercial Components (February 2003)

I. Definition.

(a) "Commercial item," as used in this clause, means:

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

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

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

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

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

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

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

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

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

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

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

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

(7) Any item, combination of items, or service referred to in subparagraphs I(a)(1) through (a)(6), notwithstanding the fact that the item, combination of items, or service is

transferred between or among separate divisions, subsidiaries, or affiliates of a Contractor; or

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

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

II. To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or non-developmental items as components of items to be supplied under this contract.

III. Notwithstanding any other clause of this contract, the Contractor is not required to include any TSA Acquisition Management System provision or clause, other than those listed below to the extent they are applicable and as may be required to establish the reasonableness of prices, in a subcontract at any tier for commercial items or commercial components:

(a) Equal Opportunity (E.O. 11246);

(2) Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 4212(a));

(b) Affirmative Action for Handicapped Workers (29 U.S.C. 793); and

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

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

(End of clause)

I.76 **3.10.3-1 Definitions - Government Property** (February 2003)

(a) Accessory item - an item that facilitates or enhances the operation of plant equipment but which is not essential for its operation.

(b) Agency-peculiar property - Government-owned personal property that is peculiar to the mission of an agency (e.g., military or space property). It excludes Government material, special test equipment, special tooling, and facilities.

(c) Auxiliary item - an item without which the basic unit of plant equipment cannot operate.

(d) Common item - material that is common to the applicable Government contract and the Contractor's other work.

(e) Contractor-acquired property (CAP) - property acquired or otherwise provided by the Contractor for performing a contract and to which the Government has title.

(f) Contractor inventory -

(1) Any property acquired by and in the possession of a Contractor or subcontractor under a contract for

which title is vested in the Government and which exceeds the amounts needed to complete full performance under the entire contract;

(2) Any property that the Government is obligated or has the option to take over under any type of contract as a result either of any changes in the specifications or plans thereunder or of the termination of the contract (or subcontract thereunder), before completion of the work, for the convenience or at the option of the Government; and

(3) Government-furnished property that exceeds the amounts needed to complete full performance under the entire contract.

(g) Custodial records - written memoranda of any kind, such as requisitions, issue hand receipts, tool checks, and stock record books, used to control items issued from tool cribs, tool rooms, and stockrooms.

(h) Discrepancies incident to shipment - all deficiencies incident to shipment of Government property to or from a Contractor's facility whereby differences exist between the property purported to have been shipped and property actually received. Such deficiencies include loss, damage, destruction, improper status and condition coding, errors in identity or classification, and improper consignment.

(i) Facilities - when used in other than a facilities contract, means property used for production, maintenance, research, development, or testing. It includes plant equipment and real property. It does not include material, special test equipment, special tooling, or agency-peculiar property.

(j) Facilities contract - a contract under which Government facilities are provided to a Contractor or subcontractor by the Government for use in connection with performing one or more related contracts for supplies or services. A "related contract" as used in this clause, means a Government contract or subcontract for supplies or services under which the use of the facilities is or may be authorized. It is used occasionally to provide special tooling or special test equipment. Facilities contracts may take any of the following forms:

(1) Facilities acquisition contract providing for the acquisition, construction, and installation of facilities.

(2) Facilities use contract providing for the use, maintenance, accountability, and disposition of facilities.

(3) A consolidated facilities contract, which is a combination of facilities acquisition and a facilities use contract.

(k) Government-furnished property (GFP) - property in the possession of, or directly acquired by, the Government and subsequently made available to the Contractor.

(l) Government production and research property - Government-owned facilities, Government owned special test equipment, and special Blank Sidetooling to which the Government has title or the right to acquire title.

(m) Government property - all property owned by or leased to the Government or acquired by the Government under the terms of the contract. It includes both Government-furnished property and Contractor-acquired property as defined in this section.

(n) Individual item record - a separate card, form, document or specific line(s) of computer data used to account for one item of property.

(o) Line item - a single line entry on a reporting form that indicates a quantity of property having the same description and condition code from any one contract at any one reporting location.

(p) Material - property that may be incorporated into or attached to a deliverable end item or that may be consumed or expended in performing a contract. It includes assemblies, components, parts, raw and

processed materials, and small tools and supplies that may be consumed in normal use in performing a contract.

(q) Nonprofit organization - any corporation, foundation, trust, or institution operated for scientific, educational, or medical purposes, not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(r) Nonseverable - when related to Government production and research property, means property that cannot be removed after erection or installation without substantial loss of value or damage to the property or to the premises where installed.

(s) Personal property - property of any kind or interest in it, except real property, records of the Federal Government, and naval vessels of the following categories: battleships, cruisers, aircraft carriers, destroyers, and submarines.

(t) Plant clearance - all actions relating to the screening, redistribution, and disposal of Contractor inventory from a Contractor's plant or work site. The term 'Contractor's plant' includes a Contractor-operated Government facility.

(u) Plant clearance officer - an authorized representative of the Contracting Officer assigned responsibility for plant clearance.

(v) Plant clearance period - the period beginning on the effective date of contract completion or termination and ending 90 days (or such longer period as may be agreed to) after receipt by the Contracting Officer of acceptable inventory schedules for each property classification. The final phase of the plant clearance period means that period after receipt of acceptable inventory schedules.

(w) Plant equipment - personal property of a capital nature (including equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items) for use in manufacturing supplies, in performing services, or for any administrative or general plant purpose. It does not include special tooling or special test equipment.

(x) Precious metals - uncommon and highly valuable metals characterized by their superior resistance to corrosion and oxidation. Included are silver, gold, and the platinum group metals-platinum, palladium, iridium, osmium, rhodium, and ruthenium.

(y) Property - all property, both real and personal. It includes facilities, material, special tooling, special test equipment, and agency-peculiar property.

(z) Property Administrator (PA) - an authorized representative of Contracting Officer assigned to administer the contract requirements and obligations relating to Government property.

(aa) Public body - any State, Territory, or possession of the United States, any political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, any agency or instrumentality of any of the foregoing, any Indian tribe, or any agency of the Federal Government.

(bb) Real property - land and rights in land, ground improvements, utility distribution systems, and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or plant equipment.

(cc) Reportable property - Contractor inventory that must be reported for screening in accordance with this subpart before disposition as surplus, to a separate contract or to a special contract requirement governing their use or disposition.

(dd) Reporting activity - the Government activity that initiates the Standard Form 120, Report of Excess Personal Property (or when acceptable to GSA, by data processing output).

(ee) Salvage - property that because of its worn, damaged, deteriorated, or incomplete condition or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs, but has some value in excess of its scrap value.

(ff) Scrap - personal property that has no value except for its basic material content.

(gg) Screening completion date - the date on which all screening required by this subpart is to be completed. It includes screening within the Government and the donation screening period.

(hh) Serviceable or usable property - property that has a reasonable prospect of use or sale either in its existing form or after minor repairs or alterations.

(ii) Special test equipment - either single or multipurpose integrated test units engineered, designed, fabricated, or modified to accomplish special purpose testing in performing a contract. It consists of items or assemblies of equipment including standard or general purpose items or components that are interconnected and interdependent so as to become a new functional entity for special testing purposes. It does not include material, special tooling, facilities (except foundations and similar improvements necessary for installing special test equipment), and plant equipment items used for general plant testing purposes.

(jj) Special tooling - jigs, dies, fixtures, molds, patterns, taps, gauges, other equipment and manufacturing aids, all components of these items, and replacement of these items, which are of such a specialized nature that without substantial modification or alteration their use is limited to the development or production of particular supplies or parts thereof or to the performance of particular services. It does not include material, special test equipment, facilities (except foundations and similar improvements necessary for installing special tooling), general or special machine tools, or similar capital items.

(kk) Stock record - perpetual inventory record which shows by nomenclature the quantities of each item received and issued and the balance on hand.

(ll) Summary Record - a separate card, form, document or specific line(s) of computer data used to account for multiple quantities of a line item of special tooling, special test equipment, or plant equipment costing less than $5,000 per unit.

(mm) Surplus property - Contractor inventory not required by any Federal agency.

(nn) Surplus release date (SRD) - the date on which screening of personal property for Federal use is completed and the property is not needed for any Federal use. On that date, property becomes surplus and is eligible for donation.

(oo) Termination inventory - any property purchased, supplied, manufactured, furnished, or otherwise acquired for the performance of a contract subsequently terminated and properly allocable to the terminated portion of the contract. It includes Government-furnished property. It does not include any facilities, material, special test equipment, or special tooling that are subject to a separate contract or to a special contract requirement governing their use or disposition.

(pp) Utility distribution system - includes distribution and transmission lines, substations, or installed equipment forming an integral part of the system by which gas, water, steam, electricity, sewerage, or other utility services are transmitted between the outside building or structure in which the services are used and the point of origin, disposal, or connection with some other system. It does not include communication services.

(qq) Work-in-process - material that has been released to manufacturing, engineering, design or other services under the contract and includes undelivered manufactured parts, assemblies, and products, either complete or incomplete.

(End of clause)

I.77 3.10.3-2 Government Property - Basic Clause - Alternate II (February 2003)

Government property is all property owned by or leased to the Government/TSA or acquired by the Government/TSA under the terms of the contract. It includes both Government-furnished property and Contractor-acquired property. Government and TSA are synonymous throughout this clause.

(a) Government-Furnished Property.

(1) The TSA should deliver to the Contractor, for use in connection with and under the terms of this contract, the Government-furnished property (GFP) also referred to as Transportation Security Administration (TSA) Furnished Property, collectively known as Government property described in the Schedule or specifications together with any related data and information that the Contractor may request and is reasonably required for the intended use of the GFP.

(2) The delivery or performance dates for this contract are based upon the expectation that GFP suitable for use (except for GFP "as is") will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.

(3) If GFP is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt, notify the Contracting Officer (CO), detailing the facts, and, as directed by the CO and at TSA expense, either repair, modify, return, or otherwise dispose of the property. After completing the directed action and upon written request of the Contractor, the Contracting Officer may make an equitable adjustment as provided in paragraph (h) of this clause.

(4) If GFP is not delivered to the Contractor by the required time, the Contracting Officer will, upon the Contractor's timely written request, make a determination regarding the delay, if any, caused to the Contractor and shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(b) Changes in Government-furnished property.

(1) The Contracting Officer (CO) may, by written notice,

(i) decrease GFP provided or to be provided under this contract, or

(ii) substitute other GFP for the property to be provided by the Government, or to be acquired by the Contractor for the Government, under this contract.

The Contractor shall promptly take such action directed the CO for the removal, shipment, or disposal of the GFP covered by such notice.

(2) Upon the Contractor's written request, the Contracting Officer, will make an equitable adjustment to the contract in accordance with paragraph (h) of this clause, if the Government has agreed in the Schedule to make the property available for performing this contract and there is any-

(i) Decrease or substitution in this property pursuant to subparagraph (b)(1) above; or

(ii) Withdrawal of authority to use this property, if provided under any other contract or lease.

(c) Title in Government property.

(1) The Government shall retain title to all GFP and Contractor-acquired property (CAP) (collectively referred to as "Government property").

(2) Cost-reimbursement, labor hour, time and materials contracts.

(i) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract shall pass to and vest in the Government upon the vendor's delivery of such property.

(ii) Title to all other property, the cost of which is reimbursable to the Contractor, shall pass to and vest in the Government:

(A) Issuance of the property for use in contract performance;

(B) Commencement of processing of the property for use in contract performance; or

(C) Reimbursement of the cost of the property by the Government, whichever occurs first.

(iii) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor should Government property become a fixture or lose its identity as personal property by being attached to any real property.

(d) Use of Government property. The Government property shall be used only for performing this contract unless otherwise provided in this contract or approved by the Contracting Officer.

(e) Property administration.

(1) The Contractor shall be directly responsible and accountable for all Government property provided under this contract, including GFP and CAP in the possession or control of a subcontractor and should comply with associated TSA property clauses and contract requirements.

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with the provisions of Transportation Security Acquisition Management System (TSAMS)

Government-Property clauses in effect on the date of this contract. The provisions of the TSAMS clauses are hereby incorporated by reference and made a part of this contract.

(f) Access. The TSA and all its designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.

(g) Risk of loss or damage to GFP.

(1) Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or destruction of, or damage to, Government property upon its delivery to the Contractor or upon passage of title to the Government under paragraph (c) of this clause. However, the Contractor is not responsible for reasonable wear and tear to Government property or for Government property properly consumed in performing this contract. When the property receives the maintenance and servicing required for operations under this contract.

(2) If damage occurs to Government property, the risk of which has been assumed by the TSA under this contract, the TSA will replace the items or the Contractor shall make such repairs as the TSA directs. However, if the Contractor cannot effect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the TSA is responsible is replaced or repaired, the Contracting Officer will make an equitable adjustment to GFP records in accordance with paragraph (h) of this clause.

(3) Cost, labor hour or time and materials contracts - limited risk of loss. The Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this contract (or, if an educational or nonprofit organization, for expenses incidental to such loss, destruction, or damage), except as provided in subparagraph (4) below.

(4) The Contractor shall be responsible for loss or destruction of, or damage to, the Government property provided under this contract (including expenses incidental to such loss, destruction, or damage)-

(i) That results from a risk expressly required to be insured under this contract but only to the extent of the insurance required to be purchased and maintained or to the extent of insurance actually purchased and maintained, whichever is greater;

(ii) That results from a risk that is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement;

(iii) For which the Contractor is otherwise responsible under the express terms of this contract;

(iv) That results from willful misconduct or lack of good faith on the part of the Contractor's managerial personnel; or

(v) That results from a failure on the part of the Contractor, due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel, to establish and administer a program or system

for the control, use, protection, preservation, maintenance, and repair of Government property as required by this clause.

(5) If the Contractor fails to act as provided by subdivision (g)(4)(v) above, after being notified (by certified mail addressed to one of the Contractor's managerial personnel) of the Government's disapproval, withdrawal of approval, or non-acceptance of the system or program, it shall be conclusively presumed that such failure was due to willful misconduct or lack of good faith on the part of the Contractor's personnel. In such event, any loss or destruction of, or damage to, the Government property shall be presumed to have resulted from such failure unless the Contractor can establish by clear and convincing evidence that such loss, destruction, or damage:

(i) Did not result from the Contractor's failure to maintain an approved program or system; or

(ii) Occurred while an approved program or system was maintained by the Contractor.

(6) If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of, or damage to, the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of, or damage to, the property while in the subcontractor's possession or control, except to the extent that the subcontract, with the advance approval of the Contracting Officer, relieves the subcontractor from such liability. In the absence of such approval, the subcontract should contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for its use in accordance with the provisions of the prime contract.

(7) Upon loss or destruction of, or damage to, Government property provided under this contract, the Contractor shall so notify the Contracting Officer and shall communicate with the loss and salvage organization, if any, designated by the Contacting Officer. With the assistance of any such organization, the Contractor shall take all reasonable action to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the affected Government property in the best possible order, and furnish to the Contracting Officer a statement of:

(i) The lost, destroyed, or damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

(8) The Contractor shall repair, renovate, and take such other action with respect to damaged Government property as the Contracting Officer directs. If the Government property is destroyed or damaged beyond practical repair, or is damaged and so commingled or combined with property of others (including the Contractor's) that separation is impractical, the Contractor may, with the approval of and subject to any conditions imposed by the Contracting Officer, sell such property for the account of the Government. Such sales may be made in order to minimize the loss to the Government,

to permit the resumption of business, or to accomplish a similar purpose. The Contractor shall be entitled to an equitable adjustment in the contract price for the expenditures made in performing the obligations under this subparagraph (g)(8) in accordance with this clause. However, the Government may directly reimburse the loss and salvage organization for any of their charges. The Contracting Officer should give due regard to the Contractor's liability under this paragraph (g) when making any such equitable adjustment.

(9) The Contractor represents that it is not including in the price, and agrees it will not hereafter include in any price to the Government, any charge or reserve for insurance (including any self-insurance fund or reserve) covering loss or destruction of, or damage to, Government property, except to the extent that the Government may have expressly required the Contractor to carry such insurance under another provision of this contract.

(10) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance or of any reserve covering risk of loss or destruction of, or damage to, Government property, except to the extent that the Government may have expressly required the Contractor to carry insurance under another provision of this contract.

(11) In the event the Contractor is reimbursed or otherwise compensated for any loss or destruction of, or damage to, Government property, the Contractor shall use the proceeds to repair, renovate, or replace the lost, destroyed, or damaged Government property or shall otherwise credit the proceeds to, or equitably reimburse the Government, as directed by the Contracting Officer.

(12) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss or destruction of, or damage to, Government property. Upon the request of the Contracting Officer, the Contractor shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of, or damage to, Government property, the Contractor shall enforce for the benefit of the Government the liability of the subcontractor for such loss, destruction, or damage.

The foregoing provisions shall apply to scrap from Government property; provided, however, that the Contracting Officer may authorize or direct the Contractor to omit from such inventory schedules any scrap consisting of faulty castings or forgings or of cutting and processing waste, such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings, and remnants, and to dispose of such scrap in accordance with the Contractor's normal practice and account for it as a part of general overhead or other reimbursable costs in accordance with the Contractor's established accounting procedures.

(h) Equitable adjustment. When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the TSA. The right to an equitable adjustment shall be the contractor's exclusive remedy. The TSA will not be liable to suit for breach of contract for:

(1) Any delay in delivery of Government-furnished property;

(2) Delivery of GFP in a condition not suitable for its intended use;

(3) A decrease in or substitution of GFP; or

(4) Failure to repair or replace GFP for which the TSA is responsible.

(i) Final accounting and disposition of Government property. Upon completing this contract, or at such earlier dates as may be determined by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government property (including any resulting scrap) not consumed in performing this contract or delivered to the TSA. The Contractor shall prepare for shipment, deliver f.o.b. origin/f.o.b. destination, or dispose of the Government property as directed by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to the TSA as directed by the Contracting Officer.

(j) Abandonment and restoration of Contractor's premises. Unless otherwise provided herein, the TSA:

(1) May abandon any Government property in place, at which time all obligations of the TSA regarding such abandoned Government property shall cease; and

(2) Has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or upon contract completion). However, if the GFP (listed in the Schedule or specifications) is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.

(k) Communications. All communications under this clause shall be in writing.

(l) Overseas Contracts. If this contract is to be performed outside of the United States of America, its territories, or possessions, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

(End of clause)

I.78 3.10.3-7 Government Property - Facilities Use (February 2003)

(a) Period of this contract. If not otherwise specified in this contract and if not previously terminated under paragraph (j), the use of the facilities authorized under this contract shall terminate 5 years after its effective date. Thereafter, if continued use of the facilities by the Contractor is mutually desired, the parties shall enter into a new contract that shall incorporate such provisions as may then be required by applicable laws and regulations. The parties may, by written agreement, extend the use of the facilities under this contract beyond this 5-year period to permit the completion of any then-existing related contracts and subcontracts.

(b) Title in the facilities.

(1) Title to the facilities shall remain in the Government. Title to parts replaced by the Contractor in carrying out its normal maintenance obligations under paragraph (f) shall pass to and vest in the Government upon completion of their installation in the facilities.

(2) Title to the facilities shall not be affected by their incorporation into or attachment to any property not owned by the Government, nor shall any item of the facilities become a fixture or lose its identity as personal property by being attached to any real property. The Contractor shall keep the facilities free and

clear of all liens and encumbrances and, except as otherwise authorized by this contract or by the Contracting Officer, shall not remove or otherwise part with possession of, or permit the use by others of, any of the facilities.

(3) The Contractor may, with the written approval of the Contracting Officer, install, arrange, or rearrange, on Government-furnished premises, readily movable machinery, equipment, and other items belonging to the Contractor. Title to any such item shall remain in the Contractor even though it may be attached to real property owned by the Government, unless the Contracting Officer determines that it is so permanently attached that removal would cause substantial injury to Government property.

(4) The Contractor shall not construct or install, at its own expense, any fixed improvement or structural alterations in Government buildings or other real property without advance written approval of the Contracting Officer. Fixed improvement or structural alterations, as used herein, means any alteration or improvement in the nature of the building or other real property that, after completion, cannot be removed without substantial loss of value or damage to the premises. The term does not include foundations for production equipment.

(c) Location of the facilities. The Contractor may use the facilities at any of the locations specified in the Schedule and, with the prior written approval of the Contracting Officer, at any other location. In granting this approval, the Contracting Officer may prescribe such terms and conditions as may be deemed necessary for protecting the Government's interest in the facilities involved. Those terms and conditions shall take precedence over any conflicting provisions of this contract.

(d) Notice of use of the facilities. The Contractor shall notify the Contracting Officer in writing--

(1) Whenever use of all facilities for Government work in any quarterly period averages less than 75 percent of the total use of the facilities; or

(2) Whenever any item of the facilities is no longer needed or usable for performing existing related contracts that authorize such use.

(e) Property control. The Contractor shall maintain property control procedures and records, and a system of identification of the facilities, in accordance with the provisions of FAA guidance Section 3.10.3 in effect on the date of this contract. The provisions of FAA guidance Section 3.10.3 are hereby incorporated by reference and made a part of this contract.

(f) Maintenance.

(1) Except as otherwise provided in the Schedule, the Contractor shall protect, preserve, maintain (including normal parts replacement), and repair the facilities in accordance with sound industrial practice.

(2) As soon as practicable after the execution of this contract, the Contractor shall submit to the Contracting Officer a written proposed maintenance program, including a maintenance records system, in sufficient detail to show the adequacy of the proposed program. If the Contracting Officer agrees to the proposed program, it shall become the normal maintenance obligation of the Contractor. The Contractor's performance according to the approved program shall satisfy the Contractor's obligations under subparagraphs (f)(1) and (f)(5) of this clause.

(3) The Contracting Officer may at any time direct the Contractor in writing to reduce the work required by the normal maintenance program. If such order reduces the cost of performing the maintenance, an appropriate equitable adjustment may be made in any affected related contract that so provides.

(4) The Contractor shall perform any maintenance work directed by the Contracting Officer in writing. Work in excess of the maintenance required under subparagraphs (f)(1) through (f)(3) of this clause shall be at Government expense. The Contractor shall notify the Contracting Officer in writing when sound industrial practice requires maintenance in excess of the normal maintenance program.

(5) The Contractor shall keep records of all work done on the facilities and shall give the Government reasonable opportunity to inspect such records. When facilities are disposed of under this contract the Contractor shall deliver the related records to the Government or, if directed by the Contracting Officer, to third persons.

(6) The Contractor's obligation under this clause for each item of facilities shall continue until the item is removed, abandoned, or disposed of at the expiration of the 120-day period stated in subparagraph (1)(4) of this clause and when the Contractor has discharged its other obligations under this contract with respect to such items.

(g) Access. The Government and any persons designated by it shall, at all reasonable times, have access to the premises where any of the facilities are located.

(h) Indemnification of the Government. The Contractor shall indemnify the Government and hold it harmless against claims for injury to persons or damage to property of the Contractor or others arising from the Contractor's possession or use of the facilities under this contract. However, the provisions of the Contractor's related contracts shall govern any assumption of liability by the Government for claims arising under those contracts.

(i) Representations and warranties.

(1) The Government makes no warranty, express or implied, regarding the condition or fitness for use of any facilities. To the extent practical, the Contractor shall be allowed to inspect all the facilities to be furnished by the Government before their shipment.

(2) If the Contractor receives facilities in a condition not suitable for the intended use, the Contractor shall, within 30 days after receipt and installation thereof, so notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either (i) return such item or otherwise dispose of it or (ii) effect repairs or modifications. An appropriate equitable adjustment may be made in any related contract that so provides and that is affected by the return, disposition, repair, or modification of any facilities.

(j) Termination of use of the facilities.

(1) The Contractor may at any time, upon written notice to the Contracting Officer, terminate its authority to use any or all of the facilities. Termination under this paragraph (j) shall not relieve the Contractor of any of its obligations or liabilities under any related contract or subcontract affected by the termination.

(2) The Contracting Officer may at any time, upon written notice, terminate or limit the Contractor's authority to use any of the facilities. Except as otherwise provided in the Failure to Perform clause of this contract, an equitable adjustment may be made in any related contract of the Contractor that so provides and that is affected by such notice.

(k) Disposition of the facilities.

(1) The provisions of this paragraph (k) shall apply to facilities whose use has been terminated by either the Contracting Officer or the Contractor under paragraph (j), except as provided in subparagraph (k)(2).

(2) Unless otherwise directed by the Contracting Officer, this paragraph (l) shall not apply to facilities terminated by the Contractor if--(i) The facilities terminated do not comprise all of the facilities in the possession of the Contractor; and (ii) The Contracting Officer determines that continued retention of the facilities will not interfere with the Contractor's operations.

(3) Within 60 days after the effective date of any notice of termination given under paragraph (j) or within such longer period as the Contracting Officer may approve in writing, the Contractor shall submit to the

Contracting Officer an accounting for all the facilities covered by such notice. The submission of the Contractor shall be in a form satisfactory to the Contracting Officer.

(4) Within 120 days after the Contractor accounts for any facilities under subparagraph (k)(3), the Contracting Officer shall give written notice to the Contractor as to the disposition of the facilities, except as otherwise provided in subparagraph (k)(6). In its disposition of the facilities, the Government may either--

(i) Abandon the facilities in place, in which case all obligations of the Government regarding such abandoned facilities and the rehabilitation of the premises in and on which they are located shall immediately cease; or

(ii) Require the Contractor to comply, at Government expense, with such directions as the Contracting Officer may give with respect to--

(A) The preparation, protection, removal, or shipment of the affected facilities;
(B) The retention or storage of the affected facilities; provided, that the Contracting Officer shall not direct the Contractor to retain or store any items of facilities in or on real property not owned by the Government if such retention or storage will interfere with the Contractor's operations;

(C) The restoration of Government-owned property incident to the removal of the facilities from such property; and

(D) The sale of any affected facilities in such manner, at such times, and at such price as may be approved by the Government, except that the Contractor shall not be required to extend credit to any purchaser.

(5) If the Contracting Officer fails to give the written notice required by subparagraph (k)(4) of this clause within the prescribed 120-day period, the Contractor may, upon not less than 30 days' written notice to the Government, and at Government risk and expense,

(i) retain the facilities in place or

(ii) remove any of the affected severable facilities located in Contractor-owned property and store them at the Contractor's plant or in a public insured warehouse.

Such removal and storage shall be in accordance with sound practice and in a manner compatible with the security classification of the facilities. Except as provided in this subparagraph (k)(5), the Government shall not be liable to the Contractor for failure to give the written notice required by subparagraph (k)(4).

(6) Nonseverable items of the facilities or items of the facilities subject to patent or proprietary rights shall be disposed of in such manner as the parties may have agreed to in writing.

(7) The Government, either directly or by third persons engaged by it, may remove or otherwise dispose of any facilities for which the Contractor's authority to use has been terminated, other than those for which specific provision is made in subparagraph (k)(6).

(8) The Contractor shall, within a reasonable time after the expiration of the 120-day period specified in subparagraph (k)(4), remove all of its property from the Government property and take such action as the Contracting Officer may direct in writing with respect to restoring such Government property, to the extent that it is affected by the installation of the Contractor's property, to its condition before such installation.

(9) Unless otherwise specifically provided in this contract, the Government shall not be obligated to the Contractor to restore or rehabilitate any property at the Contractor's plant, except for restoration or rehabilitation costs caused by removal of the facilities under subdivision (k)(4)(ii). The Contractor agrees to indemnify the Government against all suits or claims for damages arising out of the Government's failure to restore or rehabilitate any property at the Contractor's plant or property of its subcontractors, except any

damage as may be caused by the negligence of the Government, its agents, or independent contractors.

(l) Supersedure.

(1) Facilities previously provided to the Contractor under the contracts specified in the Schedule of this contract shall become subject to this contract upon its effective date. The terms of those contracts by which such facilities were previously provided to the Contractor are hereby superseded with respect to such facilities, except for rights and obligations that may have accrued under such other contract before the effective date of this contract.

(2) Facilities subsequently provided the Contractor under any contract shall, if that contract so specifies, be subject to this contract upon the completion of their construction, acquisition, and installation or upon their availability for use, whichever occurs first, except as otherwise provided in the contract or other document by which such facilities are provided to the Contractor.

(End of clause)

I.79 3.10.3-13 Segregation of Government Property (February 2003)
The Contractor shall physically separate Government property from Contractor-owned property. However, when advantageous to the TSA and consistent with the Contractor's authority to use such property, the property may be commingled:
(a) When the Government property is special tooling, special test equipment, or plant equipment clearly identified and recorded as Government property;
(b) When approved by the TSA Property Administrator in connection with research and development contracts;
(c) When material is included in a multi-contract cost and material control system;
(d) When scrap of a uniform nature is produced from both Government-owned and Contractor-owned material and physical segregation is impracticable;
(e) When scrap produced from TSA-owned material is insignificant in consideration of the cost of segregation and control;
(f) When TSA contracts involved are fixed-price and provide for the retention of the scrap by the Contractor; or
g) When otherwise approved by the TSA Property Administrator.

(End of clause)

I.80 3.10.3-14 Inventories (February 2003)
(a) Quarterly Inventories

(1) The Contractor shall provide to the TSA's Property Administrator a quarterly (or other time frame as agreed to by the Contractor and the Contracting Officer) listing of all Government property in their possession (this includes GFP and CAP).

(2) The Contractor may electronically reproduce standard inventory schedule forms provided no change is made to the name, content or sequence of the data elements. All essential elements of data must be included and the form must be signed.

(3) The Contractor shall use inventory schedule to report all transaction of Government property in Contractor's possession or control and shall cause subcontractors to do likewise.

(b) Physical Inventories.
The Contractor shall periodically physically inventory all Government property (except materials issued from stock for manufacturing, research, design, or other services required by the contract) in its possession or control and shall cause subcontractors to do likewise. The Contractor, with the approval of the Property Administrator, shall establish the type, frequency, and procedures. These may include electronic reading,

recording and reporting or other means of reporting the existence and location of the property and reconciling the records. Type and frequency of inventory shall be based on the Contractor's established practices, the type and use of the Government property involved, or the amount of Government property involved and its monetary value, and the reliability of the Contractor's property control system. Type and frequency of physical inventories normally shall not vary between contracts being performed by the Contractor, but may vary with the type of property being controlled. Personnel who perform the physical inventory should not be the same personnel who prepare the monthly inventories.

(c) Inventories upon termination or completion.

(1) General. Immediately upon termination or completion of a contract, the Contractor shall perform and cause each subcontractor to perform a physical inventory, adequate for disposal purposes, of all Government property applicable to the contract, unless the requirement is waived as provided in paragraph (2) below.

(2) Exception. The requirement for physical inventory at the completion of a contract may be waived by the Property Administrator when the property is authorized for use on a follow-on contract; provided, that:

(i) Experience has established the adequacy of property controls and an acceptable degree of inventory discrepancies; and

(ii) The Contractor provides a statement indicating that record balances have been transferred in lieu of preparing a formal inventory list and that the Contractor accepts responsibility and accountability for those balances under the terms of the follow-on contract.

(3) Listings for disposal purposes. (Note: This paragraph (3) applies only to nonprofit organizations.)

(i) Standard items that have been modified may be described on listings for disposal purposes as standard items with a general description of the modification.

(ii) Items that have been fabricated, such as test equipment, shall be described in sufficient detail to permit a potential user to determine whether they are of sufficient interest to warrant further inspection.

(d) Reporting results of inventories. The Contractor shall, as a minimum, submit the following to the TSA Property Administrator promptly after completing the physical inventory:

(1) A listing that identifies all discrepancies disclosed by a physical inventory.

(2) A signed statement that physical inventory of all or certain classes of Government property was completed on a given date and that the official property records were found to be in agreement except for discrepancies reported.

(e) Quantitative and monetary control. When requested by the Property Administrator, the Contractor's reports of results of physical inventory shall be prepared on a quantitative and monetary basis and segregated by categories of property.

(End of clause)

I.81 3.10.3-15 Disposition of Government Property (February 2003)

(a) Submission of inventory schedules.

(1) When property is no longer needed to perform the contract, the Contractor shall prepare inventory schedules in accordance with the contract and instructions from the plant clearance officer or TSA Property Administrator and shall promptly submit the schedules to the TSA Property Administrator. Inventory schedules may also be used for screening with other Federal agencies.

(2) The certificate on the inventory schedule must be executed when Contractor inventory is reported. The prime Contractor shall execute this certificate, except that for subcontractor termination inventory the subcontractor shall execute the certificate.

(3) The Contractor's inventory schedules shall not include any items that the Contractor can reasonably use on other Government work without financial loss. However, the schedules shall include common items specified by the Contracting Officer for delivery to the Government or which are Government-furnished property.

(4) The contract may authorize the Contractor to electronically reproduce inventory schedules provided no change is made in the name, content or sequence of the data elements. All essential elements of data must be included and the form must be signed.

(b) Acceptance. Within 15 days after receipt of inventory schedules, the plant clearance officer or Property Administrator should review them, determine their acceptability, and request the Contractor to correct any inadequate listings. Inventory schedules should not be rejected if the information is adequate for disposal purposes, even if complete cost data on work-in-process are not available. Rejection should be limited, when possible, to specific items and should not necessarily render the entire schedule unacceptable. If substantial errors are discovered that were not apparent on termination inventory schedules previously found acceptable, the final phase of a plant clearance period should not begin until corrected schedules have been submitted, unless the plant clearance officer or Property Administrator determines otherwise.
(c) Excess inventories.

(1) Contractors shall report Contractor inventory promptly after determining it to be excess, unless a later date is authorized by the Contracting Officer or Property Administrator.

(2) Unless contract provisions or agency regulations prescribe otherwise, 12 copies of inventory schedules listing serviceable or salvable items and 6 copies of inventory schedules listing scrap items shall be presented to the Property Administrator.

(3) The Contractor shall not submit partial schedules unless authorized by the TSA Property Administrator. The first page of each schedule submitted shall be identified as partial or final in the title block of the schedule.

(End of clause)

I.82 3.10.6-3 Termination - Cost-Reimbursement (February 2003))

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part, if--

(1) The Contracting Officer determines that a termination is in the Government's interest; or

(2) The Contractor defaults in performing this contract. 'Default' includes failure to make progress in the work so as to endanger performance.

(b) The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying whether termination is for default of the Contractor or for convenience of the Government, the extent of termination, and the effective date. If, after termination for default, it is determined that the Contractor was not in default or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor as set forth in the "Excusable Delays" clause, the rights and obligations of the parties will be the same as if the termination was for the convenience of the Government.

(c) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, the cost of which would be reimbursable in whole or in part, under this contract; approval or ratification will be final for purposes of this clause.

(6) Transfer title (if not already transferred) and, as directed by the Contracting Officer, deliver to the Government:

(i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated,

(ii) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government, and

(iii) the jigs, dies, fixtures, and other special tools and tooling acquired or manufactured for this contract, the cost of which the Contractor has been or will be reimbursed under this contract.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor:

(i) is not required to extend credit to any purchaser and

(ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer.

The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(d) The Contractor shall submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept the items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(e) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(f) Subject to paragraph (e) above, the Contractor and the Contracting Officer may agree on the whole or any part of the amount to be paid (including an allowance for fee) because of the termination. The contract shall be amended, and the Contractor paid the agreed amount.

(g) If the Contractor and the Contracting Officer fail to agree in whole or in part on the amount of costs and/or fee to be paid because of the termination of work, the Contracting Officer shall determine, on the basis of information available, the amount, if any, due the Contractor, and shall pay that amount, which shall include the following:

(1) All costs reimbursable under this contract, not previously paid, for the performance of this contract before the effective date of the termination, and those costs that may continue for a reasonable time with the approval of or as directed by the Contracting Officer; however, the Contractor shall discontinue those costs as rapidly as practicable.

(2) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (1) above.

(3) The reasonable costs of settlement of the work terminated, including--

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

If the termination is for default no amounts for the preparation of the Contractor's termination settlement proposal may be included.

(4) A portion of the fee payable under the contract determined as follows:

(i) If the contract is terminated for the convenience of the Government, the settlement shall include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination proposals, less previous payments for fee.

(ii) If the contract is terminated for default, the total fee payable shall be such proportionate part of the fee as the total number of articles (or amount of services) delivered to and accepted by the Government is to the total number of articles (or amount of services) of a like kind required by the contract.

(5) If the settlement includes only fee, it will be determined under subparagraph (g)(4) above.

(h) The cost principles and procedures, in effect on the date of this contract shall govern all costs claimed, agreed to, or determined under this clause.

(i) The Contractor may file a claim with the FAA Office of Dispute Resolution for Acquisition based on any determination made by the Contracting Officer under paragraph (e) or (g) above or paragraph (k) below, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (e) and failed to request a time extension, there is basis for a claim. If the Contracting Officer has made a determination of the amount due under paragraph (e), (g) or (k), the Government shall pay the Contractor:

(1) the amount determined by the Contracting Officer if there is no right to file a claim or if no claim has been filed, or

(2) the amount finally determined allowable by the FAA Office of Dispute Resolution for Acquisition.

(j) In arriving at the amount due the Contractor under this clause, there shall be deducted--

(1) All unliquidated advance or other payments to the Contractor, under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of materials, supplies, or other things acquired by the Contractor or sold under this clause and not recovered by or credited to the Government.

(k) The Contractor and Contracting Officer must agree to any equitable adjustment in fee for the continued portion of the contract when there is a partial termination. The Contracting Officer shall amend the contract to reflect the agreement.

(l) (1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(m) The provisions of this clause relating to fee are Inapplicable if this contract does not include a fee.

(End of clause)

I.83 3.10.6-7 Excusable Delays (February 2003)

(a) Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are

(1) acts of God or of the public enemy,
(2) acts of the Government in either its sovereign or contractual capacity,
(3) fires,
(4) floods,
(5) epidemics,
(6) quarantine restrictions,
(7) strikes,
(8) freight embargoes, and
(9) unusually severe weather.

In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. 'Default' includes failure to make progress in the work so as to endanger performance.

(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless--

(1) The subcontracted supplies or services were obtainable from other sources;

(2) The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and

(3) The Contractor failed to comply reasonably with this order.

(c) Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of the failure. If the Contracting Officer determines that any failure to perform results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of the Government under the termination clause of this contract.

(End of clause)

I.84 3.11-65 Submission of Commercial Transportation Bills to the General Services Administration for Audit (February 2003)

(a) (1) In accordance with paragraph (a)(2) of this clause, the Contractor shall submit to the General Services Administration (GSA) for audit, legible copies of all paid freight bills/invoices, commercial bills of lading (CBL's), passenger coupons, and other supporting documents for transportation services on which the United States will assume freight charges that were paid --

(i) By the Contractor under a cost-reimbursement contract; and

(ii) By a first-tier subcontractor under a cost reimbursement subcontract thereunder.

(2) Cost-reimbursement Contractors shall only submit for audit those CBL's with freight shipment charges exceeding $50.00. Bills under $50.00 shall be retained on-site by the contractor and made available for GSA on-site audits. This exception only applies to freight shipment bills and is not intended to apply to bills and invoices for any other transportation services.

(b) The Contractor shall forward copies of paid freight bills/invoices, GBL's, passenger coupons, and supporting document as soon as possible following the end of the month, in one package to the:
General Services Administration
ATTN: FWA
1800 F Street, NW
Washington, DC 20405

The Contractor shall include the paid freight bills/invoices, CBL's, passenger coupons, and supporting documents for first-tier subcontractors under a cost-reimbursement contract. If the inclusion of the paid freight bills/invoices CBL's passenger coupons, and supporting documents for any subcontractor in the shipment is not practicable, the documents may be forwarded to GSA in a separate package.

(c) Any original transportation bills or other documents requested by GSA shall be forwarded promptly by the Contractor to GSA. The Contractor shall insure that the name of the contracting agency is stamped or written in the face of the bill before sending it to GSA.

(d) A statement prepared in duplicate by the Contractor shall accompany each shipment of transportation documents. GSA will acknowledge receipt of the shipment by signing and returning the copy of the statement. The statement shall show --

(1) The name and address of the Contractor.

(2) The contract number, including any alpha-numeric prefix identifying the contracting office.

(3) The name and address of the contracting office.

(4) The total number of bills submitted with the statement: and

(5) A listing of the respective amounts paid or, in lieu of such listing, an adding machine tape of the amounts paid showing the Contractor's voucher or check numbers.

(End of clause)

I.85 3.13-2 Security Requirements-Classified Contracts (February 2003)
(a) This clause applies to the extent that this contract involves access to information that is classified as "Confidential," "Secret," or "Top Secret."
(b) The Contractor shall comply with the requirements in (1) the Contract Security Classification Specification (DD Form 254) included in the current edition of the National Industrial Security Operating Manual (DOD 5220.22-M) for the protection of classified information at its cleared facility, if applicable, as directed by the Defense Security Service. If the Contactor has access to classified information at a TSA owned or TSA leased facility, it shall comply with the security requirements of the TSA.
(c) If, subsequent to the date of this contract, the security classification or security requirements under this contract are changed by the Government and if the changes cause an increase or decrease in security costs or otherwise affect any other term or condition of this contract, the contract shall be subject to an equitable adjustment.
(d) The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph (d) but excluding any reference to the "Changes" clause of this contract, in all subcontracts under this contract that involve access to classified information.

(End of clause)

I.86 3.13-3 Printing/Copying Double-sided on Recycled Paper (February 2003)
In accordance with Executive Order 12873, dated October 20, 1993, the Offeror/Contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed/copied double-sided on recycled paper that has at least 20% post-consumer material. If the contractor can only print/copy double-sided or use recycled paper, the contractor should accomplish whichever one the contractor has the ability to achieve.

(End of clause)

I.87 3.10.6-1 Termination for Convenience of the Government - Fixed- Price (August 2002)
Applicable to CLINs 0007-0009, and Option CLINs 0010-0012, if exercised.

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.
(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
(1) Stop work as specified in the notice.
(2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
(3) Terminate all subcontracts to the extent they relate to the work terminated.
(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.
(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.
(6) As directed by the Contracting Officer, transfer title and deliver to the Government:
(i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated, and
(ii) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government.
(7) Complete performance of the work not terminated.
(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the contractor and in which the Government has or may acquire an interest.
(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor:

(i) is not required to extend credit to any purchaser and
(ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer.
The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.
(c) The Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.
(d) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1-year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.
(e) Subject to paragraph (d) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (e) or paragraph (f) below, exclusive of costs shown in subparagraph (f)(3) below, may not exceed the total contract price as reduced by:
(1) the amount of payments previously made and
(2) the contract price of work not terminated.
The contract shall be amended, and the Contractor paid the agreed amount. Paragraph (f) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.
(f) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (e) above:
(1) The contract price for completed supplies or services accepted by the Government (or sold or acquired under subparagraph (b)(9) above) not previously paid for, adjusted for any saving of freight and other charges.
(2) The total of--
(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (f)(1) above;
(ii) The cost of setting and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (i) above; and
(iii) A sum, as profit on subdivision (i) above, determined by the Contracting Officer to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subdivision (iii) and shall reduce the settlement to reflect the indicated rate of loss.
(3) The reasonable costs of settlement of the work terminated, including--
(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and
(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.
(g) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (f)

above, the fair value, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to a buyer.
(h) The cost principles and procedures, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.
(i) The Contractor may file a claim with the FAA Office of Dispute Resolution for Acquisition based on any determination made by the Contracting Officer under paragraph (d), (f), or (k), except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) or (k), and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (d), (f), or (k), the Government shall pay the Contractor:
(1) the amount determined by the Contracting Officer if there is no right to file a claim or if no claim has been filed, or
(2) the amount finally determined allowable by the FAA Office of Dispute Resolution for Acquisition.
(j) In arriving at the amount due the Contractor under this clause, there shall be deducted--
(1) All unliquidated advance or other payments to the Contractor under the terminated portion of this contract;
(2) Any claim which the Government has against the Contractor under this contract; and
(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Government.
(k) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 90 days from the effective date of termination unless extended in writing by the Contracting Officer.
(l) (1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.
(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.
(m) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.
(End of clause)

3.10.6-4 Default - Fixed-Price Supply and Service (February 2003)
(a) (1) The Government may, subject to paragraphs (c) and (d) below, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to--

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

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

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

(2) Prior to terminating a contract for default, the Government will issue a show cause notice permitting the Contractor to present any defenses it may have to the default termination.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Government for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.
(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include:

(1) acts of God or of the public enemy,
(2) acts of the Government in either its sovereign or contractual capacity,
(3) fires,
(4) floods,
(5) epidemics,
(6) quarantine restrictions,
(7) strikes,
(8) freight embargoes, and
(9) unusually severe weather.

In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.
(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any:

(1) completed supplies, and

(2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as 'manufacturing materials' in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract.

Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the "Contract Disputes" clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.
(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.
(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

I.88 3.10.1-12 Changes—Fixed-Price - Alternate I (February 2003)
Applicable to CLINs 0007-0009, and Option CLINs 0010-0012, if exercised.

If the requirement is for services, other than architect-engineer or other professional services, and no supplies are to be furnished, substitute the following paragraph (a) for paragraph (a) of the basic clause:
(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:
(1) Description of services to be performed.
(2) Time of performance (i.e., hours of the day, days of the week, etc.).
(3) Place of performance of the services.

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I.89 3.3.1-31 Progress Payments – Alternate II (February 2003)

Applicable to CLINs 0007-0009, and Option CLINs 0010-0012, if exercised.
Progress payments shall be made to the Contractor when requested as work progresses, but not more frequently than monthly in amounts approved by the Contracting Officer, under the following conditions:
(a) Computation of amounts.
(1) Unless the Contractor requests a smaller amount, each progress payment shall be computed as:
(i) 80 percent of the Contractor's cumulative total costs under this contract, whether or not actually paid plus financing payments to subcontractors (see paragraph (j)), as shown by records maintained by the Contractor for the purpose of obtaining payment under Government contracts, plus
(ii) progress or financing payments to subcontractors (see paragraph (j) below), all less the sum of all previous progress payments made by the Government under this contract.
(iii) Cost of money is allowable subject to the requirements of TSA Cost Principles clause.
(2) The following conditions apply to the timing of including costs in progress payment requests:
(i) The costs of supplies and services purchased by the Contractor from subcontractors directly for this contract may be included whether or not actually paid.
(ii) Costs for the following may be included when incurred, even if before payment, when the Contractor is not delinquent in payment of the costs of contract performance in the ordinary course of business: In support of this, the Contractor shall include a certification in its request for progress payment indicating that it is not delinquent in payment of costs of contract performance in the ordinary course of business.
(A) Materials issued from the Contractor's stores and placed in the production process for use on this contract.
(B) Direct labor, direct travel, and other direct in-house costs
(C) Properly allocable and allowable indirect costs.
(iii) Accrued costs of Contractor contributions under employee pension or other postretirement benefit, profit sharing, and stock ownership plans shall be excluded until actually paid unless---
(A) The Contractor's practice is to contribute to the plans quarterly or more frequently; and
(B) The contribution does not remain unpaid 30 days after the end of the applicable quarter or shorter payment period (any contributions remaining unpaid shall be excluded from the Contractor's total costs for progress payments until paid).
(iv) If the contract is subject to the special transition method authorized in Cost Accounting Standard (CAS) 410, Allocation of Business Unit General and Administrative Expense to Final Cost Objective, General and Administrative expenses (G&A) shall not be included in progress payment requests until the suspense account prescribed in CAS 410 is less than--
(A) Five million dollars; or

(B) The value of the work-in-process inventories under contracts entered into after the suspense account was established (only a pro rata share of the G&A allocable to the excess of the inventory over the suspense account value is includable in progress payment requests under this contract).
(3) The Contractor shall not include the following in total costs for progress payment purposes in subparagraph (a)(1)(i) above:
(i) Costs that are not reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices.
(ii) Costs incurred by subcontractors or suppliers.
(iii) Costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.
(iv) Payments made or amounts payable to subcontractors or suppliers, except for--
(A) Completed work, including partial deliveries, to which the Contractor has acquired title; and
(B) Work under cost-reimbursement or time-and-material subcontracts to which the Contractor has acquired title.
(4) The amount of unliquidated progress payments may exceed neither (i) the progress payments made against incomplete work (including allowable unliquidated progress payments to subcontractors) nor (ii) the value, for progress payment purposes, of the incomplete work. Incomplete work shall be considered to be the supplies and services required by this contract, for which delivery and invoicing by the Contractor and acceptance by the Government are incomplete.
(5) The total amount of progress payments shall not exceed 80 percent of the total contract price.
(6) If a progress payment or the unliquidated progress payments exceed the amounts permitted by subparagraphs (a)(4) or (a)(5) above, the Contractor shall repay the amount of such excess to the Government on demand subject to 4.5% interest rate calculated from the time the excess payment was received by the contractor until such time as the reimbursement is received by the Government
(b) Liquidation. Except as provided in termination clauses of the contract, all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress payments, the unliquidated progress payments, or 80 percent of the amount invoiced, whichever is less. The Contractor shall repay to the Government any amounts required by a retroactive price reduction, after computing liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly. The Government reserves the right to unilaterally change from the ordinary liquidation rate to an alternate rate when deemed appropriate for proper contract financing.
(c) Reduction or suspension. The Contracting Officer may reduce or suspend progress payments, increase the rate of liquidation, or take a combination of these actions, after finding on substantial evidence any of the following conditions:
(1) The Contractor failed to comply with any material requirement of this contract (which includes paragraphs (f) and (g) below).
(2) Performance of this contract is endangered by the Contractor's (i) failure to make progress or (ii) unsatisfactory financial condition.
(3) Inventory allocated to this contract substantially exceeds reasonable requirements.
(4) The Contractor is delinquent in payment of the costs of performing this contract in the ordinary course of business.
(5) The unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this contract.
(6) The Contractor is realizing less profit than that reflected in the establishment of any alternate liquidation rate in paragraph (b) above, and that rate is less than the progress payment rate stated in subparagraph (a)(1) above.
(d) Title.
(1) Title to the property described in this paragraph (d) shall vest in the Government. Vestiture shall be immediately upon the date of this contract, for property acquired or produced before that date. Otherwise, vestiture shall occur when the property is or should have been allocable or properly chargeable to this contract.
(2) Property,' as used in this clause, includes all of the below-described items acquired or produced by the Contractor that are or should be allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices.
(i) Parts, materials, inventories, and work in process;

(ii) Special tooling and special test equipment to which the Government is to acquire title under any other clause of this contract;
(iii) Nondurable (i.e., noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, and other similar manufacturing aids, title to which would not be obtained as special tooling under subparagraph (ii) above; and
(iv) Drawings and technical data, to the extent the Contractor or subcontractors are required to deliver them to the Government by other clauses of this contract.
(3) Although title to property is in the Government under this clause, other applicable clauses of this contract; e.g., the termination or special tooling clauses, shall determine the handling and disposition of the property.
(4) The Contractor may sell any scrap resulting from production under this contract without requesting the Contracting Officer's approval, but the proceeds shall be credited against the costs of performance.
(5) To acquire for its own use or dispose of property to which title is vested in the Government under this clause, the Contractor must obtain the Contracting Officer's advance approval of the action and the terms. The Contractor shall (i) exclude the allocable costs of the property from the costs of contract performance, and (ii) repay to the Government any amount of unliquidated progress payments allocable to the property. Repayment may be by cash or credit memorandum.
(6) When the Contractor completes all of the obligations under this contract, including liquidation of all progress payments, title shall vest in the Contractor for all property (or the proceeds thereof) not-
(i) Delivered to, and accepted by, the Government under this contract; or
(ii) Incorporated in supplies delivered to, and accepted by, the Government under this contract and to which title is vested in the Government under this clause.
(7) The terms of this contract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.
(e) Risk of loss. Before delivery to and acceptance by the Government, the Contractor shall bear the risk of loss for property, the title to which vests in the Government under this clause, except to the extent the Government expressly assumes the risk. The Contractor shall repay the Government an amount equal to the unliquidated progress payments that are based on costs allocable to property that is damaged, lost, stolen, or destroyed.
(f) Control of costs and property. The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.
(g) Reports and access to records. The Contractor shall promptly furnish reports, certificates, financial statements, and other pertinent information reasonably requested by the Contracting Officer for the administration of this clause. Also, the Contractor shall give the Government reasonable opportunity to examine and verify the Contractor's books, records, and accounts.
(h) Special terms regarding default. If this contract is terminated under the contract default clause,
(1) The Contractor shall, on demand, repay to the Government the amount of unliquidated progress payments and
(2) Title shall vest in the Contractor, on full liquidation of progress payments, for all property for which the Government elects not to require delivery under the contract default clause. The Government shall be liable for no payment except as provided by the contract default clause.
(i) Reservations of rights.
1) No payment or vesting of title under this clause shall
(i) excuse the Contractor from performance of obligations under this contract or
(ii) constitute a waiver of any of the rights or remedies of the parties under the contract.
(2) The Government's rights and remedies under this clause
(i) shall not be exclusive but rather shall be in addition to any other rights and remedies provided by law or this contract and
(ii) shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.
(j) Finance payments to subcontractors. The amounts mentioned in (a)(1)(ii) above shall be all financing payments to subcontractors or divisions, if the following conditions are met:
(1) The amounts included are limited to (i) the unliquidated remainder of progress payments made plus (ii) for small business concerns any unpaid subcontractor requests for progress payments that the Contractor has approved for current payment in the ordinary course of business.

(2) The subcontract or interdivisional order is expected to involve a minimum of approximately 6 months between the beginning of work and the first delivery, or, if the subcontractor is a small business concern, 4 months.
(3) If the financing payments are in the form of progress payments, the terms of the subcontract or interdivisional order concerning progress payments--
(i) Are substantially similar to the terms of the Progress Payments clause, for any subcontractor that is a large business concern;
(ii) Are at least as favorable to the Government as the terms of this clause;
(iii) Are not more favorable to the subcontractor or division than the terms of this clause are to the Contractor;
(iv) Shall indicate that the Contractor, and not the Government, awards the subcontract and administers the progress payments. (v) Subordinate all subcontractor rights concerning property to which the Government has title under the subcontract to the Government's right to require delivery of the property to the Government for valid reasons not limited to (A) default of the Contractor, or (B) bankrupcy or or insolvency of the subcontractor.
(4) If the financing payments are in the form of performance-based payments, the terms of the subcontract or interdivisional order concerning payments--
(i) Are substantially similar to the Performance-Based Payments clause;
(ii) Subordinate all subcontractor rights concerning property to which the Government has title under the subcontract to the Government's right to require delivery of the property to the Government for valid reasons, not limited to --
(A) the default of the Contractor; or
(B) The bankruptcy or insolvency of the subcontractor.
(5) If the financing payments are in the form of commercial item financing payments, the subcontract or interdivisional order concerning payments subordinates all subcontractor rights concerning property to which the Government has title under the subcontract to the Government's right to require delivery of the property to the Government if--
(i) The Contractor defaults; or
(ii) The subcontractor becomes bankrupt or insolvent.
(6) The progress payment rate in the subcontract is 80% unless the subcontractor specifies a lesser amount. If the subcontractor is a small business concern, the progress payment rate may be up to 85%.
(7) The parties agree concerning any proceeds received by the Government for property to which title has vested in the Government under the subcontract terms, that the proceeds shall be applied to reducing any unliquidated progress payments by the Government to the Contractor under this contract.
(8) If no unliquidated progress payments to the Contractor remain, but there are unliquidated progress payments that the Contractor has made to any subcontractor, the Contractor shall be subrogated to all the rights the Government obtained through the terms required by this clause to be in any subcontract, as if all such rights had been assigned and transferred to the Contractor.
(9) The Contractor shall pay the subcontractor's progress payment request under subdivision (j)(1)(ii) above, within a reasonable time after receiving the Government progress payment covering those amounts.
(10) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to provide progress payments to small business concerns of up to 85%. The Contractor further agrees that the need for such progress payments shall not be considered as a handicap or adverse factor in the award of subcontracts.
(k) Limitations on Undefinitized Contract Actions.
Notwithstanding any other progress payment provisions in this contract, progress payments may not exceed 80 percent of costs incurred on work accomplished under undefinitized contract actions. A contract action' is any action resulting in a contract, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes.clause, or funding and other administrative changes. This limitation shall apply to the costs incurred, as computed in accordance with paragraph (a) of this clause, and shall remain in effect until the contract action is definitized. Costs incurred which are subject to this limitation shall be segregated on Contractor progress payment requests and invoices from those costs eligible for higher progress payment rates. For purposes of progress payment liquidation, as described in paragraph (b) of this clause, progress payments for undefinitized contract actions shall be liquidated at 80 percent of the amount invoiced for work performed under the undefinitized contract action as long as the

contract action remains undefinitized. The amount of unliquidated progress payments for undefinitized contract actions shall not exceed 80 percent of the maximum liability of the Government under the undefinitized contract action or such lower limit specified elsewhere in the contract. Separate limits may be specified for separate actions.

(l) Progress payments made under this letter contract shall, unless previously liquidated under paragraph (b) of this clause, be liquidated under the following procedures:

(1) If this letter contract is superseded by a definitive contract, unliquidated progress payments made under this letter contract shall be liquidated by deducting the amount from the first progress or other payments made under the definitive contract.
(2) If this letter contract is not superseded by a definitive contract calling for the furnishing of all or part of the articles or services covered under the letter contract, unliquidated progress payments made under the letter contract shall be liquidated by deduction from the amount payable under the Termination clause.
(3) If this letter contract is partly terminated and partly superseded by a contract, the Government shall allocate the unliquidated progress payments to the terminated and un-terminated portions as the Government deems equitable, and shall liquidate each portion under the relevant procedure in subparagraphs (l) (1) and (I)(2) of this clause.
(4) If the method of liquidating progress payment provided in this clause does not result in full liquidation, the Contractor shall immediately pay the unliquidated balance to the Government on demand.

(End of clause)

End of Section I

SECTION J – LIST OF DOCUMENTS, EXHIBITS & ATTACHMENTS

INDEX

Clause	Title
J.1	Standard Operating Procedures (SOP) Index
J.2	Performance Evaluation Plan (Award Fee Plan)
J.3	Claims Plan
J.4	Wage Determinations
J.5	Small Business Subcontracting Plan
J.6	Medical Guidelines

SECTION K – REPRESENTATIONS AND CERTIFICATIONS

Submitted under separate cover.