

**INFORMATION TO OFFERORS OR QUOTERS
SECTION A - COVER SHEET**

*Form Approved
OMB No. 9000-0002
Expires Sep 30, 2000*

The public reporting burden for this collection of information is estimated to average 35 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (9000-0002), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE ADDRESS IN BLOCK 4 BELOW.

1. SOLICITATION NUMBER DACW66-00-B-0008	2. (X one) <input checked="" type="checkbox"/> a. INVITATION FOR BID (IFB) <input type="checkbox"/> b. REQUEST FOR PROPOSAL (RFP) <input type="checkbox"/> c. REQUEST FOR QUOTATION (RFQ)	3. DATE/TIME RESPONSE DUE 14 MARCH 2000, 2:30 P.M.
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INSTRUCTIONS

NOTE: The provision entitled "Required Central Contractor Registration" is applicable to most solicitations.

1. If you are not submitting a response, complete the information in Blocks 9 through 11 and return to the issuing office in Block 4 unless a different return address is indicated in Block 7.
2. Responses must set forth full, accurate, and complete information as required by this solicitation (including attachments). "Fill-ins" are provided on Standard Form 18, Standard Form 33, and other solicitation documents. Examine the entire solicitation carefully. The penalty for making false statements is prescribed in 18 U.S.C. 1001.
3. Responses must be plainly marked with the Solicitation Number and the date and local time set forth for bid opening or receipt of proposals in the solicitation document.
4. Information regarding the timeliness of response is addressed in the provision of this solicitation entitled either "Late Submission, Modification and Withdrawal of Bid" or "Instructions to Offerors - Competitive Acquisitions".

4. ISSUING OFFICE <i>(Complete mailing address, including ZIP Code)</i> DEPARTMENT OF THE ARMY MEMPHIS DISTRICT, CORPS OF ENGINEERS 167 N MAIN ST RM B202 ATTN: CEMVM-CT MEMPHIS TN 38103-1894	5. ITEMS TO BE PURCHASED <i>(Brief description)</i> ARTICULATED CONCRETE MATTRESS CAST AT RICHARDSON LANDING, TENNESSEE
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6. PROCUREMENT INFORMATION <i>(X and complete as applicable)</i>	
<input type="checkbox"/>	a. THIS PROCUREMENT IS UNRESTRICTED
<input checked="" type="checkbox"/>	b. THIS PROCUREMENT IS <u>100</u> % SET-ASIDE FOR SMALL BUSINESS. THE APPLICABLE SIC CODE IS: <u>3272</u>
<input type="checkbox"/>	c. THIS PROCUREMENT IS _____ % SET-ASIDE FOR HUB ZONE CONCERNS. THE APPLICABLE SIC CODE IS: _____
<input type="checkbox"/>	d. THIS PROCUREMENT IS RESTRICTED TO FIRMS ELIGIBLE UNDER SECTION 8(a) OF THE SMALL BUSINESS ACT.

7. ADDITIONAL INFORMATION
 Notwithstanding the Buy American Act and Balance of Payments Program clause (DFARS 252.225-7001) of this solicitation, only domestic end items as defined therein are acceptable in accordance with the Notice of Total Small Business Set-Aside clause (FAR 52.219-6). Bidders offering Qualifying Country End Products or Nonqualifying Country End Products as defined in the Buy American Act and Balance of Payments Program clause, will be considered nonresponsive.
FOR INFORMATION CONCERNING BOND REQUIREMENTS, SEE SECTION L.

8. POINT OF CONTACT FOR INFORMATION			
a. NAME <i>(Last, First, Middle Initial)</i> JOYNER, VERNEDA B.		b. ADDRESS <i>(Include Zip Code)</i> DEPARTMENT OF THE ARMY MEMPHIS, DISTRICT, CORPS OF ENGINEERS 167 N MAIN ST RM B202 ATTN: CEMVM-CT MEMPHIS TN 38103-1894	
c. TELEPHONE NUMBER <i>(Include Area Code and Extension)</i> (901)544-3616	d. E-MAIL ADDRESS Verneda.B.Joyner@mvm02.usace .army.mil		

9. REASONS FOR NO RESPONSE <i>(X all that apply)</i>			
<input type="checkbox"/> a. CANNOT COMPLY WITH SPECIFICATIONS	<input type="checkbox"/> d. DO NOT REGULARLY MANUFACTURE OR SELL THE TYPE OF ITEMS INVOLVED		
<input type="checkbox"/> b. UNABLE TO IDENTIFY THE ITEM(S)	<input type="checkbox"/> e. OTHER <i>(Specify)</i>		
<input type="checkbox"/> c. CANNOT MEET DELIVERY REQUIREMENT			

10. MAILING LIST INFORMATION <i>(X one)</i>	
WE <input type="checkbox"/>	DO <input type="checkbox"/> DO NOT DESIRE TO BE RETAINED ON THE MAILING LIST FOR FUTURE PROCUREMENT OF THE TYPE INVOLVED.

11a. COMPANY NAME	b. ADDRESS <i>(Include Zip Code)</i>
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c. ACTION OFFICER	
(1) TYPED OR PRINTED NAME <i>(Last, First, Middle Initial)</i>	(2) TITLE

(3) SIGNATURE	(4) DATE SIGNED <i>(YYYYMMDD)</i>
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FOLD

FOLD

FROM

AFFIX
STAMP
HERE

SOLICITATION NUMBER DACW66-00-B-0008	
DATE (YYYYMMDD) 20000314	LOCAL TIME 2:30PM

SOLICITATION, OFFER AND AWARD		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350)		RATING	PAGE OF 1	PAGES
2. CONTRACT NO.	3. SOLICITATION NO. DACW66-00-B-0008	4. TYPE OF SOLICITATION <input checked="" type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFP)		5. DATE ISSUED 02/11/00	6. REQUISITION/PURCHASE NO. W38XGR-0006-4319	
7. ISSUED BY DEPARTMENT OF THE ARMY, MEMPHIS DISTRICT, CORPS OF ENGINEERS, 167 N MAIN ST RM B202 -- ATTN: CEMVM-CT, MEMPHIS, TN 38103-1894		CODE B1P0100	8. ADDRESS OFFER TO (If other than Item 7) ADDRESS SAME AS BLOCK 7. HAND DELIVERED BIDS RECEIVED IN ROOM 681, FED. BLDG., 167 N MAIN ST, MEMPHIS, TN			

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

SOLICITATION

9. Sealed offers in original and 0 copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in RM 681, CLIFFORD DAVIS FED BLDG until 2:30 local time 03/14/00
(Hour) (Date)

CAUTION - LATE Submissions, Modifications, and Withdrawals: Section L, Provision No. 52.214-7 or 52.215-10.
All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL:	A. NAME VERNEDA B. JOYNER	B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS) (901)544-3616
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(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
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<input checked="" type="checkbox"/>	B	SUPPLIES OR SERVICES AND PRICES/COST	B-1	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.			
<input checked="" type="checkbox"/>	C	DESCRIPTION/SPECS./WORK STATEMENT	C-1	<input checked="" type="checkbox"/>	J	LIST OF ATTACHMENTS	J-1
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<input checked="" type="checkbox"/>	G	CONTRACT ADMINISTRATION DATA	G-1	<input checked="" type="checkbox"/>	L	INSTRS., CONDS., AND NOTICES TO OFFERORS	L-1
<input checked="" type="checkbox"/>	H	SPECIAL CONTRACT REQUIREMENTS	H-1	<input checked="" type="checkbox"/>	M	EVALUATION FACTORS FOR AWARD	M-1

OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)	<input checked="" type="checkbox"/> 10 CALENDAR DAYS	<input type="checkbox"/> 20 CALENDAR DAYS	<input type="checkbox"/> 30 CALENDAR DAYS	<input type="checkbox"/> CALENDAR DAYS
	%	%	%	%
14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated:	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE
15A. NAME AND ADDRESS OF OFFEROR	CODE	FACILITY	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)	
15B. TELEPHONE NO. (Include area code)	<input type="checkbox"/>	15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.	17. SIGNATURE	18. OFFER DATE

AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT	21. ACCOUNTING AND APPROPRIATION	
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c) () <input type="checkbox"/> 10 U.S.C. 253(c) ()		23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	ITEM
24. ADMINISTERED BY (If other than Item 7)	CODE	25. PAYMENT WILL BE MADE BY	CODE
26. NAME OF CONTRACTING OFFICER (Type or print)	27. UNITED STATES OF AMERICA (Signature of Contracting Officer)		28. AWARD DATE

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

SECTION B

SUPPLIES OR SERVICES AND PRICES/COSTS

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>QUANTITY</u>	<u>U/I</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
0001	Articulated Concrete Mattress				
0001A	Casting Mattress (exclusive of cement and fly ash), using Portland cement, fly ash, and water-reduction admixture	106,470	SQ	_____	_____
0001B	Portland Cement	255,000	CT	_____	_____
0001C	Fly Ash	45,000	CF	_____	_____
TOTAL ITEMS 0001A THROUGH 0001C				\$	_____

NOTE 1: The bidder is required to bid on all line items. Failure to submit a bid on all such line items shall result in a non-responsive bid, requiring reject thereof. In the event that a bidder is willing to waive costs associated with the individual line item, he is required to insert descriptive words or abbreviations such as "no charge" or "N.C."

NOTE 2: END ITEMS: For small business concern representative purposes, the end item being procured under this solicitation are completed squares of articulated concrete mattress. Ingredients such as Portland Cement and Fly Ash, etc., are not end items.

NOTE 3: Cement and Fly Ash quantities are based on historical usage, and will be used to evaluate bids. Actual amounts will depend on the various mix designs furnished by the Government during the contract performance period. Fly ash may vary from 0 to 25 percent of total cementitious materials.

NOTE 4: SITE VISITS. See Paragraph L. 27.

NOTE 5: See Variation in Quantity Clause, Paragraph F-5.

ITEMS 0001B and 0001C ARE ESTIMATES ONLY. ACTUAL PAY QUANTITIES WILL BE THE THEORETICAL QUANTITIES BASED ON GOVERNMENT MIX DESIGN AND THE ACTUAL NUMBER OF ACCEPTED MATS.

DACW66-00-B-0008

CASTING ATRICULATED CONCRETE MATTRESS
RICHARDSON LANDING, TENNESSEE

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SECTION C
DESCRIPTION/SPECIFICATIONS

C-1 DESCRIPTION OF WORK.

C-1.1 Scope. The work to be performed under this contract consists of furnishing all plant, materials (except materials specified herein to be furnished by the Government), equipment, supplies, labor, transportation, including fuel, power, water, and performing all work as required in casting squares of articulated concrete mattress at the location and in the quantity shown below, in strict accordance with the specifications, schedules and drawings, all of which are made a part thereof, and including such detail drawings as may be furnished by the Contracting Officer from time to time during the prosecution of the work.

<u>Location of Casting Field</u>	<u>Basic Quantity to be Cast</u> <u>(Squares)</u>
Richardson Landing, Tennessee	106,470

The Government may exercise an option to increase the basic quantity not to exceed 50 percent. See the Bid Schedule and the clause "Option for Increased Quantity" (FAR 52.217-6 - Mar 1989) in Section I.

C-1.2 Definition of a "Square". One square of articulated concrete mattress as referred to in these specifications consists of one section, approximately 25' x 4' x 3" containing 16 blocks, cast on a single unit of fabric.

C-1.3 Location. The casting field is located along the left descending bank of the Mississippi River near Richardson Landing, Tennessee, as indicated on Map Serial No. 21770, File 76/371.

C-2 PHYSICAL DATA.

C-2.1 Access Roads. State Highway 59 leads to the casting field.

C-2.2 Railroads. The nearest railroad spur tracks are at Covington, Tennessee.

C-2.3 Electricity. Electric power service is located at the field and electricity may be procured commercially. The Contractor shall make his own arrangements for power.

C-2.4 Water. A commercial source of water is available at the casting field for the Government-owned building. Other water may be obtained from the Mississippi River provided it meets the requirements for water as set out in these specifications. The Contractor shall make his own arrangements for water.

C-3 OTHER WORK. The Government may desire to load completed mattress sections or perform other work on the Government premises or in the immediate vicinity either by Government personnel or contract while the Contractor's

casting operations are in progress. The Contractor's plant layout or order of work shall be such as to avoid interference with loading operations, storage and transportation of materials, storage of existing mattress, casting of additional mattress, or other work not included in this contract.

C-4 CONTRACT DRAWINGS AND SPECIFICATIONS. The Government will provide the Contractor without charge a compact disk (CD) containing contract drawings and specifications (except applicable publications incorporated into the specifications by reference). The work shall conform to the drawings listed below, all of which form a part of these specifications and to any other detail drawings as may be issued by the Contracting Officer during progress of the work.

<u>Serial No.</u>	<u>File No.</u>	<u>Title</u>
22060	74/211.1	Articulated Concrete Mattress Typical Layout and Standard Details
21770	76/371	Locality Map Mattress Casting Field Richardson Landing, Tenn.
19250	73/878.3	Richardson Landing, Tenn. Casting Field
21881	74/210	Steel Forms For 16 Block Articulated Concrete Mattress

C-5 FIELD LAYOUT. The initial casting field layout shall be as shown on Drawing Serial No. 22060, File No. 74/211.1, entitled "Articulated Concrete Mattress-Typical Layout and Standard Details." Mattress stacks and rows of standard mattress stacks shall be developed from these layouts in a manner similar to that shown on Drawing File No. 73/878.3, entitled "Photomap - Richardson Landing, Tenn. Casting Field."

C-6 APPLICABLE PUBLICATIONS. The following publications of the issues listed below, but referred to thereafter by basic designation only, form a part of this specification to the extent indicated by the references thereto:

C-6.1 American Society for Testing and Materials (ASTM) with Corresponding CRD Standard Indicated Where Applicable.

C 33-93	(CRD-C 133-94)	Concrete Aggregates
C 70-94	(CRD-C 111-94)	Surface Moisture in Fine Aggregate
C 94-96	(CRD-C 31-97)	Ready-Mixed Concrete
C 117-95	(CRD-C 105-92)	Materials Finer than 75- μ m (No. 200) Sieve in Mineral

		Aggregates by Washing
C 123-96	(CRD-C 122-94)	Lightweight Pieces in Aggregate
C 125-96	(CRD-C 43-94)	Terminology Relating to Concrete and Concrete Aggregates
C 136-96a	(CRD-C 103-94)	Sieve Analysis of Fine and Coarse Aggregates
C 143-90a	(CRD-C 5-92)	Slump of Hydraulic Cement Concrete
C 150-97	(CRD-C 201-97)	Portland Cement
C 172-90	(CRD-C 4-91)	Sampling Freshly Mixed Concrete
C 231-97	(CRD-C 41-93)	Air Content of Freshly Mixed Concrete by the Pressure Method
C 260-95	(CRD-C 13-97)	Air-Entraining Admixtures for Concrete
C 494-92	(CRD-C 87-93)	Chemical Admixtures for Concrete
C 566-97	(CRD-C 113-97)	Total Moisture Content of Aggregate by Drying
C 595M-97	(CRD-C 203-96a)	Blended Hydraulic Cements (Metric)
C 618-99	(CRD-C 255-97)	Coal Fly Ash and Raw or Calcined Natural Pozzolan for Use as a Mineral Admixture in Portland Cement Concrete
D 75-87(R92)	(CRD-C 155-94)	Sampling Aggregates
D 98-95	(CRD-C 505)	Calcium Chloride
C-6.2	<u>U.S. Army, Corps of Engineers, Handbook for Concrete and Cement (CRD).</u>	
CRD-C 55-92		Within-Batch Uniformity of Freshly Mixed Concrete
CRD-C 95-94		Measuring Early-Age Compressive Strength and Projecting Later-Age Strength
CRD-C 100-75		Sampling Concrete Aggregate and

	Aggregate Sources and Selection of Materials for Testing.
CRD-C 103-94	Sieve Analysis for Fine & Coarse Aggregates
CRD-C 104-80	Fineness Modulus of Aggregate
CRD-C 111-94	Surface Moisture in Fine Aggregate
CRD-C 112-69	Surface Moisture in Aggregate by by Water Displacement
CRD-C 113-97	Total Moisture Control of Aggregate by Drying
CRD-C 119-91	Flat or Elongated Particles in Coarse Aggregate
CRD-C 143-62	Meters for Automatic Indication of Moisture in Fine Aggregate
CRD-C 300-90	Membrane-Forming Compounds for Curing Concrete
CRD-C 400-63	Water for Use in Mixing or Curing Concrete

C-6.3 National Institute of Standards and Technology (NIST) Handbook 44, 1995 Edition. Specification, Tolerances and Other Technical Requirements for Commercial Weighing and Measuring Devices.

C-6.4 Commercial Item Description.
A-A 203C Paper, Kraft, Untreated (JAN 1996)

C-6.5 Environmental Protection Agency (EPA) Publication.
SW-846 (Third Edition) Test Methods for Evaluating Solid Waste,
Physical/Chemical Methods

C-7 MATERIALS.

C-7.1 Cementitious Materials.

C-7.1.1 Portland Cement. Portland Cement shall conform to ASTM C 150, Type I, including false set requirements, except that the maximum amount of C₃A shall be 15 percent.

C-7.1.2 Fly Ash. Fly ash shall conform to ASTM C 618, Class C or F, including the maximum alkalis, uniformity and multiple factor requirements. The loss on ignition for fly ash shall be limited to a maximum of 6 percent.

C-7.1.3 Transportation of Bulk Cement and Fly Ash. When bulk cement and/or fly ash is not unloaded from primary carriers directly into weathertight hoppers at the batching plant, transportation from the railhead, mill, or intermediate storage area to the batching plant shall be accomplished in weathertight trucks, conveyors, or other means which will protect the cement and fly ash completely from exposure to moisture.

C-7.1.4 Storage. Separate storage facilities shall be provided for cement and fly ash. Immediately upon receipt at the site of the work, cement and fly ash shall be stored in a dry weathertight and properly ventilated structure with adequate provisions for the prevention of absorption of moisture. Charging valves for storage of cement and fly ash shall be clearly marked to prevent inadvertent loading of the wrong material into this structure. All storage facilities shall be subject to approval and shall permit easy access for inspection and identification. In order that cement and fly ash may not become unduly aged after delivery, the Contractor shall use any cement or fly ash which has been stored at the site for 60 days or more before using cement or fly ash of lesser age. Fly ash or cement obtained from different sources shall not be stored in the same storage bin. The temperature of the cement and fly ash, as delivered to the site, shall not exceed 150° F.

C-7.1.5 Quality Control and Quality Assurance. The Contractor shall notify the Contracting Officer of the source from which the cement and fly ash will be obtained within 10 days after award of the contract. Cement and fly ash will be accepted on the basis of a manufacturer's mill certificate of compliance. Unless otherwise authorized, no cement or fly ash shall be used until a satisfactory manufacturer's mill certificate for that cement or fly ash is in the possession of the Contracting Officer at the site of the work and same has been accepted. If the manufacturer's certificate indicates that the cement or fly ash which has been delivered is unsatisfactory, it shall be promptly removed from the site of the work by and at the expense of the Contractor. Fly ash and cement samples will be tested periodically during the casting season, at the Government's expense, to check compliance with the specifications. Cement and/or fly ash which has not been used within 4 months after testing shall be retested at the expense of the Contractor when directed by the Contracting Officer and will be rejected if test results are not satisfactory.

C-7.2 Calcium Chloride. Calcium chloride shall meet the requirements of ASTM D 98, Type S, Grades 1, 2 or 3.

C-7.2.1 Quality Control and Quality Assurance. Calcium chloride will be accepted on the basis of a manufacturer's mill certificate or certificate of compliance, furnished in duplicate, to the Contracting Officer at the time of delivery.

C-7.3 Air-Entraining Admixture. The air-entraining admixture shall conform to ASTM C 260 and shall consistently entrain the air content in the specified ranges under field conditions. The air-entraining admixture shall be in a solution of suitable viscosity for field use requiring no further dilution.

C-7.3.1 Quality Control and Quality Assurance. The Contractor shall notify the Contracting Officer of the source from which the admixture will be obtained within 10 days after award of contract. The admixture will be accepted on the basis of mill certificates or certificates of compliance which certify that the admixture meets the specified requirements. The admixture may be tested periodically, at the expense of the Government, to check compliance with the specifications. The Contractor shall provide satisfactory facilities for the procurement of test samples by the Quality Assurance Representative. An air-entraining admixture which has been in storage at the project site for longer than 6 months or which has been subjected to freezing shall be retested at the expense of the Contractor when directed by the Contracting Officer and shall be rejected if test results are not satisfactory.

C-7.4 Water-Reducing Admixture. The water-reducing admixture shall conform to the requirements of ASTM C 494, Type A. The purpose of the admixture is to reduce the quantity of water otherwise required in a similar mixture without this admixture to produce concrete of a given consistency and reduce the cement required by approximately 10 percent of the quantity which would be required without this admixture.

C-7.4.1 Quality Control and Quality Assurance. The Contractor shall notify the Contracting Officer of the source from which the admixture will be obtained within 10 days after award of contract. The admixture will be accepted on the basis of mill certificates or certificates of compliance which certify that the admixture meets the specified requirements. The admixture will be tested periodically, at the expense of the Government, to check compliance with the specifications. The Contractor shall provide satisfactory facilities for the procurement of test samples by the Contracting Officer. A water reducing admixture which has been in storage at the project site for longer than 6 months or which has been subjected to freezing shall be retested at the expense of the Contractor prior to its use and shall be rejected if tests results are not satisfactory.

C-7.5 Aggregate.

C-7.5.1 Composition. Fine aggregate shall consist of natural sand or a combination of natural and manufactured sands. Coarse aggregate shall consist of gravel, crushed gravel, crushed stone, or a combination thereof. All aggregates used in concrete for casting mats shall be obtained from an approved source as defined in paragraph H-21.

C-7.5.2 Quality. Aggregate, as delivered to the mixer, shall consist of clean, hard, and uncoated particles. Where required, fines shall be removed from the coarse aggregates by adequate washing, or another suitable method approved by the Contracting Officer. The quantity of flat and/or elongated particles in the separated size groups of coarse aggregates, as defined and determined by CRD-C 119, shall not exceed 25 percent. The quality of the aggregates shall conform to ASTM C 33, Class 4M.

C-7.5.3 Quality Assurance. The Contractor shall notify the Contracting Officer of the sources from which the aggregates will be obtained within 10 days

after award of contract. The aggregates will be accepted on the basis of certificates of compliance which certify that the aggregates meet the specified requirements. During construction, aggregate will be sampled in accordance with ASTM D 75, as delivered to the mixer, to determine compliance with the specifications. The Contractor shall provide facilities and labor as may be necessary for the ready procurement of representative test samples at no additional expense to the Government. Samples from the weight batcher shall be obtained when directed by the Contracting Officer and under his supervision. The Government will test such samples at its expense using appropriate Corps of Engineers' and ASTM testing methods. Tests of aggregate at various stages in the casting process and handling operations will be made at the discretion of the Contracting Officer.

C-7.5.4 Fine Aggregate. Fine aggregate shall be graded from fine to coarse and the gradation shall be within the following limits as delivered to the mixer or as incorporated in the mixed concrete:

<u>Sieve Size</u>	<u>Percent Passing</u>
3/8"	100
No. 4	95 - 100
No. 16	45 - 90
No. 50	7 - 30
No. 100	0 - 7
No. 200	0 - 3

C-7.5.4.1 Storage of Fine Aggregate. Fine aggregate shall be stored in such a manner as to avoid the inclusion of any foreign materials. The storage piles shall be constructed so as to prevent segregation. The storage of the material in storage piles and its removal therefrom shall be accomplished in such a manner as to result in maintaining uniformity of gradation. All fine aggregate shall remain in the stockpile for at least 96 hours prior to use. Sufficient aggregate shall be maintained at the site at all times to permit continuous placement of concrete at the specified rate. Any unacceptable material that is introduced to the stockpile shall be promptly separated from previously accepted material and removed from the stockpiled area before continuation of casting or within 24 hours if occurring during a period of no casting.

C-7.5.5 Coarse Aggregate. Coarse aggregate shall conform to the following gradation requirements as delivered to the mixer or as incorporated in the mixed concrete:

<u>Sieve Size</u>	<u>Percent Passing</u>
1-1/2"	100
1"	90 - 100
1/2"	25 - 60
No. 4	0 - 10
No. 8	0 - 5
No. 200	0 - 1

C-7.5.5.1 Storage of Coarse Aggregate. Coarse aggregate storage piles shall be built adjacent to the batch plant and in such manner as to avoid the

inclusion of any foreign material. Coarse aggregate shall remain in the stockpile for at least 48 hours prior to use. The storage piles shall be constructed so as to prevent segregation and to provide for drainage away from the storage piles. The deposition of the material in storage and its removal therefrom shall be accomplished in such a manner as to result in maintaining the uniformity of the gradation. Sufficient aggregate shall be maintained at the site at all times to permit continuous placement of concrete at the specified rate. Any unacceptable material that is introduced to the stockpile shall be promptly separated from the previously accepted material and removed from the stockpiled area before continuation of casting or within 24 hours if occurring during a period of no casting.

C-7.6 Water. Water for mixing shall be clean and potable, except that nonpotable water may be used if it meets the requirements of CRD-C 400. Water for curing shall not contain any substance that is injurious to the concrete.

C-7.7 Curing Compounds. Curing compounds shall be of the surface membrane type, shall be pigmented, and shall comply with the requirements of CRD-C 300.

C-7.7.1 Quality Control and Quality Assurance. The Contractor shall furnish certificates of compliance at or before the time of delivery, in duplicate, to the Contracting Officer which certify that the curing compound meets the specified requirements.

C-7.8 Kraft Paper. The paper used as separators between mattress squares shall be not less than 48 inches wide and not greater than 50 inches in width and shall conform to the maximum requirements set out in CID A-A-203 C, Style 1 with the exception of the requirements specified herein. The paper basis weight shall be not less than 99 pounds; that is, 500 sheets, 24 by 36 inches shall weigh not less than 99 pounds. The Contractor may, at his option and at no additional cost to the Government, elect to use a heavier weight paper.

C-7.8.1 Quality Control and Quality Assurance. The Contractor shall either furnish mill certificates or certificates of compliance at or before the time of delivery, in duplicate, to the Contracting Officer which certify that the paper meets the specified requirements.

C-8 PLANT REQUIREMENTS.

C-8.1 Measurement. All materials entering into the concrete shall be mechanically batched and measured by weight except the admixtures which may be batched by volume, and except that water may be batched by weight or volume. One gallon of water will be considered as 8.33 pounds in weight.

C-8.2 Weight Batchers. The weight batchers shall be arranged to permit the convenient addition or removal of material. The weight batchers shall be so constructed and arranged that the sequence and timing of batcher discharge gates can be controlled to produce a ribboning and mixing of the aggregates, water, and of the cement and fly ash with aggregates as the materials pass through the charging hopper into the mixer. The plant shall include provisions to facilitate the inspection of all operations at all times. Delivery of materials from the

batching equipment shall be within the following limits of accuracy:

<u>Material</u>	<u>Percent</u>
Cement and Fly Ash	+1
Water	+1
Aggregate	+2
Admixtures	+3

C-8.3 Scales. The batch plant shall include adequate facilities for the accurate measurement and control of each of the materials entering each batch of concrete. The accuracy of weighing equipment shall conform to the applicable requirements of NIST Handbook 44, except that the accuracy shall be within 0.2 percent of scale capacity. The Contractor shall provide standard test weights and any other auxiliary equipment required for checking the operating performance of each scale or other measuring device. Periodic tests shall be made in the presence of a Contracting Officer in such a manner and at such intervals as may be directed. Upon completion of each check test and before further use of the indicating, recording, or control devices, the Contractor shall make such adjustments, repairs or replacement as may be required for satisfactory performance. Each weighing unit shall include a visible springless dial or electronic indicator which shall indicate the scale load at all stages of the weighing operation or shall include a beam scale with a beam balance indicator which will show the scale in balance at zero load at any beam setting. The indicator shall have an over and under travel equal to at least 5 percent of the capacity of the beam. The weighing equipment shall be arranged so that the concrete plant operator can conveniently observe the dials or indicators.

C-8.4 Interlocks. Batchers and mixers shall be interlocked so that:

- (1) The charging mechanism of each batcher cannot be opened until the scale has returned to zero,
- (2) The charging mechanism cannot be opened if the discharge mechanism is opened,
- (3) The discharge mechanism cannot be opened if the charging mechanism is open,
- (4) The discharge mechanism cannot be opened until the designated weight has been reached within the allowable tolerance,
- (5) One admixture is batched automatically with the water,
- (6) Each additional admixture is batched automatically with a separate portion of the water or with the fine aggregate, and
- (7) The mixers cannot be discharged until the required mixing time has elapsed.

C-8.5 Moisture Control Meter. The plant shall be capable of ready adjustment to compensate for the varying moisture content of the aggregate in order to change the weights of the materials being batched. An electric moisture meter, complying with the provisions of CRD-C 143, shall be provided for measurement of moisture in the fine aggregate. The sensing element shall be arranged so that the measurement is made near the batcher charging gate of the sand bin or in the sand batcher.

C-8.6 Recorder. An accurate recorder shall be provided and shall conform to the following requirements:

(1) The recording units shall be completely housed in a single cabinet which shall be capable of being locked.

(2) The recorder shall produce a graphical or digital record on a single visible chart or tape which shall indicate the weight or volume of each material in the batchers at the conclusion of the batching cycle. The record shall be produced prior to delivery of the materials to the mixer. After the batchers have been discharged, the recorder shall indicate the return of the batcher to the empty condition.

(3) The chart or tape shall be so marked that each batch may be permanently identified and so that variations in batch weights of each type of batch can be readily observed.

(4) The chart or tape shall show the date and time of day at intervals of not more than 15 minutes. Graduation lines on the cementitious materials chart shall be at intervals of not more than 20 pounds.

(5) The recorded chart or tape shall become the property of the Government.

(6) The recorder shall be placed in a position convenient for observation by the concrete plant operator and the Contracting Officer, and mounted to prevent excessive vibration which causes inaccurate readings.

(7) The recorded weights or volumes, when compared to the weights or volumes actually batched, shall be within ± 2 percent.

C-8.7 Batch Counters. The plant shall include devices for automatically counting the total number of batches of all concrete batched.

C-8.8 Admixture Dispensers. An accurate mechanical system for measuring and dispensing each admixture shall be provided. Each system shall be capable of ready adjustment to permit varying the quantity of admixtures to be batched. Each admixture shall be added to the batch in a separate portion of the mixing water or in a separate portion of the fine aggregate in a manner to ensure uniform distribution of the admixtures throughout the batch. The dispensing systems shall provide a convenient means of visually observing from the control panel the admixture in process of being batched or discharged.

C-8.9 Sampling. The Contractor shall provide suitable facilities and labor for obtaining representative samples of concrete from the mixer or the wet batch hopper for Contractor quality control and Government quality assurance testing. All necessary platforms, tools, and equipment for obtaining samples shall be furnished by the Contractor.

C-8.10 Not Used

C-8.11 Control Equipment Protection. The indicating, recording, and control equipment shall be sufficiently protected against exposure to dust, moisture and vibration so there will be no interference with proper operation of the equipment.

C-8.12 Concrete Mixers.

C-8.12.1 General. Mixers may be stationary mixers, truck mixers, paving mixers, or turbine-type mixers of approved design. The mixers shall have a rated capacity of at least 27 cubic feet of mixed concrete and shall not be charged in excess of the capacity recommended by the manufacturer. Mixers shall be capable of combining the materials into a uniform mixture and of discharging this mixture without segregation. Each stationary and paving mixer shall be provided with an acceptable device to lock the discharge mechanism until the required mixing time has elapsed. Truck mixers shall be equipped with accurate revolution counters. The mixers shall be operated at the drum or blade speed designated by the manufacturer on the nameplate. The acceptability of truck mixers will be determined by uniformity tests as required by ASTM C 94. The mixing periods specified herein are predicated on proper control of the speed of rotation of the mixer drum or mixing blades and on proper introduction of the materials into the mixer. The mixing time of stationary or paving mixers shall be increased when such increase is necessary to secure the required uniformity of the concrete or when test samples of concrete taken from the first, middle and last portions of the mixer discharge is less than any of the following requirements when tested in accordance with the provisions of CRD-C 55. When authorized by the Contracting Officer, the mixing time may be reduced to the minimum time required to meet all the following requirements:

<u>Test</u>	<u>Maximum Allowable Variation Of Any One Test Value from the Average of Three</u>
Weight per cubic foot of mortars calculated to an air-free basis, lb/ft cubed	+1.6
Air content, volume percent of concrete	+1.0
Slump, inches	+1.0
Coarse aggregate content, portion by weight of each sample retained on No.4 sieve, percent	+6.0
Average compressive strength at 7 days, percent	+10.0
Water content, portion by weight	

of each sample passing No. 4
sieve, percent

±1.5

When the Contractor proposes to reduce the mixing time, uniformity tests at reduced mixing time will be made by the Government, at the Contractor's expense, to determine whether the reduced mixing time meets the requirements of the specifications. Excessive over-mixing requiring additions of water will not be permitted. The mixers shall be maintained in satisfactory operating condition, and mixer drums shall be kept free of hardened concrete. Mixer blades shall be replaced when worn more than 10 percent of their initial depth. Should any mixer at any time produce unsatisfactory results, its use shall be promptly discontinued until it is repaired. Suitable facilities shall be provided for obtaining representative samples of concrete for uniformity tests. All necessary platforms, tools, labor and equipment for obtaining samples shall be furnished by the Contractor.

C-8.12.2 Stationary Mixers. If no uniformity test data are available, the mixing time for each batch after all solid materials are in the mixer, provided that all of the mixing water is introduced before one-fourth of the mixing time has elapsed, shall be 1 minute for mixers having a capacity of 1 cu yd. For mixers of larger capacities, the minimum mixing time shall be increased 15 seconds for each additional cubic yard or fraction thereof of concrete mixed. When a stationary mixer is used for partial mixing of the concrete (shrink mixing) the mixing time in the stationary mixer may be reduced to the minimum necessary to intermingle the ingredients (about 30 seconds).

C-8.12.3 Truck Mixers. Truck mixers and the mixing of concrete therein shall conform to the requirements of ASTM C 94. A truck mixer may be used either for complete mixing (transit-mixed) or to finish the partial mixing accomplished in a stationary mixer (shrink-mixed). Each truck shall be equipped with two counters from which can be determined the number of revolutions at mixing speed and the number of revolutions at agitating speed.

C-8.12.4 Paving Mixers. Paving mixers, if used, shall be used at the site of the work. Paving mixers may be either single compartment drum or multiple compartment drum type. Multiple compartment drum paving mixers shall be properly synchronized and the mixing time shall be determined by including the time required to transfer the concrete between compartments of the drum. If no uniformity test data are available, the mixing time for each batch, after all solid materials are in the mixer drum, provided that all the mixing water is introduced before one-fourth of the mixing time has elapsed, shall be one minute for mixers having a capacity of 1 cu yd. For mixers of larger capacities, the minimum mixing time shall be increased 15 seconds for each additional cubic yard or fraction thereof of concrete mixed. Vehicles used in transporting material from the batching plant to the mixers shall have bodies or compartments of adequate capacity to carry the materials and to deliver each batch, separate and intact, to the mixer. Except as otherwise approved by the Contracting Officer, loose cement and fly ash shall be transported from the batching plant to the mixers in separate boxes or compartments which shall be equipped with windproof and rainproof covers.

C-9 ARTICULATED CONCRETE MATTRESS

C-9.1 Scope. The work covered by this section consists of furnishing all materials and equipment except as provided in paragraph H-3, "Government-Furnished Facilities" and H-4, "Identification of Government-Furnished Property" and performing all labor for the manufacturing, transporting, placing, finishing, and curing of concrete in the articulated concrete mattress.

C-9.2 Composition.

C-9.2.1 Concrete. Concrete for articulated mattress shall be composed of cementitious material, water, fine and coarse aggregate, air-entraining, and water-reducing admixtures, and at the option of the Contractor, an accelerating admixture (calcium chloride).

C.9.2.2 Proportioning of Concrete.

C-9.2.2.1 General. The proportion of all material entering into the concrete shall be as directed by the Contracting Officer. The Contractor shall provide all necessary equipment and plant to determine and control the actual quantities of material entering each batch. The proportions will be changed by the Contracting Officer whenever such change is necessary in order to maintain the standard of quality required.

C-9.2.2.2 Water Content. The water content of all concrete mixtures shall not be more than 65 pounds per hundredweight of cementitious materials.

C-9.2.2.3 Cementitious Materials Content. The cementitious materials content of the concrete will range from an approximate minimum of 3 to an approximate maximum of 5 hundredweights per cubic yard, depending on size, type, and gradation of aggregate used, and on the structural requirements as determined by the Contracting Officer. The cementitious material shall consist of a blend of 75 percent Portland cement and 25 percent fly ash by absolute volume of the total. The Contractor may adjust the mix by substituting Portland cement for fly ash in order to accelerate set time. Additional cost resulting from such adjustment shall be at no additional expense to the Government. The Government reserves the right to change the mix design by directing substitution of cement for fly ash. When so directed, payment for theoretical batch weights of cement and fly ash in the new mix will be paid at the contract unit price.

C-9.2.2.4 Aggregate Content. Concrete mixes will be designed to use the maximum quantity of coarse aggregate placeable in the various parts of the form and the aggregate plant shall be designed on this basis.

C-9.2.2.5 Placeability. The concrete mixtures which have been designed and tested in the laboratory will be adjusted in the field from time to time to meet the varying conditions encountered during casting operations. The water content of all concrete mixtures will be the minimum necessary to properly place the mixture being used.

C-9.2.2.6 Slump. The slump will be stipulated by the Contracting Officer but will generally be in the range of 3 to 4 inches as determined by ASTM C 143. Concrete sampling shall be done in accordance with ASTM C 172.

C-9.2.2.7 Air-Entraining. An air-entraining admixture shall be added at the mixer to each batch of concrete. The quantity of admixture used shall be such as to control the quantity of entrained air within the concrete to within the limits of 4 to 7 percent as determined by ASTM C 231 when the concrete is discharged from the mixer. The intent is to maintain the entrained air in the concrete as near as practicable to 5.5 percent while allowing some latitude for individual batches. Concrete sampling shall be done in accordance with ASTM C 172.

C-9.2.2.8 Calcium Chloride. At the Contractor's option and expense, a solution not exceeding 2 pounds of crystal or pellet calcium chloride per hundredweight of cement may be used in the concrete mixture. The calcium chloride shall be dissolved in water in the ratio of 1 pound of crystals or pellets to 2 pounds of water and the mixing solution used to replace a similar quantity of the mixing water. Should a calcium chloride solution be used, none of the other conditions of the specifications applying to mixing, placing, or curing the concrete will be waived. To facilitate the maintenance of a workable mixture and good project records, the Contractor shall, at the start of casting operations each day, inform the Contracting Officer as to the quantity of calcium chloride to be used. He shall continue such notification approximately 20 minutes in advance of each change in quantity of calcium chloride throughout the day.

C-9.3 Concrete Conveying. Concrete shall be conveyed from mixer to forms as rapidly as practicable by methods which will prevent segregation or loss of ingredients. The concrete mix shall be so controlled that suitable workability at the forms will be obtained at all times without the use of excessive water. Design of the transporting equipment shall be of such a nature as to allow discharge of the concrete into the forms at all heights of the stacks without addition of excessive water. Concrete shall be placed before initial set has occurred and unless otherwise authorized not more than 45 minutes after introduction of water to the cementitious materials.

C-10 TRIAL OPERATION. Not less than 10 days prior to commencement of concrete placing, a test of the batching and mixing plant shall be made in order to check operational efficiency. If the plant is the same used on the previous contract and has not been moved, testing shall be performed not less than 8 days prior to commencement of placing concrete. The number of full-scale concrete batches required to be produced in trial runs will not exceed 10 and shall be proportioned as directed by the Contracting Officer. During these trial runs, the Government will make test cylinders, as necessary to field adjust the design mix before production of mat begins. All other concrete produced in these tests shall be wasted in low areas of the casting field and incorporated into the field surface. All deficiencies found in plant operation shall be corrected to the satisfaction of the Contracting Officer prior to start of concrete placing operations. No separate payment will be made to the Contractor for plant, labor, or materials required by the provisions of this paragraph.

C-11 CASTING.

C-11.1 General. Squares of mattress shall be cast in stacks as indicated on the drawing. The stacks shall be neatly aligned vertically and by rows. At the beginning of casting operations, if there are stacks that have not been brought to the required height, the Contractor shall complete these stacks first. When the Contractor approaches completion of the casting operations, he shall schedule concrete placements in order to complete the casting operation with no incomplete stacks. Incomplete stacks will be permissible only if completion cannot be achieved prior to the date established in the contract when casting shall cease. At the conclusion of casting requirements and form cleanup, the steel forms shall be picked up and moved to form storage areas. The forms shall be stored in stacks ten high at locations on field as directed by the Contracting Officer. The forms shall then be sprayed with an approved type form release agent. The Contractor shall also spray the forms at intervals not to exceed four (4) months as long as the Contractor has equipment on field and the contract remains open. No separate payment will be made for spraying forms during non-casting period and all costs in connection therewith will be distributed throughout existing bid items.

C-11.2 Casting Procedure.

C-11.2.1 Paper Installation. One layer of the specified paper shall be placed as a separation beneath the bottom square of each stack and between each successive layer of mattress. Before the paper is spread, preparatory to reassembling the forms, the top surface of the concrete square shall be swept clean of loose gravel and debris. When determined necessary by the Contracting Officer, paper that is wet shall be removed and replaced with dry paper before placing concrete.

C-11.2.2 Form Placement. Forms shall be placed sufficiently in advance of concrete placement to allow time (a minimum of 15 minutes) for inspection and minor adjustments of forms and fabric, if required. Forms shall not be placed upon a previously cast square of mattress until the concrete has obtained sufficient strength to withstand possible damage by the form. Normally this time will be 3 hours or more, depending upon the use of calcium chloride, weather, and temperature conditions. This time could vary considerably. The placement procedure shall be as follows:

The wire fabric shall first be placed on the paper with the cross wires (bracket wires) on top of the longitudinal wires. The forms shall then be placed over the fabric, the fabric drawn up into the notches in the sides and cross pieces of the forms, cross rods driven, and the cams at the end of the forms locked to secure the fabric in its proper position on the central plane of the form section. Cams at both ends of the forms shall be turned simultaneously to secure the fabric equi-distant from each end of the casting form. The central location of the fabric in the form is very important. The Contractor shall use all loose or broken bundles of fabric before opening a new bundle.

Completed mattress squares in which the fabric has sagged too near the bottom surface of the square will be rejected. Adjustments to the fabric such as blocking or crimping of the fabric to secure proper alignment in the form shall be made at no additional expense to the Government.

C-11.2.3 Form Release Agent. After the forms have been completely assembled with fabric in place, they shall be sprayed with an approved form release agent. The form release agent shall be sprayed in sufficient quantity to completely coat the forms, but shall not be used in amounts sufficient to form puddles or excessive accumulations of form release agent on the paper or forms. Any excess form release agent which, in the opinion of the Contracting Officer, is sufficient to damage the concrete shall be removed before the concrete is placed.

C-11.2.3.1 Form Release Agent-Commercial Products.

C-11.2.3.1.1 Nonpetroleum Based. Form release agents shall be manufacturer=s standard, nonstaining, nonpetroleum based. The Contractor shall submit to the Contracting Officer for approval, certification from the manufacturer.

C-11.2.3.1.2 Petroleum Based. Form release agents shall be manufacturer=s standard, nonstaining, petroleum based. The Contractor shall submit to the Contracting Officer for approval, certification from the manufacturer that the material meets the acceptance criteria in paragraph C-11.2.3.2.2.

C-11.2.3.2 Form Release Agent-Other Than Commercial Products

C-11.2.3.2.1 General. If the form release agent proposed for use is other than a commercial product manufactured specifically for this purpose, the Contractor shall provide results of quantitative analyses of the proposed release agent for hazardous waste characteristics identified in 40 CFR 261, Subpart C; for polychlorinated biphenyls (PCBs); and for total halogens. All analytical results shall be submitted to, and approved by the Contracting Officer.

C-11.2.3.2.2 Acceptance Criteria. Materials exhibiting RCRA hazardous characteristics as defined in 40 CFR 261, Subpart C; materials with the potential to exhibit RCRA hazardous characteristics based on total concentrations; and materials containing listed hazardous waste as defined in 40 CFR 261, Subpart D are not acceptable for use as form release agents. The Contractor shall certify in writing that the form release agents provided under this contract do not contain and were not derived from any listed hazardous waste(s) identified in 40 CFR 261.31, 261.32, or 261.33. The Contractor shall further certify in writing the form release agents do not exhibit any of the hazardous waste characteristics by the methods identified or referenced in 40 CFR 261.21, 261.22, 261.23 or 261.24. Additionally, the form agents shall not contain PCBs at concentrations equal to or greater than 2 parts per million (ppm) or ATotal Halogens≅ at concentrations equal to or greater than 1,000 ppm. Certification statements and the associated supporting analytical reports shall be submitted to the

Contracting Officer's Representative (COR). Review and approval of the Contractor's certification statement and supportive analytical package shall be required prior to acceptance and delivery of the form release agent to the site.

C-11.2.3.2.3 Sampling. The Contractor shall provide the Contracting Officer with the results of the required analyses for all form release agents used on the contract. The number of samples required will depend on the method the Contractor and the form release agent supplier utilize to supply the form release agent for the contract. The minimum number of samples is one, where the supplier agrees to supply the total amount of agent from one batch. A batch is defined as a quantity of agent having uniform and identical chemical composition. Where the total amount of agent is supplied from several batches, analyses will be required on each batch. If any substance is added to the form release agent after samples have been tested and accepted, the form release agent shall be retested for compliance. It is the Contractor's responsibility to coordinate sampling and testing as required, such that ongoing work is not delayed. Sampling shall be coordinated in advance with the Contracting Officer. Split samples for Government analysis shall be provided by the Contractor to the Government, if required, at no additional cost to the Government.

C-11.2.3.2.4 Analysis. The Contractor shall provide to the Contracting Officer the name, mailing address, and physical location of the analytical laboratory to be used. All sampling and analysis shall be performed in accordance with methods contained in the current edition of EPA Publication SW-846 entitled, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods. With the exception of the ignitability, corrosivity, and reactivity analyses, any laboratory performing chemical analyses for this project shall be validated by USACE. Laboratories are validated for each environmental matrix and each specific analytical method to be employed on a project specific basis. If the Contractor selects a laboratory which has a current (within 18 months) validation for all project specific methods, analyses and matrices specific to its project, additional evaluation will normally not be necessary. Samples may not be subcontracted to another laboratory unless the second laboratory is validated for the parameters concerned. The time frames typically required for the USACE laboratory validation program is 3-5 months with the renewal of a validation requiring 1 to 2 months.

C-11.2.3.2.5 Analytical Requirements. The samples shall be analyzed for the following parameters according to the listed methods/properties:

a. Ignitability. A flash point determination shall be made using EPA SW-846 Method 1010.

b. Corrosivity. For aqueous materials, a pH determination shall be made utilizing EPA SW-846 Method 9045. For purposes of this specification, this parameter is not applicable to non-aqueous materials.

c. Reactivity. A reactive cyanide determination shall be made using EPA SW-846 Chapter 7, Volume IC, Section 7.3. A reactive sulfide determination shall be made using EPA SW-846 Chapter 7, Volume IC, Section 7.3.

d. Toxicity. Total concentration of mercury shall be determined utilizing EPA SW-846 Method 7470. Total concentrations of arsenic and selenium shall be determined utilizing atomic adsorption spectrometry, methods 7060 and 7740 respectively. Barium, cadmium, chromium, lead, and silver concentrations shall be determined utilizing inductively-coupled plasma spectrophotometry, Method 6010. Benzene; carbon tetrachloride; chlordane; chlorobenzene; chloroform; m-cresol; o-cresol; p-cresol; 2,4-D; 1,4-dichlorobenzene; 1,2 dichloroethane; 1,1-dichloroethylene; 2,4-dinitrotoluene; endrin; heptachlor; hexachlorobenzene; hexachlorobutadiene; hexachloroethane; lindane; methoxychlor, methyl ethyl ketone; nitrobenzene; pentachlorophenol; pyridine; tetrachloroethylene, toxaphene; trichloroethylene; 2,4,5-trichlorophenol; 2,4,6 trichlorophenol; 2,4,5-TP; and vinyl chloride shall be determined utilizing Method 8260 for the volatile organics, Method 8270 for the semi-volatile organics, and Method 8081 for the pesticides. For the purpose of determining whether or not the material meets the Toxicity Characterization Leaching Procedure (TCLP) acceptance criteria, the results of total concentrations shall be utilized to calculate maximum leachable concentrations of constituents. Detection methods shall be at or below regulatory levels specified in 40 CFR 261.24, Table 1.

e. PCBs. PCB concentrations shall be determined utilizing method 8081. Detection limits shall be at or below 2ppm.

f. Total Halogens. Total halogen concentration shall be determined utilizing method 9075.

C-11.2.4 Concrete Placement. Concrete shall be compacted to the depth of the form by the use of vibrators or other approved methods. Vibrating equipment shall be capable of a minimum of 6,500 rpm. The concrete shall be consolidated with no rock pockets, excessive voids or honeycombs visible on the mat surface. The concrete shall be struck flush or pressed even with the top of the forms and given a uniform surface finish and uniform thickness. After passage of the vibrator and/or finishing machine, additional concrete shall be placed in those individual blocks which are noticeably hollowed, dished out, or deficient in concrete, and finished by hand work to a uniform surface flush with the top of the forms. The complete finishing of concrete shall be kept as near the placing operations as practicable and the placing of concrete shall never precede final finishing operations by more than 50 squares. All concrete placing equipment and methods shall be subject to approval of the Contractor Officer. Excessive thickness of individual squares shall not exceed 3/8 inch, and the height of the finished stacks shall not be in excess of 42 inches. Any squares in which the surface of the concrete is not finished flush with the top of the forms, resulting in "dished" tops or in excess of the allowable overbuild, will be rejected. The top of the completed stack shall be relatively straight and level, and the height of the center of the stack shall not be greater than 1-1/2 inches higher than the ends of the stack. Finished stacks shall not be out of plumb on the ends or sides by more than 2 inches. The maximum allowable offset between successive squares shall not exceed 1/4 inch on the ends or sides.

C-11.2.5 Roughened Finish. The mat surface shall be roughened to provide indentations of approximately 1/4 inch in depth and 1/8 inch (or the size of a brush wire as approved by the Contracting Officer) in width. The depth

shall in no way reduce the 3 inch required thickness of mat by more than 1/4 inch. The indentations shall be spaced no greater than 1 inch apart for the maximum width or no less than 1/2 inch apart for the minimum width. The roughening shall be performed by the final dressing machine and at a time which will provide indentations that meet the minimum width specified above. The indentations shall be installed in the longitudinal direction of the full 4 foot width of mat so they are transverse to the river flow after placement as revetment. A trial section consisting of 4 to 5 rows shall be run to verify performance of equipment. Equipment shall be modified and adjustments made by the Contractor, as necessary, to develop satisfactory performance as determined by the Contracting Officer. A steel brush may give an acceptable product, however, adjustments may be required to such equipment to produce acceptable results as determined by the Contracting Officer. The Contractor's proposed plan for furnishing the roughened finish shall be submitted a minimum of 30 days prior to commencement of casting for review by the Contracting Officer. The location of the roughened mat to be cast on the field shall be as directed by the Contracting Officer. No separate payment will be made for roughening the mat. All costs, therefore, shall be included in the contract unit price for "CASTING MATTRESS (EXCLUSIVE OF CEMENT AND FLY ASH), USING PORTLAND CEMENT, FLY ASH AND WATER-REDUCTION ADMIXTURE".

C-11.2.6 Form Stripping. Forms shall be stripped from the squares as soon as this can be accomplished without damage to the concrete, usually after the concrete has set for 2 to 3 hours. Cracks in the concrete caused by failure to properly release the fabric, or from any other cause shall be repaired immediately after form removal. Forms shall be removed from the stacks and placed gently on the ground in such a manner as to avoid bending or breaking the forms. In removing the forms, equal force shall be applied at points equally spaced around the entire perimeter of the forms. The forms shall not be removed by applying forces only at the ends of the forms. Fabric that is bent or distorted during form removal shall be cause for rejection of the block or blocks in which it is embedded and the fabric shall be straightened to its original state prior to recasting the block or blocks. Promptly upon removal of the forms, the top surface of the concrete squares shall be swept clean of loose gravel and debris. Concrete extruded more than 1/4 inch beyond the neat (inside) lines of the forms shall be removed. Spillage accumulating in the end loop and side bracket wire recesses or on any part of previously cast mattresses shall be promptly removed.

C-11.2.7 Form Cleanup. After removal from the new mattress and placement on level ground, the forms shall be thoroughly chipped and brushed clean of all concrete prior to reuse. Use of equipment that causes damage to forms shall not be allowed. Upon completion of any casting period, the cleaned forms shall be oiled and any damaged forms shall be straightened and repaired as necessary.

C-12 CURING AND PROTECTION.

C-12.1 Warm Weather.

C-12.1.1 Ambient Temperature 40° to 70° F. The following criteria apply when the ambient temperature of the field is between 40° and 70° F, and concrete placing operations are discontinued for 4 hours or more or as the stacks of

squares are topped out. The Contractor shall keep the surface of the top of the rows of stacks that are being cured continuously wet by sprinkling with water during the remaining daylight hours on the day the concrete was cast and for the following seven successive days during daylight hours or until casting on those stacks is resumed, whichever is earlier.

C-12.1.2 Ambient Temperature Above 70° F. When the ambient temperature of the field is 70° F or higher and the concrete placing operations are to be discontinued for 4 hours or more, the Contractor shall keep the surface of the top of the rows of stacks that are being cured continuously wet by sprinkling with water for seven successive 24-hour days or until casting on those stacks is resumed, whichever is earlier.

C-12.1.3 Curing Compound. In lieu of keeping squares of mattress continuously wet as specified above, membrane curing compound meeting the requirements of this specification may be used. The curing compound shall be applied to the exposed surfaces of the squares immediately after removal of the forms, final cleanup of loose gravel and debris, and as soon as free water has disappeared, and applied in accordance with the manufacturer's recommendations. Should heavy rainfall occur within 3 hours after the curing compound has been applied, and the squares have not been rejected under other provisions of these specifications, the curing compound shall be reapplied as specified above. All surfaces on which the curing compound has been applied shall be adequately protected from any cause which will disrupt the effectiveness of the curing compound during the entire 7-day curing period.

C-12.2 Cold Weather. Concrete shall not be placed when the ambient temperature is below 40° F unless approved by the Contracting Officer. When the ambient temperature at the field is 40° F and falling, freshly placed concrete shall be covered with tarpaulins or cotton quilts with air space between the concrete and the cover or the Contractor shall provide another approved means of protecting the concrete from freezing. The temperature of the air in contact with the freshly placed concrete shall not be allowed to fall below 40° F for at least 72 hours after placement. When the ambient temperature is forecast to fall below 40° F, the materials and equipment necessary to ensure maintenance of required curing temperatures and protection of the concrete from freezing shall be on the casting site before concrete is placed. Any concrete which has been allowed to freeze before its final set will be rejected.

C-12.3 Rainy Weather. The Contractor shall take such steps as may be necessary to protect green concrete from rain damage. Any mattress which is damaged due to lack of protection from rain will be rejected.

C-13 EXCESS PAPER. Prior to final inspection of the mattress, all paper extending more than 1/2 inch outside the straight lines of the completed mattress shall be removed by tearing and/or burning. The following restrictions apply when burning is used as a means of removing the paper:

- (1) Burning will not be permitted in violation of city, state or Federal air pollution laws.
- (2) Burning will not be permitted if the concrete in the completed stack

and adjacent stack is less than 14 days old.

(3) Burning agents such as gasoline or other highly volatile liquids will not be permitted. Diesel fuel, propane and kerosene are acceptable for use as burning agents. The amounts of burning agent used shall be the minimum required to remove the excess paper. If the Contracting Officer determines that excessive amounts of burning agent are being used, the Contractor shall decrease the amount to an acceptable level.

C-14 REPLACING DEFICIENT MATTRESS. Mattress or blocks within a mattress that are rejected because of cracks or any deficiency shall be broken out and replaced upon notice of rejection. Every effort shall be made to salvage the fabric from rejected mattress without damaging the fabric. Any fabric damaged beyond use shall be paid for by the Contractor at the rate specified in H-4.1.2. Rejected mattress or rejected blocks shall be replaced using the procedure outlined in these specifications for casting mattress, except a hand-held vibrator, or other method approved by the Contracting Officer, shall be used for concrete consolidation. Failure to comply with all casting requirements will be cause for rejecting the repaired mattress or blocks. Replacement of rejected mat shall be accomplished in such a time frame and at such a pace that the levels of mat on the affected row shall not differ by more than two squares from adjacent stacks.

C-15 FIELD CONDITIONS.

C-15.1 Field Maintenance. As soon as a row of stacks is completed and before construction on another row of stacks is started, these work areas shall be lightly bladed and waste material incorporated into the field surface. Pieces of concrete 3 inches or larger shall be removed from the field and wasted in areas designated by the Contracting Officer. The surface area located within a minimum of 18 inches adjacent to the sides of each stack shall be smoothly graded or cleared to an elevation no higher than the bottom of the first square of mattress in the stack. As soon as the aisle between two completed rows of mattress and the end spaces between the stacks have been satisfactorily cleaned and graded, these areas will be accepted and no further cleaning and grading will be required in such areas except that any waste material subsequently deposited by the Contractor in an accepted area shall be removed by the Contractor at his expense prior to final acceptance of work under this contract.

C-15.2 Wet Field Conditions. The concrete placing and stockpiling equipment shall not operate on the field during such periods when, in the opinion of the Contracting Officer, the operation of the equipment would cause undue damage to the field or roadways.

C-15.3 Casting Field Flooding. The casting field is subject to flooding at high river stages; therefore, the casting operations will not be permitted when, in the opinion of the Contracting Officer, river stages are such that casting operations cannot be performed. The contract time will be extended the number of days equivalent to the time lost by reason of the prevention of casting operations pursuant to the provisions of this paragraph or the Contracting Officer shall determine a reduction in theoretical minimum squares to be cast under this contract based upon time lost by reason of the prevention of casting

operations pursuant to the provisions of this paragraph. No adjustment in contract price will be made as a result of any time extension resulting from field flooding.

C-16 RECORDS. A copy of the Contractor's inspection tests and records, as well as records of corrective action taken, shall be furnished the Government daily.

C-17 MEASUREMENT AND PAYMENT.

C-17.1 Articulated Concrete Mattress. The quantity to be paid for under Item No. 0001A will be squares of articulated mattress cast in accordance with these specifications and accepted by the Contracting Officer. The unit price for casting mattress shall include all costs involved in the addition of air-entraining admixture, the addition of a water-reducing admixture, the addition of calcium chloride, if used, relocating old and new forms and environmental protection. Payment therefor shall constitute full compensation for all operations, labor, roughening mattress, materials, and full repair of the forms entering into the completed mattress except (1) those furnished by the Government and listed herein as free issue, (2) all Portland cement entering into the work for which separate payment is provided for, and (3) all fly ash entering into the work for which separate payment is provided for.

C-17.2 Cement. The quantity of cement to be paid for under Item No. 0001B will be computed by multiplying the number of squares of accepted mattress by the net volume of concrete contained in the form line (0.837 cu yd) and then multiplying this product by the theoretical cement content of the Government-furnished mix design in use during that portion of casting. Any cement used in excess of the Government mix design, shall be at no additional expense to the Government. Payment for cement will be made at the applicable contract unit price per hundredweight for "Portland Cement" which shall include the cost of the cement and all incidental costs such as unloading, handling, hauling, and storage at the site.

C-17.3 Fly Ash. The quantity of fly ash to be paid for in Item No. 0001C will be computed by multiplying the number of squares of accepted mattress by the net volume of concrete contained within the form line (0.837 cu yd) and by multiplying this product by theoretical fly ash content (cubic feet solid volume) in the designed concrete mixture for each increment of change therein. Payment for fly ash will be made at the contract unit price for "Fly Ash," which shall include the cost of the fly ash and all incidental costs such as unloading, handling, hauling, and storage at the site.

C-17.4 Partial Payments.

(1) As provided by Contract Clause entitled Payments (FAR 52.232-1 APR 1989), payments will be made on partial deliveries at monthly intervals. However, if upon the determination of the Contracting Officer the amount due on deliveries warrants it, payments may be made at more frequent intervals. In the preparation of payment estimates, the Contracting Officer may authorize material delivered on the site to be taken into consideration, if the Contractor furnishes satisfactory evidence that it has paid for such material.

(2) All material and work covered by partial payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as

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

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

(3) In making these partial payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety.

(4) In making these partial payments, the Government may adjust payment due to unacceptable performance in accordance with paragraph F-1.2.2.

(End of Section C)

SECTION D

Not Used

SECTION E
INSPECTION AND ACCEPTANCE

E-1 INSPECTION OF SUPPLIES--FIXED PRICE (AUG 1996).

(a) Definition. "Supplies," as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering supplies under this contract and shall tender to the Government for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the Government during contract performance and for as long afterwards as the contract requires. The Government may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under the contract.

(c) The Government has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Government shall perform inspections and tests in a manner that will not unduly delay the work. The Government assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in this contract.

(d) If the Government performs 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, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the Government shall bear the expense of Government inspections or tests made at other than the Contractor's or subcontractor's premises; provided, that in case of rejection, the Government shall not be liable for any reduction in the value of the inspection or test samples.

(e)(1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.

(2) The Contracting Officer may also charge the Contractor for any additional cost of inspections or tests when prior rejection makes reinspection or retest necessary.

(f) The Government has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. The Government may reject nonconforming supplies with or without disposition instructions.

(g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and, when

required, shall disclose the corrective action taken.

(h) If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Government may either (1) by contract or otherwise, remove, replace, or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.

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

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

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

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

(1) If acceptance is not conclusive for any of the reasons in paragraph (k) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, the Contractor fails to meet such delivery schedules, or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right by contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby. (FAR 52.246-2)

E-2 RESPONSIBILITY FOR SUPPLIES (APR 1984)

(a) Title to supplies furnished under this contract shall pass to the

Government upon formal acceptance, regardless of when or where the Government takes physical possession, unless the contract specifically provides for earlier passage of title.

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

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

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

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

(d) Under paragraph (b) above, the Contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Government acting within the scope of their employment.

(FAR 52.246-16)

E-3 INSPECTION.

E-3.1 Scope. The work will be conducted under the general direction of the Contracting Officer and is subject to inspection by his appointed representatives to ensure strict compliance with the terms of the contract. No representative is authorized to change any provision of the specifications without written authorization of the Contracting Officer, nor shall the presence or absence of a Government representative relieve the Contractor from any requirements of the contract.

E-3.2 Quality Assurance. Except as specified in this section and in Section C, all expenses of quality assurance inspection will be borne by the Government.

E-3.3 Contractor Responsibilities. The Contractor will be required to furnish, on request of the Contracting Officer or his field representative, laborers and material as may be reasonably necessary in laying out the field and inspecting and supervising the work.

E-4 CONTRACTOR INSPECTION SYSTEM.

E-4.1 General. The Contractor, at his expense, shall establish and maintain inspection of the casting of articulated concrete mattress to assure compliance with the contract requirements and maintain records of all operations including, but not limited, to the following:

(1) Production sampling and testing which includes the following tests, procedures and minimum frequency of testing:

(a) Fine Aggregate - Sieve Analysis - CRD-C 103, Three tests during each shift when stockpiling and at least one test during each 8-hour period when concrete plant is operating.

(b) Fine Aggregate - Fineness Modulus - CRD-C 104, Three tests during each 8-hour period when stockpiling and at least one test during each 8-hour period when concrete plant is operating.

(c) Fine Aggregate - Moisture Content - CRD-C 111, CRD-C 112, and CRD-C 113, At least one test during each 8-hour period of concrete production. When, in the opinion of the Government Inspector, the electric moisture meter is not operating satisfactorily, at least four tests during each 8 hour period will be required. The results of the moisture content tests will be used to adjust the added water in the mix.

(d) Coarse Aggregate - Sieve Analysis - CRD-C 103, Three tests during each shift when stockpiling and at least one test during each 8-hour period when concrete plant is operating.

(e) Coarse Aggregate - Moisture Content - CRD-C 112 and CRD-C 113, Two tests during each 8-hour period of concrete production.

(f) Particle Shape. When, in the opinion of the Contracting Officer, a problem exists in connection with aggregate particles shape, tests shall be made in accordance with CRD-C 119. Testing frequency shall be not less than one test per day.

(g) Deleterious Substances. When, in the opinion of the Contracting Officer, a problem exists in connection with deleterious substances in the coarse or fine aggregate as listed in Table 1 or Table 3 of ASTM C 33, tests shall be made in accordance with the appropriate ASTM test method. Testing frequency shall be not less than one test per day.

(2) All aggregates barged to the jobsite shall be sampled and tested prior to unloading. When test results indicate that materials do not conform to the specified requirements, corrective action shall be taken promptly and material not meeting the specifications shall be promptly removed from the site.

(3) Weighing Accuracy. The accuracy of the scales shall be checked by test weights at least once a month for conformance with the applicable requirements of paragraph C-8.3. Such tests shall also be made whenever there are variations in properties of the fresh concrete that could result from batching errors.

(4) Installing fabric and placing concrete. The Contractor shall delineate the forms which contain the first and last pieces of fabric in each bundle used. The Contractor shall report on the daily report the bundle numbers, pieces of fabric contained therein and any differences in quantities of fabric from the count shown on the bundle.

(5) Check cleanout and tolerances in stacks of mattress once during each day's operation.

(6) The Contractor shall perform a daily safety inspection of the jobsite, equipment, or separate segments thereof. The inspection shall be performed by the Contractor's job supervisory staff, a company safety specialist, a safety consultant, or a safety representative of the compensation insurance carrier. The results shall be documented, along with any corrective action

taken, on the daily report.

(7) The Contractor shall inspect the site daily for all housekeeping requirements and document findings. A responsible person must be delegated in writing by the Contractor for assuring compliance with housekeeping requirements of EM 385-1-1, Section 14.C.

E-5 ACCEPTANCE.

E-5.1 General. The Government will perform all assurance testing of aggregates and concrete. Assurance testing of aggregates will consist of the same tests listed above as well as other quality tests. Assurance testing of concrete will consist of slump, air content, unit weight, compressive strength tests and other tests as deemed necessary.

E-5.2 Reports. The Contractor shall furnish daily three copies of daily reports which shall include but not be limited to the following: number of squares cast; deficiencies found by the Contractor and corrective action taken; instructions given by the Government Representative; safety inspection deficiencies and corrective action taken; employees on the job and total man-hours; materials used, including cement calculated to the nearest pound, fly ash calculated to the nearest cubic foot, and number of pieces of fabric used; calcium chloride calculated to the nearest pound; etc.. The report shall show all materials received that day and to date, all materials used that day and to date, and all materials on hand.

E-5.3 Squares. As soon as each square of mattress has been cast, the forms removed, damage repaired in accordance with these specifications and curing completed, it shall be accepted or rejected in accordance with terms of the specifications. Acceptance of individual squares will not relieve the Contractor of the responsibility of complying with all provisions of these specifications for completed stacks of mat. After the top square of each stack has been cast, the Contractor shall comply with all provisions of Section C before any squares cast in adjoining stacks will be accepted.

E-5.4 Stacks. After each stack of mattress has been completed, the Contractor will be permitted to repair any damage or correct any deficiencies in the completed stack. The completed stack of mattress will then be accepted or rejected in accordance with the terms of these specifications. After a completed stack of mattress is accepted, all responsibility for such mattress shall pass to the Government except that the Contractor shall be responsible for any damage to the mattress due to his fault or negligence which occurs prior to final acceptance of all work under this contract. Such acceptance will not be made until the specified cleanup is satisfactorily accomplished.

(End of Section E)

SECTION F
DELIVERIES AND PERFORMANCE

F-1 COMMENCEMENT, PROSECUTION AND COMPLETION.

F-1.1 Commencement. Upon receipt of Notice of Award, the Contractor shall proceed with preparations for performance of the contract which do not interfere with the removal of the previous Contractor's equipment, such as making arrangements for the procurement of materials and supplies required for the work.

The Contractor shall furnish his proposed sources of concrete aggregates and a plan for batch plant erection, including but not limited to type of plant and proposed location on the field, within 10 days after receipt of Notice of Award.

Upon receipt of the Notice to Mobilize, the Contractor will have unrestricted access to the field to assemble and make ready for operation all necessary plant and equipment. The Contractor will be required to maintain the field in accordance with Paragraph H-3.2. Any aggregate delivered to the site of the work shall not be removed therefrom without the written consent of the Contracting Officer. The Notice to Proceed for Casting will not be issued prior to 15 days after the Contractor receives Notice to Mobilize unless mutually agreed upon by the parties. The Contractor shall commence casting operations within 15 calendar days after the date of receipt by him of the Notice to Proceed for Casting. It is anticipated that the Notice to Proceed for casting will be issued about 1 June 2000.

F-1.2 Prosecution and Completion.

F-1.2.1 The Contractor will be required to prosecute the work at an average rate of not less than 1,000 squares per calendar day during the payment period. Prior to determining the average, the number of calendar days during the period shall be reduced by the number of days of excusable delays which occurred during that period. Excusable delays for weather do not occur until the number of actual days of delay exceed that shown in paragraph H-17. The Contractor shall cast at no less than the minimum rate until the entire quantity (basic and option) has been delivered.

F-1.2.2 For purposes of assessing retainages, the average calendar day rate shall be computed at the end of each pay cycle over the preceding pay period. The production days will be computed using the calendar days in that period reduced by the number of excusable delay days. The average production shall be determined by dividing the number of acceptable squares cast during the period by the number of production days. If the Contracting Officer finds that satisfactory progress was achieved during the period, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made during the period, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the

Contractor all the remaining withheld funds.

F-1.2.3 For purposes of computing liquidated damages (see paragraph F-2), a calendar day of delay shall be determined by subtracting the actual number of acceptable mat cast during the contract from the theoretical minimum (i.e. 1,000 squares per day times the number of production days to date in the contract) divided by 1,000 squares per day. Computation shall be made to the nearest whole day.

F-2. LIQUIDATED DAMAGES,-- SUPPLIES, SERVICES, OR RESEARCH AND DEVELOPMENT (APR 1984).

(a) If the Contractor fails to deliver the supplies or perform the services within the time specified in this contract, or any extension, the Contractor shall, in place of actual damages, pay to the Government as fixed, agreed, and liquidated damages, for each calendar day of delay the sum of \$1,490.00.

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

(c) The Contractor shall not be charged with liquidated damages when the delay in delivery or performance arises out of causes beyond the control and without the fault or negligence of the Contractor as defined in the Default Fixed-Price Supply and Service clause in this contract.
(FAR 52.211-11)

F-3 GOVERNMENT DELAY OF WORK (APR 1984).

a. If the performance of all or any part of the work of this contract is delayed or interrupted (1) by an act of the Contracting Officer in the administration of this contract that is not implied or expressly authorized by this contract, or (2) by a failure of the Contracting Officer to act within the time specified in this contract or within a reasonable time if not specified, an adjustment (excluding profit) shall be made for any increase in the cost of performance of this contract caused by such delay or interruption and the contract shall be modified in writing accordingly. Adjustment shall also be made in the delivery or performance dates and any other contractual term or condition affected by the delay or interruption. However, no adjustment shall be made under this clause for any delay or interruption to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an adjustment is provided or excluded under any other term or condition of this contract.

b. A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the

Contracting Officer in writing of the act or failure to act involved and (2) unless the claim, in the amount stated, is asserted in writing as soon as practicable after the termination of the delay or interruption, but not later than the day of final payment under the contract. (FAR 52.212-15)

F-4 DELIVERY OF EXCESS QUANTITIES (SEP 1989).

The Contractor is responsible for the delivery of each item quantity within allowable variations, if any. If the Contractor delivers and the Government receives quantities of any item in excess of the quantity called for (after considering any allowable variation in quantity), such excess quantities will be treated as being delivered for the convenience of the Contractor. The Government may retain such excess quantities up to \$250 in value without compensating the Contractor therefor, and the Contractor waives all right, title, or interests therein. Quantities in excess of \$250 will, at the option of the Government, either be returned at the Contractor's expense or retained and paid for by the Government at the contract unit price. (FAR 52.211-17)

F-5 VARIATION IN QUANTITY (APR 1984)

(a) A variation in the quantity of any item called for by this contract will not be accepted unless the variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified in paragraph (b) below.

(b) The permissible variation shall be limited to

10 percent increase
10 percent decrease

The increase or decrease shall apply to Items 0001B and 0001C of the bid schedule. (FAR 52.211-16)

(End of Section F)

SECTION G
CONTRACT ADMINISTRATION DATA

G.1 CONTRACTING OFFICER'S REPRESENTATIVE (DEC 1991)

(a) Definition."Contracting Officer's Representative (COR) means an individual designated in accordance with subsection 201.602-2 of the Defense Federal Acquisition Regulation Supplement and authorized in writing by the Contracting Officer to perform specific technical or administrative functions.

(b) If the Contracting Officer designates a Contracting Officer's Representative (COR), the Contractor will receive a copy of the written designation. It will specify the extent of the COR's authority to act on behalf of the Contracting Officer. The COR is not authorized to make any commitments or changes that will affect price, quality, quantity, delivery, or any other term or condition of the contract. (DFARS 252.201-7000)

G-2 INVOICES

Submit original and two (2) copies of invoice to the Area Engineer at the following address:

Wynne Area Office
Bennie House Center
Highway 1 North
Wynne, Arkansas 72396-0729

(End of Section G)

SECTION H
SPECIAL CONTRACT REQUIREMENTS

H-1 SCHEDULES.

H-1.1 General. The Contractor shall, within 10 days after award of the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval, three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the features of the work in the form of a progress chart of suitable scale to indicate approximately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

H-1.2 Contract Progress. If, in the opinion of the Contracting Officer, the Contractor falls behind the production required in Section F, the Contractor shall take necessary action to improve progress, including any action that may be required by the Contracting Officer, without additional cost to the Government. The Contracting Officer may require the Contractor to increase the number of shifts, initiate overtime operations, increase the number of days of work per week, and/or the amount of construction plant. The Contractor may be required to submit for approval any supplementary schedule or schedules, in chart form, as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained. Failure of the Contractor to comply with these requirements will be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.

H-2 SUBMITTALS. Within 10 days after award, the aggregate sources shall be submitted, and within 15 days after receipt of Notice to Proceed, the Contractor shall complete and submit to the Contracting Officer, in duplicate, submittal register ENG Form 4288-R listing all submittals and dates. In addition to those items listed on ENG Form 4288-R, the Contractor shall furnish submittals for any deviation from the plans or specifications. The scheduled need dates must be recorded on the document for each item for control purposes. In preparing the document, adequate time (minimum of 30 days) will be allowed for review and approval and possible resubmittal. Scheduling shall be coordinated with the approved progress schedule. The Contractor's Quality Control Representative shall review the listing at least every 30 days and take appropriate action to maintain an effective system. Copies of updated or corrected listings shall be submitted to the Contracting Officer at least every 60 days in the quantity specified. Payment will not be made for any materials or equipment which does not comply with contract requirements. (ER 415-1-10 1991).

Note: The required submittals are listed on ENG Form 4288R, enclosed as Page J-2. This list may be revised to comply with other submittal requirements of the contract.

The transmittal of shop drawings, equipment data, material samples, or manufacturer's Certificates of Compliance, ENG Form 4025-R, is enclosed as Page J-14. (ER 415-1-10)

H-3 GOVERNMENT-FURNISHED FACILITIES. The Government will provide the following facilities for use in performance of the work.

H-3.1 Buildings. The Contractor will be required to maintain for the duration of the contract the building(s) and facilities at no additional expense to the Government. The Contractor shall furnish at no additional expense to the Government all utilities and janitorial services required in the building, including the Government laboratory and office, until final acceptance of the mattress casting operations, and the Contractor will furnish all utilities required in the building, including the Government laboratory and office, as long as the contract remains open. Government equipment needed for aggregate moisture and gradation testing may be used for Contractor Quality Control.

H-3.2 Casting Field. Upon receipt of the Notice to Mobilize by the Contractor, those portions of the casting field which are to be used for casting operations will be made available to the Contractor as indicated on the drawings. The casting field and access roads will be turned over to the Contractor in good condition insofar as grading and drainage are concerned, except that some dressing to eliminate minor surface irregularities such as scours and shallow ruts may be necessary. In the event such dressing is necessary, this shall be done by the Contractor at no additional expense to the Government; except that grading and dressing required to remove heavy deposits of sediment and debris caused by flood which cannot reasonably be removed by the Contractor's normal field maintenance equipment will be removed by the Government at its expense. The Government is not responsible for any demobilization or remobilization of the Contractor's equipment required due to floods. During the life of the contract, which is until all of the Contractor's plant and equipment are removed, the Contractor will be required, at no additional expense to the Government, to:

(1) Within the Government rights-of-way, remove debris, and clean and keep open at all times all existing drainage ditches and culverts and perform other minor ditching as may be required to maintain complete surface drainage of the casting field at all times. The Contractor shall also maintain in a like manner all other drainage canals and ditches within the Government rights-of-way.

(2) Maintain the casting field and all roads and drainage features in good condition. Maintenance work shall include sprinkling the field in such manner and at such intervals as may be directed in order to positively and effectively control all dust caused by the Contractor's equipment and, insofar as practicable, be of a type that will improve the surface of the field. Waste material (concrete, gravel, and spalls) shall be incorporated therein. Effluent from gravel washers and residue from washing mixers of materials

carrying trucks shall be discharged in an authorized location. Ruts and depressions which interrupt drainage shall be immediately filled and dressed. Leaking of water lines or the digging of trenches will not be permitted on the field. Blade work in connection with maintaining the surface of the field shall be done with rubber-tired equipment. In the event that the Contractor requires additional roads for his operations, such roads shall be provided or constructed and maintained at no additional expense to the Government.

3) Cut or mow all grass, weeds, tree growth, and other vegetation around perimeter of casting field three times a year. The first cutting shall be made the second week of June, the second cutting the third week of July, and the final cutting upon conclusion of casting operations. If deemed necessary by the Contracting Officer, debris resulting from this operation shall be removed from ditches and embankments and disposed of as directed.

H-3.3 Plant, Equipment and Materials. Plant, equipment and materials, not the property of the Government, presently stored on the casting field, will be removed by others prior to issuance of Notice to Mobilize. The Government reserves the right to use the access roads, casting field and casting field roads to the extent necessary to permit hauling of mattress from the field for loading on barges anchored alongside or adjacent to the casting field and for other incidental purposes. The Contractor will be required to maintain all joint-use roads and the casting field at no additional expense to the Government during the periods the Contractor is performing casting operations on the casting field. The Contractor will not be required to build or maintain any roads needed for the exclusive use of the Government. Unless specifically authorized, no operations shall be conducted on the casting field by the Contractor other than those required in performance of this contract.

H-4 IDENTIFICATION OF GOVERNMENT-FURNISHED PROPERTY.

H-4.1 General. The Government will furnish to the Contractor as free issue the following property to be incorporated or installed in the work or used in its performance. Any property so furnished which is excess upon the completion of the work shall remain the property of the Government. The Contractor shall check the quantity and condition of such property when delivered to him and acknowledge receipt thereof in writing to the Contracting Officer and in case of damage to, or shortage of, such property, he shall within 24 hours, report in writing such damage and/or shortage to the Contracting Officer.

H-4.1.1 Steel Forms. Steel forms having a value of \$300.00 each will be furnished by the Government. The Contractor shall, during casting operations, maintain in good repair all steel forms furnished by the Government. Upon completion of casting operations, the Contractor shall clean, repair, oil and store all steel forms as may be necessary to place them in as good condition as when received from the Government less fair wear and tear. The steel forms shall be stored in stacks not to exceed five feet, supported by dunnage and located at the mat casting field as directed by the Contracting Officer. Stacking and repairs to the steel forms shall be made at no additional expense to the Government, and shall include replacement of all parts lost or broken during casting operations. The forms to be furnished by the Government are located at

the casting field and are available for inspection by the Contractor. A total of 1,000 steel forms are presently available for use on the casting field. Welding procedure and welding material for form repairs will be approved by the Contracting Officer.

H-4.1.2 Fabric. A sufficient quantity of fabric will be furnished to produce the required quantity of mattress. The fabric will conform to that shown on Drawing No. 22060, File No 74/211.1, entitled "Typical Layout and Standard Details." All fabric required for prosecution of the contract will be stored on the field or adjacent thereto by the Government in time to meet the required casting rate. Should the Contractor lose or damage any fabric squares, he shall reimburse the Government for the same at the rate of \$16.70 per square.

H-4.2 Requisition. The Contractor shall requisition the Government property specified herein to be furnished as free issue for use in the work to be performed under the Contract. Corps of Engineers Form 4900 will be furnished the Contractor without cost for the purpose of making requisition for such property. Subject to the provisions of this paragraph, Government property will be delivered or made available to the Contractor not later than five calendar days after the receipt of the Contractor's properly executed requisition. Delays to the work as a result of the Contractor's failure to submit requisitions in sufficient time to allow for delivery of the property as stated above will not be made the basis of any claim for an increase in costs or time of performance of the work.

H-4.3 Indemnification. The Contractor shall indemnify, hold harmless and defend the Government against any and all claims, demands, or liabilities against the Government arising out of the use and operation of Government-furnished property during the period such property is in possession and under the control of the Contractor excepting only claim for injuries to Government employees not due to the fault or negligence of the Contractor.

H-5 RECORD OF GOVERNMENT PROPERTY. The Accountable Property Officer, U.S. Army Engineer District, Memphis, Corps of Engineers, Memphis, is designated as the Officer to maintain the necessary property records in connection with this contract.

H-6 CLEANUP. The Contractor shall at all times keep the construction area, including storage areas used by him, free from accumulations of waste material or rubbish. When the Contractor has completed casting operations at the field, he shall within 15 calendar days, unless otherwise authorized, deliver all Government property not incorporated into the mattress to the Government as herein before specified, and clean up the site by removing, distributing or destroying all objectionable foreign matter and debris in a manner satisfactory and acceptable to the Contracting Officer. The Contractor shall remove any rubbish and all tools, equipment, and materials not the property of the Government, and leave the surface of the field equal to the condition as when received. In the event of failure of the Contractor to cleanup the site as indicated above, the Contracting Officer may proceed to have this work done and deduct the cost thereof from amounts due or to become due the Contractor.

H-7 STORAGE OF CONTRACTOR'S EQUIPMENT.

H-7.1 General. The Contractor may store his equipment, facilities and surplus materials on the field until 15 calendar days after Notice of Award of a new casting contract. The Contractor shall indemnify, hold harmless and defend the Government against any and all claims, demands or liabilities arising out of the storage of the said property on Government premises. In the event of failure of the Contractor to remove his equipment, facilities and surplus materials by the time specified, the Contracting Officer may proceed to have this work done and deduct the cost thereof from amounts due or to become due the Contractor.

H-7.2 Government Obligation. The Government will assume no obligations for the Contractor's plant, facilities, surplus materials, and/or equipment when stored on the field. Increase of surplus materials, and/or movement of additional plant or equipment on the site will not be permitted after completion of casting operations. Failure to comply with these requirements shall be cause for revoking this storing privilege. The Government will withhold payment for the final 600 squares of mattress, not including cement or fly ash, pending final cleanup specified in Paragraph H-6 and removal of the Contractor's equipment from Government property as specified above.

H-8 SECURITY.

H-8.1 General. The Contractor shall be responsible for providing reasonable security for Government-furnished property.

H-8.2 Reporting.

(1) The Contractor shall immediately notify by telephone (telephone number 901-544-4007), the Memphis District Security Office as well as the Contracting Officer when a theft of Government property has occurred.

(2) The Contractor shall complete ENG Form 4337 within 48 hours of a theft of Government property and forward it to the Memphis District Security Office.

(3) The Contractor shall inform the Memphis District Security Office as well as the Contracting Officer of all incidents at the facility involving the local law enforcement authorities.

H-9 INSURANCE - WORK ON A GOVERNMENT INSTALLATION (JAN 1997).

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall certify to the Contracting Officer in writing that the required insurance has

been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective (1) for such period as the laws of the State in which this contract is to be performed prescribe, or (2) until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request. (FAR 52.228.5)

H-10 REQUIRED INSURANCE.

H-10.1 General. The Contractor shall procure and maintain during the entire period of his performance under this contract the following minimum insurance.

H-10.2 Workman's Compensation and Employer's Liability Insurance. Compliance with applicable workmen's compensation and occupational disease statutes will be required. In jurisdictions where all occupational diseases are not compensable under applicable law, insurance for occupational disease will be required under the employer's liability section of the insurance policy; however, such additional insurance will not be required where contract operations are commingled with the Contractor's commercial operations so that it would be impracticable to require such coverage. Employer's liability coverage in the minimum amount of \$100,000 will be required.

H-10.3 General Liability Insurance. Bodily injury liability insurance in the minimum limits of \$500,000 per occurrence will be required on the comprehensive form of policy; however, property damage liability insurance ordinarily will not be required.

H-10.4 Automotive Liability Insurance. This insurance shall be provided on the comprehensive form of policy and shall provide injury liability and property damage liability covering the operation of all automobiles used in connection with the performance of the contract. At least the minimum limits of \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage shall be provided. Prior to the commencement of work hereunder, the Contractor shall furnish to the Contracting Officer a certificate or written statement of the above-required insurance. The policies evidencing required insurance shall contain an endorsement to the effect that cancellation or any material change in the policies adversely affecting the interests of the Government in such insurance shall not be effective for such period as may be prescribed by the laws of the State in which this contract is to be performed and in no event less than thirty (30) days after written notice thereof to the Contracting Officer. The Contractor agrees to insert the substance of this clause, including this paragraph, in all subcontracts hereunder.

H-11 MOORING PERMITS. Temporary permits for mooring will be issued upon request for such floating equipment as may be essential in supplying sand, gravel and cement. The plant shall be properly moored with a minimum of four bank lines, one stern, one head and two spring lines. The dock or crane barge shall be equipped with permanent marine deck fitting of sufficient size and number to adequately moor the plant and to secure and maneuver the supply barges.

Mooring lines shall be fixed to bank anchorage of sufficient size and number for the purpose. The plant shall be equipped with stop logs or bumpers to prevent equipment from rolling overboard, and an approach ramp or bridge of sufficient size and strength to safely carry the loaded gravel and/or sand and/or cement hauling equipment to be used. All mooring and methods of operation will be subject to inspection and approval by the Contracting Officer. Permits may be revoked at any time the unloading operation is considered a hazard to men employed on it or to other plant and equipment moored in the vicinity.

H-12 SAFETY PROVISIONS.

H-12.1 Accident Investigations and Reporting. The Contractor shall comply with all pertinent provisions of the U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, dated September 1996. Accidents shall be investigated by the immediate supervisor of the employee(s) involved and reported to the Contracting Officer immediately. A report of all mishaps occurring on the project shall be submitted to the Contracting Officer on ENG Form 3394 within 2 working days following the incident. All data reported must be complete, timely and accurate. A follow-up report shall be submitted when the estimated lost time days differs from actual lost time days. When a job related injury occurs which requires medical treatment, a supervisor of the injured employee shall accompany the injured employee to the treatment facility and explain the employees regular duties and the availability of "Light Duty" so the injured employee can return to work as soon as medically possible.

H-12.2 Accident Prevention Program. Within 15 days after receipt of Notice of Award of the contract, and at least 7 days prior to the prework conference, four copies of the Accident Prevention Program shall be submitted to the Contracting Officer for review and acceptance. The accident prevention program is to conform to Appendix A (Minimum Basic Outline for Accident Prevention Plan) of the U. S. Army, Corps of Engineers, Safety and Health Requirements Manual, EM 385-1-1, dated September 1996. The program shall be prepared in the following format:

- (1) An executed LMV Form 358R, Accident Prevention Program-Administrative Plan.
- (2) An executed LMV Form 359R, Activity Hazard Analysis.
- (3) A copy of company policy statement of accident prevention and any other guidance statements normally provided new employees.
- (4) When marine plant and equipment are in use under a contract, the method of fuel oil transfer shall be included on LMV Form 414R, Fuel Oil Transfer. (Refer to 33 CFR 156.)

The Contractor shall not commence physical work at the site until the program has been discussed with the Contracting Officer or his authorized representative.

At the Contracting Officer's discretion, the Contractor may submit his Activity Hazard Analysis for only the first phase of construction provided that it is accompanied by an outline of the remaining phases of construction. All remaining phases shall be submitted and accepted prior to the beginning of work on each phase. (Also refer to Section 1 of EM 385-1-1.)

H-12.3 Comprehensive Hazard Communication Program. The Contractor shall develop, implement and maintain at the workplace a written, Comprehensive Hazard Communication Program (see Section 01.B.04 of EM 385-1-1) that includes identification of potential hazards as prescribed in 29 CFR Part 1910.1200 and/or 1926.59, effects of exposure and control measures to be used for chemical products and physical agents that may be encountered during the performance of work on this contract, provisions for container labeling, Material Safety Data Sheets, and employee training program, and other criteria in accordance with 29 CFR Part 1910.1200 and/or 1926.59. Training shall include communication methods and systems to be used (i.e., voice, hand signals, radios or other means), and training in the use and understanding of material safety data sheets and chemical product warning labels. Prior to bringing hazardous substances, as defined in 29 CFR Part 1919.1200 and/or 1926.59, onto the job site, a copy of the Hazard Communication Program and the Material Safety Data Sheets of each substance shall be submitted to the Contracting Officer and made available to the Contractor's employees as part of his Accident Prevention Program.

H-12.4 Daily Inspections. The Contractor shall institute a daily inspection program to assure safety requirements are being fulfilled. Reports of daily inspections shall be maintained at the jobsite. The reports shall be a record of the daily inspections and resulting actions. Each report shall include, as a minimum, the following:

- (1) Phase(s) of construction during the inspection.
- (2) Locations or areas inspections were made.
- (3) Results of inspections, including nature of deficiencies observed and corrective actions taken or to be taken, date, and signature of the person responsible for its contents.

H-12.5 Safety Sign.

(1) The Contractor shall furnish, erect, and maintain a safety sign at the site, as located by the Contracting Officer. The sign shall be erected as soon as practicable, but not later than 15 calendar days after the date established for commencement of work. The data required shall be current and conform to details shown on drawing entitled "Safety Sign", Page J-3.

(2) The Safety sign shall meet the requirements specified in the U. S. Army Corps of Engineers Sign (USACES) Standards Manual, EP 310-1-6a and EP 310-1-6b. The Contractor can purchase the USACES standards manual from:

Corps of Engineers Publications Department
2803 52nd Avenue
Hayattsville, Maryland 20781

(3) The publications department may be reached at telephone number 301-436-2065. The price of the manual is \$65.00 which may change without notice.

(4) A copy of the signs standards manual is available for review at the office of the Sign Program Manager and questions concerning manufacture and installation of the project identification sign may be addressed to:

Memphis District Sign Program Manager
(Don Whatley)
ATTN: CEMVM-CO-M
167 N. Main Street B202
Memphis, TN 38103-1894
Telephone: 901-544-4091

H-12.6 Ground Fault Protection. Electrical equipment used on this contract shall be equipped with ground fault circuit interrupters in accordance with EM 385-1-1, Section 11.C.05.

H-12.7 Hazardous Energy Protection. The Contractor shall develop, implement and maintain at the workplace, a written Control of Hazardous Energy (Lockout/Tagout) System. Refer to Section 12 of EM 385-1-1.

H-12.8 Machinery and Mechanized Equipment. All equipment shall be inspected prior to use on this contract. All equipment shall be reinspected prior to use any time it is removed and subsequently returned to the contract site for use. Documentation of equipment inspections shall be made available to the Contracting Officer upon request. Tractors, in addition to trucks, will be equipped with a first aid kit. Machinery and mechanized equipment used under this contract shall comply with the following:

(1) All equipment will be properly guarded.

(2) When mechanized equipment is operated on floating plant, the Contractor shall provide positive and acceptable means of preventing this equipment from moving or falling into the water. The type of equipment addressed by this clause includes front-end loaders, bulldozers, trucks(both on- and off-road), backhoes, track hoes, and similar equipment. If the Contractor plans to use such equipment on floating plant, an activity hazard analysis must be developed for this feature of work. The plan must include a detailed explanation of the type or types of physical barriers, curbs, structures, etc., which will be incorporated to protect the operator and prevent the equipment from entering the water. Nonstructural warning devices may be considered for situations where the use of structural barriers is determined to be impractical. The activity hazard analysis must thoroughly address the procedure and be submitted to the Corps for review and acceptance prior to start of this feature of work.

(3) The stability of crawler, truck, and wheel-mounted cranes shall be assured.

(a) The manufacturer's load-rating chart may be used to determine the maximum allowable working load for each particular crane's boom angle provided:

(i) A test load, with a boom angle of 20 degrees, confirms the manufacturer's load-rating table;

(ii) there has been no change in the boom or other structural members, and

(iii) there has been no change in the machine's original counterweight.

(b) Stability tests are required, however, if:

(i) There is no manufacturer's loading chart securely fixed to the operator's cab;

(ii) there has been a change in boom or other structural members; or

(iii) there has been a change in the counterweight.

The test shall consist of lifting a load with the boom in the least stable undercarriage position and at an angle of 20 degrees above the horizontal. The test shall be conducted under close supervision on a firm, level surface. The load that tilts the machine shall be identified as the test load. The test-load moment (in foot-pounds) shall then be calculated by multiplying the horizontal distance (in feet) from the center of rotation of the machine to the test load, times the test load (in pounds). Three-fourths of this test-load moment shall then be used to compute the maximum allowable operating loads for the boom at 20, 40, 60 and 80 degrees above horizontal. From these maximum allowable operating loads, a curve shall be plotted and posted in the cab of the machine in sight of the operator. These values shall not be exceeded except in the performance test described below. The test load shall never exceed 110 percent of the manufacturer's maximum rated capacity.

(c) In lieu of the test and computations above, the crane may be load tested for stability at each of the four boom positions listed above.

(4) Performance tests shall demonstrate the strength, capability, and adequacy of power, brakes, clutches, and controls to safely maneuver 125 percent of the maximum allowable load as determined above for the 80-degree position or the manufacturer's rated load for the 80-degree position, whichever is applicable. A performance test shall be conducted after each stability test, when the crane is placed in service on a project, and at least every 12 months.

(5) Inspections shall be made which will ensure a safe and economical operation of all cranes and draglines. Specific inspections and their frequencies are listed on the appropriate checklists noted below. Results of inspections and tests for cranes shall be recorded on the Safety Inspection Check List, LMV Form 326R, and inspection results for draglines shall be recorded on LMV Form 373R. Copies of the inspections and tests on all cranes and draglines shall be furnished to the Government. All inspections shall be witnessed by the Contracting Officer.

- (6) A complete dragline inspection shall be made:
- (a) at least annually;
 - (b) prior to dragline being placed in operation on this contract; and
 - (c) after the dragline has been out of service for more than 6 months; and
 - (d) after the dragline has been removed and subsequently returned to the contract site for use.

H-12.9 Crane Documentation and Equipment.

(a) Crane Documentation. Every crane shall have the following documentation at the time of operation:

- (1) a copy of the operating manual developed by the manufacturer for the specific make and model of the crane;
- (2) a copy of the operating manual for any crane operator aids with which the crane is equipped;
- (3) the load rating chart for the crane which include: (a)the crane make and model, serial number, and year of manufacture, (b)load ratings for all crane operating configurations including optional equipment, (c)recommended reeving for the hoist line, and (d)operating limits in windy or cold weather conditions;
- (4) the cranes log book which shall be used to record operating hours and all crane inspections, tests, maintenance and repair.

(b) Crane Equipment. Every crane shall have the following equipment at the time of operation:

- (1) a boom angle indicator and a load indicating device, or a load moment indicator/rated capacity indicator (exempt articulating boom cranes and those cranes used for duty cycle operations);
 - (2) a means for the crane operator visually to determine the levelness of the crane;
 - (3) drum rotation indicators to afford sensing by the operator (exempt articulating boom cranes);
 - (4) a boom angle or radius indicator located within the operator's view (exempt articulating boom cranes);
- anti-two block devices (exempt articulating boom cranes and

H-12.10 Haul Roads. Whenever practical, one-way haul roads shall be used on this contract. Haul roads built and maintained for this work shall comply with the following:

(1) One-way haul roads for off-the-road equipment, e.g., belly dumps, scrapers, and off-the-road trucks shall have a minimum usable width of 25 feet. One-way haul roads for over-the-road haulage equipment only (e.g., dump trucks, etc.) may be reduced to a usable width of 15 feet. When the Contracting Officer determines that it is impractical to obtain the required width for one-way haul roads (e.g., a road on top of a levee), a usable width of not less than 10 feet may be approved by the Contracting Officer, provided a positive means of traffic control is implemented. Such positive means shall be signs, signals, and/or signalman and an effective means of speed control.

(2) Two-way haul roads for off-the-road haulage equipment shall have a usable width of 60 feet. Two-way haul roads for over-the-road haulage equipment only may be reduced to a usable width of 30 feet.

(3) Haul roads shall be graded and otherwise maintained to keep the surface free from potholes, ruts, and similar conditions that could result in unsafe operation.

(4) Grades and curves shall allow a minimum sight distance of 200 feet for one-way roads and 300 feet for two-way roads. Sight distance is defined as the centerline distance an equipment operator (4.5 feet above the road surface) can see an object 4.5 feet above the road surface. When conditions make it impractical to obtain the required sight distance (e.g., ramps over levees) a positive means of traffic control shall be implemented.

(5) Dust abatement shall permit observation of objects on the roadway at a minimum distance of 300 feet.

(6) Haul roads shall have the edges of the usable portion marked with posts at intervals of 50 feet on curves and 200 feet maximum elsewhere. Such markers shall extend 6 feet above the road and have reflectors in both directions.

H-12.11 First Aid/CPR Requirements. Two employees per shift/per site shall be certified in first aid and CPR.

H-13 ENVIRONMENT PROTECTION.

H-13.1 Scope. The work covered by this paragraph consists of furnishing all labor, materials and equipment and performing all work required for the prevention of environmental pollution during and as the result of construction operations under this contract except for those measures set forth in other provisions of these specifications. For the purpose of this specification, environmental pollution is defined as the presence of chemical, physical, or biological elements or agents which adversely affect human health or welfare; unfavorably alter ecological balances of importance to human life; affect other species of importance to man; or degrade the utility of the environment for esthetic and recreational purposes. The control of environmental pollution requires consideration of air, water, and land, and involves noise, solid waste management and management of radiant energy and radioactive materials, as well as other pollutants.

H-13.2 Quality Control.

H-13.2.1 General. The Contractor shall establish and maintain quality control for environment protection to assure compliance with contract specifications and maintain records of his quality control for all construction operation including but not limited to the following:

(1) Submit plan of Environment Pollution Control (Include in the plan the inclosed Pollution Prevention Plan requirements). The plan must incorporate the requirements specified in 40 CFR 112.7, and be stamped by a Registered Professional Engineer.

(2) Procure applicable Federal, State, and Local regulations on pollution control.

(3) Air Pollution - Checks made on dust, smoke, noise.

(4) Water Pollution - Checks made on disposal of water, oil, etc.

(5) Land Pollution - Checks made on disposal of debris, restoration of temporary construction sites, etc.

(6) Monitoring in accordance with the National Pollution Discharge Elimination System (NPDES).

(7) Training for employees.

H-13.3 Applicable Regulations. In order to prevent, and to provide for abatement and control of any environmental pollution arising from construction activities in the performance of this contract, the Contractor and his subcontractors shall comply with all applicable Federal, State and Local laws, and regulations concerning environmental pollution control and abatement including the National Pollution Discharge Elimination System (NPDES) general permit requirements.

H-13.4 Notification. The Contracting Officer will notify the Contractor in writing of any noncompliance with the foregoing provisions and the action to be taken. The Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Contractor or his authorized representative at the site of the work, shall be deemed sufficient for the purpose. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of a claim for extension of time or for excess costs or damages by the Contractor.

H-13.5 NPDES Storm Water Discharge Rule. This project is authorized to discharge storm water associated with industrial activity under the terms and conditions imposed by EPA's National Pollutant Prevention Plan and the Tennessee General NPDES Permit Requirements for storm water discharges associated with industrial activity. A copy of the Tennessee General Permit No. TNR001286 and a copy of the Government Pollution Prevention Plan (PPP) tailored to the industrial site is included as attachments in Section J.

H-13.6 Subcontractors. Compliance with the provisions of this section by subcontractors will be the responsibility of the Contractor.

H-13.7 Implementation. Within 10 days after receipt of notice to proceed, the Contractor shall:

a. Submit in writing his proposals for implementing this requirement for environmental pollution control and disposal of debris.

b. Meet with representatives of the Contracting Officer to develop mutual understanding relative to compliance with this provision and administration of the environmental pollution control program.

H-13.8 Protection of Land Resources.

H-13.8.1 General. The land resources within the project boundaries and outside the limits of permanent work, performed under this contract shall be preserved in their present condition or be restored to a condition after completion of construction that will appear to be natural and not detract from the appearance of the project. The Contractor shall confine his construction activities to areas defined by the plans and specifications.

H-13.8.2 Prevention of Landscape Defacement. The Contractor shall not deface, injure, or destroy trees or shrubs, nor remove or cut them without approval. Felling of trees shall be performed in such a manner as to avoid damage to trees to be left standing. Where trees may possibly be defaced, bruised, injured, or otherwise damaged by the Contractor's operations or equipment, he shall adequately protect such trees. Stone or earth that is displaced into uncleared areas shall be removed. Monuments and markers shall be protected before beginning operations near them. Any trees or other landscape feature scarred or damaged by the Contractor's equipment or operations shall be restored as nearly as possible to its original condition at no additional expense to the Government. Trees that are scarred shall be immediately painted with an acceptable tree wound paint. Any trees which are damaged beyond restoration shall be removed and disposed of as directed.

H-13.8.3 Clearing Debris. The Contractor shall dispose of or remove all debris, other than waste concrete, gravel and spalls, resulting from contract operations from the site of the work. Such disposal shall comply with all applicable Federal, State and Local laws. The Contractor may, at his option, retain for his own use or disposal by sale or otherwise any such materials of value. The Government assumes no responsibility for the protection or safe-keeping of any materials retained by the Contractor. Such materials shall be removed from the site of the work before the date of completion of the work under these specifications.

H-13.8.4 Temporary Excavation. If the Contractor proposes to construct temporary roads for plant/or work areas, he shall obtain approval of the Contracting Officer prior to start of such temporary work. No unauthorized road construction will be permitted.

H-13.8.5 Post-Construction Cleanup or Obliteration. The Contractor shall obliterate all signs of temporary construction facilities such as work areas and stockpiles of excess or waste materials upon completion of construction. The Contractor shall restore the area to near natural conditions which will permit

the growth of vegetation.

H-13.8.6 Recording and Preserving Historical and Archaeological Finds. All items having any apparent historical or archaeological interest which are discovered in the course of any construction activities shall be carefully preserved. The Contractor shall leave the archaeological find undisturbed and shall immediately report the find to the Contracting Officer so that the proper authorities may be notified.

H-13.8.7 River Water Used For Dust Abatement. No water used for dust abatement purposes, whether used on the casting field, used on haul roads leading to the mat casting field or any other roads, shall be taken from drainage ditches at the casting field. Water used for these purposes must be taken from the Mississippi River adjacent to the loading dock.

H-13.9 Protection of Water Resources.

H-13.9.1 General. The Contractor shall not pollute any waterway with fuels, oils, bitumens, calcium chloride, insecticides, herbicides, or other similar materials harmful to fish, shellfish, or wildlife, or materials which may be a detriment to outdoor recreation.

H-13.9.2 Disposal of Materials The method and locations of disposal of materials, wastes, effluent, trash, garbage, oil, grease, chemicals, etc., within the right-of-way limits shall be such that harmful debris will not enter any waterway, and thus prevent the use of the area for recreation or present a hazard to wildlife.

H-13.9.3 Erosion Control. Surface drainage areas within the construction limits shall be graded to control erosion.

H-13.9.4 Washing and Curing Water. Water used in aggregate processing, concrete curing, from stormwater discharge, and from other waste waters shall not be allowed to reenter any waterway if an increase in the turbidity of the waterway will result therefrom.

H-13.9.5 Maintenance of Pollution Control Facilities During Construction During the life of this contract, the Contractor shall maintain all facilities constructed for pollution control under this contract as long as the operations creating the particular pollutant are being carried out. Early in the construction period the Contractor shall conduct a training course that will emphasize all phases of environmental protection.

H-13.9.6 Air-Quality Regulations. The Contractor shall comply with the rules of applicable State Air-Quality Regulations. The cost of any permits required by State Air-Quality Regulations shall be borne by the Contractor.

H-14 JANITOR SERVICES. The Contractor shall furnish daily janitorial services for all Government and/or Contractor-furnished offices, shops, laboratories, or other buildings being used by the Contractor or Government

employees and perform any required maintenance of the facilities and grounds during the life of the contract. Toilet facilities shall be kept clean and sanitary at all times. Services shall be performed at such a time and in such a manner to least interfere with operations but shall be accomplished only when the buildings are in daily use. The Contractor shall also provide daily trash collection and cleanup of the buildings and adjacent outside areas, snow removal as required, and shall dispose of all discarded debris, aggregate samples and concrete test samples in a manner approved by the Contracting Officer.

H-15 CONTINUING CONTRACTS (MAR 1995)

(a) This is a continuing contract, as authorized by Section 10 of the River and Harbor Act of September 22, 1922 (33 U.S. Code 621). The payment of some portion of the contract price is dependent upon reservations of funds from future appropriations and from future contributions to the project having one or more non-federal project sponsors. The responsibilities of the Government are limited by this notwithstanding any contrary provision of the "Payments to the Contractor" clause or any other clause of this contract.

(b) The sum of \$2,000,000 has been reserved for this contract and is available for payments to the Contractor during the current fiscal year. It is expected that Congress will make appropriations for future fiscal years from which additional funds together with funds provided by one or more non-federal project sponsors will be reserved for this contract.

(c) Failure to make payments in excess of the amount currently reserved, or that may be reserved from time to time, shall not entitle the Contractor to a price adjustment under the terms of this contract except as specifically provided in paragraphs (f) and (i) below. No such failure shall constitute a breach of this contract, except that this provision shall not bar a breach-of-contract action if an amount finally determined to be due as a termination allowance remains unpaid for one year due solely to a failure to reserve sufficient funds therefor.

(d) The Government may at any time reserve additional funds for payments under the contract if there are funds available for such purpose. The Contracting Officer will promptly notify the Contractor of any additional funds reserved for the contract by issuing an administrative modification to the contract.

(e) If earnings will be such that funds reserved for the contract will be exhausted before the end of any fiscal year, the Contractor shall give written notice to the Contracting Officer of the estimated date of exhaustion and the amount of additional funds which will be needed to meet payments due or to become due under the contract during the fiscal year. This notice shall be given not less than 45 nor more than 60 days prior to the estimated date of exhaustion.

(f) No payments will be made after exhaustion of funds except to the extent that additional funds are reserved for the contract. The Contractor shall be entitled to simple interest on any payment that the Contracting Officer determines was actually earned under the terms of the contract and would have

been made except for exhaustion of funds. Interest shall be computed from the time such payment would otherwise have been made until actually or constructively made, and shall be at the rate established by the Secretary of the Treasury pursuant to Public Law 92.41, 85 STAT 97, as in effect on the first day of the delay in such payment.

(g) Any suspension, delay, or interruption of work arising from exhaustion or anticipated exhaustion of funds shall not constitute a breach of this contract and shall not entitle the Contractor to any price adjustments under the "Suspension of Work" or in any other manner under this contract.

(h) An equitable adjustment in performance time shall be made for any increase in the time required for performance of any part of the work arising from exhaustion of funds or the reasonable anticipation of exhaustion of funds.

(i) If, upon the expiration of sixty (60) days after the beginning of the fiscal year following an exhaustion of funds, the Government has failed to reserve sufficient additional funds to cover payments otherwise due, the Contractor, by written notice delivered to the Contracting Officer at any time before such additional funds are reserved, may elect to treat his right to proceed with the work as having been terminated. Such a termination shall be considered a termination for the convenience of the Government.

(j) If at any time it becomes apparent that the funds reserved for any fiscal year are in excess of the funds required to meet all payments due or to become due the Contractor because of work performed under the contract during the year, the Government reserves the right, after notice to the Contractor, to reduce said reservation by the amount of such excess. (EFARS 52.232-5001)

H-16 NOT USED

H-17 TIME EXTENSION FOR UNUSUALLY SEVERE WEATHER.

(1) This provision specifies the procedure for determination of excusable delays for adverse severe weather. The listing below defines the monthly anticipated adverse weather for the contract period and is based on NOAA data or data from the station located near the project.

MONTHLY ANTICIPATED ADVERSE WEATHER CALENDAR DAYS

<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUN</u>	<u>JUL</u>	<u>AUG</u>	<u>SEP</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>
(9)	(8)	(4)	(3)	(3)	(4)	(3)	(2)	(3)	(3)	(5)	(8)

(2) (a) The above schedule of anticipated adverse weather will constitute the base line for monthly weather time evaluations. Upon acknowledgment of the Notice to Proceed for casting and continuing throughout the contract each month, actual adverse weather days will be recorded on a calendar day basis (including weekends and holidays) and compared to the monthly anticipated adverse weather in paragraph (1) above. The term actual adverse weather days shall include days impacted by actual adverse weather.

(b) The number of actual adverse weather days shall be calculated chronologically from the first to the last day in each month. Adverse weather days must prevent work for 50 percent or more of the Contractor's workday and delay work critical to the timely completion of the project. If the number of actual adverse weather days exceeds the number of days anticipated in paragraph (1) above, the Contracting Officer will convert any qualifying delays to calendar days and apply the result under paragraph F-1 for use in determining production days.

(3) The Contractor's schedule shall reflect the above anticipated adverse weather delays on all weather-dependent activities.

H-18 CERTIFICATES OF COMPLIANCE. Any certificates required for demonstrating proof of compliance of materials with specification requirements shall be executed in three (3) copies. Each certificate shall be signed by an official authorized to certify in behalf of the manufacturing company and shall contain the name and address of the Contractor, the project name and location, and the quantity and date or dates of shipment of delivery to which the certificates apply. Copies of laboratory test reports submitted with certificates shall contain the name and address of the testing laboratory and the date or dates of the tests to which the report applies. Certificates shall not be construed as relieving the Contractor from furnishing satisfactory material, if, after tests are performed on selected samples, the material is found to not meet the specific requirements.

H-19 MEASUREMENT AND PAYMENT. No separate measurement of payment will be made for work covered under this section. Payment for the work covered under this section of the specifications, and all costs in connection therewith, will be distributed throughout the existing bid items.

H-20 CONTRACTOR-FURNISHED EQUIPMENT. The Contractor shall have equipment designated for use on this contract readily available for locating on the casting field. The equipment shall be in good operating condition and ready for immediate use. The Government reserves the right to verify that the major items of equipment are satisfactory and presently available for performing the work required on this contract and are in good operating condition. As a minimum, items of specialized equipment that are considered essential to performing the contract requirements and included in the Government's inspection and verification are listed as follows:

- Two (2) - Spreaders and one (1) - standby
- One (1) - Transverse Finisher/Rotary Finisher/Vibrator Machine
and one (1) - standby machine(s)
- This may be three separate machines or the three operations
may be combined in one or two machines.
- Three (3) - Form Lifter/Setter Machines
- One (1) - Mat Sweeper
- Seven (7) - Concrete Batch Trucks with hoppers mounted.
(6 cy minimum)
- One (1) - Paper Machine

- One (1) - Motor Grader
- Two (2) - Water Trucks

H-21. AGGREGATE SOURCES.

a. Concrete aggregates meeting the quality requirements of these specifications has been produced from the sources listed below:

(1) Sources of Fine Aggregate.

- (a) Memphis Stone and Gravel Company, Memphis, Tennessee.
- (b) St. Francis Material Company, Forrest City, Arkansas.
- (c) Fischer Concrete Company, Memphis, Tennessee.
- (d) Pine Bluff Sand and Gravel Company, Pine Bluff, Arkansas.
- (e) Mississippi Lime Stone Corp., Friars Point, Mississippi.
- (f) H.S. Lawder Sand Company approximately 2 miles south of Grand Tower, Illinois.
- (g) Delta Materials Company, Joppa, Illinois.
- (h) Greenville Gravel Company, Greenville, Mississippi.
- (I) Rogers Group, Inc. Tipton County, Tennessee.

(2) Sources of Coarse Aggregate.

Crushed Limestone:

- (a) Vulcan Materials Company, Gilbertsville, Kentucky.
- (b) Tower Rock Stone Company, Cape Girardeau, Missouri.
- (c) Martin Marietta Aggregates, Smithland, Kentucky.

Gravel:

- (d) D.M. Yount Sand & Gravel Company.
- (e) Strayhorn Gravel Company, Strayhorn, Mississippi.
- (f) Lattus Ready Mix, Hickman, Kentucky.
- (g) Greenville Gravel Company, Greenville, Mississippi.
- (h) Rogers Group, Inc., Tipton County, Tennessee.

b. Concrete aggregates may be furnished from any of the above listed sources or the offeror may submit, for consideration by the Government, other approved sources. The Contractor shall be responsible for any costs associated with obtaining approval of a new aggregate source.

c. After the award of the contract, the Contractor shall designate in writing only one source or one combination of sources from which he proposes to furnish aggregates. If the Contractor proposes to furnish aggregates from a source or from sources not listed above, he may designate only a single source or single combination of sources of aggregates. If a source for fine and/or coarse aggregate so designated by the Contractor is not approved for use by the Contracting Officer, the Contractor may not submit for approval other sources but shall furnish the fine and/or coarse aggregate, as the case may be, from a source listed above at no additional cost to the Government.

d. Approval of a source of concrete aggregate is not to be construed as approval of all material from that source. The right is reserved to reject material from certain localized areas, zones, strata, or channels, when such materials do not conform to the quality requirements of ASTM C 33-93 (CRD-C 133), Concrete Aggregates. Aggregate gradations shall be in accordance with the specified requirements of Section C. Materials produced from any source including those listed above, also shall meet all the requirements of the Section C of the Technical Specifications.

e. It is the Contractor's responsibility to determine that the aggregate source or combinations of sources selected are capable of supplying the quantity and gradations needed and at the rate needed to maintain the scheduled progress of the work. The inability of a source or combination of sources to maintain the necessary volume shall not be the basis for any claim for a time extension.

H-22 LICENSES AND PERMITS. The Contractor shall, without additional expense to the Government, be responsible for obtaining any and all necessary licenses and permits, and for complying with any applicable Federal, State, and municipal laws, codes and regulations applicable to the performance of the work.

(End of Section H)

SECTION I Contract Clauses

CLAUSES INCORPORATED BY FULL TEXT

52.202-1 DEFINITIONS. (OCT 1995)

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

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

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

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

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

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

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

(5) Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in paragraphs (c)(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 (c)(1) through (c)(6), notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a Contractor; or

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

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

(e) Nondevelopmental item means--

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

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

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

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

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

52.203-3 GRATUITIES (APR 1984)

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

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

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

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

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

(1) To pursue the same remedies as in a breach of the contract; and

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

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

(End of clause)

52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee,

except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

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

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

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

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

(End of clause)

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

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

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

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

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

(a) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

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

(a) Definitions.

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

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

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

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

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

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

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

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

"Person," as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether

such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

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

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

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

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

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

(b) Prohibitions.

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

(2) The Act also requires Contractors to furnish a disclosure if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting

to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

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

(i) Agency and legislative liaison by own employees.

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

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

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

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

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

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

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

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

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

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

(ii) Professional and technical services.

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

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

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

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

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

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

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

(c) Disclosure.

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

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

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

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

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

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

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

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

(e) Penalties.

(1) Any person who makes an expenditure prohibited under paragraph (a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An

imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

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

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

(End of clause)

52.204-4 PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER
(JUN 1996)

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

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

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

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

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

(c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred,

suspended, or proposed for debarment (see FAR 9.404 for information on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs). The notice must include the following:

- (1) The name of the subcontractor.
- (2) The Contractor's knowledge of the reasons for the subcontractor being on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
- (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
- (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

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

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

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

- (1) The proposal for the modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the modification; or
- (4) Performance of the modification.

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

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

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

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

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

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

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

(1) Based on adequate price competition;

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

(3) Set by law or regulation.

(b) If any price, including profit, negotiated in connection with any modification under this clause, was increased by any significant amount because

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

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

(3) any of these parties furnished data of any description that were not accurate, the price shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) above.

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

(1) the actual subcontract; or

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

(d) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made:

(1) the Contractor agrees not to raise the following matters as a defense:

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

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

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

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

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

(i) an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if:

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

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

(ii) An offset shall not be allowed if:

(A) The understated data was known by the Contractor to be understated when the Certificate of Current Cost or Pricing Data was signed; or (B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the date of agreement on price.

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

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

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

52.214-28 SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS - SEALED BIDDING. (OCT 1997)

(a) The requirements of paragraphs (b) and (c) of this clause shall:

(1) become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at (FAR) 48 CFR 15.403-4(a)(1); and

(2) be limited to such modifications.

(b) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1), on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modifications involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1), the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1(b) applies.

- (1) Based on adequate price competition;
 - (2) Based on established catalog or market prices of commercial items sold in substantial quantities to the general public; or
 - (3) Set by law or regulation.
- (c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in subsection 15.406-2 of the Federal Acquisition Regulation that, to the best of its knowledge and belief, the data submitted under paragraph (b) above were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.
- (d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that, when entered into, exceeds the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1).

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

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order: (a) the Schedule (excluding the specifications); (b) representations and other instructions; (c) contract clauses; (d) other documents, exhibits, and attachments; and (e) the specifications.

(End of clause)

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

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

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States

Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

52.219-9 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (OCT 1999)--ALTERNATE I (JAN 1999).

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

(b) "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 opinion of the Contracting Officer, differs only insignificantly from the Contractor's commercial product.

"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.

(c) The apparent low bidder, upon request by the Contracting Officer, shall submit a subcontracting plan, where applicable, that separately addresses subcontracting with small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the bidder is submitting an individual contract plan, the plan must separately address subcontracting with small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be submitted within the time specified by the Contracting Officer. Failure to submit the subcontracting plan shall make the bidder ineligible for the 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, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of--

(i) Total dollars planned to be subcontracted;

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

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

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

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

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

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

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

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

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

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

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

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

(9) Assurances that the offeror will include the clause of this contract entitled "Utilization of 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 \$500,000 (\$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 Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with the instructions on the forms or as provided in agency regulations and in paragraph (j) of this clause; and (iv) ensure that its subcontractors agree to submit Standard Forms 294 and 295.

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

(i) Source lists (e.g., PRO-Net), guides, and other data that identify small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating--

(A) Whether small business concerns were solicited and, if not, why not;

(B) Whether HUBZone small business concerns were solicited and, if not, why not;

(C) Whether small disadvantaged business concerns were solicited and, if not, why not;

(D) Whether women-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--

(A) Trade associations;

(B) Business development organizations; and

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned 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 commercial plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(f) A master subcontracting plan on a plant or division-wide basis which contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided, (1) the master plan has been approved, (2) the offeror ensures that the master

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

(g)(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 entitled "Utilization Of Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

(j) The Contractor shall submit the following reports:

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

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

(End of clause)

52.219-14 LIMITATIONS ON SUBCONTRACTING (DEC 1996)

- (a) This clause does not apply to the unrestricted portion of a partial set-aside.
- (b) By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract in the case of a contract for--
- (1) Services (except construction). At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern.
 - (2) Supplies (other than procurement from a nonmanufacturer of such supplies). The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.
 - (3) General construction. The concern will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.
 - (4) Construction by special trade contractors. The concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

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

- (a) Failure to make a good faith effort to comply with the subcontracting plan, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.
- (b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.
- (c) Before the Contracting Officer makes a final decision that the Contractor has failed to

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

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

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

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

(End of clause)

52.222-20 WALSH-HEALEY PUBLIC CONTRACTS ACT (DEC 1996)

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed \$10,000, and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), the following terms and conditions apply:

(a) All stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.

(b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and handicapped workers may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (41 U.S.C. 40).

52.222-26 EQUAL OPPORTUNITY (FEB 1999)

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or

subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) of this clause. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Appropriate office of the State employment service system means the local office of the Federal-State national system of public employment offices with assigned responsibility

to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.

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

Veteran of the Vietnam era means a person who--

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

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

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

(i) Employment;

(ii) Upgrading;

(iii) Demotion or transfer;

(iv) Recruitment;

(v) Advertising;

(vi) Layoff or termination;

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

(viii) Selection for training, including apprenticeship.

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The rights of applicants and employees.

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

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

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

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

(End of clause)

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

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

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

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

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

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

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

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

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

(End of clause)

52.223-2 CLEAN AIR AND WATER (APR 1984)

(a) "Air Act," as used in this clause, means the Clean Air Act (42 U.S.C. 7401, et seq.).

"Clean air standards," as used in this clause, means--

(1) Any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, work practices, or other requirements contained in, issued under, or otherwise adopted under the Air Act or Executive Order 11738;

(2) An applicable implementation plan as described in section 110(d) of the Air Act (42

U.S.C. 7410(d));

(3) An approved implementation procedure or plan under section 111(c) or section 111(d) of the Air Act (42 U.S.C. 7411(c) or (d)); or

(4) An approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 7412(d)).

"Clean water standards," as used in this clause, means any enforceable limitation, control, condition, prohibition, standard, or other requirement promulgated under the Water Act or contained in a permit issued to a discharger by the EPA or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).

"Compliance," as used in this clause, means compliance with--

(1) Clean air or water standards; or

(2) A schedule or plan ordered or approved by a court of competent jurisdiction, the EPA, or an air or water pollution control agency under the requirements of the Air Act or Water Act and related regulations.

"Facility," as used in this clause, means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Contractor or subcontractor, used in the performance of a contract or subcontract. When a location or site of operations includes more than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee, of the EPA determines that independent facilities are collocated in one geographical area.

"Water Act," as used in this clause, means Clean Water Act (33 U.S.C. 1251, et seq.).

(b) The Contractor agrees--

(1) To comply with the requirements of section 114 of the Clean Air Act (42 U.S.C. 7414) and section 308 of the Clean Water Act (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, and all regulations and guidelines issued to implement those acts before the award of this contract;

(2) That no portion of the work required by this prime contract will be performed in a facility listed on the EPA List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of the facility from the listing;

(3) To use best efforts to comply with clean air standards and clean water standards at the

facility in which the contract is being performed; and

(4) To insert the substance of this clause into any nonexempt subcontract, including this subparagraph (b)(4).

(End of clause)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

52.223-6 DRUG-FREE WORKPLACE (JAN 1997)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

conviction.

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

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

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

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

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

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

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

(End of clause)

52.228-1 BID GUARANTEE (SEP 1996)

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

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

(c) The amount of the bid guarantee shall be _____ percent of the bid price or

\$ _____, whichever is less.-

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

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

52.228-2 ADDITIONAL BOND SECURITY (OCT 1997)

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

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

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

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

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

52.228-11 PLEDGES OF ASSETS (FEB 1992)

(a) Offerors shall obtain from each person acting as an individual surety on a bid guarantee, a performance bond, or a payment bond--

(1) Pledge of assets; and

(2) Standard Form 28, Affidavit of Individual Surety.

(b) Pledges of assets from each person acting as an individual surety shall be in the form of--

(1) Evidence of an escrow account containing cash, certificates of deposit, commercial or Government securities, or other assets described in FAR 28.203-2 (except see 28.203-

2(b)(2) with respect to Government securities held in book entry form) and/or;

(2) A recorded lien on real estate. The offeror will be required to provide--

(i) Evidence of title in the form of a certificate of title prepared by a title insurance company approved by the United States Department of Justice. This title evidence must show fee simple title vested in the surety along with any concurrent owners; whether any real estate taxes are due and payable; and any recorded encumbrances against the property, including the lien filed in favor of the Government as required by FAR 28.203-3(d);

(ii) Evidence of the amount due under any encumbrance shown in the evidence of title;

(iii) A copy of the current real estate tax assessment of the property or a current appraisal dated no earlier than 6 months prior to the date of the bond, prepared by a professional appraiser who certifies that the appraisal has been conducted in accordance with the generally accepted appraisal standards as reflected in the Uniform Standards of Professional Appraisal Practice, as promulgated by the Appraisal Foundation.

(End of clause)

52.228-16 PERFORMANCE AND PAYMENT BONDS--OTHER THAN CONSTRUCTION (SEP 1996)

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

Contract price means the total amount of the contract for the term of the contract (excluding options, if any) or, for requirements contracts, the price payable for the estimated quantity; or for indefinite-delivery type contracts, the price payable for the specified minimum quantity.

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

(c) The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within _____ days, but in any event, before starting work.

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

(e) The bonds shall be in the form of firm commitment, supported by corporate sureties

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

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

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

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

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

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

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

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

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

(End of clause)

52.232-1 PAYMENTS (APR 1984)

The Government shall pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payment shall be made on partial deliveries accepted by the Government if--

(a) The amount due on the deliveries warrants it; or

(b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

52.232-8 DISCOUNTS FOR PROMPT PAYMENT (MAY 1997)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a prompt payment discount in conjunction with the offer, offerors awarded contracts may include prompt payment discounts on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following

business day.

52.232-11 EXTRAS (APR 1984)

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

52.232-17 INTEREST (JUNE 1996)

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

- (1) The date fixed under this contract.
 - (2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.
 - (3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.
 - (4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.
- (c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41

U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

52.232-25 PROMPT PAYMENT (JUN 1997)

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 the date of an electronic funds transfer. Definitions of pertinent terms are set forth in section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments. (1) Due date--(i) Except as indicated in subparagraph (a)(2) 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:

(A) The 30th day after the designated billing office has received a proper invoice from the Contractor (except as provided in subdivision (a)(1)(ii) of this clause).

(B) 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.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice; provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) Certain food products and other payments. (i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are--

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(3) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in subdivisions (a)(3)(i) through (a)(3)(viii) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, edible fats or oils, and food products prepared from edible fats or oils), with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(5) of this clause.

(i) Name and address of the Contractor.

- (ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of the mailing or transmission.)
 - (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 the event of a defective invoice.
 - (viii) Any other information or documentation required by the contract (such as evidence of shipment).
 - (ix) While not required, the Contractor is strongly encouraged to assign an identification number to each invoice.
- (4) Interest penalty. An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in subdivisions (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.
- (i) A proper invoice was received by the designated billing office.
 - (ii) A receiving report or other Government documentation authorizing payment was processed, and there was no disagreement over quantity, quality, 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) Computing penalty amount. The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest

penalty is prescribed by other governmental authority (e.g., tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and will be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(3) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, 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 (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils).

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

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

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

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and the Contractor over the payment amount or other issues involving

contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(6) Prompt payment discounts. An interest penalty also shall be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated 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.

(7) Additional interest penalty. (i) If this contract was awarded on or after October 1, 1989, a penalty amount, calculated in accordance with subdivision (a)(7)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor--

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

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

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with subdivision (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

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

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

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

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

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

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

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

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

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

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

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

(B) If the interest penalty ceases to accrue in accordance with the limits stated in subdivision (a)(5)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in subdivision (a)(7)(iii)(A) of this clause.

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

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

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

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

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

(c) Fast payment procedure due dates. If this contract contains the clause at 52.213-1,

Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

52.233-1 DISPUTES. (DEC 1998)

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

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

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

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

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

(A) Exceeding \$100,000; or

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

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

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

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

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and

belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor.

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

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

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

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

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

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

(End of clause)

52.233-3 PROTEST AFTER AWARD (AUG. 1996)

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

decision in the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

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

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

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

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

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

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

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

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

52.242-12 REPORT OF SHIPMENT (REPSHIP). (JUL 1995)

Unless otherwise directed by the Contracting Officer, the Contractor shall send a prepaid notice of shipment to the consignee transportation officer for all shipments of classified

material, protected sensitive, and protected controlled material; explosives and poisons, classes A and B; radioactive materials requiring the use of a III bar label; or when a truckload/carload shipment of supplies weighing 20,000 pounds or more, or a shipment of less weight that occupies the full visible capacity of a railway car or motor vehicle, is given to any carrier (common, contract or private) for transportation to a domestic (i.e., within the United States excluding Alaska or Hawaii, or if shipment originates in Alaska or Hawaii within Alaska or Hawaii respectively) destination (other than a port for export). The notice shall be transmitted by rapid means to be received by the consignee transportation officer at least 24 hours before the arrival of the shipment. The Government bill of lading, commercial bill of lading or letter or other document that contains all of the following shall be addressed and sent promptly to the receiving transportation officer. This document shall be prominently identified by the Contractor as being a "Report of Shipment" or "REPSHIP FOR T.O."

Message Example:

REPSHIP FOR T.O. 81 JUN 01
 TRANSPORTATION OFFICER
 DEFENSE DEPOT, MEMPHIS, TENN.
 SHIPPED YOUR DEPOT 1981 JUN 1 540 CTNS
 MENS COTTON TROUSERS, 30,240 LB, 1782 CUBE,
 VIA XX-YY*

IN CAR NO. XX 123456**-GBL***-C98000031****
 CONTRACT DLA - - - ETA*****-JUNE 5 JONES &
 CO., JERSEY CITY, N.J.

*Name of rail carrier, trucker, or other carrier.
 **Vehicle identification.
 ***Government bill of lading.
 ****If not shipped by GBL, identify lading document
 and state whether paid by contractor.
 *****Estimated time of arrival.

52.242-13 BANKRUPTCY. (JUL 1995)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts

against which final payment has not been made. This obligation remains in effect until final payment under this contract.

52.243-1 CHANGES--FIXED-PRICE (APR 1984)

(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) 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.

(2) Method of shipment or packing.

(3) Place of delivery.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(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) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

(e) 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.

52.245-2 GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS) (DEC 1989)

(a) Government-furnished property. (1) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the Government-furnished 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 property (hereinafter referred to as "Government-furnished property").

(2) The delivery or performance dates for this contract are based upon the expectation that Government-furnished property suitable for use (except for property furnished "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 Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt of it, notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government 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 shall make an equitable adjustment as provided in paragraph (h) of this clause.

(4) If Government-furnished property is not delivered to the Contractor by the required time, the Contracting Officer shall, upon the Contractor's timely written request, make a determination of the delay, if any, caused 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 may, by written notice, (i) decrease the Government-furnished property provided or to be provided under this contract, or (ii) substitute other Government-furnished property 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 as the Contracting Officer may direct regarding the removal, shipment, or disposal of the property covered by such notice.

(2) Upon the Contractor's written request, the Contracting Officer shall 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) of this clause; 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 Government-furnished property.

(2) 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. However, special tooling accountable to this contract is subject to the provisions of the Special Tooling clause and is not 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 shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(3) Title to each item of facilities and special test equipment acquired by the Contractor for the Government under this contract shall pass to and vest in the Government when its use in performing this contract commences or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.

(4) If this contract contains a provision directing the Contractor to purchase material for which the Government will reimburse the Contractor as a direct item of cost under this contract--

(i) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and

(ii) Title to all other material shall pass to and vest in the Government upon--

(A) Issuance of the material for use in contract performance;

(B) Commencement of processing of the material or its use in contract performance; or

(C) Reimbursement of the cost of the material by the Government, whichever occurs first.

(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 responsible and accountable for all Government property provided under this contract and shall comply with Federal Acquisition Regulation (FAR) Subpart 45.5, as in effect on the date of this contract.

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound industrial practice and the applicable provisions of Subpart 45.5 of the FAR.

(3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government 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 Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(4) The Contractor represents that the contract price does not include any amount for repairs or replacement for which the Government is responsible. Repair or replacement of property for which the Contractor is responsible shall be accomplished by the Contractor at its own expense.

(f) Access. The Government 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. 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.

(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 Government. The right to an equitable adjustment shall be the Contractor's exclusive remedy. The Government shall not be liable to suit for breach of contract for--

(1) Any delay in delivery of Government-furnished property;

(2) Delivery of Government-furnished property in a condition not suitable for its intended use;

(3) A decrease in or substitution of Government-furnished property; or

(4) Failure to repair or replace Government property for which the Government is responsible.

(i) Final accounting and disposition of Government property. Upon completing this contract, or at such earlier dates as may be fixed 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 Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to the Government as the Contracting Officer directs.

(j) Abandonment and restoration of Contractor's premises. Unless otherwise provided herein, the Government--

(1) May abandon any Government property in place, at which time all obligations of the Government regarding such abandoned 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 Government-furnished property (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)

52.246-1 CONTRACTOR INSPECTION REQUIREMENTS (APR 1984)

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

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

(a) Definition. "Supplies," as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering supplies under this contract and shall tender to the Government for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the Government during contract performance and for as long afterwards as the contract requires. The Government may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the

Contractor of the obligations under the contract.

(c) The Government has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Government shall perform inspections and tests in a manner that will not unduly delay the work. The Government assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in this contract.

(d) If the Government performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the Government shall bear the expense of Government inspections or tests made at other than the Contractor's or subcontractor's premises; provided, that in case of rejection, the Government shall not be liable for any reduction in the value of inspection or test samples.

(e)(1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.

(2) The Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes reinspection or retest necessary.

(f) The Government has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. The Government may reject nonconforming supplies with or without disposition instructions.

(g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and, when required, shall disclose the corrective action taken.

(h) If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Government may either (1) by contract or otherwise, remove, replace, or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.

(i)(1) If this contract provides for the performance of Government quality assurance at source, and if requested by the Government, the Contractor shall furnish advance

notification of the time (i) when Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract and (ii) when the supplies will be ready for Government inspection.

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

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

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

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

52.246-16 RESPONSIBILITY FOR SUPPLIES (APR 1984)

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

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

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

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

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

(d) Under paragraph (b) of this section, the Contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Government acting within the scope of their employment.

52.246-23 LIMITATION OF LIABILITY (FEB 1997)

(a) Except as provided in paragraphs (b) and (c) below, and except for remedies expressly provided else-where in this contract, the Contractor shall not be liable for loss of or damage to property of the Government (excluding the supplies delivered under this contract) that (1) occurs after Government acceptance of the supplies delivered under this contract, and (2) results from any defects or deficiencies in the supplies.

(b) The limitation of liability under paragraph (a) of this clause shall not apply when a defect or deficiency in, or the Government's acceptance of, the supplies results from willful misconduct or lack of good faith on the part of any of the Contractor's managerial personnel. The term "Contractor's managerial personnel," as used in this clause, means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or equivalent representatives who have supervision or direction of--

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

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

(3) A separate and complete major industrial operation connected with the performance of this contract.

(c) If the Contractor carries insurance, or has established a reserve for self-insurance, covering liability for loss or damage suffered by the Government through purchase or use of the supplies required to be delivered under this contract, the Contractor shall be liable

to the Government, to the extent of such insurance or reserve, for loss of or damage to property of the Government occurring after Government acceptance of, and resulting from any defects or deficiencies in, the supplies delivered under this contract.

52.246-24 LIMITATION OF LIABILITY HIGH-VALUE ITEMS (FEB 1997)

(a) Except as provided in paragraphs (b) through (e) below, and notwithstanding any other provision of this contract, the Contractor shall not be liable for loss of or damage to property of the Government (including the supplies delivered under this contract) that (1) occurs after Government acceptance of the supplies delivered under this contract, and (2) results from any defects or deficiencies in the supplies.

(b) The limitation of liability under paragraph (a) above shall not apply when a defect or deficiency in, or the Government's acceptance of, the supplies results from willful misconduct or lack of good faith on the part of any of the Contractor's managerial personnel. The term "Contractor's managerial personnel," as used in this clause, means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or equivalent representatives who have supervision or direction of--

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

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

(3) A separate and complete major industrial operation connected with the performance of this contract.

(c) If the Contractor carries insurance, or has established a reserve for self-insurance, covering liability for loss or damage suffered by the Government through purchase or use of the supplies required to be delivered under this contract, the Contractor shall be liable to the Government, to the extent of such insurance or reserve, for loss of or damage to property of the Government occurring after Government acceptance of, and resulting from any defects or deficiencies in, the supplies delivered under this contract.

(d)(1) This clause does not diminish the Contractor's obligations, to the extent that they arise otherwise under this contract, relating to correction, repair, replacement, or other relief for any defect or deficiency in supplies delivered under this contract.

(2) Unless this is a cost-reimbursement contract, if loss or damage occurs and correction, repair, or replacement is not feasible or desired by the Government, the Contractor shall, as determined by the Contracting Officer--

(i) Pay the Government the amount it would have cost the Contractor to make correction, repair, or replacement before the loss or damage occurred; (ii) Provide other equitable relief.

(e) This clause shall not limit or otherwise affect the Government's rights under clauses, if included in this contract, that cover--

- (1) Warranty of technical data;
- (2) Ground and flight risks or aircraft flight risks; or
- (3) Government property.

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

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

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

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

(b) The Contractor shall--

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements;

(2) Prepare and distribute commercial bills of lading;

(3) Deliver the shipment in good order and condition to the point of delivery specified in the contract;

- (4) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;
- (5) Furnish a delivery schedule and designate the mode of delivering carrier; and
- (6) Pay and bear all charges to the specified point of delivery.

52.248-1 VALUE ENGINEERING (MAR 1989) - ALTERNATE III (APR 1984)

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

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

(1) Instant contract savings, which are the net cost reductions on this, the instant contract, and which are equal to the instant unit cost reduction multiplied by the number of instant contract units affected by the VECP, less the Contractor's allowable development and implementation costs;

(2) Concurrent contract savings, which are net reductions in the prices of other contracts that are definitized and ongoing at the time the VECP is accepted; and

(3) Future contract savings, which are the product of the future unit cost reduction multiplied by the number of future contract units scheduled for delivery during the sharing period. If this contract is a multiyear contract, future contract savings include savings on quantities funded after VECP acceptance.

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

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

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

"Contractor's development and implementation costs," as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and

submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

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

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistics support. The term does not include the normal administrative costs of processing the VECP or any increase in this contract's cost or price resulting from negative instant contract savings.

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

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

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

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

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

"Sharing period," as used in this clause, means the period beginning with acceptance of the first unit incorporating the VECP and ending at the later of (1) 3 years after the first unit affected by the VECP is accepted or (2) the last scheduled delivery date of an item

affected by the VECP under this contract's delivery schedule in effect at the time the VECP is accepted.

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

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

(1) Requires a change to this, the instant contract, to implement; and

(2) Results in reducing the overall projected cost to the agency without impairing essential functions or characteristics; provided, that it does not involve a change--

(i) In deliverable end item quantities only;

(ii) In research and development (R&D) end items or R&D test quantities that is due solely to results of previous testing under this contract; or

(iii) To the contract type only.

(c) VECP preparation. As a minimum, the Contractor shall include in each VECP the information described in subparagraphs (1) through (8) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

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

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

(3) Identification of the unit to which the VECP applies.

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

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

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

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

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

(d) Submission. The Contractor shall submit VECP's to the Contracting Officer, unless this contract states otherwise. If this contract is administered by other than the contracting office, the Contractor shall submit a copy of the VECP simultaneously to the Contracting Officer and to the Administrative Contracting Officer.

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

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

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause and made either before or within a reasonable time after contract performance is completed. Until such a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The Contracting Officer's decision to accept or reject all or part of any VECP and the decision as to which of the sharing rates applies shall be final and not subject to the Disputes clause or otherwise subject to litigation under the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

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

GOVERNMENT/CONTRACTOR'S SHARE OF NET ACQUISITION SAVINGS

(figures in percent)

(See Illustration, 52.248-1.)

(g) Calculating net acquisition savings.

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

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

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

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

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

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

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

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

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

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

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

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

(i) Concurrent and future contract savings.

(1) Payments of the Contractor's share of concurrent and future contract savings shall be made by a modification to the instant contract in accordance with subparagraph (h)(5) above. For incentive contracts, shares shall be added as a separate firm-fixed-price line item on the instant contract. The Contractor shall maintain records adequate to identify the first delivered unit for 3 years after final payment under this contract.

(2) The Contracting Officer shall calculate the Contractor's share of concurrent contract savings by (i) subtracting from the reduction in price negotiated on the concurrent contract any Government costs or negative instant contract savings not yet offset and (ii) multiplying the result by the Contractor's sharing rate.

(3) The Contracting Officer shall calculate the Contractor's share of future contract savings by (i) multiplying the future unit cost reduction by the number of future contract units scheduled for delivery during the sharing period, (ii) subtracting any Government costs or negative instant contract savings not yet offset, and (iii) multiplying the result by the Contractor's sharing rate.

(4) When the Government wishes and the Contractor agrees, the Contractor's share of future contract savings may be paid in a single lump sum rather than in a series of payments over time as future contracts are awarded. Under this alternate procedure, the future contract savings may be calculated when the VECP is accepted, on the basis of the Contracting Officer's forecast of the number of units that will be delivered during the sharing period. The Contractor's share shall be included in a modification to this contract (see subparagraph (h)(3) above) and shall not be subject to subsequent adjustment.

(5) Alternate no-cost settlement method. When, in accordance with subsection 48.104-3 of the Federal Acquisition Regulation, the Government and the Contractor mutually agree to use the no-cost settlement method, the following applies:

(i) The Contractor will keep all the savings on the instant contract and on its concurrent contracts only.

(ii) The Government will keep all the savings resulting from concurrent contracts placed on other sources, savings from all future contracts, and all collateral savings.

(j) Relationship to other incentives. Only those benefits of an accepted VECP not rewardable under performance, design-to-cost (production unit cost, operating and support costs, reliability and maintainability), or similar incentives shall be rewarded under this clause. However, the targets of such incentives affected by the VECP shall not be adjusted because of VECP acceptance. If this contract specifies targets but provides no incentive to surpass them, the value engineering sharing shall apply only to the amount of achievement better than target.

(k) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of \$100,000 or more and may include one in subcontracts of lesser value. In calculating any adjustment in this contract's price for instant contract savings (or negative instant contract savings), the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs, and any value engineering incentive payments to a subcontractor, clearly resulting from a VECP accepted by the Government under this contract. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that the payments shall not reduce the Government's share of concurrent or future contract savings or collateral savings.

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

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

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

52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SEP 1996)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

- (1) Stop work as specified in the notice.
 - (2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
 - (3) Terminate all subcontracts to the extent they relate to the work terminated.
 - (4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.
 - (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.
 - (6) As directed by the Contracting Officer, transfer title and deliver to the Government (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government.
 - (7) Complete performance of the work not terminated.
 - (8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.
 - (9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (b)(6) of this clause; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.
- (c) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

(d) After expiration of the plant clearance period as defined in Subpart 45.6 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(e) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(f) Subject to paragraph (e) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (g) or paragraph (g) of this clause, exclusive of costs shown in subparagraph (g)(3) of this clause, may not exceed the total contract price as reduced by (1) the amount of payments previously made and (2) the contract price of work not terminated. The contract shall be modified, and the Contractor paid the agreed amount. Paragraph (g) of this clause shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(g) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (f) of this clause:

(1) The contract price for completed supplies or services accepted by the Government (or sold or acquired under subparagraph (b)(9) of this clause) not previously paid for, adjusted for any saving of freight and other charges.

(2) The total of--

(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (f)(1) of this clause;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (g)(2)(i) of this clause; and

(iii) A sum, as profit on subdivision (g)(2)(i) of this clause, determined by the Contracting Officer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subdivision (iii) and shall reduce the settlement to reflect the indicated rate of loss.

(3) The reasonable costs of settlement of the work terminated, including--

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

(h) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair value, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to a buyer.

(i) The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(j) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (e), (g), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal or request for equitable adjustment within the time provided in paragraph (e) or (l), respectively, and failed to request a time extension, there is no right of appeal.

(k) In arriving at the amount due the Contractor under this clause, there shall be deducted--

(1) All unliquidated advance or other payments to the Contractor under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Government.

(l) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 90 days from the effective date of termination unless extended in writing by the Contracting Officer.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

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

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

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

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

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

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

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

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

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

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause.

The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

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

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

52.252-4 ALTERATIONS IN CONTRACT (APR 1984)

Portions of this contract are altered as follows:

52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any _____ (48 CFR _____) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

252.201-7000 CONTRACTING OFFICER'S REPRESENTATIVE (DEC 1991)

(a) "Definition. Contracting officer's representative" means an individual designated in accordance with subsection 201.602-2 of the Defense Federal Acquisition Regulation Supplement and authorized in writing by the contracting officer to perform specific technical or administrative functions.

(b) If the Contracting Officer designates a contracting officer's representative (COR), the Contractor will receive a copy of the written designation. It will specify the extent of the COR's authority to act on behalf of the contracting officer. The COR is not authorized to make any commitments or changes that will affect price, quality, quantity, delivery, or any other term or condition of the contract.

(End of clause)

252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES (MAR 1999)

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

(1) “Arising out of a contract with the DoD” means any act in connection with—

(i) Attempting to obtain;

(ii) Obtaining, or

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Suspension or debarment;

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

(3) Termination of the contract for default.

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

(1) The person involved;

(2) The nature of the conviction and resultant sentence or punishment imposed;

(3) The reasons for the requested waiver; and

(4) An explanation of why a waiver is in the interest of national security.

(g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation, except those for commercial items or components.

(h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone (202) 616-3507.

(End of clause)

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

252.223-7004 DRUG-FREE WORK FORCE (SEP 1988)

(a) Definitions.

(1) "Employee in a sensitive position," as used in this clause, means an employee who has been granted access to classified information; or employees in other positions that the Contractor determines involve national security; health or safety, or functions other than the foregoing requiring a high degree of trust and confidence.

(2) "Illegal drugs," as used in this clause, means controlled substances included in Schedules I and II, as defined by section 802(6) of title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

(b) The Contractor agrees to institute and maintain a program for achieving the objective of a drug-free work force. While this clause defines criteria for such a program,

contractors are encouraged to implement alternative approaches comparable to the criteria in paragraph (c) that are designed to achieve the objectives of this clause.

(c) Contractor programs shall include the following, or appropriate alternatives:

(1) Employee assistance programs emphasizing high level direction, education, counseling, rehabilitation, and coordination with available community resources;

(2) Supervisory training to assist in identifying and addressing illegal drug use by Contractor employees;

(3) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues;

(4) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis. Employee drug testing programs shall be established taking account of the following:

(i) The Contractor shall establish a program that provides for testing for the use of illegal drugs by employees in sensitive positions. The extent of and criteria for such testing shall be determined by the Contractor based on considerations that include the nature of the work being performed under the contract, the employee's duties, and efficient use of Contractor resources, and the risks to health, safety, or national security that could result from the failure of an employee adequately to discharge his or her position.

(ii) In addition, the Contractor may establish a program for employee drug testing--

(A) When there is a reasonable suspicion that an employee uses illegal drugs; or

(B) When an employees has been involved in an accident or unsafe practice;

(C) As part of or as a follow-up to counseling or rehabilitation for illegal drug use;

(D) As part of a voluntary employee drug testing program.

(iii) The Contractor may establish a program to test applicants for employment for illegal drug use.

(iv) For the purpose of administering this clause, testing for illegal drugs may be limited to those substances for which testing is prescribed by section 2..1 of subpart B of the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (53 FR 11980 (April 11, 1988), issued by the Department of Health and Human Services.

(d) Contractors shall adopt appropriate personnel procedures to deal with employees who are found to be using drugs illegally. Contractors shall not allow any employee to remain on duty or perform in a sensitive position who is found to use illegal drugs until such

times as the Contractor, in accordance with procedures established by the Contractor, determines that the employee may perform in such a position.

(e) The provisions of this clause pertaining to drug testing program shall not apply to the extent that are inconsistent with state or local law, or with an existing collective bargaining agreement; provided that with respect to the latter, the Contractor agrees those issues that are in conflict will be a subject of negotiation at the next collective bargaining session.

(End of clause)

252.225-7002 QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS
(DEC 1991)

Subject to the restrictions in section 225.872 of the Defense FAR Supplement, the Contractor shall not preclude qualifying country sources and U.S. sources from competing for subcontracts under this contract.

(End of clause)

252.225-7010 DUTY-FREE ENTRY--ADDITIONAL PROVISIONS (MAR. 1998)

(a) The requirements of this clause supplement the Duty-Free Entry clause of this contract.

Both of these clauses apply to this contract and subcontracts, including purchase orders, that involve supplies to be accorded duty-free entry whether placed--

(1) Directly with a foreign concern as a prime contract; or

(2) As a subcontractor purchase order under a contract with a domestic concern.

(b) The Contractor shall send the notification required by paragraph (b)(1) of the Duty-Free Entry clause of this contract to the Contracting Officer administering this contract.

(c) In addition to any data required by paragraph (b)(1) of the Duty-Free Entry clause, the Contractor shall furnish the following for all foreign supplies to be imported pursuant to paragraph (a) or (b) of the Duty-Free Entry clause. The Contractor shall furnish this information to the Contracting Officer administering the prime contract immediately upon award of any contract or subcontract involving supplies to be accorded duty-free entry.

(1) Prime contractor's name, address, and CAGE code;

(2) Prime contract number plus delivery order number, if applicable;

- (3) Total dollar value of the prime contract or delivery order;
- (4) Expiration date of the prime contract or delivery order;
- (5) Foreign supplier's name and address;
- (6) Number of the subcontract/purchase order for foreign supplies;
- (7) Total dollar value of the subcontract for foreign supplies;
- (8) Expiration date of the subcontract for foreign supplies;
- (9) List of items purchased; and
- (10) Certification by the purchaser of foreign supplies as follows: I certify that all supplies for which duty-free entry is to be claimed are to be delivered to the Government or incorporated in the end items to be delivered under this contract, and that duty shall be paid by the Contractor to the extent that such supplies, or any portion (if not scrap or salvage) are diverted to nongovernmental use other than as a result of a competitive sale made, directed, or authorized by the Contracting Officer.

(d) The Contractor agrees to incorporate the substance of this clause, including this paragraph (d), in any subcontract (including purchase orders) in accordance with paragraph (i) of the Duty-Free Entry clause of this contract. The Contractor agrees that the name and address of the Contracting Officer administering the prime contract (name and address of the contract administration office cognizant of the prime contract and its activity address number (appendix G of the Defense FAR Supplement)) and the information required by paragraphs (c)(1), (2), and (3) of this clause will be included in applicable subcontracts.

(e) To properly complete the shipping document instructions as required by paragraph (f) of the Duty-Free Entry clause, the Contractor shall insert Defense Contract Management Command (DCMC) New York, ATTN: Customs Team, DCMDN-GNIC, 207 New York Avenue, Staten Island, New York 10305-5013, as the cognizant contract administration office (for paragraph (f) only) in those cases when the shipment is consigned directly to a military installation. :

- (1) Delivery order number on the Government prime contract, if applicable;
- (2) Number of the subcontract/purchase order for foreign supplies, if applicable;
- (3) Activity address number of the contract administration office actually administering the prime contract, e.g., for DCMC Dayton, S3605A.
- (f) Except for shipments consigned to a military installation, the Contractor shall prepare, or authorize an agent to prepare, any customs forms required for the entry into the United

States, its possessions, or Puerto Rico of foreign supplies in connection with DoD contracts. The Contractor shall submit the completed customs forms to the District Director of Customs with a copy to DCMAO New York for execution of any required duty-free entry certificates. For shipments containing both supplies which are to be accorded duty-free entry and supplies which are not, the Contractor shall identify on the customs forms those items which are eligible for duty-free entry under the provisions of the Duty-Free Entry clause. Shipments consigned directly to a military installation will be released in accordance with §§10.101 and 10.102 of the U.S. Customs regulations.

(g) The Contractor shall ensure that all exterior containers are marked in accordance with paragraph (g) of the Duty-Free Entry clause, including the following additional data--

(1) "UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE;" and

(2) The activity address number for the contract administration office actually administering the prime contract.

(End of clause)

252.225-7031 SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 1992)

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

(1) "Foreign person" means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec 2415).

(2) "United States person" is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concerns, as determined under regulations of the President.

(b) Certification. By submitting this offer, the Offeror, if a foreign person, company or entity, certifies that it--

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

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

(End of clause)

252.231-7000 SUPPLEMENTAL COST PRINCIPLES (DEC 1991)

When the allowability of costs under this contract is determined in accordance with part 31 of the Federal Acquisition Regulation (FAR), allowability shall also be determined in accordance with part 231 of the Defense FAR Supplement, in effect on the date of this contract.

252.243-7001 PRICING OF CONTRACT MODIFICATIONS (DEC 1991)

When costs are a factor in any price adjustment under this contract, the contract cost principles and procedures in FAR part 31 and DFARS part 231, in effect on the date of this contract, apply.

252.246-7000 MATERIAL INSPECTION AND RECEIVING REPORT (DEC 1991)

At the time of each delivery of supplies or services under this contract, the Contractor shall prepare and furnish to the Government a Material Inspection and Receiving Report in the manner and to the extent required by Appendix F, Material Inspection and Receiving Report, of the Defense FAR Supplement.

(End of clause)

252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (NOV 1995)

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

(1) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Contractor or any subcontractor.

(2) "Department of Defense" (DoD) means the Army, Navy, Air Force, Marine Corps, and defense agencies.

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) "Subcontractor" means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract. However, effective May 1, 1996, the term does not include a supplier, materialman, distributor, or vendor of commercial items or commercial components.

(6) "Supplies" means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.

(ii) "Supplies" includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.

(7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b) The Contractor shall employ U.S.-flag vessels in the transportation by sea of any supplies to be furnished in the performance of this contract. The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that --

(1) U.S.-flag vessels are not available for timely shipment;

(2) The freight charges are inordinately excessive or unreasonable; or

(3) Freight charges are higher than charges to private persons for transportation of like goods.

(c) The Contractor must submit any request for use of other than U.S.-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum --

(1) Type, weight, and cube of cargo;

(2) Required shipping date;

(3) Special handling and discharge requirements;

(4) Loading and discharge points;

(5) Name of shipper and consignee;

(6) Prime contract number; and

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(d) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information --

(1) Prime contract number;

(2) Name of vessel;

(3) Vessel flag of registry;

(4) Date of loading;

(5) Port of loading;

(6) Port of final discharge;

(7) Description of commodity;

(8) Gross weight in pounds and cubic feet if available;

(9) Total ocean freight in U.S. dollars; and

(10) Name of the steamship company.

(e) The Contractor agrees to provide with its final invoice under this contract a representation that to the best of its knowledge and belief --

(1) No ocean transportation was used in the performance of this contract;

(2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;

(3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or

(4) Ocean transportation was used and some or all of the shipments were made on non-

U.S.-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

ITEM DESCRIPTION	CONTRACT LINE ITEMS	QUANTITY
<hr/>		
TOTAL <hr/>		

(f) If the final invoice does not include the required representation, the Government will reject and return it to the Contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(g) The Contractor shall include this clause, including this paragraph (g) in all subcontracts under this contract, which exceed the small purchase limitation of section 13.000 of the Federal Acquisition Regulation.

252.247-7024 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA (NOV 1995)

(a) The Contractor has indicated by the response to the solicitation provision, Representation of Extent of Transportation by Sea, that it did not anticipate transporting by sea any supplies. If, however, after the award of this contract, the Contractor learns that supplies, as defined in the Transportation of Supplies by Sea clause of this contract, will be transported by sea, the Contractor --

(1) Shall notify the Contracting Officer of that fact; and

(2) Hereby agrees to comply with all the terms and conditions of the Transportation of Supplies by Sea clause of this contract.

(b) The Contractor shall include this clause, including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties, in all subcontracts hereunder, except (effective May 1, 1996) subcontracts for the acquisition of commercial items or components.

252.204-7004 REQUIRED CENTRAL CONTRACTOR REGISTRATION.(MAR 1998)

(a) Definitions.

As used in this clause--

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

(2) Data Universal Numbering System (DUNS) number means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.

(3) Data Universal Numbering System +4 (DUNS+4) number means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned by a parent (controlling) business concern. This 4-digit suffix may be assigned at the discretion of the parent business concern for such purposes as identifying subunits or affiliates of the parent business concern.

(4) Registered in the CCR database means that all mandatory information, including the DUNS number or the DUNS+4 number, if applicable, and the corresponding Commercial and Government Entity (CAGE) code, is in the CCR database; the DUNS number and the CAGE code have been validated; and all edits have been successfully completed.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee must be registered in the CCR database prior to award, during performance, and through final payment of any contract resulting from this solicitation, except for awards to foreign vendors for work to be performed outside the United States.

(2) The offeror shall provide its DUNS or, if applicable, its DUNS+4 number with its offer, which will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

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

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

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

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

252.225-7001 BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM (MAR 1998)

(a) Definitions.

As used in this clause--

(1) Components means those articles, materials, and supplies directly incorporated into end products.

(2) Domestic end product means--

(i) An unmanufactured end product that has been mined or produced in the United States; or

(ii) An end product manufactured in the United States if the cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate may be issued). A component shall be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind--

(A) Determined to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality; or

(B) That the Secretary concerned determines would be inconsistent with the public interest to apply the restrictions of the Buy American Act.

(3) End product means those articles, materials, and supplies to be acquired for public use under the contract. For this contract, the end products are the line items to be delivered to the Government (including supplies to be acquired by the Government for public use in connection with service contracts, but excluding installation and other services to be performed after delivery).

(4) Nonqualifying country end product means an end product that is neither a domestic end product nor a qualifying country end product.

(5) Qualifying country means any country set forth in subsection 225.872-1 of the Defense Federal Acquisition Regulation Supplement.

(6) Qualifying country component means an item mined, produced, or manufactured in a qualifying country.

(7) Qualifying country end product means--

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if the cost of the components mined, produced, or manufactured in the qualifying country and its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components.

(b) This clause implements the Buy American Act (41 U.S.C. Section 10a-d) in a manner that will encourage a favorable international balance of payments by providing a preference to domestic end products over other end products, except for end products which are qualifying country end products.

(c) The Contractor agrees that it will deliver only domestic end products unless, in its offer, it specified delivery of other end products in the Buy American Act--Balance of Payments Program Certificate provision of the solicitation. An offer certifying that a qualifying country end product will be supplied requires the Contractor to deliver a qualifying country end product or a domestic end product.

(d) The offered price of qualifying country end products should not include custom fees or duty. The offered price of nonqualifying country end products, and products manufactured in the United States that contain nonqualifying country components, must include all applicable duty. The award price will not include duty for end products or components that are to be accorded duty-free entry. Generally, when the Buy American Act is applicable, each nonqualifying country offer is adjusted for the purpose of evaluation by adding 50 percent of the offer, inclusive of duty.

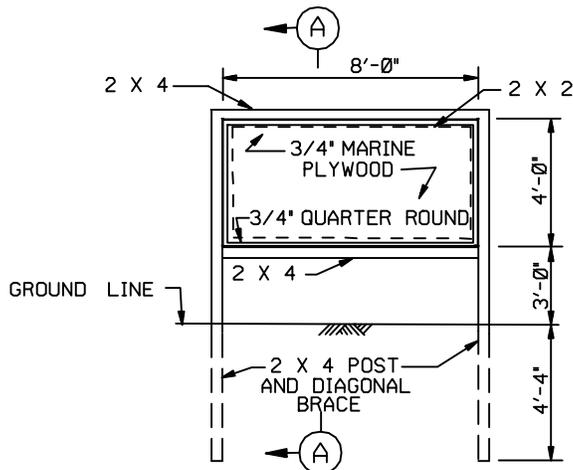
SECTION J
LIST OF DOCUMENTS, EXHIBITS AND ATTACHMENTS

<u>ATTACHMENT</u>	<u>DESCRIPTION</u>
1	Submittal Register (Eng. Form 4288-R)
2	Safety Sign
3.	Stormwater Pollution Prevention Plan (4 Pages)
4.	Tennessee General Permit to Discharge Storm Water
5.	Accident Prevention Plan (LMV Form 358R) (2 Pages)
6.	Job Hazard Analysis (LMV Form 359R)
7.	Fuel Oil Transfer (LMV Form 414R)
8.	Safety and Health Requirements Manual (EM 385-1-1, Sep 96) (Available upon award)
9.	Transmittal of Shop Drawings, Equipment Data, Material Samples, or Manufacturers Certificates of Compliance (ENG. Form 4025R)(2 Pages)
10.	Drawings as stated on page C-2, paragraph C-4:

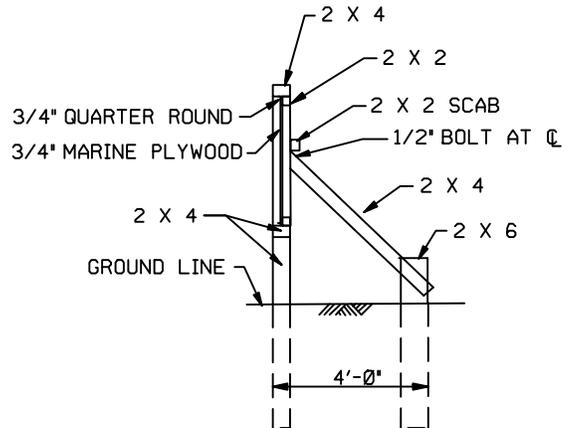
<u>Serial No.</u>	<u>File No.</u>	<u>Title</u>
22060	74/211.1	Articulated Concrete Mattress Typical Layout and Standard Details
21770	76/371	Locality Map Mattress Casting Field Richardson Landing, Tenn.
19250	73/878.4	Richardson Landing, TN Casting Field
21881	74/210	Steel Forms For 16 Block Articulated Concrete Mattress



ELEVATION



ELEVATION



SECTION A-A

NOTES:

1. CONTRACTOR SHALL CONSTRUCT AND MAINTAIN A DURABLE SIGN AS SHOWN.
2. WOOD IN CONTACT WITH GROUND SHALL BE TREATED LUMBER.
3. ALL EXPOSED SURFACES SHALL BE WHITE HOUSE PAINT.
4. LETTERING SHALL BE BLACK.
5. ENGINEER CASTLE DECAL FURNISHED BY GOVERNMENT.
6. 22 GA. SHEET METAL MAY BE USED IN LIEU OF PLYWOOD.



**US Army Corps
of Engineers**

Memphis District

ENGINEER CASTLE DETAIL

SCALE: NONE

MARCH 1995

U.S. ARMY ENGINEER DISTRICT, MEMPHIS
CORPS OF ENGINEERS
MEMPHIS, TENNESSEE

SAFETY SIGN

STORMWATER POLLUTION PREVENTION PLAN FOR RICHARDSON LANDING CASTING FIELD TENNESSEE

U.S. Army Corps of Engineers, Memphis District

1. PURPOSE AND OBJECTIVES

The purpose of this stormwater pollution prevention plan is to facilitate and document a thorough process for evaluating and preventing potential pollution impacts on the Richardson Landing Casting Field. The pollution prevention approach reflected in this plan focuses on two major objectives: (1) to identify sources of pollution which might affect the quality of stormwater discharges at this site, and (2) to describe and ensure that practices are implemented to minimize and control pollutants in stormwater discharges, thus ensuring compliance with the terms and conditions of the NPDES General Permit.

2. FACILITY DESCRIPTION

a. Location. The Richardson Landing Casting Field is located on 97.3 acres adjacent to the Mississippi River approximately 18 miles west of Covington, TN. It is located at the downstream limit of Chickasaw Bluff Number 2 at river mile 788.5.

b. Nature of Industrial Activity. The Richardson Landing Casting Field is used for the seasonal casting and year-round storage of articulated concrete mattress (ACM). ACM is used to construct revetments on the Mississippi River to protect the bank and prevent erosion. There is usually no activity on the field for about six to nine months of the year. Casting operations are performed by contract, require about three to four months to complete, and occur approximately every other year. During years when casting operations are performed, this work is usually done between April and July, but may occur later in the year. The casting operation itself consists of mixing the concrete, batching it, placing it in steel forms, and allowing it to cure. Operations to load the mat onto barges for transport to work sites are performed by government labor and occur each year from about July to September.

c. Receiving Water. The receiving water is the Mississippi River, which runs along the north edge of the casting field. Sugar Creek runs along the eastern edge of the field, but a topographic survey indicates that little drainage is discharged into it. The field is also subject to flooding during unusually high Mississippi River stages.

3. POLLUTION PREVENTION TEAM

The pollution prevention team for the Richardson Landing Casting Field shall consist of (1) the area engineer, (2) the on-site construction inspector, (3) the design

engineer, (4) the Memphis District environmental compliance coordinator, and (5) the contractor's on-site representative (during casting operations).

This team shall meet prior to each casting contract (during the pre-work conference) and as required during the contract and non-casting periods.

4. POTENTIAL POLLUTANT SOURCES

a. Drainage. Drainage occurs primarily as sheet flow diagonally across the site and into the Mississippi River.

b. Inventory of Exposed Materials. The only materials exposed to stormwater on the site are:

- (1) Stacks of ACM (concrete)
- (2) Stainless steel ACM fabric
- (3) Steel forms for casting ACM
- (4) Sand
- (5) Coarse Aggregate

c. Spills and Leaks. During the last five years, there have been no significant spills or leaks of toxic or hazardous pollutants that have occurred in areas exposed to precipitation or that otherwise drain to a stormwater conveyance on the site.

d. Sampling Data. Sampling of stormwater discharges will be conducted at least quarterly during the year 2000. The parameters to be measured include oil and grease, pH level, chemical oxygen demand, and total suspended solids. Also recorded will be (1) the date and duration (hours) of the storm event sampled; (2) rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff; (3) the duration between the storm event sampled and the end of the previous measurable storm event sampled and the end of the previous measurable storm event; and (4) an estimate of the total volume (in gallons) of the discharge sampled.

e. Risk Identification and Summary of Potential Pollutant Sources. The materials permanently exposed to stormwater are relatively inert and not subject to erosion or transport by stormwater. Casting operations require the use of mechanized and motorized equipment which call for the on-site presence of fuels, oils, and lubricants. In addition, the forms in which the ACM is cast are lightly sprayed with oil to assist in pulling the forms without damaging the concrete. Portland cement and fly ash are also required during the casting process, as are additives such as air-entraining admixture, water-reducing admixture, and calcium chloride. All such fuels, oils, and chemicals are

safely stored in appropriate containers under cover and their use is rigorously controlled and reflects the most stringent environmental safety practices.

5. MEASURES AND CONTROLS

a. Good Housekeeping. The Contractor shall at all times keep the field free from accumulations of waste material or debris, including those that might be exposed to stormwater. The contractor is also required to maintain the casting field, including any drainage and erosion control features, in good condition. This includes sprinkling the field as required to control dust and improve the surface of the field surface. Effluent from gravel washers and residue from washing material mixers shall be discharged at an authorized location. Ruts and depressions which might interrupt drainage shall be immediately filled and dressed. Leaking water lines or the digging of trenches shall not be permitted on the field. All blade work done in connection with maintaining the field surface shall be done with rubber-tired equipment.

b. Preventive Maintenance. During the life of a casting contract, the contractor is required to maintain all measures constructed for pollution control under that contract as long as the operations creating that particular potential pollutant are being carried out.

c. Spill Prevention and Resource Procedures. Good housekeeping and preventive maintenance measures will be taken to prevent spills and minimize adverse environmental impacts. Should a contractor experience a spill or other activity which results in an adverse impact on the environment, he will take immediate action to contain and cleanup the spill in accordance with all applicable laws and requirements. If the contractor fails or refuses to comply promptly, an order will be issued which stops all or part of the work until corrective action is taken. The contractor shall submit a plan outlining his response and procedures before beginning work.

d. Inspections. The on-site construction inspector will constantly monitor all activities at the casting field and will take immediate action should any event occur which could have an adverse impact on the environment.

e. Employee Training. Early in the casting operation, the contractor is required to conduct a training course that will emphasize all phases of environmental protection.

f. Recordkeeping and Internal Reporting Procedures. All activities are logged on a daily basis by the on-site inspector during casting operations. Any activities which might have an adverse environmental impact shall be reported immediately to the area engineer.

g. Non-Stormwater Discharges. Any harmful discharges or effluent, including water used in aggregate processing, concrete curing, oils, chemicals, etc., shall be contained and not allowed to enter any waterway or be exposed to stormwater.

h. Sediment and Erosion Control. Surface drainage areas within the casting field limits have been graded and are maintained to control and eliminate erosion. Silt fences, check dams, mulch, silt detention basins, and other such measures are specified and shall be utilized in the event of intense periods of rainfall.

i. Management of Runoff. Before beginning work, the contractor shall submit in writing his proposals for controlling environmental pollution at the site, including his plans for debris disposal and managing stormwater discharge. These proposals are complemented by a required meeting with the Corps to develop a mutual understanding relative to environmental compliance and administration of his pollution control program.

6. SCHEDULE OF SWPPP SUPPLEMENTS AND UPDATES

Supplements and updates to this stormwater pollution prevention plan will be prepared as monitoring progresses and when events require.

7. CERTIFICATION

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

DANIEL W. KRUEGER

Name

Colonel, CE
District Engineer

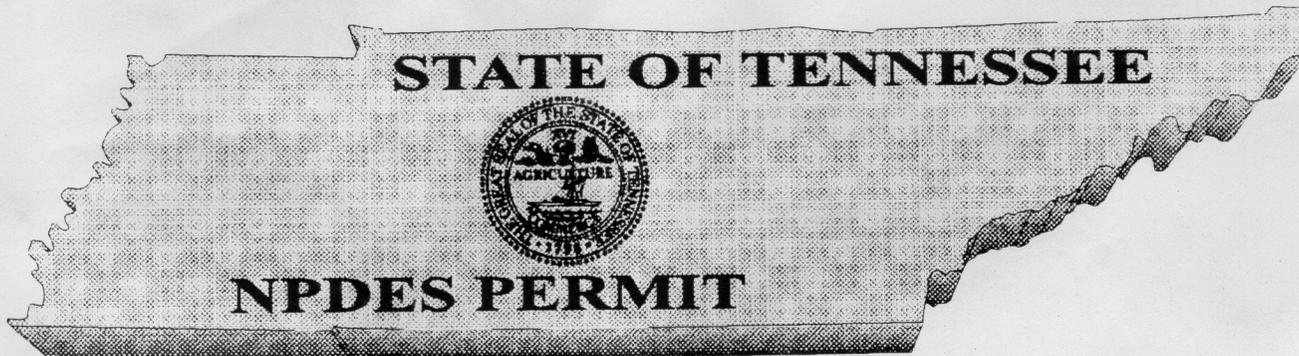
Title

/s/ Daniel W. Krueger

Signature

1-12-99

Date Signed



No. TNR05 1286

General NPDES Permit for
**STORM WATER DISCHARGES ASSOCIATED WITH
INDUSTRIAL ACTIVITY**

Effective March 1, 1997, through December 31, 2001

Tennessee Department of Environment and Conservation
Division of Water Pollution Control
401 Church Street
6th Floor, L&C Annex
Nashville, Tennessee 37243-1534

Under authority of the Tennessee Water Quality Control Act of 1977 (T.C.A. 69-3-101 et seq.) and the delegation of authority from the United States Environmental Protection Agency under the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (33 U.S.C. 1251, et seq.):

Discharger: RICHARDSON LANDING CASTING FIELD

is authorized to discharge: storm water associated with industrial activity

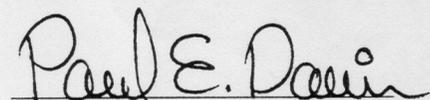
from a facility located: AT STATE HWY. 59, MISSISSIPPI RV. IN TIPTON COUNTY

to receiving waters named: MISSISSIPPI RIVER TO SUGAR DITCH

in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

Coverage under this general permit shall become effective on May 29, 1997 and shall expire on December 31, 2001.

Notice of Coverage Issuance date: August 07, 1997


Paul E. Davis, Director
Division of Water Pollution Control

Enclosed Industry Sectors: E

ACCIDENT PREVENTION PROGRAM ADMINISTRATIVE PLAN

Willingness to correct safety hazards detected by the Corps is commendable, but a poor substitute for a positive program that prevents or detects and corrects hazards.

Contractor 1	Contract Name & No. 2	Date 3
Project Superintendent 4	Shifts/day 5	Hours/shift Maximum employees/shift 5a 5b
Superintendent's training in Corps' safety requirements 6		
Major Units of Equipment 7		
Who will inspect equipment? 8	Inspector's qualifications 8a	Inspection frequency? 8b
Who is responsible for operators' physicals? 9	Location of all records 10	Day and hour weekly safety meeting 11
Who is responsible for employee training? 12	Who will orient new employees? 13	
Who is responsible for clean-up? 14	Where will drinking water be obtained? 15	
Who will investigate accidents? 16	Who is responsible for providing personal protective equipment? 17	
Name Doctors, Hospitals & Ambulance services with whom arrangements have been made for this contract.		
Doctor 18	Hospital 18a	Ambulance 18b
What form of communication will be used to summon ambulance? 18c		

Names of first aid attendants having certificates				Type of certificate and expiration date		Names of U.S.C.G. licensed boat operators, type license & expiration date				
19				19a		20				
21 Fire Fighting Equipment				22 First Aid Kits		23 Wash Facilities				
No.	Rating	Type	Location	No.	Type	No.	Type			
				24 Toilets						
				No.	Type					
What flammable or combustible liquids or gases will be on job site?										
25										
Where and how will flammables and combustibles be stored?										
26										
Who will be responsible for inspection and maintenance of fire fighting equipment?										
27										
If the Company has a published statement of safety policy, please transmit a copy with the return of your Accident Prevention Program.										
On a separate sheet submit your proposed layout of temporary buildings and facilities (including subcontractors) and traffic patterns including access roads, haul roads, R.R.s, utilities, etc.										
<p>The _____ will pursue a positive program of training, inspections and hazard control throughout the term of this contract. Mr./Ms. _____ has the responsibility and authority for enforcing them.</p> <p style="text-align: center;">(Company)</p>										
Contractor's signature				date		C.O. or C.O.R. signature		date		
28										

**ACCIDENT PREVENTION PROGRAM
JOB HAZARD ANALYSIS**

1. Contract No.	2. Project	3. Facility
4. Date	5. Location	6. Estimated Start Date

7. Item	8. Phase of Work	9. Safety Hazard	10. Precautionary Action Taken

11. Contractor (Signature & date)

<p data-bbox="96 1318 1304 1364">12. Report discussed with contractor/superintendent on _____</p> <p data-bbox="96 1429 1304 1487">_____</p> <p align="center" data-bbox="415 1448 814 1477">Area/Resident Engineer (Signature)</p>	<p data-bbox="1304 1318 2001 1364">13. Contracting Officer (Signature & date)</p> <p align="center" data-bbox="1465 1360 1514 1382">or</p> <p align="center" data-bbox="1373 1386 1927 1419">Contracting Officer Representative</p>
---	---

**ACCIDENT PREVENTION PROGRAM
FUEL OIL TRANSFER - FLOATING PLANT
U.S. Army Engineer Division, Lower Mississippi Valley**

Contractor 1	Contract Name & Number 2	Date 3	
Officer in Charge of Fuel Transfer 4	Name of Vessel 4a	Fuel to be Transferred 4b	
Name of Vessel 5	Names of Qualified Tankermen 5a	Type of Certification and expiration date 5b	
Name of Vessel 6	Type of fill nozzle or connection on Vessel 6a	Location of fill pipes openings 6b	Location of vents openings 6c
Type, number, and size of fire fighting equipment to be available during fuel transfer operations. 7			
Sequential steps to be followed when taking on fuel. 8			
_____ Contractor's Signature	_____ Date	_____ C.O. or C.O.R. Signature	_____ Date

TRANSMITTAL OF SHOP DRAWINGS, EQUIPMENT DATA, MATERIAL SAMPLES, OR MANUFACTURER'S CERTIFICATES OF COMPLIANCE <i>(Read instructions on the reverse side prior to initiating this form)</i>	DATE	TRANSMITTAL NO.
---	------	-----------------

SECTION I - REQUEST FOR APPROVAL OF THE FOLLOWING ITEMS *(This section will be initiated by the contractor)*

TO:	FROM:	CONTRACT NO.	CHECK ONE: <input type="checkbox"/> THIS IS A NEW TRANSMITTAL <input type="checkbox"/> THIS IS A RESUBMITTAL OF TRANSMITTAL _____
SPECIFICATION SEC. NO. <i>(Cover only one section with each transmittal)</i>	PROJECT TITLE AND LOCATION		CHECK ONE: THIS TRANSMITTAL IS FOR <input type="checkbox"/> FIO <input type="checkbox"/> GOV'T. APPROVAL

ITEM NO.	DESCRIPTION OF ITEM SUBMITTED <i>(Type size, model number/etc.)</i>	MFG OR CONTR. CAT., CURVE DRAWING OR BROCHURE NO. <i>(See instruction no. 8)</i>	NO. OF COPIES	CONTRACT REFERENCE DOCUMENT		FOR CONTRACTOR USE CODE	VARIATION <i>(See instruction No. 6)</i>	FOR CE USE CODE
				SPEC. PARA. NO. <i>e.</i>	DRAWING SHEET NO. <i>f.</i>			
<i>a.</i>	<i>b.</i>	<i>c.</i>	<i>d.</i>	<i>e.</i>	<i>f.</i>	<i>g.</i>	<i>h.</i>	<i>i.</i>

REMARKS	I certify that the above submitted items have been reviewed in detail and are correct and in strict conformance with the contract drawings and specifications except as other wise stated. <hr style="width: 80%; margin-left: auto; margin-right: 0;"/> NAME AND SIGNATURE OF CONTRACTOR
---------	--

SECTION II - APPROVAL ACTION

ENCLOSURES RETURNED <i>(List by Item No.)</i>	NAME, TITLE AND SIGNATURE OF APPROVING AUTHORITY	DATE
---	--	------

INSTRUCTIONS

1. Section I will be initiated by the Contractor in the required number of copies.
2. Each transmittal shall be numbered consecutively in the space provided for "Transmittal No.". This number, in addition to the contract number, will form a serial number for identifying each submittal. For new submittals or resubmittals mark the appropriate box; on resubmittals, insert transmittal number of last submission as well as the new submittal number.
3. The "Item No." will be the same "Item No." as indicated on ENG FORM 4288-R for each entry on this form.
4. Submittals requiring expeditious handling will be submitted on a separate form.
5. Separate transmittal form will be used for submittals under separate sections of the specifications.
6. A check shall be placed in the "Variation" column when a submittal is not in accordance with the plans and specifications--also, a written statement to that effect shall be included in the space provided for "Remarks".
7. Form is self-transmittal, letter of transmittal is not required.
8. When a sample of material or Manufacturer's Certificate of Compliance is transmitted, indicate "Sample" or "Certificate" in column c, Section I.
9. U.S. Army Corps of Engineers approving authority will assign action codes as indicated below in space provided in Section I, column i to each item submitted. In addition they will ensure enclosures are indicated and attached to the form prior to return to the contractor. The Contractor will assign action codes as indicated below in Section I, column g, to each item submitted.

THE FOLLOWING ACTION CODES ARE GIVEN TO ITEMS SUBMITTED

A	--	Approved as submitted.	E	--	Disapproved (See attached).
B	--	Approved, except as noted on drawings.	F	--	Receipt acknowledged.
C	--	Approved, except as noted on drawings. Refer to attached sheet resubmission required.	FX	--	Receipt acknowledged, does not comply as noted with contract requirements.
D	--	Will be returned by separate correspondence.	G	--	Other (<i>Specify</i>)

10. Approval of items does not relieve the contractor from complying with all the requirements of the contact plans and specifications.

(Reverse of ENG Form 4025-R)

SECTION K
Representations, Certifications and Other Statements of Offerors

CLAUSES INCORPORATED BY FULL TEXT

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

(a) The offeror certifies that --

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods of factors used to calculate the prices offered:

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

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

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

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

(2) (i) Has been authorized, in writing, to act as an agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above

_____ (insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization);

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

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

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

(End of clause)

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

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

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

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

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

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

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

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

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

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

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

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12,

Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this Certification.

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

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

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

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

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

(End of provision)

52.204-3 TAXPAYER IDENTIFICATION (OCT 1998)

(a) Definitions.

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

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

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

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

(d) Taxpayer Identification Number (TIN).

TIN:-----

TIN has been applied for.

TIN is not required because:

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

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government.

(e) Type of organization.

Sole proprietorship;

Partnership;

Corporate entity (not tax-exempt);

Corporate entity (tax-exempt);

Government entity (Federal, State, or local);

Foreign government;

International organization per 26 CFR 1.6049-4;

___ Other-----

(f) Common parent.

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

___ Name and TIN of common parent:

Name-----

TIN-----

(End of provision)

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of provision)

52.214-14 PLACE OF PERFORMANCE--SEALED BIDDING (APR 1985)

(a) The bidder, in the performance of any contract resulting from this solicitation, [] intends, [] does not intend [check applicable box] to use one or more plants or facilities located at a different address from the address of the bidder as indicated in this bid.

(b) If the bidder checks "intends" in paragraph (a) above, it shall insert in the spaces provided below the required information:

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

(End of provision)

52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS (MAY 1999)

(a)(1) The standard industrial classification (SIC) code for this acquisition is 3272.

(2) The small business size standard is 500 EMPLOYEES.

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

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

(2) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents, for general statistical purposes, that it () is, () is not a small disadvantaged business concern as defined in 13 CFR 124-1002.

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

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

"Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of

operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

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

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

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

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

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

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

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

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

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

(End of provision)

52.219-19 SMALL BUSINESS CONCERN REPRESENTATION FOR THE SMALL

BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (JAN 1997)

(a) Definition.

"Emerging small business" as used in this solicitation, means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the standard industrial classification code assigned to a contracting opportunity.

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

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

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

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

(End of provision)

52.219-21 SMALL BUSINESS SIZE REPRESENTATION FOR TARGETED INDUSTRY CATEGORIES UNDER THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (MAY 1999)

(Complete only if the Offeror has represented itself under the provision at 52.219-1 as a small business concern under the size standards of this solicitation.)

Offeror's number of employees for the past 12 months (check this column if size standard

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

No. of Employees Avg. Annual Gross Revenues

- 50 or fewer \$1 million or less
- 51 - 100 \$1,000,001 - \$2 million
- 101 - 250 \$2,000,001 - \$3.5 million
- 251 - 500 \$3,500,001 - \$5 million
- 501 - 750 \$5,000,001 - \$10 million
- 751 - 1,000 \$10,000,001 - \$17 million
- 17 million

(End of provision)

52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

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

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

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

(End of clause)

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

The offeror represents that --

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

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

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

(End of provision)

52.222-25 AFFIRMATIVE ACTION COMPLIANCE (FEB 1984)

The offeror represents that

(a) it has developed and has on file, has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or

(b) has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(End of provision)

52.223-1 CLEAN AIR AND WATER CERTIFICATION (APR 1984)

The Offeror certifies that --

(a) Any facility to be used in the performance of this proposed contract is, is not listed on the Environmental Protection Agency List of Violating Facilities;

(b) The Offeror will immediately notify the Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the Offeror proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and

(c) The Offeror will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

(End of clause)

52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (APR 1998)

(a) Executive Order 12856 of August 3, 1993, requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA)(42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (PPA)(42 U.S.C. 13101-13109).

(b) The Contractor shall provide all information needed by the Federal facility to comply with the emergency planning reporting requirements of Section 302 of EPCRA; the emergency notice requirements of Section 304 of EPCRA; the list of Material Safety Data Sheets required by Section 311 of EPCRA; the emergency and hazardous chemical inventory forms of Section 312 of EPCRA; the toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA; and the toxic chemical reduction goals requirements of Section 3-302 of Executive Order 12856.

 --

252.204-7001 COMMERCIAL AND GOVERNMENT ENTITY (CAGE) CODE REPORTING (AUG 199)

(a) The offeror is requested to enter its CAGE code on its offer in the block with its name and address. The CAGE code entered must be for that name and address. Enter "CAGE" before the number.

(b) If the offeror does not have a CAGE code, it may ask the Contracting Officer to request one from the Defense Logistics Information Service (DLIS). The Contracting Officer will--

(1) Ask the Contractor to complete section B of a DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code;

(2) Complete section A and forward the form to DLIS; and

(3) Notify the Contractor of its assigned CAGE code.

(c) Do not delay submission of the offer pending receipt of a CAGE code.

(End of provision)

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

(a) "Definitions."

As used in this provision --

(a) "Government of a terrorist country" includes the state and the government of a

terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

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

(3) "Significant interest" means --

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

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

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

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

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

(b) "Prohibition on award."

In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or a subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) "Disclosure."

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

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

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

(End of provision)

252.225-7003 INFORMATION FOR DUTY-FREE ENTRY EVALUATION (MAR 1998)

(a) Does the offeror propose to furnish—

(1) A domestic end product with nonqualifying country components for which the offeror requests duty-free entry; or

(2) A foreign end product consisting of end items, components, or material of foreign origin other than those for which duty-free entry is to be accorded pursuant to the Duty-Free Entry--Qualifying Country Supplies (End Products and Components) clause or, if applicable, the Duty-Free Entry--Eligible End Products clause of this solicitation?

Yes () No ()

(b) If the answer in paragraph (a) is yes, answer the following questions:

(1) Are such foreign supplies now in the United States?

Yes () No ()

(2) Has the duty on such foreign supplies been paid?

Yes () No ()

(3) If the answer to paragraph (b)(2) is no, what amount is included in the offer to cover such duty? \$_____

(c) If the duty has not been paid, the Government may elect to make award on a duty-free basis. If so, the offered price will be reduced in the contract award by the amount specified in paragraph (b)(3). The Offeror agrees to identify, at the request of the Contracting Officer, the foreign supplies which are subject to duty-free entry.

252.225-7008 SUPPLIES TO BE ACCORDED DUTY-FREE ENTRY (MAR 1998)

In accordance with paragraph (b) of the Duty-Free Entry clause of this contract, in addition to duty-free entry for all qualifying country supplies (end products and components) and all eligible end products subject to applicable trade agreements (if this contract contains the Buy American Act--Trade Agreements--Balance of Payments Program clause or the Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payments Program clause), the following foreign end products that are neither qualifying country end products nor eligible end products under a trade agreement, and the following nonqualifying country components, are accorded duty-free entry.

(End of Clause)

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

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

(b) Representation. The Offeror represents that it:

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

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

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

(End of provision)

52.0-4031 CORPORATE CERTIFICATION

IF A BIDDER IS A CORPORATION OR IF CORPORATION IS PARTICIPATING IN A JOINT VENTURE, PLEASE COMPLETE THE FOLLOWING CERTIFICATION:

I, _____, certify that I am secretary of the corporation named as Contractor herein; that _____ who signed this contract on behalf of the Contractor; was then _____ of said corporation; that said contract was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(CORPORATE SEAL)

(Secretary)

IF A CORPORATION IS PARTICIPATING AS A JOINT VENTURE, ITS SECRETARY MUST SUBMIT A CERTIFICATE STATING THE CORPORATION IS AUTHORIZED TO PARTICIPATE.

52.0-4033 CERTIFICATION OF RESPONSIBILITY

The bidder/offeror hereby certifies per FAR 9.105 that he () does, () does not, meet minimum standards of responsibility under FAR 9.104-1, i.e., he has (a) adequate financial resources; (b) ability to comply with the performance schedule; (c) a satisfactory record of performance including quality; (d) a satisfactory record of integrity; (e) is otherwise qualified and eligible to receive an award under applicable laws and regulations; and (f) has the necessary organization, experience, operational control, technical skills, equipment, and facilities or existing commitments and arrangements to obtain them.

52.0-4036 PAST PERFORMANCE DATA

Prior to award of a contract under this Invitation for Bids, the Contracting Officer is required to make a determination of the prospective contractor's responsibility. One of the requirements to be met is that regarding the bidder's past performance. Therefore, in the event your firm has not performed construction work in this District within the last five (5) year period, please list below at least three (3) of your major construction contracts during the last five (5) year period, as follows:

Type of Work	Approx. Date Completed	For Whom Performed	Dollar Amount
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SECTION L
Instructions, Conditions and Notices to Offerors

CLAUSES INCORPORATED BY FULL TEXT

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

"Government" means United States Government.

"Offer" means "bid" in sealed bidding.

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

(End of provision)

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

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

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

(End of provision)

52.214-4 FALSE STATEMENTS IN BIDS (APR 1984)

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

(End of provision)

52.214-5 SUBMISSION OF BIDS (MAR 1997)

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

(b) Bidders using commercial carrier services shall ensure that the bid is addressed and marked

on the outermost envelope or wrapper as prescribed in subparagraphs (a)(1) and (2) of this provision when delivered to the office specified in the solicitation.

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

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

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

52.214-6 EXPLANATION TO PROSPECTIVE BIDDERS (APR 1984)

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

(End of provision)

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

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

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

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

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

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

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

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

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

(End of provision)

52.214-9 FAILURE TO SUBMIT BID. (JUL 1995)

Recipients of this solicitation not responding with a bid should not return this solicitation, unless it specifies otherwise. Instead, they should advise the issuing office by letter, postcard, or established electronic commerce methods, whether they want to receive future solicitations for similar requirements.

52.214-10 CONTRACT AWARD--SEALED BIDDING (JUL 1990)

(a) The Government will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Government considering only price and the price-related factors specified elsewhere in the solicitation.

(b) The Government may (1) reject any or all bids, (2) accept other than the lowest bid, and (3) waive informalities or minor irregularities in bids received.

(c) The Government may accept any item or group of items of a bid, unless the bidder qualifies

the bid by specific limitations. Unless otherwise provided in the Schedule, bids may be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the bidder specifies otherwise in the bid.

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

(e) The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the Government even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

(End of provision)

52.214-12 PREPARATION OF BIDS (APR 1984)

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

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

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

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

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

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

(End of provision)

52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a FIRM FIXED PRICE contract resulting from this solicitation.

(End of clause)

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

(a) Definition.

"Small business concern," as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.

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

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

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

(End of clause)

52.222-24 PREAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE EVALUATION (FEB 1999)

If a contract in the amount of \$10 million or more will result from this solicitation, the prospective Contractor and its known first-tier subcontractors with anticipated subcontracts of \$10 million or more shall be subject to a preaward compliance evaluation by the Office of Federal Contract Compliance Programs (OFCCP), unless, within the preceding 24 months, OFCCP has conducted an evaluation and found the prospective Contractor and subcontractors to be in compliance with Executive Order 11246.

(End of provision)

52.233-2 SERVICE OF PROTEST (AUG 1996)

- (a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from DEPARTMENT OF THE ARMY, U.S. ARMY CORPS OF ENGINEERS, CHIEF, CONTRACTING DIVISION, 167 NORTH MAIN, ROOM B-202, MEMPHIS, TN 38103-1894.
- (b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of provision)

52.0-4055 NEGOTIATIONS AFTER SEALED BIDDING

(a) This clause applies if after bid opening the Contracting Officer determines that all otherwise acceptable bids received are at unreasonable prices, or only one bid is received and the Contracting Officer cannot determine the reasonableness of the bid price, or no responsive bid has been received from a responsible bidder; or the bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith.

(b) The Government has the option to reject all bids received in response to the sealed bid advertisement and initiate negotiation. Negotiations will include soliciting offers from each responsible bidder that submits a bid in response to the solicitation.

(c) If after bid opening the Contracting Officer determines under (a) above that negotiations are in the best interest of the Government, the following steps will be followed:

(1) An amendment to the sealed bid advertisement will be issued to each responsible bidder changing the solicitation number to a request for proposal number. The amendment will also make any necessary changes to the scope of work.

(2) A cover letter signed by the negotiator will accompany the amendment explaining the procedures to be followed during negotiations.

(3) In the event there is only one responsible bidder under the initial sealed bid solicitation, cost or pricing data requirements set forth in FAR 15.804 will apply as will clause FAR 52.215-2, "Audit and Records - Negotiation".

52.0-4060 REVISION AND AMENDMENT TO SOLICITATION FOR BIDS

The right is reserved, as the interest of the Government may require, to revise or amend the specifications or drawings or both prior to the date set for opening bids. Such revisions and amendments, if any, will be announced by an amendment or amendments to this Solicitation for Bids. If revisions and amendments are of a nature which requires material changes in quantities or prices bid or both, the date set for opening bids may be postponed by such number of days as in the opinion of the issuing officer will enable bidders to revise their bids. In such cases, the amendment will include an announcement of new date for opening bids.

52.0-4072 READ THE FOLLOWING IN CONJUNCTION WITH INSTRUCTIONS TO BIDDERS SF1442:

(a) Each bidder shall, upon request of the Contracting Officer, furnish a list of the plant available to the bidder and proposed for use on the work.

(b) Bid sets, consisting of specifications with drawings included therein, will be furnished upon receipt of payment of \$7.00 per bid set. Additional copies of the specifications alone will be furnished an applicant at the rate of \$7.00 per copy. Payments will be made by cash, check, or money order and delivered to the Finance and Accounting Officer, U. S. Army Engineer District Memphis, 167 North Main Street, Room B202, Memphis, Tennessee 38103-1894. Checks and money orders should be made payable to "FAO, U. S. Army, CE, Memphis District".

(c) Bidders are cautioned that drawings may not be reproduced to exact scale. All drawings whether full size or reduced, should be checked for potential discrepancies, dimensions and scales should be verified and all drawings compared.

(d) Bidders are required to acknowledge receipt of all amendments to this solicitation on Standard Form 1442 in the space provided, or by separate letter or telegram prior to opening of bids. Failure to acknowledge all amendments may cause the rejection of the bid/proposal.

52.0-4025 AVAILABILITY OF DESCRIPTIONS LISTED IN DOD 5010.12-L
(SEP 1987)

Copies of the Acquisition Management Systems and Data Requirements Control List, DOD 5010.12-L, may also be ordered from the supply point listed herein. When requesting a data item description, the request shall cite the applicable data item number set forth in the solicitation. Submit request on DD Form 1425 to: The Department of Defense Index of Specifications and Standards (DODISS), Superintendent of Documents, U. S. Government Printing Office, Washington, DC 20402.

When requesting a specification or standard, the request shall indicate the title, number, date, and any applicable amendment thereto by number and date. When requesting a data item description, the request shall cite the applicable data item number set forth in the solicitation. When DD Form 1425 is not available, the request may be submitted in letter form, giving the same information as listed above, and the solicitation or contract number involved. Such requests may also be made to the activity by Telex No. 834295, Western Union No. 710-670-1685 or telephone area code 215/697-3321 in case of urgency.

Commercial Specifications, Standards and Description. These specifications, standards and descriptions are not available from Government sources. They may be obtained from the publishers.

Specifications published and distributed by Waterways Experiment Station of the Corps of Engineers are prefixed by "CRD-C-". They may be obtained by writing to Publications Distribution Section, Waterways Experiment Station, P. O. Box 631, Vicksburg, MS 39180, Attention: Alfrieda S. Clark or by telephoning (at your expense) Alfrieda S. Clark, (601) 634-2571.

52.0-4054 HARBOR MAINTENANCE FEE

Offerors contemplating use of U. S. ports in the performance of the contract are subject to paying a harbor maintenance fee on cargo. Federal law establishes an ad valorem port use fee on commercial cargo imported into or exported from various U. S. ports. The fee is 0.125 percent (.00125). Cargo to be used in performing work under contracts with U. S. Government is not

exempt from the fee, although certain exemptions do exist. Offerors are responsible for ensuring that the applicable fee and associated costs are taken into consideration in the preparation of their offers. Failure to pay the harbor maintenance fee may result in assessment of penalties by the Customs Service.

The statute is at Title 26 U. S. Code sections 4461 and 4462. Department of Treasury Customs Service regulations implementing the statute, including a list of ports subject to the fee, are found at 19 CFR Section 24.24, Harbor Maintenance Fee. Additional information may be obtained from local U. S. Customs Service offices or by writing to the Director, Budget Division, Office of Finance, Room 6328, U. S. Customs Service, 1301 Constitution Avenue, N. W., Washington, D. C. 20229.

52.0-4056 **CONTRACTOR BUSINESS INTEGRITY AND ETHICS**
(SEP 1988).

Offerors are hereby notified that the apparently successful offeror(s) as a condition for award of any contract resulting from this solicitation may be required to execute a certificate related to business integrity.

Certificate is as follows: Competitive Information Certificate (name of offeror) certifies, to the best of its knowledge and belief, that -

(a) With the exception of any information described in an attachment of this certificate, and any information the offeror reasonably believes was made generally available to prospective offerors, the offeror has not knowingly obtained, directly or indirectly from the Government, any written information or oral extract or account thereof relating to this solicitation which was:

(1) Submitted to the Government by offerors or potential offerors in response to the Government's solicitation for bid or proposal;

(2) Marked by an offeror or potential offeror to indicate the information was submitted to the Government subject to an assertion of privilege against disclosure;

(3) Marked or otherwise identified by the Government pursuant to law or regulation as classified, source selection sensitive, or for official use only; or

(4) The disclosure of which to the offeror or potential offeror by a Government employee would, under the circumstances, otherwise violate law or regulation.

(b) The offeror named

(1) Determined the prices in its offer independently, without, for the purpose of restricting competition, any consultation, communications, or agreement, directly or indirectly, with any other offeror or competitor relating to (i) those prices (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

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

(3) Has not attempted to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(c) The offeror has attached an accurate description of the internal review forming the basis for the certificates provided herein.

(signature)
Corporate President or Designee

(Acquisition Letter, dtd JUL 88)

52.0-4059 ARITHMETIC DISCREPANCIES.

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

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

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

(c) These correction procedures shall not be used to resolve any ambiguity concerning which bid is low. (EFARS 52.214-5000)

52.0-4065 INFORMATION CONCERNING THIS SOLICITATION

Information concerning this solicitation may be obtained by calling **VERNEDA B. JOYNER**, Contract Specialist, Supply/Service Contracts Branch, telephone 901/544-3616 concerning clerical or administrative questions, or **DARIAN CHASTEEN**, (901)544-3218 concerning technical questions. COLLECT TELEPHONE CALLS WILL NOT BE ACCEPTED.

52.0-4066 EXAMINATION OF PLANS AND SPECIFICATIONS

Bidders should carefully examine the plans and specifications and fully inform themselves as to all conditions and matters which can in any way affect the work or the cost thereof. Should a bidder find discrepancies in or omission from the specifications, or other documents, or should he be in doubt as to their meaning, he should

at once notify the Contracting Officer and obtain prior clarification prior to submitting any bid.

52.0-4075 PERFORMANCE BONDS

(a) Performance bonds may be required when necessary to protect the Government's interest. The following situations may warrant a performance bond:

(1) Government property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).

(2) A contractor sells assets to or merges with another concern, and the Government, after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.

(3) Substantial progress payments are made before delivery of end items starts.

(4) Contracts are for dismantling, demolition, or removal of improvements.

(b) When a performance bond is required, the solicitation shall contain the information in 28.102-3.

(c) The Government may require additional performance bond protection when a contract price is increased.

(d) The contracting officer must determine the contractor's responsibility (see Subpart 9.1) even though a bond has been or can be obtained. (FAR 28.103-2)

PAYMENT BONDS.

(a) A payment bond is required only when a performance bond is required, and if the use of payment bond is in the Government's interest.

(b) The contracting officer shall determine the penal amount of a payment bond.

(c) When a payment bond is required, the solicitation shall contain the information in 28.102-3.

(d) When a contract price is increased, the Government may require additional bond protection in an amount adequate to protect suppliers of labor and material. (FAR 28.103-3)

HANDBOOK FOR CONCRETE AND CEMENT (CRD-C). The handbook for Concrete and Cement can be obtained from U.S. Army Engineer Waterways Experiment Station, ATTN: Publications Specification, Information Services Branch, P.O. Box 631, Vicksburg, Mississippi 39181-0631 .

Field Edition \$ 7.50
Complete Edition \$10.00

Supplements and revisions to the Handbook are sold on a subscription basis at the price of \$8.00 per year per copy of Handbook. Separate CRD-C Specifications are available for distribution without charge in limited quantities only.

AVAILABILITY OF DRAWINGS. The drawings cited in this Invitation for Bids may be obtained by submitting a request to:

Department of the Army
Memphis District, Corps of Engineers
ATTN: Contracting Division
167 N. Main Street RM B202
Memphis, TN 38103-1894

Requests should give the number of the Invitation for Bids and the title and number of the drawing or other pertinent document requested, exactly as cited in this invitation.

SITE VISIT. Offerors or quoters are urged and expected to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost or performance of the contract, to the extent such information is reasonably obtainable. In no event will a failure to inspect the site constitute grounds for a claim after award of the contract. To make arrangements to inspect the site, bidders are requested to contact DONALD TUTOR at Telephone Number (901)544-3856.

EQUIPMENT. Each bidder shall list, upon the request of the Contracting Officer, the equipment he proposes to use in performing the contract work.

DEFINITIONS. (1) Wherever in the specifications or upon the drawings the words “directed”, “required”, “ordered”, “designated”, “prescribed”, or words of like import are used, it shall be understood that the direction, requirement, order, designation, or prescription of the Contracting Officer is intended and similarly the words “approved”, “acceptable”, “satisfactory”, or words of like import shall mean approved by, or acceptable to, or satisfactory to the Contracting Officer, unless expressly stated. (2) Wherever the words “shown” or “indicated” are used in the specifications, it shall be understood that “shown” or “indicated” on the drawings is intended, unless otherwise stated.

(End of Section L)

SECTION M
EVALUATION AND AWARD FACTORS

M-1 **PROGRESS PAYMENT NOT INCLUDED (APR 1984).** A progress payments clause is not included in this solicitation, and will not be added to the resulting contract at the time of award. Bids conditioned upon inclusion of a progress payment clause in the resulting contract will be rejected as nonresponsive. (FAR 52.232-15)

M-2 **PRICE BASIS.** All bids are solicited on a firm fixed price basis.

M-3 **AWARD.** Award will be made as a whole to one bidder bidding the lowest aggregate price for Item Nos. 0001A through 0001C.

M-4 **ARITHMETIC DISCREPANCIES.**

M-4.1 General. For the purpose of initial evaluation of bids, the following will be utilized in resolving arithmetic discrepancies found on the face of the bidding schedule as submitted by bidders:

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

M-4.2 Bid Evaluation. For the purpose of bid evaluation, the Government will proceed on the assumption that the bidder intends his bid to be evaluated on the basis of the unit prices, extensions and totals arrived at by resolution of arithmetic discrepancies as provided above and the bid will be so reflected on the abstract of bids. These correction procedures shall not be used to resolve any ambiguity concerning which bid is low.

(End of Section M)

Section M-1