National Broker Services Contract GS00P10BQD0003

Contractor:
Studley Incorporated

Administered by:
Public Buildings Service
Office of Real Estate Acquisition
Center for Brokerage Services

June 2010

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THIS DOCUMENT FOR PUBLIC RELEASE

Any questions on this contract are to be directed to the National Contracting Officer as identified in Section G.

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VOLUME II

Exhibit #	Exhibit
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Section A
SOLICITATION/CONTRACT FORM SF-33

SOLICITATION, OFFER AND AWARD

This Contract is a Rated Order Under DPAS (15 CFR 350)	Rating	Page	of pages
	NA	1	181

2. Contract No.	3. Solicitation No.	4. Solicitation Type	5. Date Issued	6. Requisition/Purchase No.
GS00P10BQD0003	GS-00P-09-BQD-0018	[ ] Sealed Bid (IFB) [X] Negotiated (RFP)	JAN 13, 2010	PRAA 09-0001

7. Issued By — Code BQ000
GSA/PBS/PRAA
Office of Real Estate Acquisition/Center for Real Estate Brokerage Services
1800 F Street NW, Rm 2326
Washington DC 20405

8. Address Offer To (If other than item 7) — Code BQ000

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

SOLICITATION

9. Sealed offers (see section L) 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 (same address as item 7) until 01:00 PM EST FEB 17, 2010.

CAUTION – LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. For Information Call:	A. TED MAHONEY CONTRACTING OFFICER	B. Telephone No. (202 420-8293) (NO COLLECT CALLS)

11. TABLE OF CONTENTS **(See pages 2 – 6)**

(x)	Sec	Description	Page(s)		Sec	Description	Page(s)
Part I – The Schedule				**Part II – Contract Clauses**			
	A	Solicitation/Contract Form			I	Contract Clauses	
	B	Supplies or Services and Prices/Costs		**Part III – List of Documents, Exhibits and Other Attachments**			
	C	Description/Specs./Work Statement			J	List of Attachments	
	D	Packaging and Marking		**Part IV – Representations and Instructions**			
	E	Inspection and Acceptance			K	Representations, Certifications and Other Statements of Offerors	
	F	Deliveries or Performance					
	G	Contract Administration Data			L	Instr., Conds., and Notices to Offerors	
	H	Special Contract Requirements			M	Evaluation Factors for Award	

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 (120 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)*	10 Calendar Days	20 Calendar Days	30 Calendar Days	____ Calendar Days
	N/A %	N/A %	N/A %	N/A %

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
	1	2/5/2010	3	2/15/2010
	2	2/9/2010		

15A. Name and Address of Offeror — Code ____ Facility ____
STUDLEY, INC. DUNS 62694981
555 THIRTEENTH STREET, NW #420E
WASHINGTON, DC 20004

16. Name and Title of Person Authorized to Sign Offer (Type or print)
DAVID LIPSON
EXECUTIVE VICE PRESIDENT, DIRECTOR

15B. Telephone No. (Include area code) (202)628-6000

15C. [ ] Check if Remittance Address is difference from above. Enter such address in Schedule.

17. [redacted]

18. Offer Date 6/4/2010

AWARD (To be completed by Government)

19. Accepted as to Items Numbered	20. Amount	21. Accounting and Appropriation
OFFEROR'S OFFER	Pricing Worksheet	PR201006160031 - 192x P00R1100 - 25 PG902 516 *$95,000.00

22. Authority for Using Other Than Full and Open Competition:
[ ] 10 U.S.C. 2304 (c)( ) [ ] 41 U.S.C. 253 (c)( )

23. Submit Invoices to Address Shown in Section G — Item

24. Administered By *(If other than Item 7)* — Code

Payment Will be Made By — Code

*NOTE - In accordance with Section B.2.3 funding is provided for administrative purposes only and no payments will be made under this contract.

26. Name of Contracting Officer *(Type or print)*
TED MAHONEY

[redacted]

28. Award Date
21 June 2010

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

NSN 7540-01-152-8064
PREVIOUS EDITION NOT USABLE

33-134

STANDARD FORM 33 (Rev. 4-85)
Prescribed by GSA – FAR (48 CFR) 52.214 (c)

Section B
SERVICES AND PRICES

B.1. SERVICES

This is a Request for Proposals (RFP) for national real estate broker service contracts. The contracts are to support GSA's Office of Real Estate Acquisition and eleven Regional Offices, as listed in **Exhibit 1**, in the acquisition of leasehold interests and related real estate services for GSA's Federal tenants. GSA intends to make award of approximately three commission based, indefinite delivery, indefinite quantity (IDIQ) contracts, with a one year base period and four one-year option periods. Each contract will have a geographic coverage area of all eleven GSA Regions.

Award of these contracts will not preclude the Government from awarding additional contracts for similar services in the future in the event GSA determines additional contracts are in the Government's interest.

Definitions of key terms in this RFP are in Section C.

Prior to performance of any contract services, a task order will be awarded in accordance with the ordering procedures stated in Section F. Contractors shall accept only written task orders issued on a GSA Form 300 by an authorized Ordering Official, except for duly authorized emengencies or other exigent circumstances. Verbal orders may only be authorized by the National Contracting Officer (NCO). For example, in the case of emergency requirements with FEMA, the NCO has the authority to issue a verbal order. The roles and authorities of Government personnel are stated in Section G.

Contractors must comply with personnel qualification requirements including certification, experience, conflict of interest, nondisclosure, and clearances, stated in Section H.

Technical proposals shall be submitted in accordance with instructions in Section L and will be evaluated in accordance with the methodology stated in Section M. Offerors are required to submit a subcontracting plan in support of GSA's Small Business Subcontracting goals and programs.

Performance of contract services requires expertise in both commercial real estate practices and Federal procurement regulations related to Federal lease acquisition. Federal lease acquisitions are required to be performed in compliance with Federal lease acquisition regulations, Federal lease law, applicable Executive Orders, and other procurement regulations, policy directives and processes listed in **Exhibit 2** or referenced in this RFP. Information related to a Federal acquisition is protected by the Federal Procurement Integrity Act and disclosure to other than authorized parties is prohibited as outlined in Section H.

All decisions regarding a lease acquisition made on behalf of the Government are reserved for the Lease Contracting Officer (LCO) who in most cases serves a dual role as the LCO for the lease and the Contracting Officer's Technical Representative (COTR) for a task order awarded under the contract for the lease acquisition. The Contractor is prohibited from performing any inherently governmental functions listed in FAR Part 7.5.

The Contractor is responsible for providing all deliverables and services in a timely and professional manner. Multiple task orders may run concurrently, so the Contractor must have the capacity to supply sufficient staff and resources to successfully complete services and meet required delivery dates.

This is a "non-personal services contract" as defined in FAR 37.101. It is therefore understood and agreed that the Contractor and/or Contractor employees: (1) shall perform the services specified herein as independent Contractors, not as employees of the Government; (2) shall be responsible for their own management and administration of the work required and bear sole responsibility for complying with any and all technical, schedule, or financial requirements or constraints attendant to the performance of the contract; (3) shall be free from supervision or control by any Government employee but (4) shall, pursuant to the Government's right and obligation to inspect, accept or reject the work, comply with such general direction of the Contracting Officer or the duly authorized representative of the Contracting Officer as necessary to ensure accomplishment of contract objectives.

Websites referenced in the RFP are to provide Contractors access to forms; sample documents; and statutes, executive orders, and regulations that govern Federal lease acquisition. As necessary, during the term of the contract, the Contracting Officer or a designated representative may provide updated web addresses. Forms and other samples are for information only and do not relieve the Contractor from responsibility for ensuring all work performed is in accordance with the required statutes, executive orders, regulations or other requirements of the contract.

By accepting award, the Contractor agrees to follow any new procedures or processes adopted and implemented by the Government to improve the lease acquisition process during the term of the contract at no cost to the Government. The Government will provide access to governmental software if required for the Contractor to implement new procedures. The Government may provide guidance or training on new procedures during the term of the contract.

The Government may also implement nontraditional and innovative procurement methods and techniques. If it is determined to be in the best interest of the Government to employ new methods or techniques for lease procurements, a Contractor accepting award of a national broker contract agrees to conduct lease acquisitions utilizing the new methods at no additional cost to the Government. In the event new procedures are implemented, guidance will be provided to the Contractors by the Government.

A unilateral modification to the contract will be issued if needed to provide a scope of work for any changed procedures. There will be no change in the compensation arrangement under the contract for the implementation of such changes.

B.2 PRICES

B.2.1 GENERAL

There may be substantial changes to the terms and conditions of the contract from previous contracts awarded by GSA for similar services. Offerors, especially, previous GSA real

estate service Contractors are cautioned to note the changes in this solicitation and not rely on knowledge of previous contracts when preparing proposals.

Contractors will be compensated by collecting real estate commissions paid by the building owner. The Government will not make any direct payment or reimbursement to a Contractor for contract services including, but not limited to, any expense associated with the performance of the services, such as travel. Under the terms and conditions of the contract and in accordance with industry practice, a Contractor has the opportunity to obtain a substantial monetary benefit by collecting a market rate real estate commission paid by a building owner. The commission negotiated for a lease acquisition performed by a Contractor under the contract will be based on a lease term not to exceed the firm term of the lease contract. Commissions will not be negotiated or collected on option periods or for lease terms beyond the firm term of the lease. GSA leases typically have a firm term of five (5) years with an average term of 7 years; however, they may be longer or shorter.

Contractors will propose a maximum percent of the Aggregate Lease Value that they will receive as their compensation (Commission). Contractors will be required to negotiate a market rate commission with the offerors in the lease procurement. Any market rate commission negotiated over and above the Commission will be credited to the shell rent in the lease transactions (Commission Credit). Offerors in the lease procurement will be instructed in the SFO that a market rate commission is expected and must be paid wherever they are represented by a listing agent, an offering agent, or broker, property manager, developer, or any other agent or representative.

Contractors should assume that in some cases where an offeror in a lease procurement is not paying a commission to their own representative, there could be no commission available to compensate our Contractor. GSA is not liable for the difference in any case.

Full Lease Acquisitions and Extensions (Task 1and 2) in the statement of work, Section C of this RFP, are tasks where a Contractor has an opportunity to collect a Commission. Price proposals shall be submitted on the Pricing Worksheet attached in this Section. Complete instructions for submitting the price proposal are in Section L and the complete price evaluation method is stated in Section M. To be considered for award an Offeror's price proposal must state a maximum percentage of Aggregate Lease Value in each category on the pricing worksheet that they propose as their compensation fee (Commission). Contractors will be expected to negotiate a market rate commission with the offerors in the lease procurements and anything negotiated over the awarded percentage (Commission) would be credited back to the shell rent for the transaction (Commission Credit).

Exhibit 3 is a list of the projected nationwide commissionable expiring lease workload for a five-year period (FY 2011 through FY 2016). GSA estimates that it will procure follow-on leases utilizing contract services for at least 50 percent of this workload for each year of the contract. In addition GSA may order lease acquisition services for new requirements or to replace an existing lease prior to its normal expiration. It has been GSA's experience for the past 10 years that the inventory increases by approximately two percent per year for new requirements. For price evaluation purposes, the value of the lease acquisitions to be ordered from the contracts was estimated based on existing square footage, existing annual rates, and for seven year firm terms. An estimated commission percentage of 3% with an average term of 7 years was used to compute the potential commissions (revenues) available to a contractor for the purpose of price evaluation. Less than 5% of signed leases

under the current contract resulted in no commission paid to our contractors. The estimated value of the lease inventory and the estimated commissions are considered by the Government to be conservative estimates. Offerors should assume that the Government intends to have each awardee performing projects on a nationwide basis in both urban and rural areas. Due to the changing nature of client agency requirements this is the Government's best estimate of possible future workload. For planning purposes after award, GSA will provide awardees a listing of projected expiring leases for which tasks orders may be issued on a semi annual basis. Projected workload data is for informational purposes only and does not constitute a guarantee. The Government reserves the right to delete or add to the listing.

As described in the RFP awardees are required to attend post award orientation sessions and a minimum of 4 contract meetings each contract year; provide support to the COTR/COR or Legal Counsel for protests, claims, Freedom of Information Act (FOIA) requests, Congressional inquiries, subpoenas, or other matters related to task orders performed by the Contractor, to prepare monthly reports and to provide market analysis data. Awardees will be required to assist GSA by planning and participating in the roll out of the contracts to both internal GSA personnel and potentially GSA customers to explain the benefits of the contract to everyone. The Contractor should expect to participate in a minimum of 3 planning meetings, preparation of presentations, 4 zonal training sessions, and several follow up smaller training sessions. In addition, the Contractor will be expected to participate in meetings with GSA and its customer agencies to explain the benefits of the contracts to them. These services will not be reimbursed by the Government.

B.2.2 PRICING WORKSHEET

Total Estimated leases are used for pricing evaluation purposes only.

1. Base Period (Contract Year 1)

Type	Line Item	Project Size Range in RSF	% of Expiring Leases SF/#s	Competitive Action - Bid NTE % of Aggregate Rent	Non Competitive Action - Bid % of Aggregate Rent
Full Lease Acquisition	0001A	0 - 10,000	15%/436	A_[redacted]	B_[redacted]
	0001B	10,001 - 50,000	40%/225	A_[redacted]	B_[redacted]
	0001C	Over 50,000	45%/43	A_[redacted]	B_[redacted]
Extension	0002	[redacted]			[redacted]

2. Option Period I (Contract Year 2)

Type	Line Item	Project Size Range in RSF	% of Expiring Leases SF/#s	Competitive Action - Bid NTE % of Aggregate Rent	Non Competitive Action - Bid % of Aggregate Rent
Full Lease Acquisition	0003A	0 - 10,000	11%/397	A_[redacted]	B_[redacted]
	0003B	10,001 - 50,000	32%/233	A_[redacted]	B_[redacted]
	0003C	Over 50,000	56%/85	A_[redacted]	B_[redacted]
Extension	0004	[redacted]			[redacted]

3. Option Period II (Contract Year 3)

Type	Line Item	Project Size Range in RSF	% of Expiring Leases SF/#s	Competitive Action - Bid NTE % of Aggregate Rent	Non Competitive Action - Bid % of Aggregate Rent
Full Lease Acquisition	0005A	0 - 10,000	12%/381	A_[redacted]_	B_[redacted]
	0005B	10,001 - 50,000	31%/216	A_[redacted]_	B_[redacted]
	0005C	Over 50,000	57%/62	A_[redacted]_	B_[redacted]
Extension	0006	[redacted]			_[redacted]

4. Option Period III (Contract Year 4)

Type	Line Item	Project Size Range in RSF	% of Expiring Leases SF/#s	Competitive Action - Bid NTE % of Aggregate Rent	Non Competitive Action - Bid % of Aggregate Rent
Full Lease Acquisition	0007A	0 - 10,000	11%/281	A_[redacted]	B_[redacted]
	0007B	10,001 - 50,000	28%149	A_[redacted]	B_[redacted]
	0007C	Over 50,000	61%54	A_[redacted]	B_[redacted]
Extension	0008	[redacted]			_[redacted]

5. Option Period IV (Contract Year 5)

Type	Line Item	Project Size Range in RSF	% of Expiring Leases SF/#s	Competitive Action - Bid NTE % of Aggregate Rent	Non Competitive Action - Bid % of Aggregate Rent
Full Lease Acquisition	0009A	0 SF - 10,000	11%/232	A_[redacted]	B_[redacted]
	0009B	10,001 - 50,000	30%/136	A_[redacted]	B_[redacted]
	0009C	Over 50,000	58%/52	A_[redacted]	B_[redacted]
Extension	0010	[redacted]			_[redacted]

NOTE: Percentages provided by the Government in the Pricing Worksheet are for evaluation purposes only and not a firm commitment. Percentages provided are percentages for the total program and not per contract. Fair Opportunity Procedures under Ordering Procedures in Section F will be followed.

B.2.3 Minimum/Maximum Quantities

As referred to in paragraph (b) of FAR clause 52.216-22, Indefinite Quantity of this contract the contract minimum and maximum quantities are as follows:

(a) MINIMUM: The government will issue task orders for the services specified in the contract, at the minimum quantity of 38 (4.6%) per contract, of the Total Best Estimated Quantity for the Base Period. The minimum quantity represents an opportunity to earn an estimated commission amount of $ 95,000 or an estimated $ 2,500 per task order. There are no minimums quantities for other than the Base Period. This contract uses no appropriated funds. Funding information for the minimum quantity is provided for administrative purposes only. No payments will be made under this contract.

(b) MAXIMUM: The Government may place task orders for the services specified in the contract, provided these task orders do not exceed the maximum amount plus (10 %) of the Best Estimated Quantity for the entire program (2,982), or $100,830,563 , inclusive of all contracts and all options.

The minimum and maximum quantities are established as consideration for the whole potential five-year life of the contract and not only for the base or option level.

Section C
STATEMENT OF WORK AND QUALITY REQUIREMENTS

C.1 INTRODUCTION

1. GSA provides workspace for more than one million Federal workers through the Public Buildings Service (PBS). Whenever possible, GSA satisfies tenant agency needs in existing GSA-controlled owned or leased space. When suitable space is not available within the existing inventory, GSA acquires space in privately owned buildings. PBS leases various types of space, such as office space, laboratories, clinics, border stations, and courthouses in both urban and rural areas throughout the United States, the District of Columbia, and the U.S. Territories listed on the cover sheet of the solicitation. Federal laws and regulations require the Government to procure leased space utilizing competitive procedures, unless otherwise justified. Lease acquisitions are usually started 18 to 36 months prior to the expiration date of an existing lease.

2. The Office of Real Estate Acquisition is the PBS entity responsible for acquisition and administration of leasehold interests. A decision by the Government Accountability Office allows contractors to collect the real estate commission paid by the building owner in lieu of direct payment by GSA for services performed under this contract type.

3. One of the goals of the national contracts is to provide consistency in policies and procedures for PBS lease acquisition services nationwide. GSA lease acquisitions follow the procedures stated in the Federal Acquisition Regulation (FAR), General Services Acquisition Manual (GSAM), Federal Management Regulations (FMR), Executive Orders, and GSA policies and procedures (See **Exhibit 2**).

C.2 SCOPE

1. Contractors shall perform both competitive and noncompetitive lease acquisition services, described in Tasks 1 and 2 in all geographic areas served by the eleven GSA Regional Offices listed in **Exhibit 1**.

2. In addition to the two lease acquisition tasks, described in Section C.4 the Contractor shall provide necessary documentation and assistance to the Government on disputes, protests, claims, and appeals related to services that they are performing or have performed in the event the Government receives a congressional inquiry, a Freedom of Information Act (FOIA) request, subpoena or other similar inquiry, demand or request for information. The Contractor shall attend up to 4 meetings with the NPM/NCO and other Government representatives at their own expense. The Contractor shall provide assistance in planning, preparation of presentations, and rolling out this contract to regional associates. From a historical perspective, in the immediate prior national broker contract, this effort consisted of a minimum of 3 planning sessions, 2 key personnel meetings, and 3 zonal training sessions. For purposes of this solicitation, the Contractor shall plan on at least that many sessions and potentially more depending on the results of the planning

sessions. If requested by the Government, the Contractor is responsible for providing market data as described in Section C.4.4 at no cost to the Government.

C.3 DEFINITIONS

The terms below are defined for this solicitation, for any contracts awarded as a result of this solicitation, and for task orders issued against the contracts. For clarification of any terms which are not included below, contact the National Contracting Office (NCO) specified in Section G.

Acquisition
Acquisition means the acquiring by lease an interest in real property for use by the Federal government, whether the space already exists or must be constructed. In some cases it may mean acquiring an option to purchase a site.

Aggregate Lease Value
The Aggregate Lease Value is defined as the full service rental to be paid by Tenant for the initial firm term of the Lease. Firm Term and application of broker commissions are defined in the SFO. The Aggregate Lease Value shall include:

(i) the initial full service rental to be paid by Tenant on all space leased by Tenant, including base rent, base operating costs, base real estate taxes, and amortization of any tenant improvement allowance , and
(ii) any fixed annual or other periodic rental bumps and/or fixed annual or other periodic rent escalations.

The Aggregate Lease Value shall not include:

(i) any rental abatement provided to Tenant pursuant to the Lease other than the Commission Credit,
(ii) any annual rental escalations covering operating expense and/or real estate tax increases during the lease term, and
(iii) any additional amounts paid by Tenant for services over and above those furnished by Lessor as a part of the Lease.

ANSI/BOMA Space Measurement Standard
The Government recognizes the American National Standards Institute/Building Owners and Managers Association (ANSI/BOMA) international standard (Z65.1-1996) definition for Office Area, which means “the area where a tenant normally houses personnel and/or furniture, for which a measurement is to be computed.” ANSI/BOMA Office Area square feet (ABOA) is computed by measuring the area enclosed by the finished surface of the room side of corridors (corridors in place as well as those required by local codes and ordinances to provide an acceptable level of safety and/or to provide access to essential building elements) and other permanent walls, the dominant portion (refer to Z65.1) of building exterior walls, and the center of tenant separating partitions. Where alcoves, recessed entrances, or similar deviations from the corridor are present, ANSI/BOMA Office Area square feet shall be computed as if the deviation were not present.

Approval
Approval means the Government has reviewed submittals, deliverables, or administrative documents, has determined the services or submissions conform to contract requirements, and has issued written approval to the Contractor.

Building Shell
Building shell is the complete enveloping structure, the base-building systems, and the finished common areas (building common and floor common) of a building that bound the tenant areas. Tenant Improvements begin where building shell ends. The lease Solicitation for Offers (SFO) contains a complete shell definition in its entirety.

Central Business Area (CBA)
Central business area (CBA) means the centralized community business area and adjacent areas of similar character, including other specific areas that may be recommended by local officials in accordance with Executive Order 12072 or other applicable Federal law. The CBAs are designated by local government and not by Federal entities.

Commission
The maximum percent of the Aggregate Lease Value as bid by the Contractor, that the Contractor will receive as compensation. See Section B.

Commission Credit
The amount of any market rate commission negotiated with an offeror in a lease procurement over and above the Contractor's Commission (maximum percent of the Aggregate Lease Value as bid by the Contractor) that is credited to the shell rent in the lease transaction.

Contract and Contractor
“Contract” means this IDIQ National Broker Services contract and "Contractor" means the party who has entered into this contract with the Government.

Day
In this contract, unless explicitly indicated otherwise, day refers to Federal working days (Monday through Friday, excluding Federal holidays).

Delineated Area
Delineated area means the specific geographic boundaries within which space will be obtained to satisfy an agency space requirement and shall be defined for each task order.

Excluded Party Listing System (EPLS)
The Excluded Parties List Systems (EPLS) is the electronic version of the Lists of Parties Excluded from Federal Procurement and Non procurement Programs (List), which identifies those parties excluded throughout the U.S. Government (unless otherwise noted) from receiving Federal contracts or certain subcontracts and from certain types of Federal financial and non financial assistance and benefits. **See web page www.epls.gov.**

Federal Information Systems Management Act
The Federal Information Systems Management Act (FISMA) was passed by Congress and signed into law by the President as part of the E-Government Act of 2002 (Pub. L. No. 107-347). The goals of FISMA include development of a comprehensive framework to protect the government's information, operations, and assets. FISMA assigns specific responsibilities to Federal agencies, the National Institute of Standards and Technology (NIST) and the Office of Management and Budget (OMB) in order to strengthen IT system security. In particular, FISMA requires the head of each agency to implement policies and procedures to cost-effectively reduce information security risks to an acceptable level.

Final Proposal Revision (FPR)
At the conclusion of discussions, each offeror still determined to be in the competitive range shall be given an opportunity to submit a final proposal revision. The contracting officer is required to establish a common cut-off date for submission of final proposal revisions. Requests for final proposal revisions shall advise offerors that the final proposal revisions shall be in writing and that the Government intends to make award without obtaining further revisions.

Final SLA for Task Order Completion
For purposes of this contract, the Final SLA is defined as the last Supplemental Lease Agreement required for completion of the task order. It must clearly state, at a minimum, the final rental rate expressed in a dollar per rentable square foot basis, the total annual rental, the total TI dollar amount amortized in the lease, the commission rate expressed as a percentage of annual rent, the total commission dollars to be paid to the Broker, the total commission credit to be credited to the Government, and any other negotiated terms of the lease. See Section C.

Firm Term of Lease
Firm Term is the non-cancelable term of the lease that guarantees the Government's rental payments with or without occupancy.

Fiscal Year
The Government's fiscal year covers the period from October 1 through September 30.

Freedom of Information Act Inquiries
The 1966 Freedom of Information Act (FOIA) permits any person to request access to federal agency records or information. Federal agencies are required to disclose records upon receipt of a written request, except for records that are protected from disclosure by nine exemptions or three exclusions in the Act. Certain records are not releasable under a FOIA request if one or more of the following exemptions apply:

- Classified defense and foreign policy information
- Internal agency rules and practices
- Information prohibited from disclosure under other laws
- Trade secrets and confidential business practices
- Inter or intra-agency communications protected under law
- Information involving matters of personal privacy
- Certain information regarding law enforcement
- Information on supervision of financial institutions
- Geological information on wells

General Clauses
General Clauses are the provisions and clauses required for acquisition of leasehold interests in real property set out in Section 570.6 of the General Services Administration Acquisition Manual (GSAM). Theses clauses are included in a Solicitation for Offers for leased space and may be updated from time to time. The general clauses are included in GSA Form 3517, General Clauses, Acquisition of Leasehold Interests in Real Property and they also appear in other places in an SFO.

Government Personnel
National Contracting Officer (NCO), National Program Manager, (NPM), Regional Contracting Officer, (RCO), Regional Program Manager (RPM), Contracting Officer's Representative (COR) and Contracting Officer's Technical Representative (COTR). Section G describes the roles and responsibilities of Government personnel.

Hard Copy
A hard copy document is one that has been transmitted from its source on the original paper, rather than through an electronic transmission method such as facsimile or e-mail.

Landlord or Lessor
Any individual, corporation, firm, partnership, trust, association, State or local Government, or other legal entity that leases real property to the Government

Lease or Leasehold Interest in Real Property
A conveyance to the Government for the right of exclusive possession and quiet enjoyment of real property for a defined period of time by a Landlord or Lessor. It may include operational services and tenant improvement build out provided by the Landlord or Lessor.

Lease Award Date
The date the Contracting Officer executes (signs) a lease that has already been signed by the Landlord or Lessor.

Lease Contracting Officer (LCO)
An individual holding a valid GSA issued Contracting Officer warrant providing that individual the authority to enter into and administer leases on the Government's behalf.

Lease Effective Date
The commencement date of the lease. Normally the day the Government accepts the space as substantially complete, begins paying rent and the start date for tenant agency occupancy.

Lease Extension
A continuation of the original lease usually for a short-term with substantially the same terms and conditions. An extension is generally executed when there are evolving agency requirements, delays in delivery of a longer-term lease, or delays in a move to other federally controlled space. A Lease Extension is a non-competitive lease acquisition. See GSAM 570.405, Lease Extensions.

Lessee or Tenant
In all leases entered into under this contract, the General Services Administration of the United States of America shall be the Lessee. The tenant under a lease entered into under this contract shall be the tenant agency or other entity so designated by the Lessee.

Net Annual Rent
Net annual rent is the gross rent less cost of operating expenses for a one-year period.

New Lease
A lease with new terms and conditions and a new lease contract number, applicable for either a new requirement or to replace an existing expiring lease.

Non Competitive Lease Actions
For purposes of this contract, non-competitive lease action pricing applies anytime the Government has determined to proceed on an other than Full and Open basis and has either an approved JOTFOC when the Simplified Lease Acqusion Threshold is exceeded, or when the Government has documented the file in accordance with GSAM 570.4 prior to issuing a task order.

Non-Priced Evaluation Factor
An evaluation factor other than price, used by the Government to select awardees, normally in best value trade off procurements, where award is based on the best value to the Government after considering price and technical (non-priced) evaluation factors

Normal Regional Office Work Hours
The normal work hours of the Regional Offices in each time zone covered by the contract are from 8:00 a.m. to 4:30 p.m.

Occupancy Agreement (OA)
A complete concise statement of a tenant agency's agreement to the financial terms and conditions for occupying GSA-controlled space. GSA prepares the OA, and both the tenant agency and GSA sign the OA. The document has two parts: (1) the signed agreement and (2) a financial summary.

Offeror
A party making an Offer in response to a Solicitation for Offers (SFO.)

Operational Services
Services that support use of a leased property, such as heating, ventilation, air conditioning, utilities, custodial services, landscaping, pest control, etc.

Ordering Official (OO)
Section G describes the roles and responsibilities of Government personnel.

Price Negotiation Memorandum (PNM)
The document in the contract file that details the principal price and other elements of the acquisition including a record of negotiations with all offerors and the negotiated agreement with each, including documentation of fair and reasonable pricing.

Price Negotiation Objectives
Establishes the Government's initial range of expected outcomes determined by market data of comparable properties within the defined delineated area. Negotiation Objectives may change as a procurement progresses and assist in the Contracting Officer's determination of fair and reasonable price.

Prospectus Threshold (lease)
The prospectus threshold is a limit on the leasing authority available to GSA at the point of lease award. An annual prospectus threshold amount is determined by GSA under applicable law (40 U.S. C. 3307) and provided by letter to Congress for the specific fiscal year capital investment and leasing program being considered by Congress. The threshold amount defines the limitation above which line item procurement authority through a lease prospectus is required from Congress. Prospectus packages are prepared by the Government. The current prospectus level, expressed in terms of dollars of net rent, for FY2009 is $2.66 M net of operating expenses and is adjusted annually.

Rent and Related Services
The consideration paid for the use of leased property, plus the costs of operational services and amortization of tenant improvements whether furnished by the lessor, the Government, or both.

Rentable Space
Rentable space is the area for which a tenant agency is charged rent as determined by the building owner. The rentable space may include a share of building support/common areas such as elevator lobbies, building corridors, and floor service areas. Floor service areas typically include restrooms, janitor rooms, telephone closets, electrical closets, and mechanical rooms. The rentable space does not include vertical building penetrations and their enclosing walls, such as stairs, elevator shafts, vertical ducts, or service chases.

Replication Costs or Cost Benefit Analysis
An analysis of the cost incurred by the Government over and above the rental rate to reproduce/build out the space and infrastructure to meet the Tenant Agency's mission. This cost along with move costs are evaluated to determine if the overall cost to the Government is greater or lesser than the cost of remaining at the current location under a succeeding lease. GSAM 570.402-6 provides a detailed description.

Required Delivery Date (RDD)
The date specified in the task order schedule for completion of the task order (30 days after occupancy).

Reimbursable Work Authorization (RWA)
GSA Form 2957 submitted by Tenant Agencies for work exceeding the general and customization Tenant Improvement tiers allowed by GSA Rent Pricing Policy.

Rural Area
Rural area means a city, town, or unincorporated area that has a population of 50,000 inhabitants or less, other than an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population in excess of for 50,000 inhabitants, as specified in the Rural Development Act, as amended. (See 7 USC § 1991(a) (13).

Scoring
Scoring is a method by which the Federal Government distinguishes between capital expenditures and operating expenditures for budget purposes. Capital expenditures are those expenditures that are equivalent to the purchase of a capital, or fixed asset (such as a building). Operating expenditures represent costs that keep the Government operating (such as leases that do not result in the Government assuming the risks of ownership or that do not result in the Government ownership of the leased asset). Budgeting for Capital leases and Operating leases is accounted for differently; therefore, proper classification of lease(s) is important to the Government's budgetary process (OMB Circular A-11 applies). The circular is available at the Office of Management and Budget (OMB) website at www.whitehouse.gov. Each lease acquisition is scored at least three times by the Government during the lease acquisition process to ensure the lease is an operating lease as opposed to a capital lease. Scoring is performed three times per project at a minimum: at project initiation, as part of evaluation of initial Offers, and at project completion.

Simplified Lease Acquisition Procedures
Procedures governing a lease award for less than $100,000 average annual rent excluding the costs of operational services. GSAM Subpart 570.2 prescribes the procedures for awarding leases at or below the simplified lease acquisition threshold.

Simplified Lease Acquisition Threshold (SLAT)
Presently $100,000 average annual rent for the term of the lease, including option periods and excluding the cost of operational services.

Small Business Size Standard for Leasing of Building Space to the Federal Government by Owners, North American Industry Classification System (NAICS) Code, 531190)
The Small Business Administration (SBA)size standard of $20.5 million in gross receipts applies to the owners of building space leased to the Federal Government.

Space Allocation Standards (SAS) and/or Agency Design Guide
A basic written agreement reached between a tenant agency and GSA which provides standardization of space requirements for the agency. If applicable to a particular task order, the appropriate SAS or Design Guide will be made available to the Contractor by the COTR/COR.

Solicitation for Offers (SFO)
A document used to solicit Offers for a lease acquisition. The SFO describes Government requirements and performance criteria against which a lessor is expected to perform and the evaluation criteria that the Government will use to evaluate Offers. As listed below, there are several different SFO's that may be used. The COTR/COR for a specific task order will determine the SFO for the lease acquisition.

> **(A) Simplified Lease Acquisition Threshold Lease (SLAT lease)**
> A simplified SFO format that may be used for a lease acquisition under the Simplified Lease Acquisition Threshold, unless another format is required by the LCO.
>
> **(B) Tenant Improvement Solicitation for Offers (TI SFO)**
> This is the SFO used for the majority of PBS lease acquisitions. With this SFO each Offeror agrees to provide a Tenant Allowance established by GSA. The actual tenant improvement price is typically negotiated after lease award. The total TI allowance actually applied to the rent rate must be reduced by the TI included in the market rent rate.

Source Selection - Best Value Trade Off Method
A source selection methodology where award is based on the evaluation of cost or price and other non-priced factor(s) to determine the best value to the Government. The best value concept provides the opportunity for a cost/technical trade-off and does not require that award be made to the Offeror submitting the lowest cost or price or to the highest technically rated Offer, although the ultimate decision may be to select the lowest priced Offer or the highest technically rated Offer. The Source Selection Authority (SSA) has the authority to make the cost/technical trade-offs in a manner consistent with the award methodology stated in an SFO.

Succeeding Lease
For the purpose of this contract, a succeeding lease is a lease acquisition secured to cover continued occupancy of the current premises at the end of a lease term without a break in continuous tenancy. It establishes new terms and conditions and has a new lease contract number. Such a lease would generally be used where (1) acceptable new locations are not identified or (2) acceptable locations are identified but a cost-benefit analysis indicates that award to an Offeror other than the current lessor will result in substantial relocation costs or duplication costs to the Government, and the Government cannot expect to recover such costs through competition.

Superseding Lease
A new lease that replaces an existing lease prior to expiration procured following non-competitive sole source procedures. It establishes new terms and conditions and has a new lease contract number. The Government considers executing a superseding lease to replace an existing lease when the Government needs numerous or detailed modifications to a space that would substantially change the existing lease or when market conditions warrant renegotiation of an existing lease.

Supplemental Lease Agreement (SLA), GSA Form 276
An SLA is used to change or modify an existing lease to reflect the acquisition of additional space, changes to agreed upon tenant improvements, partial release of space, revision in terms or rental payments, payment of overtime services, change in ownership or payee, or any other action that changes the lease.

Tenant Agency Special Requirements
Unique or special requirements, such as security enhancements, location, upfit enhancements, or increased floor loading requirements, special HVAC requirements, extended work hours, or others not named herein that exceed improvements required for standard office space.

Tenant Improvements (TI)
Tenant improvements are generally the finishes and fixtures that transform space from the "shell" condition to a finished, usable condition. A tenant improvement allowance is the funding source provided by the building owner that enables the space to be fitted out for occupancy to meet a Tenant Agency's specific requirements. Required TI's for any given lease are fully defined in the SFO.

Tenant Occupancy Services
Services the Tenant Agency may require associated with occupancy
like physical relocation of the tenant agency's personal property, installation of telecommunications service, installation of computer cabling, furniture delivery, or other similar services.

Sensitive But Unclassified (SBU) building information.
GSA has determined that procedures for access to and generation, dissemination, storage, transfer and disposal of SBU building information pertain to leased space in a facility that has been designated:

(1) Interagency Security Committee (ISC) Facility Security Level IV GSA-leased facilities, or
(2) ISC Facility Security Level III GSA-leased facilities with 100 percent Government occupancy, or
(3) Other GSA-leased facilities will be considered, when requested in writing by the funds certifying official of the customer agency, in accordance with the guidance in GSA Order 3490.1A, June 1, 2009.

C.4 DETAILED TASK DESCRIPTIONS

C.4.1 General

All services will be ordered by the Government with a written task order, GSA Form 300, signed by an authorized Ordering Official in accordance with the ordering procedures in Section F.

C.4.1.1 Contractor's Response Requirement to an Issued Task Order

The Contractor shall submit a conflict of interest and nondisclosure statement, **Exhibit 7A** and **7B**, to the Regional Contracting Officer (RCO) or duly authorized Ordering Official within five (5) business days of receipt of a task order.

The Contractor shall expect to continue performance of the task order using dual agency notification requirements identified in each Lease Solicitation for Offers and in Section H herein unless otherwise directed by the RCO. The RCO will notify the COTR/COR on the resolution of the conflict, and issue a Notice to Proceed (NTP) to the Contractor for the task order. Task orders may be sent to the Contractor from the Government via mail, (regular or express) email or facsimile. The COTR/COR designated for the task order shall contact the Contractor to schedule the project orientation as defined in this section.

C.4.1.2 Contractor Office Location and Response Times

At a minimum, due to the nature of the National Capital Region's (NCR) workload and limited geographic area, the Contractor shall have a minimum of one office located within the boundaries of the NCR. The NCR includes the District of Columbia; Montgomery and Prince George's Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and all cities within the boundaries of those counties. Designated personnel shall be available to meet with NCR's COTR/COR within a two-hour notification from the Government. For all other GSA Regional Office locations, the Contractor shall respond to calls from Government personnel, with a returned phone call, on the same business day if practicable but no less than 24 hours and within the normal business hours of the Region initiating the call.

C.4.1.3 Contractor Personnel

Only qualified personnel who meet the requirements stated in Section H shall be assigned by the Contractor to perform services ordered by the Government. The Government reserves the right to review the resumes of personnel assigned to a task order and to request the removal of personnel who do not perform satisfactorily or who have not submitted documents necessary to conduct business on the behalf of the Government. Requests to remove personnel from contract work will be coordinated by the NCO.

C.4.1.4 Approvals

Roles of Government personnel are described in Section G, Contract Administration. Contractor personnel assigned to a task order shall obtain written approval from the COTR/CORat each milestone where written approval is required, as stated in a task description, prior to proceeding with additional work on the task. Failure to do so may result in Contractor re-performance of the work at the Contractor's expense and a performance rating on the task order that might impact the Contractor being considered for future task orders.

C.4.1.5 Changes to a Task Order after Issuance of Task Order

1. After receipt of a task order, changes to any of the following require a modification to the task order prior to the Contractor proceeding:

a) Square feet change of plus or minus ten percent (10%) or as necessary to document SF category line item change.
b) Required Delivery Date changes beyond a reasonable time
c) Terminations for Convenience
d) Terminations for Default (NCO action only)

Failure to adhere to this requirement may result in Contractor re-performance of services at their own expense.

2. Other changes, such as a change in COTR/COR, delineated area, term, or tenant improvement allowance, or a schedule change that does not impact the RDD, may be accomplished via written notification from the Regional Contracting Officer/Ordering Official for the task order.

C.4.1.6 Commission and Commission Credits

1. Contractors will be expected to negotiate a market commission with the offerors in the lease transaction, and any commission negotiated over the awarded percentage will be credited back to the shell rent for the transaction. The lessor shall apply this amount as an offset to the shell rent as outlined in Section G. Where the Contractor is entitled to receive a real estate commission or has any right to receive any form of payment from a broker, potential Lessor, or other party, for work performed under the contract, the Contractor shall document the proposed total commission percentage rate or dollar amount when submitting their negotiation objectives to the COTR/COR.

2. The final negotiated commission including the appropriate percentage and dollar amount credited to the Government in the lease transaction shall be documented at lease award in the specific format prescribed in Section G and **Exhibit 11**. The amount credited to the Government will be the amount above the awarded percentage specified in the Contractor's Pricing Worksheet as supported by mathematical calculations so that an auditor can determine how the amounts were achieved. If any changes occur after lease award that would affect the amount of the Commission and Commission Credit, such as a change in the aggregate value of the rent caused by a change in the TI amount (either up or down), the final Supplemental Lease Agreement (SLA) under the task order must reflect the change (either up or down) in Commission and Commission Credit dollar value. Criminal penalties for making a false statement to the United States are contained in 18 U.S.C. 1001.

3. The Commission Credit shall be applied to the shell rent and included in the lease acquisition Present Value Analysis (PVA) to determine the successful offeror. The Commission paid to the Contractor by the lessor shall not be included in the (PVA) calculation. The instructions for performing the PVA are outlined in the SFO. Commission Credits will be evaluated when evaluating offers. In the PVA, Commission Credits will be reflected as a reduction to the shell rent applied as a one-time lump sum rental deduction or if the rental credit exceeds the monthly shell rental amount the credit shall be applied in the shortest time period possible, in equal monthly amounts

4. The Contractor is responsible for tracking and reporting all Commissions collected and those credited to the Government as required under the terms of this contract. Subcontractors must follow the same procedures as the Contractor, but shall report commissions to the Contractor for reporting to the Government.

C.4.1.7 Quality Standards

All services performed by the Contractor, including work performed by Subcontractors, shall meet the Quality Standards stated in Section C.8 and C.9.

C.4.1.8 Communications, Submissions

1. Contractors must have email capability and use software designated for electronic submissions as stated in Section D, Markings.

2. Draft submissions for the Government's review shall be completed within GSA's eLease system or such other system as the NCO may direct to provide an electronic record of all elements of the transaction. COTR/COR approval of documents shall be made within the eLease system. Under rare circumstances, such as a natural disaster or other such emergency, documents may be completed and approved outside the eLease system and later uploaded into the eLease system for electronic storage. Copies of documents pertinent to the procurement that are submitted outside of eLease, such as offers and correspondence from offerors shall be uploaded into eLease. This includes unsuccessful offers. Copies of all final documents shall be maintained in the Lease file as required by GSA Lease policy.

C.4.1.9 Disposition of Lease File Records

Once the task order is completed, all documents, including electronic records pertaining to the acquisition shall be turned over to the Government. For security reasons and procurement confidentiality, the Contractor shall not keep any Government acquisition records. If the Contractor is required to submit records to a State licensing authority or oversight entity in regard to an audit of commissions collected, the Contractor shall notify the NCO and the NCO will coordinate with GSA Legal Counsel concerning records or documentation that are releasable. The NCO will provide copies of releasable documentation to the Contractor or a written statement that identifies the reason the requested documentation may not be released.

C.4.1.10 COORDINATION WITH GSA LEGAL COUNSEL

Only GSA Contracting Officers or delegated Contracting Officer Representatives, Contracting Officer Technical Representative, the RCO, the RPM, or national program officials are responsible for interfacing with GSA Legal Counsel on matters related to the contract or an individual task order. This does not preclude GSA Legal Counsel from

contacting Contractor personnel to obtain additional information concerning services performed by the Contractor under this contract.

C.4.2 TASK 1 Full Lease Acquisition Services

Lease acquisition services may include competitive lease acquisitions such as simplified lease acquisitions, lease acquisitions above the simplified acquisition threshold, site options, or noncompetitive lease acquisitions such as succeeding or superseding leases. Competitive procedures are found below in Sections C.4.2.1 to C.4.2.11. Additional lease procedures are found in Section C.4.2.12. Site Options are found in Section C.4.2.13.

C.4.2.1 General

Task 1 typically includes the following steps: 1) assisting the tenant agency with requirements development; 2) participating in a project orientation with the COTR/COR and the tenant agency; 3) developing a project schedule; 4) advertising the requirement; 5) analyzing and surveying the market and preparing a pre market survey report and a market survey report; 6) if required, preparing a cost benefit analysis for the approval by the COTR/COR as described in GSAM Part 570; 7) developing and issuing an SFO and any SFO amendments required; 8) reviewing and evaluating Offers; 9) negotiating Offers; 10) preparing the lease contract documents and obtaining required signatures; and 11) performing post award services as defined herein. It may also include assistance with the acquisition of assignable site options associated with full lease acquisition services. The level of effort and the amount of travel required for each acquisition will vary dependent on the size and complexity of the transaction. Travel is required on most task orders.

The Contractor shall conduct Task 1 from the receipt of a written task order through Post Award Services as defined herein and the delivery of the final deliverables as defined herein. The General Services Acquisition Manual (GSAM), Part 570, includes the GSA regulations applicable to GSA lease acquisition. Lease acquisition procedures and regulations vary depending on the complexity of an acquisition. An acquisition may range from a simplified acquisition to one that follows Best Value Trade Off Source Selection procedures **(Exhibit 10)**. The Lease File Checklist, **Exhibit 6,** will be provided with the task order and will be annotated by the COTR/COR to identify the required steps for the specific acquisition. Some steps can be performed concurrently; however, at points where the Government's review and approval are required, the Contractor shall obtain written approval from the COTR/COR before proceeding to the next stage of the acquisition.

C.4.2.2 Requirements Development and Review

1. If the Requirements Development/Space Request package is prepared by the Government, the Contractor shall be provided the tenant agency requirements as follows:

a. The name, address, and phone number of the tenant agency's primary and secondary contacts and the tenant agency approving official for the project.

b. The requirement for ANSI/BOMA Office Area square feet, including circulation, the parking requirements, and the number of personnel to be housed.

c. The tenant agency's clearly defined delineated area and all necessary justifications.

d. A signed draft OA, as necessary.

e. The tenant agency's special requirements.

f. The tenant agency's standard work hours (used to provide HVAC and utilities, and determine overtime hour utilization). Standard working hours will not exceed 10 hours per day, 5 days per week, excluding weekends and Federal Government holidays. Determine if the tenant agency works multiple shifts. All hours beyond standard working hours will be treated as overtime hours when providing HVAC.

g. A statement whether the acquisition is likely to exceed the Prospectus Threshold.

h. A preliminary scoring determination approved by the Government.

i. The written approval (signature) of the tenant agency approving official. (SF81 or similar document)

2. If requested by GSA, the Contractor shall work with the tenant agency on the Requirements Development/Space Request Package and submit a complete requirements package as defined above to the COTR/COR for written approval prior to proceeding with the next phase of the work on the task order. Items d, g, and h above are the responsibility of the COR/COTR as indicated on the Lease File Checklist (Exhibit 6)

This contract is not intended to replace other GSA contracts which provide tenant agency assistance in developing a complete Program of Requirements. It is GSA's intention to leverage the broker's market knowledge of market conditions to advise us and our client agencies on delineated area recommendations, term length recommendations, thereby helping to shape tenant agency requirements to match market opportunities and conditions. If the Government determines to use the Contractor in this capacity with the Tenant Agency, the task order issued for Task 1 must state clearly that the acquisition is to include Requirements Development as part of the Task 1, Full Lease Acquisition.

If the tenant agency delays impact the completion of the requirements package so completion is not possible within a 90 day time frame, the Contractor shall notify the COTR/COR for guidance on how to proceed.

If an agency has a Space Allocation Standard (SAS) or a Design Guide, a copy of the appropriate document or a website where the SAS or Design Guide can be accessed will be provided to the Contractor.

The Contractor is not required to provide space planning or any similar services provided by GSA pricing policy to complete this task. If a project demands those services, the Contractor will notify the COTR/COR and GSA will contract separately to provide assistance to the tenant agency. All parties should reference PBS Pricing Policy for the definition of space planning.

C.4.2.3 Project Orientation

1. The COTR/COR will schedule and conduct a Project Orientation with the RCO, Tenant Agency and Contractor to discuss roles, responsibilities, Required Delivery Date, the Market Analysis and procurement strategy which shall include initial negotiation objectives for approval by the COTR/COR. The COTR/COR will allow the Contractor a minimum of 4

working days to develop the required Market Analysis before conducting a Project Orientation meeting.

2. Contractor shall provide to the COTR/COR and RCO, project specific Market Analysis (See **Exhibit 5**) information not less than two (2) working days prior to the tenant agency project orientation meeting. COTR/COR and RCO may require additional discussion on the information provided by the Contractor prior to meeting with the Tenant Agency. This discussion will normally be conducted via telephone.

3. The purpose of the orientation is to ensure all parties understand the scope of a particular lease acquisition and should include at a minimum agenda topics such as

a. other services that may be required and scheduled by the Tenant Agency prior to occupancy (including but not limited to installation of phones, furniture, or other equipment);
b. planned move and occupancy dates;
c. the roles and responsibilities of each party participating in the acquisition;
d. procurement integrity and ethics issues related to the procurement, and
e. submission requirements including regional lease file conventions.

4. The Contractor shall prepare and disseminate the minutes of the Project Orientation Meeting.

C.4.2.4 Schedules

There are three schedules associated with each task order:

a. Task Order Schedule.
The schedule associated with the start and completion of the task assignment and encompasses the project and construction schedules. This schedule completion date is set by the RCO/OO with the issuance of the task order. The Contractor is accountable for meeting the dates but the RCO sets and maintains this schedule to include COI submissions, occupancy and RDD.

b. Project Schedule (See **Exhibit 8**)
The schedule associated with the lease acquisition through acceptance and occupancy and is prepared by the Contractor for approval of the COTR/COR. This is a negotiated schedule between the COTR/COR, Tenant Agency and Contractor facilitated by the Contractor. The Contractor shall develop a base line project schedule for discussion at the orientation meeting. A more definitive schedule shall be developed by the Contractor following the market survey. The Schedule shall be completed and approved in eLease and conform to the sample provided as **Exhibit 8**. Additional milestones may be required, dependent on the complexity of the project. Revisions may be required as the project progresses in consideration of project complexity, customer service or communication purposes. It is understood that schedule dates may slip for numerous reasons. The Contractor shall notify the COTR/COR and the Tenant agency (if directed by the COTR/COR) immediately as to the time impact and reason for the slippage of major milestones within three (3) working days of becoming aware of the slippage. Any revisions that delay the project beyond a reasonable time of the Task Order RDD must be approved by the COTR/COR and documented by modification to the task order issued by the RCO or OO.

The Contractor is accountable for developing, maintaining, and reporting status to the COTR/COR relative to this schedule. The Contractor is responsible for notifying the RCO/OO if the project schedule will slip to impact the RDD, so that the Task Order schedule can be revised accordingly. The COTR/COR and Tenant Agency are

accountable for meeting the dates on the schedule where they have agreed to provide certain deliverables in the development of the schedule.

c. Construction Schedule

The schedule associated with the construction or build out of space in accordance with the lease. This schedule is provided by the lessor in accordance with the lease and monitored by the Contractor until completion. Upon receipt from the Lessor, the Contractor shall confirm that tenant agency requirements associated with occupancy (e.g. installation of phones, furniture or other equipment, moves and occupancy dates) are incorporated. If not, the Contractor shall notify the COTR/COR and Lessor of the issues and facilitate correction of the Construction Schedule.

C.4.2.5 MARKET SURVEY AND REPORT

Contractor shall identify potential sources using their knowledge of the local market and seek additional sources by posting notices as required by the Competition in Contracting Act (CICA) and GSA policy.

a. Advertising

The Contractor shall prepare and submit a draft ad to the COTR/COR for approval prior to posting on FBO or placing in the newspaper.

b. Pre Market Survey

Prior to conducting a Market Survey, Contractor shall submit to COTR/COR a Pre-Market Survey Report outlining information gathered via all expressions of interest and other Contractor identified sources which may be able to meet the requirements of the Tenant Agency and a recommendation of the properties that should be included in the Market Survey. Contractor shall recommend elimination from the physical market survey those buildings that do not meet the Tenant Agency's minimum requirements, (such as square footage, parking requirements, or are outside the delineated area as confirmed with the owner or representative). For properties not recommended, Contractor shall provide a statement regarding why such properties should not be included in a physical Market Survey. Contractor shall develop and submit to the COTR/COR for approval a market survey itinerary. COTR/COR shall approve the itinerary and Contractor recommendations prior to the Contractor proceeding to the Market Survey.

c. Market Survey

1. As directed by the COTR/COR, Contractor shall conduct a Market Survey of all properties identified on the Pre-Market Survey Report, as further described below.

2. A Market Survey includes, at a minimum, the following:

i. A physical inspection with COTR/COR, Tenant Agency and property representatives.

ii. A completed Comprehensive Market Survey Checklist **(Exhibit 9)** for each property surveyed

iii. See Section C. 4.2.13 Site Options if necessary.

i. A physical inspection with COTR/COR, Tenant Agency and property representatives. Part of the Market Survey process is physically visiting various facilities in differing locations. To avoid delays created by traveling in separate vehicles and facilitate a timely completion of the Market Survey, the Contractor may provide transportation, where appropriate and expedient, for participating parties to include the COTR/COR and tenant agency.

ii. A completed Comprehensive Market Survey Checklist **(Exhibit 9)** for each property surveyed

iii. See Section C. 4.2.13 Site Options if necessary.

3. The COTR/COR may determine not to attend the physical inspection and instead rely on the Contractor.

4. Contractor shall not divulge procurement sensitive acquisition information to potential Offerors. Any information released must be released to all potential Offerors at the same time. Only the potential of a property to meeting the requirements of the SFO shall be addressed with the owner or representative during the market survey phase. The number or identity of Offerors participating in the procurement shall not be disclosed at any time prior to award.

c. Market Survey Report

1. Contractor shall submit to COTR/COR for approval within 5 business days after physical inspection, a Market Survey Report which includes, at a minimum, the following for each building:

i. The estimated market rental rate range
ii. The block of space to be offered
iii. Building type
iv. Parking available
v. SF in building and SF being offered.
vi. A statement regarding whether or not the building (or site) is in a 100-year flood plain or a 500-year flood plain, including FEMA flood plain maps that support such determination.
vii. A statement regarding whether or not the building is on the National Register of Historic Places, has the potential to be so listed, or is located within a Historic District, including the publication date of the register used for such determination.
viii. A statement of historic properties or districts adjacent to or “impacting” those properties surveyed.

2. The Market Survey Report shall also include the following:

i. A clear statement as to the steps taken to maximize competition,
ii. Copies of flyers, advertisements, and Federal Business Opportunity notices,
iii. A listing of all expressions of interest including those whose properties have the potential to meet the requirements of the SFO and those whose properties do not have the potential to meet the requirements of the SFO.
iv. The list shall include each building owner’s name and their contact person’s name, address, phone numbers and e-mail addresses.

3. After approval of the Market Survey Report, Contractor shall prepare a letter on GSA letterhead for the signature of the COTR/COR advising appropriate property representatives that based on the Market Survey, their property does not appear to have the potential to meet the minimum requirements of the SFO or Tenant Agency requirements. Contractor shall identify the specific reason(s) why the subject property does

C.4.2.6 DEVELOP AND ISSUE SFO AND AMENDMENTS

1. The Contractor shall use the eLease SFO wizard for the development of the solicitation for offers subject to Section C .4.1.8. If the wizard is not available for any reason, the Contractor shall use the applicable SFO as provided by the NCO as updated from time to time. Contractor shall tailor the SFO to the specific acquisition, filling all blanks and selecting or deleting all appropriate paragraphs and completing and attaching all appropriate forms. The Contractor shall notify the COTR/COR concerning any problems identified in the SFO and shall obtain COTR/COR approval for all changes made to the SFO.

2. Upon approval of the draft SFO by the COTR/COR, Contractor shall submit a copy to the Tenant Agency for review and comment. Tenant Agency changes to the draft copy of the SFO shall be made by hard copy or if electronically, then using a Track Change mode where changes are readily identifiable. These changes will then be sent to the COTR/COR for review and comment. The Contractor shall incorporate COTR/COR and Tenant Agency comments into the draft SFO and shall resubmit the draft SFO to the COTR/COR for final approval.

3. Prior to distribution of the approved SFO to Offerors, Contractor shall check the Excluded Parties List at http://www.epls.gov and advise the COTR/COR if any potential offeror identified in the Market Survey is on the list. Contractor shall provide documentation on Excluded Parties to the COTR/COR. If a potential offeror appears on the Excluded Parties list, the Contractor shall consult with the COTR/COR about how to proceed. Should the referenced website address change, the Contractor may be notified by written communication from the National Contracting Officer. Modification of the contract is not required.

4. Contractor shall maintain a list of interested parties and distribute the approved SFO to potential Offerors who are capable of meeting the requirements defined in the SFO. A copy of the SFO must be provided to the current Lessor unless the current Lessor indicates in writing that he/she is not interested in participating in the acquisition. The Contractor shall maintain a record of parties who receive a copy of the SFO.

NOTES:
1 ADDITIONAL LEASE PROCEDURES MAY APPLY SEE SECTION C.4.2.12

2 Regardless of whether a property has the potential to meet the requirements of the SFO, any party who requests an SFO must be provided a copy when it is issued.

3 If a lease acquisition is subject to the Davis-Bacon Act, the appropriate wage determination must be included in the SFO. The COTR/COR will provide the appropriate wage rate to the Contractor, prior to development of the SFO.

C.4.2.7 Review and Evaluate Initial Offers

1. Contractor shall record all questions raised by prospective Offerors concerning the SFO. Contractor shall consult with COTR/COR regarding responses to a prospective Offeror

raising the question and shall answer such questions as deemed appropriate by the COTR/COR. If, in the opinion of the COTR/COR, such questions give rise to the need for an Amendment to the SFO, Contractor shall draft said amendment following the process identified for the SFO. The Contractor shall convey all amendments to all potential offerors simultaneously.

NOTE: Compliance with non-disclosure and protection of offers submitted as procurement sensitive data must be maintained. This includes handling of clarifications, exchanges, and discussions with offerors after submission of initial offers.

2. Contractor shall review all offers for compliance with the terms and conditions of the SFO, as amended. The Contractor shall prepare and forward a letter for signature of the COTR/COR for each Offeror notifying them of areas of noncompliance, deficiency or requiring clarification in the submitted offer. Failure of the offeror to submit a signed commission agreement will be handled in accordance with RSL 2006-09 Commission Management.

3. Contractor shall evaluate the pricing of each offer in accordance with the provisions of the SFO using the tools provided in eLease and recommend negotiation strategies in writing to the COTR/COR. The Contractor shall perform a Present Value Price Analysis on each Offer per the methodology contained in the SFO using the PVA tool in eLease. If non-priced factors were included, the Contractor shall complete an evaluation in accordance with the methodology identified in the SFO.

4. If subcontracting plans are required to be submitted with initial offers, the Contractor shall document the evaluation of subcontracting plans for goal sufficiency, note deficiencies and forward the assessment to the COTR/COR.

5. Prior to the commencement of discussion/negotiations, Contractor shall submit to the COTR/COR for approval the following:

a. copy of each offer,

b. an abstract of Offers prepared using the appropriate form in eLease, or other such systems as the Government dictates

c. Written negotiation objectives for each Offer. The negotiation objectives shall include pricing and those items requiring only clarification and those items that need to be discussed during negotiations (weaknesses and deficiencies). The objectives document shall include consideration of each element of each offer and strategies for negotiating same supported by mathematical calculations demonstrating the impact of commission, commission credit, operating expenses, and other elements on the rental rate. In accordance with RSL 2006-09 Commission Management commissions are to be considered a cost element during negotiations. (*NOTE: The COTR/COR will score Offers and advise the Contractor if objectives related to scoring need to be included in the negotiation objectives*.)

d. Letters for the signature of the COTR/COR outlining the weakness or deficiencies in the Offers, including but not limited to past performance concerns. Contractor shall provide a recommendation of the competitive range for COTR/COR approval. If best value trade off procedures were followed refer to **Exhibit 10** for additional procedures.

e. Letters for signature of the COTR/COR notifying the unsuccessful Offerors of exclusion from the competitive range. The Contractor may be requested to assist the COTR/COR in debriefings of Offerors not included in the competitive range.

C.4.2.8 Negotiate Initial Offers (Not applicable when award is made based on initial Offers)

1. Upon receipt of written approval from the COTR/COR, Contractor shall conduct discussions/negotiations with each Offeror individually in accordance with approved negotiation strategies and objectives; and in accordance with regulations and policies. Negotiations may be conducted in person, in writing, or telephonically. The Contractor shall notify the COTR/COR in advance of negotiations to allow participation of COTR/COR or tenant agency, as deemed appropriate by COTR. Tenant agency shall not participate without COTR/COR approval.

2. Contractor shall submit for approval, a negotiation memorandum to the COTR/COR in the appropriate format as prescribed in the regulations and policies. This document is to include the mathematical calculations supporting the final commission, commission credit, rental rate, among other results set forth in the PNM.

3. Contractor shall submit any amendments to the SFO required as a result of negotiations for the approval of the COTR/COR, to correct errors, omissions, or deviations to the SFO identified during discussions/negotiations.

4. Contractor shall close discussions/negotiations and request Final Proposal Revisions in writing via a letter prepared for each Offeror submitted to the COTR/COR for approval, as required.

C.4.2.9 Evaluate Final Proposal Revisions (FPR's)

1. Contractor shall document and submit to the COTR/COR an evaluation of each FPR with a recommendation as to which offer is most advantageous in accordance with the evaluation methodology stated in the SFO.

2. Contractor shall submit the following to the COTR/COR for approval:

a. a list of any clarifications that may be necessary for each offeror
b. a copy of each FPR, required subcontracting plans,
b. a revised abstract of offers with FPR data and a revised PVA for each offer,
c. a PNM in accordance with Regulations and policies
d. If the acquisition was conducted using best value trade off source selection procedures, prepare and submit the Source Selection Evaluation report and the Source Selection Authority Decision documents. (**Exhibit 10**)

3. Contractor shall confirm the successful Offeror has not been placed on the Excluded Parties Listing (EPLS) (as defined in Section C.3.) and provide appropriate documentation to the COTR/COR. Contractor shall provide documentation on Excluded Parties to the COTR/COR for approval. If a potential offeror appears on the Excluded Parties list, the Contractor shall consult with the COTR/COR about how to proceed. Should the referenced website address change, the contractor may be notified by written communication from the National Contracting Officer.

4. In situations where the total aggregate lease acquisition contract value is equal to or greater than $10,000,000, the Contractor shall prepare for the signature of the COTR/COR the EEO clearance requests required under Federal Labor Law requirements

5. Upon completion of the above steps, the COTR/COR will provide written approval to the Contractor to proceed with preparing lease documents.

C.4.2.10 Prepare Lease Documents

1. Contractor shall submit to the COTR/COR for approval a copy of the draft lease and a transmittal letter to the awardee. (**NOTE:** COTR/COR will forward the signed transmittal letter and unsigned lease to awardee for signature and return to Contractor for action.)

2. Contractor shall submit to the COTR/COR the completed lease file tabs 1 through 6 in the file provided by the Government with the Task Order. Documents shall be filed and tabbed in accordance with the Lease File Checklist also provided with the Task Order. Tab 6 shall contain all documents requiring COTR/COR approval prior to lease award.

3. Contractor shall review the lease once signed and returned by the lessor to confirm that no changes have been made. If changes have been made by the Lessor, Contractor shall notify the COTR/COR in writing of any changes noted. Contractor shall take action as directed by the COTR/COR. In the event that no changes are identified Contractor shall submit both copies of the lease and a transmittal letter for the fully executed lease to the COTR/COR for signature.

4. Contractor shall submit to the COTR/COR for approval and signature, a letter to each unsuccessful Offeror advising them of appropriate award information and opportunity for debriefing. Contractor shall support the COTR as needed in relation to debriefing sessions. **NOTE:** COTR/COR shall return documents required for Tab 7 to the Contractor.

5. Contractor shall make copies and distribute one original fully executed lease to the successful offeror. Contractor shall forward electronic copies of the fully executed lease to the tenant agency and other parties as directed by the COTR/COR.

6. Contractor shall submit to the RCO an electronic copy of the fully executed lease award document and any rider attached to the same.

7. Contractor shall confirm via electronic certification to the RCO that all documents have been scanned or uploaded into eLease.

8. Contractor shall post the required lease contract award notice on the FedBizOpps website at fbo.gov, immediately following lease award, as required by Federal procurement regulations.

C.4.2.11 Post Award Services

1. Post Award Services include the following:

C.4.2.11 Post Award Services

1. Post Award Services include the following:

a. The Contractor shall schedule a Post Lease Award Orientation meeting to occur within 5 working days of Lease award. The COTR/COR shall chair the meeting unless the Contractor is requested to perform this task. The meeting is to include the Lessor, Tenant Agency representative, the Contractor, the COTR/COR, and other government designees as determined by the COTR/COR. At the meeting parties shall confirm roles, responsibilities and schedule for the post award process. Occupancy services such as physical relocation of the tenant agency's personal property, installation of telecommunications service, installation of computer cabling, furniture delivery, or other similar services with the tenant agency should be discussed with clear roles and schedules defined as a result of the discussions. The Contractor shall document the attendees and the results of the meeting and disseminate to all attendees unless the SFO requires the lessor to accomplish that function.

b. This contract does not include construction inspection services.

c. The Contractor shall provide to the COTR/COR for approval a lease monitoring & management plan which identifies all lessor required document deliverables, certifications, schedules along with Construction/Build out schedule and any other deliverables described in the Lease. The Contractor shall detail how the monitoring & management plan will be executed and reports to the COTR/COR will be provided. The plan shall include at a minimum how the Contractor will oversee the following:

i. lessors Construction Buildout/Tenant Improvement Pricing
ii. lessors Disposal and Waste Management Plan
iii. lessors Construction/Tenant Improvement Schedule and Progress Reports
iv. pre Construction Meeting (include coordination meeting with COTR/COR prior to the lease required meeting.
v. Davis – Bacon Act reporting of Payroll and Basic records under the lease.
vi. Incorporation of Tenant Occupancy Services (See Definitions)
vii. Change Order management/Supplemental Lease Agreements (including Final SLA)
viii. final Inspection/Acceptance of Space/Lessor's Punch list
ix. lessor As-built drawings and confirmation of accuracy
x. validation of Lessor Measurement and Categorization of Space
xi. any other deliverables from the SFO that are not specifically referenced herein

2. The Contractor shall immediately notify the COTR/COR if any issues arise during the Post Award phase that will impact the delivery schedule or budget of the project.

3. a.The Contractor shall negotiate TI requirements identified in the SFO and any Change Orders related to shell and TI stated in the SFO and prepare Supplemental Lease Agreements (SLAs) as necessary in relation to the shell and TI specified in the SFO. The Contractor is not responsible for preparing Independent Government Estimates (IGE) related to TIs or additional Change Orders. The Contractor shall continue to monitor the
lease construction as required in the Lease Monitoring & Management Plan through Occupancy and final Deliverables under the Task Order.

b. Some lease transactions require additional funding via a Reimbursable Work Authorization (RWA) to meet requirements of the Tenant Agency. GSA is ultimately responsible for acceptance of landlord's obligation to build out the lease in accordance with those requirements. The Contractor is responsible for providing post award services set forth above in order to assist the Government in the negotiation, documentation and oversight of landlord buildout and delivery of lease space including RWA work.

4. The Contractor shall submit the complete lease contract file with original documentation to the COTR/COR for final approval and acceptance. The Lease file documents are to be filed and tabbed in accordance with the Lease File Checklist, **Exhibit 6**, and set up in the folders/format specified by the Region who placed the task order. Filing conventions may vary from Region to Region.

5. Upon submission of the complete lease file to the COTR/COR, the Contractor shall notify the RCO or Ordering Official (if applicable) of the action. Upon receipt of the final as built drawings from the Lessor in accordance with the SFO, the Contractor shall submit them to the COTR/COR and notify the RCO or Ordering Official (if applicable) in writing that all submissions are complete and the task order is ready for close out in their opinion.

6. Contractor shall confirm via electronic certification to the RCO that all documents have been scanned or uploaded into eLease

NOTE: If utilities are not included in the lease, the COTR/COR will submit the request for utility service(s) to the appropriate GSA procurement office.

C.4.2.12 Task 1 Additional Lease Acquisition Services for Succeeding and Superseding Leases

1. For Succeeding and Superseding Leases the Contractor shall follow the same procedures required in Full Lease Acquisition through completion of the Market Survey , except that the advertisement prescribed in GSAM Subpart 570.4 must be used for succeeding lease projects. See RSL 2008-07 for an ad template. http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentType=GSA_BASIC&contentId=18372

2**.** If potential locations are identified in the advertisement or Market Survey, Contractor shall prepare and submit to COTR/COR for approval, a cost-benefit analysis for either Succeeding or Superseding lease actions.

3. If the cost benefit analysis indicates the Government cannot expect to recover relocation and duplication costs through competition, Contractor shall draft and submit to COTR/COR for approval, a sole source justification (JOTFOC) to negotiate with and ultimately award to the current Lessor in accordance with regulations.

4. If the cost-benefit analysis indicates that the Government will recover relocation costs and duplication of costs through competition, develop an SFO and negotiate with all interested parties following GSAM Subpart 570.3.

5. Coordinate with COTR/COR for other issues (e.g. flood plain, seismic, fire, life, safety, accessibility, tenant agency requirement changes,) for inclusion into SFO.

6. Upon COTR/COR approval the Contractor shall continue with the steps identified in Full Lease Acquisition beginning with Prepare SFO Section C.4.2.6, above.

7. If build out is associated with these lease actions, the Contractor shall provide Post Award Services in accordance with C.4.2.11 Post Award Services

8. If the Government determines prior to issuance of a task order that the lease acquisition will be a succeeding or superseding transaction and has an approved JOTFOC, the task order will clearly state it to be a non-competitive lease acquisition. Alternatively, if the work is done via steps 1 through 7 without a JOTFOC the task order will clearly state it to be a competitive lease acquisition.

C.4.2.13 Site Options

1. In some lease procurements the market may not provide existing space to meet Government requirements.

2. If the Contractor has been issued a Task 1 Full Lease Acquisition and the Government determines that existing space is not available to meet the agency space requirements the COTR/COR may direct the Contractor to pursue one of the following alternatives during the lease acquisition process:

a. In the event a site will be donated to the Government, the Contractor shall prepare the assignable option language to be incorporated into the SFO in accordance with all laws regulations, executive orders, and lease policy as appropriate:

b. In the event a site selection must be performed, at the direction of the COTR/COR, the Contractor shall:

i. Identify and evaluate sites suitable for consideration and submit a written recommendation to the COTR/COR.

ii. Conduct site survey and document appropriately.

iii. Negotiate an assignable option with the ownership of the site selected by the government.

iv. Prepare assignable option language to be incorporated into SFO.

c. In the event the government has already selected a site and has negotiated an assignable option Contractor shall incorporate the assignable option language into the SFO.

d. The Government considers that site cost associated with an assignable option is rolled into the aggregate value of the resulting lease. A separate commission is not to be negotiated for the land option.

C.4.3 TASK 2 – Lease Extension

If in the process of procuring a Task 1, Full Lease Acquisition, the term of the existing lease will expire prior to completion of the acquisition, a Lease Extension is required. Under this contract, extensions may be tasked in association with an existing Task 1 task order or separately as otherwise deemed in the Government's interest.

1. If an ongoing procurement action under a Task One requires an extension(s), the Contractor shall submit a Justification for Other Than Full and Open Competition (JOTFOC) to the COTR/COR for approval and signature.

2. The Contractor shall take appropriate steps to coordinate the term of the extension with the COTR/COR to match the scheduled occupancy date of the Task 1 procurement

3. The Contractor shall negotiate appropriately with the lessor, document the negotiations and provide to the COTR/COR for approval all applicable documents associated with the lease extension in accordance with regulations, polices and statutes that may apply.

4. At conclusion of negotiations, the Contractor shall submit to the COTR/COR, at a minimum a written record of discussions with the lessor,a draft SLA for approval and a letter transmitting the SLA to the lessor for approval and signature of the COTR. Documentation is to include mathematical calculations supporting the final commission, commission credit, rental rate, and other results of all discussions.

5. The SLA shall document the total commission arrangement including the total amount of commission to be paid by the lessor, the term the commission is based on, and the amount of the commission credited to shell rent expressed in terms set forth in C.4.1.6 . The format provided in Commission Language **Exhibit 11** shall be used to specify the above information.

6. Contractor shall review the SLA once signed and returned by the lessor to confirm that no changes have been made. If changes have been made by the Lessor, Contractor shall notify the COTR/COR of changes in writing. Contractor shall take action on the changes as directed by the COTR/COR. In the event that no changes are identified, Contractor shall submit both copies of the SLA and a transmittal letter for the fully executed SLA to the COTR/COR for approval and signature.

C.4.4 Market Data Information

Occasionally, the Government has a need for limited market data that real estate firm's typically provide to clients at no cost. If requested by the National Program Manager, the Contractor shall provide the following types of market data to the NPM.

1. Summary market information such as:
   (a) Number of buildings and total square footage by type of space and buildings available for a tenant agency's intended use.
   (b) Specific class vacancy rate.

(c) Typical market concessions, tenant work letters, tenant services and building common area factors, where applicable.

(d) Estimated per rentable square foot costs for operating expenses and property taxes.

(e) Asking rental rate per rentable SF and per ANSI BOMA Office area SF. Comparable market range:

2. The Contractor shall provide a range of market rental rates, broken down by components, for each applicable class of buildings for which information is provided in 1 above. Comparable leases obtained as part of the market analysis shall substantiate the rental ranges quoted. Components of the analysis shall include:

(a) Base rent (e.g., recovery of investment on ownership costs of land, building, financing plus profit).

(b) Space build-out cost amortized over lease term.

(c) Lessor provided TI as part of base rent for the market.

(d) Operating costs.

(e) Other costs not included in lease.

The total of these items will constitute total gross rental cost.

3. If it is not possible to provide comparable data on at least three buildings, the Contractor shall provide a written explanation of the market conditions preventing the collection of the required data.

Some variation to the above data may be requested by the NPM as the specific need dictates.

C.5 DISPUTES, PROTESTS, CLAIMS AND APPEALS, CONGRESSIONAL INQUIRIES AND FREEDOM OF INFORMATION ACT (FOIA) INQUIRIES

1. As directed by the COTR/COR, the Contractor shall provide all necessary services to address any issues related to disputes, protests, claims, appeals, congressional inquiries and FOIAs for any tasks they have performed. The Government will not reimburse the Contractor for these services.

2. The Contractor shall not contact GSA Legal Counsel directly to discuss the above issues. All coordination with GSA Legal Counsel will be handled by the COTR/COR or RCO, The Contractor shall respond to requests for information from GSA either verbally or in writing as requested and within the timeframe requested.

C.5.1 Disputes/Protests

If a protest is filed on a lease acquisition where services were performed by the Contractor (whether filed with the GSA, the Government Accountability Office (GAO), or a court of jurisdiction), the Contractor shall:

1. As directed by the COTR/COR, prepare and submit documents required to adequately address the issues raised in the protest. Documentation may include, but is not limited to, Contracting Officer's Statement of Fact and Position, or a Findings and Determination to authorize contract award and performance.
2. Assemble a protest file in accordance with FAR 33.1.
3. Participate as fact witness in meetings, alternative dispute resolutions, depositions, hearings or trials related to the lease acquisition as may be required by the Government.

C.5.2 Claims/Appeals

If a claim is filed by a lessor on a lease awarded by GSA as a result of a task order issued under this contract, the Contractor shall:

1. Submit for the signature of the COTR/COR, a Contracting Officer's Final Decision memo with all related supporting documentation.
2. Assemble a claim file in accordance with FAR 33.2.
3. Participate as fact witnesses in meetings, alternative dispute resolutions, depositions, hearings or trials related to the lease as may be required by the Government.

C.5.3 FOIA/Congressional/Other Inquiries

Prior to completion of a task order, the Contractor shall, as requested by the COTR/COR, provide input concerning FOIA requests, Congressional inquiries, or other similar requests for information.

C.6 REPORTS

1. The Contractor shall provide monthly project status reports to regional program officials. NCO will determine the format and content after award which will be consistent for all regions.

2. Identify any services provided for disputes, protests, FOIA, Congressional or other inquiries, and requests for market data. Identify the Region requesting the information and if the information or service is related to a task order or lease include the task order number and lease number.

3. Metropolitan Statistical Areas (MSA) – After award **Exhibit 15** is required to be provided by awardees indicating market commission ranges for each identified MSA. These submissions will be used to inform and to aid GSA in establishing an initial standard market range for commissions in each MSA for use by all awardees. This submission to the NCO

required to be updated every 12 months. Contractors may submit information on changes in market commission ranges for the identified MSAs as information becomes available to them or as directed by the NCO.

4. Other necessary reports or deliverables for management of this contract, such as, HSPD-12, FISMA, Security, etc, included in the solicitation not identified in this section, will be identified by the National Contracting Officer with appropriate format and frequency after award.

5. In addition to the eSRS reports required by FAR 52.219-9, submit a Supplemental Quarterly Subcontracting Report to the NCO.
The report shall be submitted in the format provided by the NCO following award and shall include, at a minimum, the information outlined below:

1) Subcontractor NAICS Classification for all work assigned to Subcontractors
2) Technical area of work assigned (ie,market survey, post award services)
3) Amount and percentage of aggregate lease value of monies projected for assigned subcontracting work
4) actual monies paid out to subcontractor by NAICS code

C.7 QUALITY CONTROL REQUIREMENTS

The Contractor is responsible for quality control as defined in their approved Quality Control Plan for meeting the minimum acceptable standards under Section C.9, for all services provided under the contract. Inspection by the Government does not relieve the Contractor of this responsibility. The Quality Control Plan submitted and accepted by the NCO is incorporated into and becomes a part of this contract. Revisions or changes to the Quality Control Plan must be submitted and approved by the NCO.

C.8 QUALITY ASSURANCE BY THE GOVERNMENT

The Government will conduct periodic contract program quality assurance reviews to determine that services and deliverables provided meet or exceed minimum standards as defined Section C.9. Annual contract evaluations will be accomplished as defined in Section C.10. Task 1 services will be evaluated at three (3) specific intervals (Market Survey, Lease Award, and Occupancy). Task 2 services will contain only one (1) final evaluation. A final evaluation for each project encompassing the entire project delivery will be conducted by the appropriate Ordering Official and the COTR/COR upon Contractor notification to the RCO or Ordering Official that final deliverables have been submitted to the COTR/COR.

C.9 MINIMUM CONTRACT QUALITY STANDARDS

C.9.1 PERFORMANCE CRITERIA

1. Performance of most services will result in a lease contract for the Federal Government. Those services must be in compliance with applicable laws, regulations, Executive Orders,

and policies listed in **Exhibit 2**, and any new laws or regulations that may become effective during the terms of this contract and with the terms and conditions of the contract to be acceptable to the Government. Services and submissions will be inspected and accepted by the COTR/COR at stages determined in the general work description for Tasks 1 and 2. The purpose of inspection is to determine technical compliance with applicable laws, regulations, Executive Orders and policies along with any other contract requirement. The Lease File Checklist, **Exhibit 6**, documents steps that must be performed during a Federal lease acquisition and will be the primary document used by the COTR/COR to evaluate compliance with technical requirements. Services not performed in accordance with applicable laws regulations, Executive Orders, policies and the terms of this contract will not be considered acceptable. Evaluations will be provided at specified steps in the lease acquisition.

2. In addition to acceptance at the task order level, certain quality standards apply to deliverables at the National and Regional program level as defined in this section.

C.9.1.1 Task order performance criteria

Definitions set forth are intended to be the minimum level of acceptable performance. Performance exceeding the definitions below will be evaluated appropriately.

The Government will evaluate the Contractor based on the ability to do the following:

C.9.1.1.1 Quality

C.9.1.1.1.1 Document quality:

1. Submit documents that are complete, accurate and neat and meet generally accepted standards in accordance with the laws, statutes, regulations, Executive Orders and local market conditions using correct grammar and appropriate language without gross errors, inconsistencies, omissions, or inaccuracies.

2. Submit Lease file documents filed and tabbed in accordance with the Lease File Checklist, **Exhibit 6**, and set up in the folders/format specified by the Region who placed the task order. Filing conventions may vary from Region to Region

C.9.1.1.1.2 Personnel Technical quality:

1. Demonstrate knowledge of laws, statutes, regulations, Executive Orders, policies, local markets, and contract terms through the process and documentation in the preparation and completion of a lease, an SLA, and all associated documents required for the actions taken by the Government.

2. Demonstrate knowledge of the Federal Leasing process by producing a lease with all the necessary file documentation, organization, content, accuracy and completeness required by law, regulation and policy.

3. Offer Market Expertise by providing innovative or alternative business solutions in the course of projects.

4. Demonstrate knowledge of the local market with Contractor efforts resulting in adequate competition as applicable.

5. Identify and propose solutions for issues that may arise throughout the lease procurement process to the COTR/COR or other appropriate personnel. (e.g. Safety, legal, regulatory)

C.9.1.1.1.3 Cost Control

1. Use of the Market Analysis to establish a market range at the beginning of the project to support and define necessary cost elements included in the asking rates. (e.g., TI, security, operations costs, market commissions yielding rent credits for benefit of the Government, etc.)

2. Communicate in writing to the COTR/COR the impact of market changes as the procurement progresses.

C.9.1.1.1.4 Timeliness

1. Required deliverables are submitted in accordance with the COTR/COR approved project schedule or as stated on the Task Order.

2. Communicate delays (excusable or otherwise) to the COTR/COR and RCO or OO with explanations as to why the delay is occurring and the impact of the delay on the project schedule.

3. Revising the project schedule as necessary to keep all parties apprised of project status

C.9.1.1.1.5 Business Relations

The Contractor will represent GSA at all times in a professional manner in dealing with all parties and will comply with GSA Standards of Conduct identified in Section H. to achieve an acceptable solution for all parties.

C.9.2 CONTRACT PROGRAM LEVEL PERFORMANCE CRITERIA (NPM, NCO, RPM, RCO/OO)

The following criteria will be used to perform interim evaluations at the regional and national level and provided to the Contractor in accordance with Contract C.10 Vendor Past Performance Reporting:

C.9.2.1 QUALITY

1. The Contractor employs qualified, trained personnel with a thorough understanding of the Contract and the GSA Lease Acquisition requirements and associated regulations to perform services under the terms of this contract.

2. The monthly reports required in Section C.6 are submitted not later than the stated due date with all fields completed accurately reflecting the most current information on the task order and lease documents as of the last day of the reporting month.

3. The Quality Control Plan is implemented to prevent errors in the lease process and to documents prepared in the field as required under Section C, as well as reports and other documents submitted to the National and Regional Program Officials.

4. Administrative submissions, such as conflict of interest, nondisclosure statements, reports, etc. were submitted timely, were complete, accurate and in compliance with contract requirements.

5. Assistance with requests for services in connection with protests, claims, inquiries, market analysis data were performed within timeframes requested and submissions were complete and accurate

6. The Contractor works with program officials to identify obstacles and barriers to contract performance, lease processes; strategies to mitigate them, and proposes creative business solutions to improve execution of the lease program during the course of the contract. This may be at the regional or national level and should be reported to the national office if this occurs at the regional level.

C.9.2.2 Cost Control

The Contractor achieves Lease rates at the aggregate level that assist GSA in meeting its Lease Cost Relative to Market measure (or its successor) at both National and Regional levels.

The Contractor achieves a market rate commission within the estimated range that affords the Government a rent credit.

C.9.2.3 Timeliness

1. The Contractor responds to communication from regional and national program officials in accordance with response times as identified in Section C.4.1.2.

2. Monthly reports are submitted in accordance with Section C.6.

3. Administrative submissions, i.e. conflict of interest, nondisclosure statements, reports, etc. were submitted in a timely manner, were complete accurate and were in compliance with contract requirements.

4. Assistance with requests for services in connection with protests, claims, inquiries, market analysis data were performed within timeframes requested and submissions were complete and accurate.

5. Response to Market Data under C.4.4 is provided in the time frame requested.

C.9.2.4 Business Relations

1. The Contractor maintains a professional relationship with Regional and National Program Officials, as well as all other parties involved in a lease transaction or any other task required by the contract.

2. The Contractor complies with GSA Standards of Conduct identified in Section H. to achieve an acceptable solution for all parties.

3. The Contractor partners with and assists in strategic planning in support of the GSA Office of Real Estate Acquisition when requested or otherwise offers potential improvements.

C.9.2.5 Compliance with Subcontracting Plans

1. Subcontracting plans will be reviewed by the NCO to determine if the Contractor is making a good faith effort to comply with their approved plan. In accordance with FAR Clause 52.219-1 Liquidated Damages Subcontracting Plans, failure to make a good faith effort to comply with subcontracting plans may result in liquidated damages or other remedies available in the contract.

2. Subcontracting plans were based on estimated commissions (revenues). Plans will be monitored based on actual revenues to see if the percentages proposed in the subcontracting plan for the designated categories have been met.

C.10 VENDOR PAST PERFORMANCE (VPP) MODULE

Performance data related to quality, cost control, timeliness of performance, business relations, subcontracts, key personnel, compliance with subcontracting plans, and customer satisfaction will be entered annually at the end of each contract performance period into the

C.Suite Vendor Past Performance module. Contractors will receive access via email and is provided an opportunity to submit comments when performance data concerning a Contractor's firm is posted. Data from this system is transmitted to the Past Performance Information Retrieval System (PPIRS) which is accessible Government-wide to Federal Contracting Officers who evaluate Contractor past performance prior to the award of a contract. Unsatisfactory performance on this contract could have an adverse impact on the award of other Government contracts.

Section D
PACKING AND MARKING

D.1. PAYMENT OF POSTAGE AND FEES

The Contractor shall pay all postage and fees related to contract services performed.

The Contractor is not required to use express mail as long as they can meet required submission dates using regular mail.

D.2. MARKING

1. All correspondence, including emails, shall include the Contract Number and Task Order Number, and STAR Project number if relevant.

2. All documents prepared by the Contractor for signature by a GSA official must be prepared on GSA letterhead.

3. In accordance with FAR 11.106(c), all documents prepared by the Contractor must be marked to indicate the Contractor prepared them.

D.3. SOFTWARE REQUIREMENTS

The Contractor shall submit data to the Government using the Microsoft Office Suite, specifically, Word, Excel or Adobe Portable Document Format, (PDF) when requested. Documents must be prepared using the most current publicly available version of the above listed software or one release prior, provided it is compatible with the current version of each used by the Public Buildings Service.

D.4. ENCRYPTION REQUIREMENTS FOR EMAILING OF BUILDING DRAWING FILES

Building drawing files may NOT be transmitted via email unless encrypted in accordance with GSA procedures. General procedures for handling Sensitive but Unclassified Information and GSA encryption procedures are contained in GSA policy and guidance contained in Exhibit 2. Additional information will be provided after award.

Section E
INSPECTION AND ACCEPTANCE

E.1. GENERAL

1. Contractors are responsible for their own quality control including the day-to-day inspection and monitoring of all work performed to ensure compliance with the contract requirements.

2. Services must be in compliance with contract requirements including applicable laws and regulations and submissions must be complete, accurate and professionally prepared prior to acceptance by the Government.

3. The COTR/COR designated for a task order will perform inspection and acceptance of services for the Government for Task Order deliverables. The COR for the contract will perform inspection and acceptance of services and deliverables at the national level. Regional Program Managers will also perform inspection and acceptance of services at the regional program level.

E.2. 52.246-4 INSPECTION OF SERVICES—FIXED PRICE (AUG 1996) DEVIATION

(a) Definitions. "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.
(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.
(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
(e) If any of the services do not conform to contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and **(2) reduce the contract price (Contractor's Commission) to reflect the reduced value of the services performed.**
(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and charge to the

Contractor any cost incurred by the Government that is directly related to the performance of such service or (2) terminate the contract for default. (End of clause)

Section F
DELIVERY AND PERFORMANCE

F.1. PLACE OF PERFORMANCE

Services are required within the service areas of the eleven GSA Regional Offices, including the continental States of the United States, Hawaii, Alaska, the District of Columbia, and the Commonwealth of Puerto Rico and the Virgin Islands.

F.2. TERM OF CONTRACT

The performance period of this contract is one year with four one-year option periods. Exercise of an option is a unilateral right of the Government. Prior to exercise of an option, small business concerns are required to provide a re-certification regarding their small business status. When a previously awarded small business re-represents itself as other than a small business, the contracting officer will determine the estimated value of the remainder of the contract option period. If the subcontracting threshold is met, the Contractor must negotiate an acceptable subcontracting plan before the option is exercised.

F.3 ORDERING PROCEDURES

Task orders may be placed for an individual lease transactions or a group of task orders may be placed with one broker. For example, a group of task orders may be for some or all of a particular agency's requirements, a group in a particular area, or as part of a multi-agency requirement.

Except as provided in paragraph (4) below, each contractor will be provided a fair opportunity to be considered for task order awards estimated to yield a net commission to the contractor in excess of $3,000.

(1) For task orders or a group of task orders estimated to yield a net commission to the contractor of $3,000 or less, the selection of a contractor will be at the discretion of the Ordering Official.

(2)(a) For task orders or a group of task orders estimated to yield a net commission to the contractor in excess of $3,000 but less than or equal to $5,000,000, all contractors will be provided a fair opportunity to be considered based on price or price and one, or more, or all of the following:

(1) Price, based on the contractor's pricing structure as applied to the expected value of the work covered by the task order;
(2) Past performance on earlier orders under the contract, including quality, timeliness and cost control. Until a record of past performance under the contract is established, a contractor's past performance as evaluated during this procurement may be utilized, as well as a contractor's performance on other broker assignments of similar character to the given task order, including performance under predecessor GSA

National Broker Contracts, if applicable. The Ordering official may consider the Contractor's past performance on both an aggregate national level and on a regional level, where available, when placing orders;

(3) Workload capacity, including potential impact on other orders placed with the contractor; and

(4) Workload distribution.

(b) At the discretion of the Ordering Official, contractors may be requested to provide information in order to assist the Government in making fair opportunity determinations.

(3)(a) For task orders or a group of task orders estimated to yield a net commission in excess of $5,000,000, all contractors will be provided a fair opportunity to compete for award of the task order. In such cases, each contractor will be provided, at a minimum,

(1) A notice of the task order that includes a statement of the agency's requirements;

(2) The response period;

(3) The significant factors and subfactors, including price, that the agency will consider in evaluating task order proposals, and their relative importance, including the basis for award of the task order;

(4) An opportunity for a postaward debriefing.

(4) The fair opportunity procedures described above shall not apply when one of the following exceptions apply:

(a) The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays;

(b) Only one contractor is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized;

(c) The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order; or

(d) It is necessary to place an order to satisfy a minimum guarantee.

Contractors shall accept only written task orders issued on a GSA Form 300 by a Regional Contracting Officer/Ordering Official authorized by the National Contracting Office (NCO). Performance of any services for the Government, which have not been ordered in accordance with the terms and conditions of this contract, may result in Contractor performance of work with no compensation. Task orders may be issued by facsimile or by electronic commerce methods.

The Contractor must inform the Regional Contracting Officer/Ordering Official in writing not later than five working days following the receipt of a task order whether a conflict of interest exists. Task orders must be accepted.

The Contractor shall submit corporate and individual conflict of interest and non disclosure statements**, Exhibits 7A and B** to the Regional Contracting Officer/Ordering Official no later than three working days after receipt of a task order for Contractor or subcontract personnel who will perform services in connection with the task order. If multiple personnel will be involved in performing services in connection with the task order, the services to be performed by each person shall be identified as well as the person who has overall responsibility for the task order. If additional personnel are assigned to the task order at a later date, a nondisclosure/conflict of interest statement shall be provided to the Regional Contracting Officer prior to their starting work on the task order.

If requested by the RCO, the Contractor shall submit documentation demonstrating that personnel assigned to a task order hold the appropriate state license to perform the services required by the task order. The COTR/COR will contact the Contractor to schedule a date for orientation no later than three (3) days after submission of nondisclosure/conflict of interest statement but will give the Contractor a minimum of 4 working days to develop the required Market Analysis for discussion prior to and during the Project Orientation. Conflicts of interest will be processed under Contract Section H.

The COTR/COR will hold an orientation with the Contractor and tenant agency contact prior to the Contractor starting work on a task order to ensure all parties clearly understand the roles and responsibilities of each party and to ensure the Contractor clearly understands tenant agency requirements and concerns. Orientation is normally conducted telephonically. The Contractor shall document areas discussed at orientation and provide a copy to the COTR/COR with the project schedule.

Only GSA, PBS, Warranted Contracting Officers with delegated ordering authority from the NCO may place orders against this contract.

A firm delivery date will be established for each task order. The date shall either be established prior to award of the task order and included on the task order; or if it is necessary to establish the required delivery date during orientation after award of the task order, it shall be established in the approved project schedule. A copy of the approved schedule shall be provided to the RCO/Ordering Official after approval by the COTR/COR. After COTR/COR approval, no changes may be made to the required delivery date (occupancy date) unless the task order is modified by the RCO.

The GSA task order must state the specific Square Foot category, competitive/non-competive type and Commission (maximum percentage of aggregate lease value) and include a firm required delivery date (where determined) that must be met by the Contractor.

Contractors shall accept only written task orders issued on a GSA Form 300 by an RCO/Ordering Official authorized by the National Contracting Officer/NCO. Performance of services, which have not been ordered in accordance with the terms and conditions of this contract, could result in the Contractor having to re-perform services at their own expense.

The GSA Office of Acquisition Policy (MV) is the GSA Ombbudsman for task order contracts and shall review complaints about fair opportunity concerns and ensure that Contractors are afforded the fair opportunity to be considered for task orders issued consistent with the procedures in the contract. The GSA Ombudsman will exercise

jurisdiction on any matters pertaining to ID/IQ contracts awarded by GSA. The Ombudsman can be reached at the address and phone number below:

GSA Ombudsman(MV)
1800 F Street NW
Washington, DC 20405-0001

PHONE: (202) 501-4770

F.4 PERFORMANCE CRITERIA

Performance criteria are stated in Section C.9.

Section G
CONTRACT ADMINISTRATION DATA

G.1. ROLES AND RESPONSIBILITIES OF GOVERNMENT PERSONNEL

G.1.1 NATIONAL CONTRACTING OFFICER (NCO)

The NCO is the Procuring Contracting Officer and has the overall responsibility for administration of the contract. The NCO alone, without delegation, is authorized to take action on behalf of the Government to amend, modify, or deviate from the contract terms, conditions, requirements, specifications, details and/or delivery schedules; make final decisions on disputes; terminate the contract for convenience or default; and issue final decisions regarding contract matters. The NCO may delegate certain other responsibilities to authorized representatives. The NCO alone may determine to take action impacting the offset to the rent in accordance with E.2.

The NCO is:

NBC National Contracting Officer
GSA/PBS
Center for Real Estate Brokerage Services (PRAA)
1800 F Street NW Rom 2326
Washington DC 20405-001

G.1.2 NATIONAL PROGRAM MANAGER (NPM)

The NPM will be delegated COR responsibilities by the NCO to assist with the administration of the contract. The NPM is the technical expert for matters related to the Federal lease acquisition policies and procedures. The NPM will review regulations and program changes and as necessary submit requests for contract modifications to the NCO. Authority not delegated to the NPM is reserved for the NCO. The name and contact information of the NPM will be provided at time of award.

G.1.3 REGIONAL PROGRAM MANAGER (RPM)

Each of the eleven GSA PBS Regional Offices will designate a Regional Program Manager (RPM) who will be responsible for coordinating regional contract issues and work requirements primarily with the National Program Manager. The RPM may be delegated authority to coordinate regional task order issues with the Contractor and to participate in Contractor evaluations. The RPM acts as the regional technical authority and contact for the Contractors. The names and contact information for RPM's will be provided after award. An RPM does not have authority to award, change or modify the contract or a task order.

G.1.4 REGIONAL CONTRACTING OFFICERS (RCO)

1. The NCO will delegate authority to a warranted service contracting officer from each region to serve as the RCO. While the RCO does not have authority to modify the primary contract, they do have full authority to take any contract action regarding a task order within

the limits of their contracting authority. They will delegate certain responsibilities to COTRs/CORs for the day-to-day monitoring of Contractor performance. The designation of an RCO does not preclude the region from having multiple ordering officials (Contracting Officers) who will award and administer task orders. The RCO for a task order will approve all task order changes via written task order modification

2. Responsibilities of the RCO's include, but are not limited to:

- Awarding task orders in accordance with Ordering Procedures in Section F, including documenting the decision appropriately.
- Administering task orders
- Terminating task orders for the convenience of the government
- Terminating task orders for default after coordination with the NCO.
- Determining the adequacy of performance by the Contractor in accordance with the terms and conditions of the contract and with input from the COTR/COR.
- Advising the RPM and NCO of performance problems or issues that impact the administration of the contract as a whole.
- Delegating certain contract administration responsibilities to authorized representatives (COTR/COR's).

G.1.4.1 ORDERING OFFICIALS (OO)

1. The NCO may delegate authority to a warranted Contracting Officer to serve as an OO. While the OO does not have authority to modify the primary contract, they do have full authority to take any contract action regarding a task order within the limits of their contracting authority. They will delegate certain responsibilities to COTR/COR for the day-to-day monitoring of Contractor performance**.** The OO for a task order will approve all task order changes via written task order modification

2. Responsibilities of the OO's include, but are not limited to:

- Awarding task orders in accordance with Ordering Procedures in Section F, including documenting the decision appropriately
- Administering task orders
- Terminating task orders for the convenience of the government
- Terminating task orders for default after coordination with the NCO.

3. Determining the adequacy of performance by the Contractor in accordance with the terms and conditions of the contract and with input from the COTR/COR.

G.1.5 CONTRACTING OFFICER REPRESENTIVE (COR) AND CONTRACTING OFFICER TECHNICAL REPRESENTATIVES (COTR)

1. In most cases, the COTR for a task order is the Lease Contracting Officer (LCO) for any lease award or leasing action resulting from the issued task order and is GSA's primary contact with the tenant agency. In some cases, a Leasing Specialist, who does not hold a contracting officer warrant, may be designated as a COR.

2. A COR/COTR will be delegated in writing and named on each task order. The COR/COTR is responsible for the Project orientation with the tenant agency and Contractor, for day-to-day monitoring of Contractor performance, for inspection, and acceptance of services and submissions, and for resolving problems and issues within their delegated authority. Responsibilities include reviewing, inspecting and accepting deliverables to determine compliance with contract requirements; ensuring defects or omissions are corrected in said deliverables; conferring with representatives of the Contractor regarding any problems encountered in the performance of the work; preparing performance evaluations and discussing them with the Contractor; reporting performance problems to the Regional Contracting Officer or Ordering Official and accepting services.

G.1.6 TENANT AGENCY

The tenant agency is the Federal client for whom leased space is being acquired. The tenant agency will assign a representative responsible for coordinating the project with GSA. The Contractor should coordinate with the tenant agency representative only to the extent directed by the COR/COTR. Any issues that may affect schedule, cost or scope must be directed to and carefully coordinated with the COR/COTR. A tenant agency has no authority to direct Contractor performance, to change requirements provided to the Contractor by GSA, or to change the schedule or any other thing that might impact services ordered on a task order. The tenant agency shall direct requests for changes to the COR/COTR who, if appropriate, will submit a request for a modification of the task order to the Regional Contracting Officer or Ordering Official. If the tenant agency directly notifies the Contractor of a change in the requirements, the Contractor shall notify the COTR/COR who will coordinate the requested changes with the tenant agency.

G.2. FINANCE DATA – COMMISSIONS AND COMMISSION CREDITS

G.2.1 COMMISSIONS

1. The Contractor shall document in the Lease:
   a. the total dollar value of the Commission,
   b. the commission percentage or dollar per square foot (whichever applies),
   c. the total dollar value of the Commission Credit to be applied to shell rent at lease award. (Reference **EXHIBIT 11** Contractor Commission Template)

2. If the basis upon which the Commission is calculated changes between lease award and execution of the Final SLA, the Contractor shall adjust the Commission and the commission Credit accordingly and document such adjustment in the Final SLA as defined by the contract.

3. The Contractor shall receive their portion of the commission 50% upon award and 50% upon acceptance of the space.

4. The commission negotiated for a lease acquisition by the Contractor shall be based on a lease term not to exceed the firm term of the lease. Commissions will not be negotiated or collected on option periods of lease terms beyond the firm term.

5. If the Contractor collects a commission from a lessor or other party and does not complete all services required by the Contract for satisfactory performance of the task order, the task order and/or contract may be terminated for default and the Contractor may be liable for damages to the Government.

G.2.2 APPLICATION OF COMMISSION CREDITS TO THE LEASE

1. The Contractor shall have the lessor credit to the lease transaction the Commission Credit to the shell rent as set forth in Section B.

2. The Government task order must be specific as to which SF category applies to allow accurate Commission tracking. Changes from task order issuance through occupancy that impact square footage such as increase/decrease in square footage to another category, whether up or down may occur and must be documented by modification to the task order and the lease via the Final SLA. For example, if a Task Order was issued as Category 1.A. 0-10,000 USF square feet, and the final occupied space is accepted for any amount in excess of Category 1.A. , the appropriate Commission from the Pricing Worksheet must be used.

3. Commission credits will be evaluated when evaluating offers. In the Present Value Analysis credits will be reflected as a reduction to the shell rent applied as a one-time lump sum rental deduction or if the rental credit exceeds the monthly shell rental amount, the credit shall be applied in the shortest time period possible, in equal monthly amounts.

G.2.3 TERMINATION OF LEASE ACQUISITION TASK ORDER PRIOR TO COMPLETION

In the event a task order is terminated for the convenience of the Government or default prior to award of a lease, the Government will not reimburse the Contractor for any costs associated with the task order.

G.2.4 SUBMISSION OF SUBCONTRACTING REPORTS

1. For Offerors (other than small business concerns) the subcontracting plan and goals for award to Small Disadvantaged Business concerns will become a part of the contract.

2. All targets for SDB participation, expressed as dollars and percentages of total contract value, in each authorized NAICS Industry Subsector, and a total target for SDB participation by the Contractor. As a reminder any substitutions of other than listed SDB participation targets requires notification to the contracting officer.

3. Contractors shall utilize the Electronic SubContractor Reporting System (eSRS)

4. In accordance with FAR clause 52-219-9, (j) (1) Small Business Subcontracting Plan, reports must be submitted by the dates specified at end of each reporting period in the eSRS system.

5. FAR Clause 52.219-25 requires that all Contractors (Small and Other than Small) shall submit reports at the end of each contract performance period. SDB participation by the Contractor, including joint venture partners, and team members, and a total target for SDB participation by subcontractors targets shall be incorporated into and become part of any resulting contract.

Section H
SPECIAL CONTRACT REQUIREMENTS

H.1. QUALIFICATION REQUIREMENTS FOR CONTRACTOR'S FIRM

Contractor firms shall have a minimum of three years commercial real estate experience providing services for at least five national clients who had requirements for lease acquisition services, such as performing market surveys, negotiating lease transactions, and preparing lease contract documents, in a geographic area similar to that required by this solicitation (nationwide services in both rural and urban areas). Contract firms must demonstrate experience with managing a minimum of 150 full lease acquisitions per year. All Contractors are required to have licenses required by States, local, or other governing laws or regulations necessary to perform all contract services, including collecting commissions and crediting a percentage of the commission to the shell rent of a lease transaction.

H.2. LOCATION OF THE CONTRACTOR OFFICES

The Contractor shall, as a minimum, have an office located within the boundaries of the National Capital Region.

H.3. PERSONNEL

H.3.1 AVAILABILITY

Contractor personnel assigned to a task order shall be available during the normal working hours of the Region where a task order is being performed.

H.3.2 IDENTIFICATION

In accordance with FAR 11.106 Contractor personnel who attend meetings or work in situations where their actions could be construed as acts of Government officials must be clearly identified as Contractor personnel.

H.3.3 SECURITY REQUIREMENTS AND PERSONAL IDENTITY VERIFICATION PROCEDURES (NON-CLASSIFIED CONTRACT)

Security requirements for this contract are significant and require time and effort to comply and be processed. As these requirements are subject to change by issuance of Statute or Executive Order, the methodology for application and processing will be provided at time of award. If changes occur during the term of the contract a modification will not be required. Contractors will be notified by the NCO in writing. See **Exhibit 12** for current procedures concerning eLease Access Procedures.

H.3.4 TENANT AGENCY SECURITY REQUIREMENTS

1. A Contractor is required to comply with all security requirements of a tenant agency in buildings where work is performed. The Contractor is responsible for coordinating with a tenant agency and providing all information required of him/her or his/her employees for any required clearance. Employees that can not meet security or clearance requirements

will not be allowed to work in, or around, an agency's space. Certain agencies may require that employees be escorted and/or that work only be performed during normal duty hours of the tenant agency. For example, Contractor personnel must be cleared by the FBI prior to working on a task order for the FBI.

2. When a controlled personnel identification system is used by a tenant agency at a site where work is performed, the tenant agency will provide any required identification. Each employee of the Contractor must have in his/her possession while on the premises the identification issued by the agency. The identification shall be displayed at all times or as required by the agency. The Contractor shall return all Government identification to the issuing agency when an employee is terminated or upon expiration of the task order.

H.3.5 STANDARDS OF CONDUCT

The Contractor is responsible for maintaining satisfactory standards of employee competency, conduct, appearance, and integrity and is responsible for taking such disciplinary action with respect to his/her employees as may be necessary. Each employee is expected to adhere to standards of behavior that reflect credit on him/herself, his/her employer, and the Federal Government.

H.3.6 REMOVAL FROM CONTRACT WORK

1. The NCO may request that the Contractor immediately remove any contract employee(s) from contract work who the Government deems incompetent, careless, insubordinate, unsuitable or otherwise objectionable; or whose continued employment the Government deems contrary to the public interest, inconsistent with the best interests of security, or is identified as a potential threat to the health, safety, security, general well being or operational mission of the facility and its population.

2. The NCO may also request that the Contractor immediately remove any employee(s) from contract work should it be determined that individuals have been disqualified for either suitability or security reasons, or who are found to be unfit for performing duties.

3. The Contractor must comply with any removal request. For clarification, a determination of unfit may be made from, <u>but is not limited to</u>, incidents involving the most immediately identifiable types of misconduct or delinquency as set forth below:

A. Failure to receive a suitability determination, temporary clearance, or clearance from GSA or a tenant agency.

B. Violation of Federal, State, or local law.

C. Violation of the Rules and Regulations Governing Public Buildings and Grounds, 41 CFR 101-20.3. This includes the carrying or possession of explosives, or items intended to be used to fabricate an explosive or incendiary device.

D. Neglect of duty, unreasonable delays or failures to carry out assigned tasks,

E. Falsification or unlawful concealment, removal, mutilation, or destruction of any official documents or records, or concealment of material facts by willful omissions from official documents or records.

F. Disorderly conduct, use of abusive or offensive language, quarreling, intimidation by words or actions, or fighting. Also participation in disruptive activities that interfere with the normal and efficient operations of the Government.

G. Theft, vandalism, immoral conduct, or any other criminal actions.

H. Selling, consuming, or being under the influence of intoxicants, drugs, or substances that produce similar effects.

I. Improper use of official authority or credentials.

J. Unauthorized use of communications equipment on Government property.

K. Violation of security procedures or regulations.

M. Violation of Title 18, U.S.C., Section 930, which prohibits the knowing possession or the causing to be present of firearms or other dangerous weapons in Federal facilities and Court facilities.

4. The NCO will make all determinations regarding the removal of an employee(s), except under certain conditions. When the NCO is not available, either during the day or after hours, or in situations where a delay would not be in the best interest of the Government or is identified as a potential threat to the health, safety, security, general well being or operational mission of the facility and its population, the Regional Contracting Officer for the task order or the Contracting Officer's Representative will have the authority to immediately remove the contract employee from contract work. Law enforcement officers of the Federal Protective Service (Police Officers, Physical Security Specialists, or Criminal Investigators) will have the authority to immediately remove any contract employee from the work site who is found to be in violation of any of the items mentioned above and where a delay in removal would not be in the best interests of the Government, security, or is identified as a potential threat to the health, safety, security, general well being or operational mission of the facility and its population. The National Contracting Officer would be notified as soon after the incident as practical or at the beginning of the next business day if an action happened after hours. The NCO will make all official notifications to the Contractor. In the event of a dispute, the NCO will make the final determination. Specific reasons for removal of an employee(s) will be provided to the Contractor in writing.

5. The Contractor is responsible for providing replacement employees if contract employees are removed from contract work.

H.3.7 PERSONNEL QUALIFICATIONS

H.3.7.1 General

1. The Contractor shall ensure that employees, including manager(s) and subcontractor personnel have the required certifications, licenses, experience, and training specified in the contract in order to efficiently and effectively perform the services. If requested by the NCO, RCO or their designees, Contractors may be required to submit resumes for personnel proposed to perform duties required under this contract. At minimum, resumes should address education, experience, knowledge and expertise of the person, and suitability for the particular task order to which they are assigned. Contractor and subcontractor personnel must have commercial real estate experience and federal leasing experience or training as specified in H.7. The federal leasing process is not comparable to the commercial real estate process. It is critical to the successful integration of Contractor personnel into the federal process that they possess the necessary training and experience to carry out the transaction without requiring training from GSA COTRs/CORs.

2. The Contractor shall utilize the personnel named or otherwise identified to perform the services for each task order. In the event personnel, other than the designated personnel, are proposed to perform the services, the Contractor shall notify the Regional Contracting

Officer and, if requested, provide a complete resume for proposed substituted personnel. No delay in Contractor performance will be allowed as a result of the Contractor's substitution of personnel.

3. While the Contractor may have several personnel performing work in connection with a task order, one person with overall responsibility for successful completion of the task order must be designated for each task order.

4. Contractors and their subcontractors must be licensed brokers who have the authority to collect commissions on behalf of the Contractor for all locations where services may be required. It is the Contractor's responsibility to obtain all required State or other licenses required to perform services described in the contract.

5. Subcontractor firms and their personnel must meet the same standards as the Contractor's personnel. The prime Contractor is responsible for all work performed by their subcontractors.

H.3.7.2 Project Manager(s)

1. The Contractor must provide a National Project Manager for the overall contract who will be the primary contact for the NCO and the NPM for matters related to the contract. The National Project Manager or an alternate are key personnel and must have the full authority to make decisions on behalf of the Contractor and must be available on a daily basis. In addition, a primary contact for each GSA Regional Office must be designated and available on a daily basis to respond to issues on matters related to task orders awarded for the Region as counterpart to the Regional Program Officials.

2. The National Project Manager and alternate are considered key personnel and résumé's for these individuals must be included as part of the technical proposal as stated in Section L. The Project Manager designated as the national contact for interface with the NCO and NPM may be the same person or a different person than the designee for the regional contacts. However, the regional contact person must be available on a daily basis to respond to concerns related to task orders issued by a specific Region during the Region's normal work hours. In the event the designated regional contact is unavailable, an alternate contact with the same authority shall be available.

3. The Key Personnel identified in this paragraph may not be replaced without prior approval by the NCO and the NPM after a review of experience, training and other qualifications.

H.3.7.3 Leasing Personnel

Commercial real estate services described in the contract must be performed by licensed, qualified commercial real estate personnel with a minimum of three years experience in performing commercial real estate transactions (tenant representation services) similar to those described in the contract. They shall have a thorough knowledge of the local real estate market for the delineated area for the lease acquisition, know which areas fit a client's needs and budget, and be familiar with local zoning laws, etc. They must be fully familiar with the requirements of the contract and with all Federal laws and regulations that must be followed for a Federal lease acquisition. They must have completed Federal Leasing procurement courses identified in Section H, prior to beginning work on this contract. The Contractor is required to meet all State and local licensing requirements for their personnel performing lease transactions for any location where services may be

required. Personnel assigned to a task order shall be available during the normal work hours of the Region where work is being performed. If multiple personnel will perform services in connection with a task order, a primary contact with overall responsibility for successful completion of the task order must be identified for each task order.

H.4. RESTRICTIONS ON OTHER WORK

1. Upon award of a task order, Contractors shall disclose that they are acting as an exclusive representative of GSA for the transaction.

2. The Contractor, its employees, or subcontractors and their employees, performing services under any task order issued hereunder shall neither solicit other work to be performed under this GSA contract nor accept additional work under this contract from any Federal agency other than GSA.

3. The Contractor must represent themselves as a GSA Contractor and shall not, while representing the GSA, market their company or services of their company to GSA clients or property owners while conducting GSA business.

H.5. ORGANIZATIONAL CONFLICTS OF INTEREST

(a) General. Subpart 9.5 of the Federal Acquisition Regulation, 48 C.F.R. 9.5, prescribes responsibilities, general rules, and procedures for identifying, evaluating, and resolving organizational conflicts of interest.

(b) Purpose. The purpose of this clause is to avoid, neutralize, or otherwise mitigate organizational conflicts of interest that might exist related to a Contractor's performance of work required by this contract. Such conflicts may arise in situations including, but not limited to: a Contractor's participation as an offeror or representative of an offeror, in a procurement in which it has provided assistance in the preparation of the Government's requirements and specifications; a Contractor's providing advisory assistance to the Government in a procurement in which the Contractor's firm, or one which the Contractor represents, is an actual or potential offeror; and a Contractor's participation, as an offeror or representative of an offeror, in a procurement where the Contractor has obtained confidential or proprietary information relating to competing offerors as a result of the Contractor's work on prior task orders.

(c) Definitions. For purposes of this clause

(1) "Contractor" means: an individual or other legal entity that

a. Directly or indirectly (e.g. through an affiliate), submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a Government contract, including a contract for carriage under Government or commercial bills or lading, or a subcontract under a Government contract; or

b. Conducts business, or reasonable may be expected to conduct business, with the Government as an agency or representative of another contractor, and

c. Includes the Contractor; any of the Contractor's parents, affiliates or other entities in which the Contractor or such parents or affiliates have a financial

interest; successors in interest to the Contractor or any of its parents or affiliates; proposed consultants or subcontractors at any tier; and employees thereof.

(2) “Parent” means a business concern, organization, or individuals that has/have a controlling interest in another business concern, organization, or individual. Indicia of controlling interest includes, but is not limited to, ownership of more than one-half interest.

(3) “Affiliates mean a business concern, organization, or individuals that, directly or indirectly, (1) either one controls or has the power to control the other, or (2) a third party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a business entity organized following the debarment, suspension, or proposed debarment of a Contractor which has the same or similar management, ownership, or principal employees as the contract that was debarred, suspended, or proposed for debarment.

(d) Restrictions**.** The Contractor agrees:

1. As a condition of its award of this contract and in addition to other requirements of this contract regarding Contractors ethics program and reporting requirements, and the safeguarding of information, to establish a "conflict wall", in form and manner satisfactory to the Contracting Officer. Any such "conflict wall" shall, at a minimum:

- Inform all members of the Contractor of the existence of the "conflict wall" and the restrictions set forth in this Clause;
- Ensure the establishment and maintenance, during the term of this Contract, of separate electronic file servers and other electronic safeguards to prevent access to documents, files and information related to Contractor's work under this Contract to other than Contractor personnel working under this Contract, including Contractor personnel representing building owners or lessors;
- Ensure that paper files and documents are kept, safeguarded and maintained in separate, secure locations that will preclude access to Contractor personnel not working under this Contract, including Contractor personnel representing building owners or lessors;
- Be maintained at all times during the term of this Contract

2. To remain subject, during the term of the Contract, to periodic inspection and verification of the "conflict wall" and the processes and procedures to be maintained in connection therewith.

3. To execute, in connection with any awarded Task Order under this Contract, such certifications as the Contracting Officer may deem necessary and appropriate confirming the continuing existence of the "conflict wall" and the processes and procedures included thereunder, including but limited to, **Exhibits 7A, 7B, and 7C**.

4. That none of the Contractor’s personnel, (including without limitation employees, consultants or subcontractors) may participate as both a GSA representative and as a representative of an offeror on a GSA lease transaction. Such ban shall be in effect for the duration of the lease transaction.

5. That none of the Contractor’s personnel, (including without limitation employees, consultants or subcontractors), who have a personal financial interest in a potential or actual offeror for a lease transaction, may participate as a GSA representative on that GSA lease transaction.

6. That none of the Contractor's personnel (including without limitation employees, consultants or subcontractors) performing work under this Contract will participate, in any capacity, in providing any advice or representation to a building owner, representative, lessor or other third-party in connection with any GSA leasing transaction in the same market while an individual is performing service under this contract and for an additional period of six (6) months following conclusion of an individual's work under the Contract.

7 That any person performing services under this Contract shall be and remain, during the term of this Contract, ineligible to share in any fees or commissions received by or payable to Contractor by virtue or Contractor's representation of a building owner, representative, lessor or other third-party in a lease transaction involving the Government; ***provided***, any such person shall be entitled to share in any payment made to Contractor under this Contract.

8. That all personnel performing work in connection with an awarded task order under this Contract may be required to execute such Confidentiality and Non-Disclosure Agreements, or other documents which the Contracting Officer, in his/her sole discretion, may require in order to protect the proprietary nature or confidentiality of information provided by the Government or otherwise received by the Contractor in connection with its work under this Contract. Such Agreements or documents may provide that violations of their terms may result in criminal and civil penalties in accordance with, among other laws and regulations, 41 U.S.C. §423. Failure of the Contractor to provide required Agreements or documents under this paragraph from all required personnel may result in termination of Contractor's work under the task order at issue at no cost to the Government. Repeated violations may result in the termination of this Contract.

9. That the Contractor and all personnel performing work in connection with an awarded task order under this Contract are required to execute the agreements contemplated by Section 9.505-4(b) of the Federal Acquisition Regulation, 48 C.F.R. §9.505-4(b).

10. That all personnel performing services under this Contract will treat any and all information generated and received in connection with their work as proprietary and confidential, continue to do so in perpetuity, and disclose and utilize such information only in connection with their work under the Contract.

11. That upon receipt of a task order request, to immediately notify the Contracting Officer of any potential organizational or individual conflict of interest that would prevent or limit the Contractor's ability to perform the work requested. If any such conflict is identified, consistent with the other requirements and restrictions of this Clause, the Contractor shall provide the certification that the conflict wall is in place and any other documents that may be required by the Contracting Officer pursuant to paragraph (d).3 above. Contractor shall continue performance of the request, unless notified in writing by the Contracting Officer; ***provided*** that the Contracting Officer shall have the right to

impose such restrictions as he/she deems appropriate on Contractor's performance based on the existence of such a conflict or, if the Contracting Officer determines that such restrictions would not adequately address the conflict of interest at issue, to terminate the Contractor's performance of work under the task order at no cost to the Government. At the lease solicitation phase, Contractor shall provide executed dual agency notifications and agreements from any interested parties affected by the Contractor's performance of work related to the task order. See **Exhibit 7C.**

12. To immediately notify the Contracting Officer of any organizational or individual conflict of interest discovered during Contractor's performance of work pursuant to a Government-issued task order; ***provided*** that the Contracting Officer shall have the right to impose such restrictions as he/she deems appropriate on Contractor's performance based on the existence of such a conflict or, if the Contracting Officer determines that such restrictions would not adequately address the conflict of interest at issue, to terminate the Contractor's performance of work under the task order at no cost to the Government. If at or after the lease solicitation phase, Contractor shall provide executed dual agency notifications and agreements from any interested parties affected by the Contractor's performance of work related to the task order.

13. That in the event that the Contractor knowingly withholds the existence of a conflict of interest from the Government, that the Contracting Officer may terminate this Contract or an individual task order at no cost to the Government; ***provided*** that the foregoing shall be in addition to all other remedies and causes of action which the Government may have against the Contractor, including the suspension and/or debarment of the Contractor.

14. To include this Conflict of Interest clause, including this subparagraph, in all of Contractor's subcontracts at all tiers (appropriately modified to preserve the Government's interests hereunder) which involve the performance of work by subcontractors in support of this Contract.

15. That, in addition to the remedies enumerated above, the Government may terminate this Contract for cause in the event of Contractor's breach of any of the above restrictions.

H.6. SENSITIVE BUT UNCLASSIFIED (SBU) INFORMATION

1. Sensitive But Unclassified (SBU) building information is contained in any document with information that is sufficiently sensitive to warrant some level of protection from disclosure but does not warrant classification.

2. GSA policy is contained in Public Building Service (PBS) Order 3490.1A. A copy of the order is contained in **Exhibit 2.** This solicitation contains instructions on the proper identification, handling and reporting of violations under Section I. The order prescribes protection of SBU Building Information uniformly across the GSA user community and provides consistent guidance to GSA associates, contractors and subcontractors about what GSA considers to be SBU Building Information and how to safeguard it.

H.7. POST AWARD ORIENTATION AND TRAINING

1. After award, key Contractor personnel shall attend an orientation to be provided by GSA in order to review contract requirements, discuss procedures for interfacing with the Government personnel responsible for ordering, monitoring, and approving the Contractor's performance and submissions, and to provide other appropriate orientation materials. It is anticipated this orientation will take 3-4 days. The cost to attend the orientation will not be reimbursed by the Government. At minimum, the Contractor's key personnel, the primary contacts for the NCO and NPM, and regional project managers shall attend orientation. Other attendees are at the discretion of the Contractor. The location for the training will be determined after contract award. The number of slots available for Contractor attendees will be limited to approximately 25 per Contractor. The exact number of slots will be determined after award.

2. Commercial training is available on Federal Lease Law and Acquisition. Contractor personnel are required to know and understand the Federal laws and regulations related to the acquisition of leased space in order to perform satisfactorily on the contract. It is GSA's experience that it takes up to 5 years to train a Federal Leasing Specialist in-house. Given the differences in Commercial Real Estate and Federal Real Estate laws and processes, the minimum training required to begin work under this contract is stated below. If time is not sufficient between award of the contract and Notice to Proceed to complete temporary approval may be granted with the understanding that all must be completed within 3 months of Notice to Proceed. Personnel who do not demonstrate sufficient knowledge to perform functions will not be allowed to perform work and may be removed under Section H.3.6. The Contractor will not be reimbursed for any costs associated with training.

3. Contractor personnel who perform lease acquisition functions shall meet the following training requirements prior to beginning work on this contract.

a. Contract personnel with 3 years of documented commercial real estate experience may complete the Market Analyis defined in Exhibit 5.

b. Contract personnel with 3 years of documented acqusition related commercial real estate experience and Federal Real Property Leasing or Basic Lease Contracting may complete Market Surveys as identified in Section C.

c. Contract personnel preparing SFOs must have 3 years of documented acqusition related commercial real estate experience and have completed the Federal Real Property Leasing or Basic Lease Contracting and Federal Real Property Lease Law.

d. To negotiate GSA's lease transactions,Contractor personel must have 3 years of documented acqusition related commercial real estate experience and have completed Federal Real Property Leasing or Basic Lease Contracting, Cost and Price Analysis of Lease Proposals, and Federal Real Property Lease Law.

e. For Post Award Services, Contractor personnel must have 3 years of documented acqusition related commercial real estate experience specific to build out of a facility and bringing the lease transaction to occupancy.

f. Contractor shall submit required documentation of commercial real estate experience and evidence of course completion within 90 days of award to be updated as necessary to the NCO.

g. Certain undergraduate/graduate level and State certifiied course work may be substituted for the specific courses stated above, on a case by case basis as determined appropriate by the NCO and the NPM.

4. During the term of the contract, GSA may hold "In-house" training on various subjects related to lease acquisition work that the Contractor may be invited to attend. There is no charge for the training. However if Contractor personnel attend, it shall be at their own cost. This training may at times be available via conference call or computer based training modules.

H.8. ELEASE APPLICATION USE AND PROCEDURES

H.8.1 eLEASE APPLICATION

1. The eLease application is a framework application supporting the leasing process. Its workflow mechanism manages the comprehensive lifecycle of a leasing transaction from identification of customer space requirements through the closing of the lease. The eLease application provides consistency in the customer requirements development process and project delivery while enabling improved efficiency and customer satisfaction. It is a tool to improve communication by allowing the realty specialist to electronically and instantaneously interact with the other business roles involved with the leasing process, including broker Contractors.

2. GSA associates and support contractors are required to use the eLease application for all activities associated with NBC projects.

H.8.2 eLEASE ACCESS PROCEDURES

See **Exhibit 12** eLease Access Procedures for information. The eLease procedures included in this contract are subject to change and will not require modification to the contract.

H.8.3 ELECTRONIC RECORDS STORAGE

The Contractor is required to use eLease for all aspects and documentation required for a lease project. See Section C.4.1.8

H.8.4 eLEASE TRAINING

1. Contractor personnel, including managers and subcontractor personnel, cleared for access to eLease, shall complete Broker Contract eLease Training Manual Lessons 1 through 8 and/or Computer Based Training as provided on the Extranet PBS Portal or as provided by the NCO. The Contractor shall maintain records of eLease training completed by their personnel initially and on a monthly basis submit either a certification of eLease training completed during the month or submit other evidence of completion, such as a certificate, to the NCO

2. During the term of the contract, GSA may provide additional or revised eLease application training, to cover updates or changes to the system. Contractor personnel, including managers and subcontractor personnel, shall complete eLease application training as directed by the NCO.

H.9 FEDERAL INFORMATION SECURITY MANAGEMENT ACT (FISMA)

1. Contractors entering into an agreement for services to the General Services Administration (GSA) and/or its Federal customers shall be contractually subject to all GSA and Federal IT Security standards, policies, and reporting requirements. The Contractor shall meet and comply with all GSA IT Security Policies and all applicable GSA and NIST standards and guidelines, other Government-wide laws and regulations for protection and security of Information Technology.

2. All GSA Contractors must comply with the GSA policies and reporting requirements referenced within the GSA IT Security Policy identified in **Exhibit 2**.

Section I
CONTRACT CLAUSES

This contract uses no appropriated funds. Deviations to normal clause language have been approved for clauses marked Deviation. For clauses marked Deviation followed by a double asterisk (**) the deviation is as follows: The dollar thresholds at which the clause become applicable is based on the estimated value of commissions available to a contractor during the term of the contract. The estimated contract value per contract, if three contracts are awarded, all options are exercised, and task orders are issued equally is estimated at $33,000,000.

I.1. 52.202-1 DEFINITIONS (JULY 2004)

(a) When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless—

(1) The solicitation, or amended solicitation, provides a different definition;

(2) The contracting parties agree to a different definition;

(3) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or

(4) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

(b) The FAR Index is a guide to words and terms the FAR defines and shows where each definition is located. The FAR Index is available via the Internet at http://www.acqnet.gov at the end of the FAR, after the FAR Appendix.

(End of clause)

I.2. 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)

I.3. 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)

*I.4. 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006)Deviation***

(a) Except as provided in (b) below, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the 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) above does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation.

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

(End of clause)

*I.5. 52.203-7 ANTI-KICKBACK PROCEDURES (JUL 1995)Deviation***

(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 the kickback. The Contracting Officer may order that 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 subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed $100,000. (End of clause)

I.6. 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 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 subsection 27(e)(1) of the Act.

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

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

(End of clause)

I.7. 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)

*I.8. 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS(SEPT 2007) Deviation***

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

"Agency" means "executive agency" as defined in Federal Acquisition Regulation (FAR) 2.101.

"Covered Federal action" means any of the following actions:

(1) Awarding any Federal contract.

(2) Making any Federal grant.

(3) Making any Federal loan.

(4) Entering into any cooperative agreement.

(5) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

"Indian tribe" and "tribal organization" 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" 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" 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” 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” 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 eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

“Reasonable compensation” 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” 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” includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and *are* permitted by other Federal law.

“Regularly employed” 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” means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) *Prohibition*. 31 U.S.C. 1352 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 covered Federal actions. In accordance with 31 U.S.C. 1352 the Contractor shall not use 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 the award of this contractor the extension, continuation, renewal, amendment, or modification of this contract.

(1) The term *appropriated funds* does not include profit or fee from a covered Federal action.

(2) To the extent the Contractor can demonstrate that the Contractor has sufficient monies, other than Federal appropriated funds, the Government will assume that these other monies were spent for any influencing activities that would be unallowable if paid for with Federal appropriated funds.

(c) *Exceptions*. The prohibition in paragraph (b) of this clause does not apply under the following conditions:

(1) *Agency and legislative liaison by Contractor employees*.

(i) Payment of reasonable compensation made to an officer or employee of the Contractor if the payment is for agency and legislative liaison activities not directly related to this contract. For purposes of this paragraph, providing any information specifically requested by an agency or Congress is permitted at any time.

(ii) Participating with an agency in discussions that are not related to a specific solicitation for any covered Federal action, but that concern—

(A) The qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities; or

(B) The application or adaptation of the person's products or services for an agency's use.

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

(iv) Participating in technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(v) Making capability presentations prior to formal solicitation of any covered Federal action 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.

(2) *Professional and technical services*.

(i) 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.

(ii) 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.

(iii) As used in paragraph (c)(2) of this clause, “professional and technical services” are limited to advice and analysis directly applying any professional or technical discipline (for examples, see FAR 3.803(a)(2)(iii)).

(iv) 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.

(3) Only those communications and services expressly authorized by paragraphs (c)(1) and (2) of this clause are permitted.

(d) *Disclosure*.

(1) If the Contractor did not submit OMB Standard Form LLL, Disclosure of Lobbying Activities, with its offer, but registrants under the Lobbying Disclosure Act of 1995 have subsequently made a lobbying contact on behalf of the Contractor with respect to this contract, the Contractor shall complete and submit OMB Standard Form LLL to provide the name of the lobbying registrants, including the individuals performing the services.

(2) If the Contractor did submit OMB Standard Form LLL disclosure pursuant to paragraph (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects Block 10 of the OMB Standard Form LLL (name and address of lobbying registrant or individuals performing services), the Contractor shall, at the end of the calendar quarter in which the change occurs, submit to the Contracting Officer within 30 days an updated disclosure using OMB Standard Form LLL.

(e) *Penalties*.

(1) Any person who makes an expenditure prohibited under paragraph (b) of this clause or who fails to file or amend the disclosure to be filed or amended by paragraph (d) 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.

(g) *Subcontracts*.

(1) The Contractor shall obtain a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each person

requesting or receiving a subcontract exceeding $100,000 under this contract. The Contractor or subcontractor that awards the subcontract shall retain the declaration.

(2) A copy of each subcontractor disclosure form (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall, at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor, submit to the Contracting Officer within 30 days a copy of all disclosures. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(3) The Contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding $100,000.

(End of Clause)

I.9. 52.203-13 Contractor Code Of Business Ethics and Conduct (Dec 2008)

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

"Agent" means any individual, including a director, an officer, an employee, or an independent Contractor, authorized to act on behalf of the organization.

"Full cooperation"—

(1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors' and investigators' request for documents and access to employees with information;

(2) Does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not require—

(i) A Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; or

(ii) Any officer, director, owner, or employee of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; and

(3) Does not restrict a Contractor from—

(i) Conducting an internal investigation; or

(ii) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

"Principal" means an officer, director, owner, partner, or a person 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).

"Subcontract" means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

"Subcontractor" means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

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

(b) *Code of business ethics and conduct.*

(1) Within 30 days after contract award, unless the Contracting Officer establishes a longer time period, the Contractor shall—

(i) Have a written code of business ethics and conduct; and

(ii) Make a copy of the code available to each employee engaged in performance of the contract.

(2) The Contractor shall—

(i) Exercise due diligence to prevent and detect criminal conduct; and

(ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3)(i) The Contractor shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed—

(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(ii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor's disclosure as confidential where the information has been marked "confidential" or "proprietary" by the company. To the extent permitted by law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, 5 U.S.C. Section 552, without prior notification to the Contractor. The Government may transfer documents provided by the Contractor to any department or agency within the Executive Branch if the information relates to matters within the organization's jurisdiction.

(iii) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract.

(c) Business ethics awareness and compliance program and internal control system. This paragraph (c) does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract or if this contract is for the acquisition of a commercial item as defined at FAR 2.101. The Contractor shall establish the following within 90 days after contract award, unless the Contracting Officer establishes a longer time period:

(1) An ongoing business ethics awareness and compliance program.

(i) This program shall include reasonable steps to communicate periodically and in a practical manner the Contractor's standards and procedures and other aspects of the Contractor's business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.

(ii) The training conducted under this program shall be provided to the Contractor's principals and employees, and as appropriate, the Contractor's agents and subcontractors.

(2) An internal control system.

(i) The Contractor's internal control system shall—

(A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the Contractor's internal control system shall provide for the following:

(A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Contractor's code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and the special requirements of Government contracting, including—

(1) Monitoring and auditing to detect criminal conduct;

(2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and

(3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

(D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

(F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(1) If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation.

(2) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' contracting officers.

(3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.

(4) The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause.

(G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.

(d) *Subcontracts*.

(1) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of $5,000,000 and a performance period of more than 120 days.

(2) In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(End of clause)

I.10. 52.203.14 Display of Hotline Poster(s)

(a) *Definition.*

"United States," as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) *Display of fraud hotline poster(s).* Except as provided in paragraph (c)—

(1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites—

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

(3) Any required posters may be obtained as follows:

Poster(s)	***Obtain from***
DHS OIG Poster	DHS Office of Inspector General/MAIL STOP 2600 Attention: Office of Investigations - Hotline 245 Murray Drive, SW, Building 410 Washington, DC 20528 Phone 1-800-323-8603 FAX 202-25404292 DHS Web site http://www.dhs.gov/xoig/assets/DHS_OIG_Hotline.jpg

GSA OIG Information GSA OIG Investigations Unit
ATTENTION: FraudNet Hotline
1800 F Street NW
Washington, DC 20405

Phone: 1(800) 424-5210
E-mail: fraudnet@gsa.gov

_____

(*Contracting Officer shall insert—*

(i) Appropriate agency name(s) and/or title of applicable Department of Homeland Security fraud hotline poster); and

(ii) The website(s) or other contact information for obtaining the poster(s).)

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed $5,000,000, except when the subcontract—

(1) Is for the acquisition of a commercial item; or

(2) Is performed entirely outside the United States.

(End of clause)

I.11. 52.204-9 Personal Identity Verification of Contractor Personnel (Sept 2007)

(a) The Contractor shall comply with agency personal identity verification procedures identified in the contract that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24 and Federal Information Processing Standards Publication (FIPS PUB) Number 201.

(b) The Contractor shall insert this clause in all subcontracts when the subcontractor is required to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system.

(End of clause)

I.12. Safeguarding and Dissemination of Sensitive But Unclassified (SBU) Building Information

This clause applies to all recipients of SBU building information, including offerors, bidders, awardees, contractors, subcontractors, lessors, suppliers, and manufacturers.

(a) *Marking SBU*. Contractor-generated documents that contain building information must be reviewed by GSA to identify any SBU content, before the original or any copies are disseminated to any other parties. If SBU content is identified, the contracting officer may direct the contractor, as specified elsewhere in this contract, to imprint or affix SBU document markings to the original documents and all copies, before any dissemination.

(b) *Authorized recipients*. Building information considered SBU must be protected with access strictly controlled and limited to those individuals having a need to know such

information. Those with a need to know may include Federal, State, and local government entities, and nongovernment entities engaged in the conduct of business on behalf of or with GSA. Nongovernment entities may include architects, engineers, consultants, contractors, subcontractors, suppliers, and others submitting an offer or bid to GSA or performing work under a GSA contract or subcontract. Contractors must provide SBU building information when needed for the performance of official Federal, State, and local government functions, such as for code compliance reviews and for the issuance of building permits. Public safety entities such as fire and utility departments may require access to SBU building information on a need to know basis. This clause must not prevent or encumber the dissemination of SBU building information to public safety entities.

(c) *Dissemination of SBU building information:*

(1) *By electronic transmission.* Electronic transmission of SBU information outside of the GSA firewall and network must use session (or alternatively file encryption). Sessions (or files) must be encrypted with an approved NIST algorithm, such as Advanced Encryption Standard (AES) or Triple Data Encryption Standard (3DES), in accordance with Federal Information Processing Standards Publication (FIPS PUB) 140-2, Security Requirements for Cryptographic Modules. Encryption tools that meet FIPS 140-2 are referenced on the NIST web page found at the following URL: http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/1401vend.htm . All encryption products used to satisfy the FIPS 140-2 requirement should have a validation certificate that can be verified at the following URL: http://csrc.nist.gov/groups/STM/cmvp/validation.html#02. (Not all vendors of security products that claim conformance with FIPS 140-2 have validation certificates.) Contractors must provide SBU building information only to authorized representatives of State, Federal, and local government entities and firms currently registered as “active” in the Central Contractor Registration (CCR) database at www.ccr.gov that have a need to know such information. If a subcontractor is not registered in the CCR and has a need to possess SBU building information, the subcontractor shall provide to the contractor its DUNS number or its tax ID number and a copy of its business license.

(2) *By nonelectronic form or on portable electronic data storage devices*. Portable electronic data storage devices include but are not limited to CDs, DVDs, and USB drives. Nonelectronic forms of SBU building information include paper documents.

(i) By mail. Utilize only methods of shipping that provide services for monitoring receipt such as track and confirm, proof of delivery, signature confirmation, or return receipt.

(ii) In person. Contractors must provide SBU building information only to authorized representatives of State, Federal, and local government entities and firms currently registered as “active” in the CCR database that have a need to know such information.

(3) *Record keeping.* Contractors must maintain a list of the State, Federal, and local government entities and the firms to which SBU is disseminated under sections (c) (1) and (c) (2) of this clause. This list must include at a minimum (1) the name of the State, Federal, or local government entity or firm to which SBU has been disseminated; (2) the name of the individual at the entity or firm who is responsible for protecting the SBU building information, with access strictly controlled and limited to those individuals having a need to know such information; (3) contact information for the named individual; and (4) a description of the SBU building information provided. Once work is completed,

or for leased space with the submission of the “as built” drawings, the contractor must collect all lists maintained in accordance with this clause, including those maintained by any subcontractors and/or suppliers, and submit them to the contracting officer. For federal buildings, final payment may be withheld until the lists are received.

(d) *Retaining SBU documents*. SBU building information (both electronic and paper formats) must be protected, with access strictly controlled and limited to those individuals having a need to know such information.

[If returning SBU documents to the CO is not allowed on a particular contract, remove the italicized language below from the clause, and capitalize the 'E' at the beginning of the applicable sentence.]

(e) *Destroying SBU building information.* SBU building information must be destroyed such that the marked information is rendered unreadable and incapable of being restored, *or returned to the contracting officer*, when no longer needed, in accordance with guidelines provided for media sanitization within Appendix A of NIST Special Publication 800-88, Guidelines for Media Sanitization, available at http://csrc.nist.gov/publications/nistpubs/800-88/NISTSP800-88_rev1.pdf. *If SBUbuilding information is not returned to the contracting officer,* examples of acceptable destruction methods for SBU building information are burning or shredding hardcopy; physically destroying portable electronic storage devices such as CDs, DVDs, and USB drives; deleting and removing files from electronic recycling bins; and removing material from computer hard drives using a permanent-erase utility such as bit wiping software or disk crushers.

(f) *Notice of disposal.* The contractor must notify the Contracting Officer that all SBU building information has been destroyed, *or returned to the Contracting Officer,* by the contractor and its subcontractors or suppliers in accordance with section (e) of this clause, with the exception of the contractor's record copy. This notice must be submitted to the contracting officer at the completion of the contract in order to receive final payment. For leases, this notice must be submitted to the Contracting Officer at the completion of the lease term.

(g) *Incidents.* All improper disclosures of SBU building information must be immediately reported to the contracting officer at GSA/PBS/PRAA Attn: Ted Mahoney, 1800 F Street NW Room 2326, Washington DC 20405, Phone 202-420-8293 . If the contract provides for progress payments, the contracting officer may withhold approval of progress payments until the contractor provides a corrective action plan explaining how the contractor will prevent future improper disclosures of SBU building information. Progress payments may also be withheld for failure to comply with any provision in this clause until the contractor provides a corrective action plan explaining how the contractor will rectify any noncompliance and comply with the clause in the future.

(h) *Subcontracts.* The Contractor must insert the substance of this clause in all subcontracts.

[End of clause]

I.13. 52.209-5 Certification Regarding Responsibility Matters (DEC 2008)

(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, violating Federal criminal tax laws, or receiving stolen property;

(C) Are are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision;

(D) Have , have not , within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds $3,000 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) *The tax liability is finally determined*. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) *The taxpayer is delinquent in making payment*. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) *Examples*.

(i) The taxpayer has received a statutory notice of deficiency, under I.R.C. § 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. § 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(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) “Principal,” for the purposes of this certification, means an officer, director, owner, partner, or a person 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)

I.14. 552.203-71 RESTRICTION ON ADVERTISING (SEP 1999)

The Contractor shall not refer to this contract in commercial advertising or similar promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by the White House, the Executive Office of the President, or any other element of the Federal Government, or is considered by these entities to be superior to other products or services. Any advertisement by the Contractor, including price-off coupons, that refers to a military resale activity shall contain the following statement: "This advertisement is neither paid for nor sponsored, in whole or in part, by any element of the United States Government." (End of clause)

I.15. 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)

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

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

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

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

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

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

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

(1) Postconsumer fiber; and

(2) Manufacturing wastes such as--

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

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

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

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

(End of clause)

I.16. 52.204-7 CENTRAL CONTRACTOR REGISTRATION (APR2008)

(a) Definitions. As used in this clause—

"Central Contractor Registration (CCR) database" means the primary Government repository for Contractor information required for the conduct of business with the Government.

"Data Universal Numbering System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

"Data Universal Numbering System +4 (DUNS+4) number" means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same concern.

"Registered in the CCR database" means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record "Active". The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number—

(i) Via the Internet at http://fedgov.dnb.com/webform or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company Physical Street Address, City, State, and ZIP Code.

(iv) Company Mailing Address, City, State and ZIP Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, 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 review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g)

(1)

(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of

assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at http://www.ccr.gov or by calling 1-888-227-2423, or 269-961-5757.

(End of clause)

*I.17. 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (SEPT 2006) DEVIATION***

(a) The Government suspends or debars Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of $30,000 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 $30,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

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

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being in the Excluded Parties List System.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in the Excluded Parties List System.

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

(End of clause)

I.18. 52.215-1 INSTRUCTIONS TO OFFERORS—COMPETITIVE ACQUISITION (JAN 2004)

(a) *Definitions*. As used in this provision—

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

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

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

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

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

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

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

(1) Unless other methods (*e.g.,* electronic commerce or facsimile) are permitted in the solicitation, proposals and modifications to proposals shall be submitted in paper media in sealed envelopes or packages (i) addressed to the office specified in the solicitation, and (ii) showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror. Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

(2) The first page of the proposal must show—

(i) The solicitation number;

(ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);

(iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;

(iv) Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate on the offeror's behalf with the Government in connection with this solicitation; and

(v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

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

(i) Offerors are responsible for submitting proposals, and any modifications or revisions, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposal or revision is due.

(ii)(A) Any proposal, modification, or revision received at the Government office designated in the solicitation after the exact time specified for receipt of offers is “late” and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and—

(1) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(2) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government’s control prior to the time set for receipt of offers; or

(3) It is the only proposal received.

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

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

(iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

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

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

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

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

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

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

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

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

(1) Mark the title page with the following legend:

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

(2) Mark each sheet of data it wishes to restrict with the following legend:

> Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(f) Contract award.

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

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

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

(4) The Government intends to evaluate proposals and award a contract without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror’s initial proposal should contain the offeror’s best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer

determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

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

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

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

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

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

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

(11) If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

(i) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.

(ii) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.

(iii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.

(iv) A summary of the rationale for award.

(v) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(vi) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

(End of provision)

I.19. 52.215-2 AUDIT AND RECORDS--NEGOTIATION (MAR 2009)

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

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

(c) *Cost or pricing data*. If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized 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 contract, subcontract, or modification;

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

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

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

(d) Comptroller General.—

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

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

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

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

(2) The data reported.

(f) *Availability*. The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records

Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition—

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

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and—

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

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

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

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

(End of clause)

I.20. 52.215-8 ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT (OCT 1997)

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

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

*I.21. 552.215-70 EXAMINATION OF RECORDS BY GSA (FEB 1996)DEVIATION***

The Contractor agrees that the Administrator of General Services or any duly authorized representatives shall, until the expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of the Contractor involving transactions related to this contract or compliance with any clauses thereunder. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Administrator of General Services or any authorized representatives shall, until the expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of such subcontractor involving transactions related to the subcontract or compliance with any clauses thereunder. The term "subcontract" as used in this clause excludes (a) purchase orders

not exceeding **$100,000** and (b) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public. (End of clause)

I.22. 52.216-18 ORDERING (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from award date through contract expiration date.
(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.
(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued by facsimile, or by electronic commerce methods only if authorized in the Schedule.
(End of clause)

I.23. 52.216-19 ORDER LIMITATIONS (OCT 1995)DEVIATION

There is no minimum or maximum order limitation for this contract. The contractor is required to accept all task orders unless the Contracting Officer for the task order determines that a conflict of interest exists which would preclude the contractor from performing the work. (End of clause)

I.24. 52.216-22 INDEFINITE QUANTITY (OCT 1995)

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.
(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."
(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.
(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; *provided*, that the Contractor shall not be required to make any deliveries under this contract after completion of task orders issued prior to contract expiration date.
(End of clause)

I.25. 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall

not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 30 days prior to the end of the performance period. (End of clause)

I.26. 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)

(a) The Government may extend the term of this contract by written notice to the Contractor within 30 days of expiration provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

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

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed five years and six months (End of clause)

I.27. 52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (JULY 2005)DEVIATION

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

(b) Evaluation preference.

(1) Offers will be evaluated by **adding** a factor of 10 percent to the price of all offers, except—

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

(ii) Otherwise successful offers from small business concerns.

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

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

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

☐· Offeror elects to waive the evaluation preference.

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

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

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

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

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

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

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

(End of clause)

I.28. 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (MAY 2004)

(a) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns 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, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys 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—

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

"Service-disabled veteran-owned small business concern"—

(1) Means a small business concern—

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

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

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

"Small business concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"Small disadvantaged business concern" means a small business concern that represents, as part of its offer that—

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

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

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

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

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

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

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

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

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

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

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a HUBZone small business concern, a small disadvantaged business concern, or a women-owned small business concern.

(End of clause)

*I.29. 52.219-9 II SMALL BUSINESS SUBCONTRACTING PLAN (APR 2008)--ALTERNATE II (OCT 2001)DEVIATION**& PARA(D)(2)*

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

(b) *Definitions*. As used in this clause—

"Alaska Native Corporation (ANC)" means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

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

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

"Electronic Subcontracting Reporting System (eSRS)" means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at http://www.esrs.gov.

"Indian tribe" means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

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

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

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

(c) Proposals submitted in response to this solicitation shall include a subcontracting plan that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned

small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate a subcontracting plan shall make the offeror ineligible for award of a contract.

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

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all sub-contracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626:

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.

(ii) Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of—

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

(ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

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

(iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

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

(vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and

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

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

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns; and

(vi) 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 Central Contractor Registration database (CCR), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in CCR as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of CCR 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 (including ANC and Indian tribes);

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns (including ANC and Indian tribes); and

(vi) Women-owned small business concerns.

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

(8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone

small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of $550,000 ($1,000,000 for construction of any public facility) with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the offeror will—

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;

(iii) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (l) of this clause using the Electronic Subcontracting Reporting System (eSRS) at http://www.esrs.gov. The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;

(iv) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;

(v) Provide its prime contract number, its DUNS number, and the e-mail address of the Government or Contractor official responsible for acknowledging or rejecting the reports, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their reports; and

(vi) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the e-mail address of the Government or Contractor official responsible for acknowledging or rejecting the reports, to its subcontractors with subcontracting plans.

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

(i) Source lists (*e.g.,* CCR), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

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

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

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

(B) Whether veteran-owned small business concerns were solicited and, if not, why not;

(C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;

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

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

(F) Whether women-owned small business concerns were solicited and, if not, why not; and

(G) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact—

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and

(D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through—

(A) Workshops, seminars, training, etc.; and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

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

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

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone

small business, small disadvantaged business, and women-owned small business concerns in all “make-or-buy” decisions.

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

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is identified as a certified HUBZone small business concern by accessing the Central Contractor Registration (CCR) database or by contacting SBA.

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

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

(1) The master plan has been approved;

(2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror’s planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor’s commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government’s fiscal year.

(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) A contract may have no more than one plan. When a modification meets the criteria in 19.702 for a plan, or an option is exercised, the goals associated with the modification or option shall be added to those in the existing subcontract plan.

(j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, or when the subcontractor provides a commercial item subject to the clause at 52.244-6, Subcontracts for Commercial Items, under a prime contract.

(k) The failure of the Contractor or subcontractor to comply in good faith with—

(1) The clause of this contract entitled "Utilization Of Small Business Concerns;" or

(2) An approved plan required by this clause, shall be a material breach of the contract.

(l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at http://www.esrs.gov. Purchases from a corporation, company, or subdivision that is an affiliate of the prime Contractor or subcontractor are not included in these reports. Subcontract award data reported by prime Contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe.

(1) *ISR*. This report is not required for commercial plans. The report is required for each contract containing an individual subcontract plan and shall be submitted to the Administrative Contracting Officer (ACO) or Contracting Officer, if no ACO is assigned.

(i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period.

(ii) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(iii) The authority to acknowledge receipt or reject the ISR resides—

(A) In the case of the prime Contractor, with the Contracting Officer; and

(B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

(2) *SSR*.

(i) Reports submitted under individual contract plans—

(A) This report encompasses all subcontracting under prime contracts and subcontracts with the awarding agency, regardless of the dollar value of the subcontracts.

(B) The report may be submitted on a corporate, company or subdivision (*e.g.* plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If a prime Contractor and/or subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over $550,000 (over $1,000,000 for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime Contractors. However, for construction and related maintenance and repair, a separate report shall be submitted for each DoD component.

(D) For DoD and NASA, the report shall be submitted semi-annually for the six months ending March 31 and the twelve months ending September 30. For civilian agencies, except NASA, it shall be submitted annually for the twelve month period ending September 30. Reports are due 30 days after the close of each reporting period.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts.

(ii) Reports submitted under a commercial plan—

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency from which contracts for commercial items were received.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

(iii) All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a Year-End Supplementary Report for Small Disadvantaged Businesses. The report shall include subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. If the data are not available when the year-end SSR is submitted, the prime Contractor and/or subcontractor shall submit the Year-End Supplementary Report for Small Disadvantaged Businesses within 90 days of submitting the year-end SSR. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

(End of clause)

I.30. 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 is 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)

I.31. 52.219-23 I NOTICE OF PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS (OCT2008)--ALTERNATE I (JUNE 2003)DEVIATION

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

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

“Minority institution” means an institution of higher education meeting the requirements of Section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k), including a Hispanic-serving institution of higher education, as defined in Section 502(a) of the Act (20 U.S.C. 1101a).

“Small disadvantaged business concern” means an offeror that represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either—

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

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

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

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

(2) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR Part 124, subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted. In this case, in order to receive the benefit of a price evaluation adjustment, an offeror must receive certification as a small disadvantaged business concern by the Small Business Administration prior to contract award; or

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

(b) Evaluation adjustment.

(1) The Contracting Officer will evaluate offers by **adding** a factor of 10 [*Contracting Officer insert the percentage*] percent to the price of all offers, except—

(i) Offers from small disadvantaged business concerns that have not waived the adjustment; and

(ii) An otherwise successful offer from a historically black college or university or minority institution.

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

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

_____ **Offeror elects to waive the adjustment**.

(d) Agreements.

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

(i) Services, except construction, at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern;

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

(iii) General construction, at least 15 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern; or

(iv) Construction by special trade contractors, at least 25 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.

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

(End of clause)

I.32. 52.219-25 SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM--DISADVANTAGED STATUS AND REPORTING (APR 2008)

(a) *Disadvantaged status for joint venture partners, team members, and subcontractors.* This clause addresses disadvantaged status for joint venture partners, teaming arrangement members, and subcontractors and is applicable if this contract contains small disadvantaged business (SDB) participation targets. The Contractor shall obtain representations of small disadvantaged status from joint venture partners, teaming arrangement members, and subcontractors through use of a provision substantially the same as paragraph (b)(1)(i) of the provision at FAR 52.219-22, Small Disadvantaged Business Status. The Contractor shall confirm that a joint venture partner, team member, or subcontractor representing itself as a small disadvantaged business concern is a small disadvantaged business concern certified by the Small Business Administration by using the Central Contractor Registration database or by contacting the SBA's Office of Small Disadvantaged Business Certification and Eligibility.

(b) *Reporting requirement*. If this contract contains SDB participation targets, the Contractor shall report on the participation of SDB concerns at contract completion, or as otherwise pro-vided in this contract. Reporting may be on Optional Form 312, Small Disadvantaged Business Participation Report, in the Contractor's own format providing the same information, or accomplished through using the Electronic Subcontracting Reporting System's Small Disadvantaged Business Participation Report. This report is required for each contract containing SDB participation targets. If this contract contains an individual Small Business Subcontracting Plan, reports shall be submitted with the final Individual Subcontract Report at the completion of the contract.

(End of clause)

I.33. 52.219-28 POST-AWARD SMALL BUSINESS REPRESENTATION (APR 2009)

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

Long-term contract means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause. Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts—

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at http://www.sba.gov/services/contractingopportunities/sizestandardstopics/.

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the rerepresentation required by paragraph (b) of this clause by validating or updating all its representations in the Online Representations and Certifications Application and its data in

the Central Contractor Registration, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update.

(f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

(g) If the Contractor does not have representations and certifications in ORCA, or does not have a representation in ORCA for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

The Contractor represents that it is, is not a small business concern under NAICS Code _____ assigned to contract number _____.

[*Contractor to sign and date and insert authorized signer's name and title*].

(End of clause)

I.34. 52.222-3 CONVICT LABOR (JUNE 2003)

(a) Except as provided in paragraph (b) of this clause, the Contractor shall not employ in the performance of this contract any person undergoing a sentence of imprisonment imposed by any court of a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.

(b) The Contractor is not prohibited from employing persons—

(1) On parole or probation to work at paid employment during the term of their sentence;

(2) Who have been pardoned or who have served their terms; or

(3) Confined for violation of the laws of any of the States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if—

(i) The worker is paid or is in an approved work training program on a voluntary basis;

(ii) Representatives of local union central bodies or similar labor union organizations have been consulted;

(iii) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services;

(iv) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

(End of clause)

*I.35. 52.222-26 EQUAL OPPORTUNITY (MAY 2007) DEVIATION***

(a) *Definition*. "United States," as used in this clause, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b)(1) 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 this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(2) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor's activities (41 CFR 60-1.5).

(c)(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 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.

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

(End of clause)

*I.36. 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS. [SEPT 2006] DEVIATION***

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

"All employment openings" means 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.

"Executive and top management" means any employee—

(1) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;

(2) Who customarily and regularly directs the work of two or more other employees;

(3) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight;

(4) Who customarily and regularly exercises discretionary powers; and

(5) Who does not devote more than 20 percent or, in the case of an employee of a retail or service establishment, who does not devote more than 40 percent of total hours of work in the work week to activities that are not directly and closely related to the performance of the work described in paragraphs (1) through (4) of this definition. This paragraph (5) does not apply in the case of an employee who is in sole charge of an establishment or a physically separated branch establishment, or who owns at least a 20 percent interest in the enterprise in which the individual is employed.

"Other eligible veteran" means any other veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

"Positions that will be filled from within the Contractor's organization" means employment openings for which the Contractor will give no consideration to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings 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.

"Qualified special disabled veteran" means a special disabled veteran who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such veteran holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

"Special disabled veteran" means—

(1) A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability—

(i) Rated at 30 percent or more; or

(ii) Rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C. 3106 to have a serious employment handicap (*i.e.,* a significant impairment of the veteran's ability to prepare for, obtain, or retain employment consistent with the veteran's abilities, aptitudes, and interests); or

(2) A person who was discharged or released from active duty because of a service-connected disability.

"Veteran of the Vietnam era" means a person who—

(1) Served on active duty for a period of more than 180 days and was discharged or released from active duty with other than a dishonorable discharge, if any part of such active duty occurred—

(i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(ii) Between August 5, 1964, and May 7, 1975, in all other cases; or

(2) Was discharged or released from active duty for a service-connected disability if any part of the active duty was performed—

(i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(ii) Between August 5, 1964, and May 7, 1975, in all other cases.

(b) General.

(1) The Contractor shall not discriminate against the individual because the individual is a special disabled veteran, a veteran of the Vietnam era, or other eligible veteran, regarding any position for which the employee or applicant for employment is qualified. The Contractor shall take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans without discrimination based upon their disability or veterans' status 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) Rate 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 apprenticeship, and on-the-job training under 38 U.S.C. 3687, 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 shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended (38 U.S.C. 4211 and 4212).

(c) Listing openings.

(1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract, and including those occurring at an establishment of the Contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local public employment service office of the State wherein the opening occurs. Listing employment openings with the U.S. Department of Labor's America's Job Bank shall satisfy the requirement to list jobs with the local employment service office.

(2) The Contractor shall make the listing of employment openings with the local employment service office at least concurrently with using any other recruitment source or effort and shall involve the normal obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing of employment openings 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.

(3) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State public employment agency 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 agency, it need not advise the State agency of subsequent contracts. The Contractor may advise the State agency 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, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands of the United States, and Wake Island.

(e) Postings.

(1) The Contractor shall post employment notices in conspicuous places that are available to employees and applicants for employment.

(2) The employment notices shall—

(i) State the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are special disabled veterans, veterans of the Vietnam era, and other eligible veterans; and

(ii) Be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary of Labor), and provided by or through the Contracting Officer.

(3) The Contractor shall ensure that applicants or employees who are special disabled veterans are informed of the contents of the notice (e.g., the Contractor may have the

notice read to a visually disabled veteran, or may lower the posted notice so that it can be read by a person in a wheelchair).

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

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

(g) *Subcontracts*. The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of $100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Deputy Assistant Secretary of Labor to enforce the terms, including action for noncompliance.

(End of clause)

*I.37. 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998) DEVIATION***

(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 handicap. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as--

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The rights of applicants and employees.

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

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

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

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

*I.38. 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEPT 2006) DEVIATION***

(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 special disabled veterans, the number of veterans of the Vietnam era, and other eligible veterans 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 the total, the number of special disabled veterans, the number of veterans of the Vietnam era, and the number of other eligible veterans; and

(3) The maximum number and the minimum number of employees of the Contractor during the period covered by the report.

(b) The Contractor shall report the above items by completing the Form VETS-100, entitled “Federal Contractor Veterans’ Employment Report (VETS-100 Report).”

(c) The Contractor shall submit VETS-100 Reports 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 between July 1 and August 31 of the year the report is due; or

(2) As of December 31, if the Contractor has prior 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 Contractor shall base the count of veterans reported according to paragraph (a) of this clause on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all special disabled veterans, veterans of the Vietnam era, and other eligible veterans 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—

(1) The information is voluntarily provided;

(2) The information will be kept confidential;

(3) Disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and

(4) The information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.

(f) The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of $100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

(End of clause)

I.39. 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (JAN 2009)

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

"Commercially available off-the-shelf (COTS) item"—

(1) Means any item of supply that is—

(i) A commercial item (as defined in paragraph (1) of the definition at 2.101);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products. Per 46 CFR 525.1 (c)(2), "bulk cargo" means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

"Employee assigned to the contract" means an employee who was hired after November 6, 1986, who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.1803. An employee is not considered to be directly performing work under a contract if the employee—

(1) Normally performs support work, such as indirect or overhead functions; and

(2) Does not perform any substantial duties applicable to the contract.

“Subcontract” means any contract, as defined in 2.101, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

“Subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime Contractor or another subcontractor.

“United States”, as defined in 8 U.S.C. 1101(a)(38), means the 50 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.

(b) *Enrollment and verification requirements*.

(1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall—

(i) *Enroll*. Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;

(ii) *Verify all new employees*. Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and

(iii) *Verify employees assigned to the contract*. For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee’s assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of—

(i) *All new employees*.

(A) *Enrolled 90 calendar days or more*. The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(B) *Enrolled less than 90 calendar days*. Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(ii) *Employees assigned to the contract*. For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(3) If the Contractor is an institution of higher education (as defined at 20 U.S.C. 1001(a)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Contractor shall follow the applicable verification requirements at (b)(1) or (b)(2)

respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

(4) *Option to verify employment eligibility of all employees*. The Contractor may elect to verify all existing employees hired after November 6, 1986, rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986, within 180 calendar days of—

(i) Enrollment in the E-Verify program; or

(ii) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).

(5) The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.

(i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.

(ii) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.

(c) *Web site*. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: *http://www.dhs.gov/E-Verify*.

(d) *Individuals previously verified*. The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee—

(1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;

(2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or

(3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12, Policy for a Common Identification Standard for Federal Employees and Contractors.

(e) *Subcontracts*. The Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for identification of the parties), in each subcontract that—

(1) Is for—

(i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or

(ii) Construction;

(2) Has a value of more than $3,000; and

(3) Includes work performed in the United States.

(End of clause)

*I.40. 52.223-6 DRUG-FREE WORKPLACE (MAY 2001)DEVIATION***

(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 where 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 or default, and suspension or debarment. (End of clause)

*I.41. 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (AUG 2003) DEVIATION***

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

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

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

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

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

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

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

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

(iii) Major group codes 20 through 39.

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

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

(5) The facility is not located in the United States or its outlying areas.

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

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

(2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall—

(i) Submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible; and

(ii) Continue to file the annual Form R for the life of the contract for such facility.

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

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

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

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

(End of clause)

I.42. 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUNE 2008)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR Chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at http://www.treas.gov/offices/enforcement/ofac/sdn. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR Chapter V and/or on OFAC's website at http://www.treas.gov/offices/enforcement/ofac.

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

(End of clause)

I.43. 52.226-1 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (JUNE 2000)

(a) Definitions. As used in this clause:

"Indian" means any person who is a member of any Indian tribe, band, group, pueblo or community that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c) and any "Native" as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

"Indian organization" means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C., chapter 17.

"Indian-owned economic enterprise" means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership constitutes not less than 51 percent of the enterprise.

"Indian tribe" means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, that is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1452(c).

"Interested party" means a prime contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

(b) The Contractor shall use its best efforts to give Indian organizations and Indian-owned economic enterprises (25 U.S.C. 1544) the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of its contract.

(1) The Contracting Officer and the Contractor, acting in good faith, may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status. In the event a challenge to the representation of a subcontractor, the Contracting Officer will refer the matter to the--

U.S. Department of the Interior
Bureau of Indian Affairs (BIA)
Attn: Chief, Division of Contracting and
Grants Administration
1849 C Street, NW,
MS-2626-MIB
Washington, DC 20240-4000.

The BIA will determine the eligibility and notify the Contracting Officer. No incentive payment will be made within 50 working days of subcontract award or while a challenge is pending. If a subcontractor is determined to be an ineligible participant, no incentive payment will be made under the Indian Incentive Program.

(2) The Contractor may request an adjustment under the Indian Incentive Program to the following:

(i) The estimated cost of a cost-type contract.

(ii) The target cost of a cost-plus-incentive-fee prime contract.

(iii) The target cost and ceiling price of a fixed-price incentive prime contract.

(iv) The price of a firm-fixed-price prime contract.

(3) The amount of the adjustment to the prime contract is 5 percent of the estimated cost, target cost, or firm-fixed-price included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

(4) The Contractor has the burden of proving the amount claimed and must assert its request for an adjustment prior to completion of contract performance.

(c) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the amount paid to the subcontractor. The Contracting Officer will seek funding in accordance with agency procedures. (End of clause)

I.44. 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (APR 2003)

(a) As used in this clause—

"After-imposed Federal tax" 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" 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.

"All applicable Federal, State, and local taxes and duties" 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.

"Contract date" 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.

"Local taxes" includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

(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)

I.45. 52.232-17 INTEREST (OCT 2008)

(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 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 611 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 (e) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(b) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(c) *Final Decisions*. The Contracting Officer will issue a final decision as required by 33.211 if—

(1) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt in a timely manner;

(2) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(3) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(d) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(e) 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, including any demand for payment resulting from a default termination.

(f) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(1) The date on which the designated office receives payment from the Contractor;

(2) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(3) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(g) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(End of clause)

I.46. 52.233-1 I DISPUTES (JUL 2002)--ALTERNATE I (DEC 1991)

(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. 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. 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 Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding $100,000.

(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 offer.

(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 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 or relating to the contract, and comply with any decision of the Contracting Officer. (End of clause)

I.47. 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.

(End of clause)

I.48. 52.237-3 CONTINUITY OF SERVICES (JAN 1991)

(a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption and that, upon contract expiration, a successor, either the Government or another contractor, may continue them. The Contractor agrees to (1) furnish phase-in training and (2) exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) The Contractor shall, upon the Contracting Officer's written notice, (1) furnish phase-in, phase-out services for up to 90 days after this contract expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

(c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

(d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

(End of clause)

I.49. 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. (End of clause)

I.50. 52.243-1 II CHANGES--FIXED-PRICE (AUG 1987)--ALTERNATE II (APR 1984) DEVIATION

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Description of services to be performed.

(2) Time of performance (i.e., hours of the day, days of the week, etc.).

(3) Place of performance of the services.

(4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government, in accordance with the drawings, designs, or specifications.

(5) Method of shipment or packing of supplies.

(6) Place of delivery.

(b) If any such change causes an increase or decrease in the 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 delivery schedule and shall modify the task order. No adjustment in contract price shall be made.

(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.

(End of clause)

I.51. 52.243-7 NOTIFICATION OF CHANGES (APR 1984)DEVIATION

(a) Definitions. "Contracting Officer," as used in this clause, does not include any representative of the Contracting Officer. "Specifically authorized representative (SAR)," as used in this clause, means any person the Contracting Officer has so designated by written notice (a copy of which shall be provided to the Contractor) which shall refer to this subparagraph and shall be issued to the designated representative before the SAR exercises such authority.

(b) Notice. The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers to constitute a change to this contract. Except for changes identified as such in writing and signed by the Contracting Officer, the Contractor shall notify the Administrative Contracting Officer in writing promptly, within 10 calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the Contractor regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state--

(1) The date, nature, and circumstances of the conduct regarded as a change;

(2) The name, function, and activity of each Government individual and Contractor official or employee involved in or knowledgeable about such conduct;

(3) The identification of any documents and the substance of any oral communication involved in such conduct;

(4) In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;

(5) The particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including--

(i) What contract line items have been or may be affected by the alleged change;

(ii) What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;

(iii) To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;

(iv) What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and

(6) The Contractor's estimate of the time by which the Government must respond to the Contractor's notice to minimize cost, delay or disruption of performance.

(c) Continued performance. Following submission of the notice required by paragraph (b) of this clause, the Contractor shall diligently continue performance of this contract to the maximum extent possible in accordance with its terms and conditions as construed by the Contractor, unless the notice reports a direction of the Contracting Officer or a communication from a SAR of the Contracting Officer, in either of which events the Contractor shall continue performance; provided, however, that if the Contractor regards the direction or communication as a change as described in paragraph (b) of this clause, notice shall be given in the manner provided. All directions, communications, interpretations, orders and similar actions of the SAR shall be reduced to writing promptly and copies furnished to the Contractor and to the Contracting Officer. The Contracting Officer shall promptly countermand any action which exceeds the authority of the SAR.

(d) Government response. The Contracting Officer shall promptly, within 10 calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer shall either--

(1) Confirm that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance;

(2) Countermand any communication regarded as a change;

(3) Deny that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance; or

(4) In the event the Contractor's notice information is inadequate to make a decision under subparagraphs (d)(1), (2), or (3) of this clause,

advise the Contractor what additional information is required, and establish the date by which it should be furnished and the date thereafter by which the Government will respond.

(e) Equitable adjustments. (1) If the Contracting Officer confirms that Government conduct effected a change as alleged by the Contractor, and the conduct causes an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether changed or not changed by such conduct, an equitable adjustment shall be made--

(i) in the contract delivery schedule; and

(ii) In such other provisions of the contract as may be affected.

(2) The contract shall be modified in writing accordingly. In the case of drawings, designs or specifications which are defective and for which the Government is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by the Contractor in attempting to comply with the defective drawings, designs or specifications before the Contractor identified, or reasonably should have identified, such defect. When the cost of property made obsolete or excess as a result of a change confirmed by the Contracting Officer under this clause is included in the equitable adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of the property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the Contractor’s failure to provide notice or to continue performance as provided, respectively, in (b) and (c) of this clause.

(End of clause)

*I.52. 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (AUG 2009)DEVIATION***

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

"Commercial item" has the meaning contained in Federal Acquisition Regulation 2.101, Definitions.

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

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

(c)(1) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Dec 2008) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)), if the subcontract exceeds $5,000,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(ii) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Section 1553 of Pub. L. 111-5), if the subcontract is funded under the Recovery Act.

(iii) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $550,000 ($1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iv) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

(v) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) (38 U.S.C. 4212(a));

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793).

(vii) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201), if flow down is required in accordance with paragraph (g) of FAR clause 52.222-39).

(viii) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

(ix) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241 and 10 U.S.C. 2631), if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

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

I.53. 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.

(End of clause)

I.54. 52.246-25 LIMITATION OF LIABILITY--SERVICES (FEB 1997)

(a) Except as provided in paragraphs (b) and (c) below, and except to the extent that the Contractor is expressly responsible under this contract for deficiencies in the services required to be performed under it (including any materials furnished in conjunction with those services), the Contractor shall not be liable for loss of or damage to property of the Government that (1) occurs after Government acceptance of services performed under this contract, and (2) results from any defects or deficiencies in the services performed or materials furnished.

(b) The limitation of liability under paragraph (a) above shall not apply when a defect or deficiency in, or the Government's acceptance of, services performed or materials furnished 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 the Contractor's performance of services or furnishing of materials 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 and deficiencies in, services performed or materials furnished under this contract.

(End of clause)

I.55. 52.249-4 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (SERVICES) (SHORT FORM) (APR 1984)DEVIATION

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Government shall not be liable for payment for any services rendered before the effective date of termination.

I.56. 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 seesubparagraph (a)(2) of this clause).

(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.

(End of clause)

I.57. 552.252-6 AUTHORIZED DEVIATIONS OR VARIATIONS IN CLAUSES (DEVIATION FAR 52.252-6) (SEP 1999)

(a) Deviations to FAR clauses.

(1) This solicitation or contract indicates any authorized deviation to a Federal Acquisition Regulation (48 CFR Chapter 1) clause by the addition of "(DEVIATION)" after the date of the clause, if the clause is not published in the General Services Administration Acquisition Regulation (48 CFR Chapter 5).

(2) This solicitation indicates any authorized deviation to a Federal Acquisition Regulation (FAR) clause that is published in the General Services Administration Acquisition Regulation by the addition of "(DEVIATION (FAR clause no.))" after the date of the clause.

(b) Deviations to GSAR clauses: This solicitation indicates any authorized deviation to a General Services Administration Acquisition Regulation clause by the addition of "(DEVIATION)" after the date of the clause.

"Substantially the same as" clauses. Changes in wording of clauses prescribed for use on a "substantially the same as" basis are not considered deviations.

(End of clause)

I.58. 52.253-1 COMPUTER GENERATED FORMS (JAN 1991)

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

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

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

(End of clause)

Section J
LIST OF EXHIBITS

Exhibit #	Exhibit
Exhibit 1	List of Regional Offices
Exhibit 2	Federal Laws and Procurement Regulations
Exhibit 3	Expiring lease projections
Exhibit 4	Lease Cost Relative to Market (LCRM)
Exhibit 5	Template for Market Analysis deliverable
Exhibit 6	Lease File Checklist (Tab 1)
Exhibit 7a	Organizational Conflict of Interest (COI)
Exhibit 7b	Individual Non-Disclosure
Exhibit 7c	Dual Agency Acknowledgement
Exhibit 8	Project Schedule with Major Milestones Identified
Exhibit 9	Comprehensive Market Survey Checklist
Exhibit 10	Best Value Trade Off Process
Exhibit 11	Commission Templates Language – all task types
Exhibit 12	[e]Lease Access Procedures
Exhibit 13	RESERVED
Exhibit 14	RESERVED
Exhibit 15	MSAs
Exhibit 16	COR/COTR Approval Points

NOTE: ***The Government may update these Exhibits without modification to the contract during the term of the contract to incorporate changes as a result of changes in Laws, regulations, policy, etc. The contractor shall accept such changes at no cost to the Government.***