

SUBCHAPTER H—CLAUSES AND FORMS

PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SOURCE: 49 FR 8867, Mar. 8, 1984, unless otherwise noted.

Subpart 1552.2—Texts of Provisions and Clauses

1552.203-70 Current/former agency employee involvement certification.

As prescribed in 1503.603, insert the following solicitation provision in all EPA solicitation documents for sole source acquisitions.

CURRENT/FORMER AGENCY EMPLOYEE INVOLVEMENT CERTIFICATION (APR 1984)

The offeror (quoter) hereby certifies that:

(a) He is [] is not [] a former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this offer (quote).

(b) He does [] does not [] employ or propose to employ a current/former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this offer (quote) and who has been or will be involved, directly or indirectly, in developing or negotiating this offer (quote) for the offeror (quoter), or in the management, administration or performance of any contract resulting from this offer (quote).

(c) He does [] does not [] employ or propose to employ as a consultant or subcontractor under any contract resulting from this offer (quote) a current/former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this offer (quote).

(d) A former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this offer (quote) or such former employee's spouse or minor child does [] does not [] own or substantially own or control the offeror's (quoter's) firm.

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(e) See EPAAR part 1503 for definitions of the terms "regular" and "special employee."

(End of provision)

[49 FR 8867, Mar. 8, 1984, as amended at 50 FR 14360, Apr. 11, 1985]

1552.203-71 Display of EPA Office of Inspector General Hotline Poster.

As prescribed in 1503.500-72, insert the following clause in all contracts valued at \$1,000,000 or more including all contract options.

DISPLAY OF EPA OFFICE OF INSPECTOR GENERAL HOTLINE POSTER (AUG 2000)

(a) For EPA contracts valued at \$1,000,000 or more including all contract options, the contractor shall prominently display EPA Office of Inspector General Hotline posters in contractor facilities where the work is performed under the contract.

(b) Office of Inspector General hotline posters may be obtained from the EPA Office of Inspector General, ATTN: OIG Hotline (2443), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, or by calling (202) 260-5113.

(c) The Contractor need not comply with paragraph (a) of this clause if it has established a mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and provided instructions that encourage employees to make such reports.

[65 FR 57103, Sept. 21, 2000]

EFFECTIVE DATE NOTE: At 65 FR 57103, Sept. 21, 2000, §1552.203-71 was added, effective Nov. 20, 2000.

1552.208-70 Printing.

As prescribed in 1508.870, insert the following contract clause in all type contracts which require printing, duplication, binding, reproduction, and related services and are subject to the provisions of the Government Printing and Binding Regulations published by the Joint Committee on Printing, Congress of the United States.

PRINTING (APR 1984)

Unless otherwise specified in this contract, the Contractor shall not engage in, nor subcontract for, any printing (as that term is defined in title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000

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units of only one page, or less than 25,000 units in the aggregate of multiple pages, such pages not exceeding a maximum image size of 10¾ by 14¼ inches, will not be deemed to be printing.

(End of clause)

1552.209-70 Organizational conflict of interest notification.

As prescribed in 1509.507-1(b) insert the following solicitation provision in all solicitations.

ORGANIZATIONAL CONFLICT OF INTEREST NOTIFICATION (APR 1984)

(a) The prospective Contractor certifies, to the best of its knowledge and belief, that it is not aware of any information bearing on the existence of any potential organizational conflict of interest. If the prospective Contractor cannot so certify, it shall provide a disclosure statement in its proposal which describes all relevant information concerning any past, present, or planned interests bearing on whether it (including its chief executives and directors, or any proposed consultant or subcontractor) may have a potential organizational conflict of interest.

(b) Prospective Contractors should refer to FAR subpart 9.5 and EPAAR part 1509 for policies and procedures for avoiding, neutralizing, or mitigating organizational conflicts of interest.

(c) If the Contracting Officer determines that a potential conflict exists, the prospective Contractor shall not receive an award unless the conflict can be avoided or otherwise resolved through the inclusion of a special contract clause or other appropriate means. The terms of any special clause are subject to negotiation.

(End of provision)

[49 FR 8867, Mar. 8, 1994, as amended at 59 FR 18620, Apr. 19, 1994; 62 FR 33573, June 20, 1997]

1552.209-71 Organizational conflicts of interest.

As prescribed in 1509.507-2, insert the following contract clause in all contracts except:

(a) When specific clauses are required per EPAAR part 1509;

(b) When the procurement is with another Federal agency (however, the provision is included in contracts with SBA and its subcontractor under the 8(a) program); and

(c) When the procurement is accomplished through simplified acquisition procedures, use of the clause is optional.

ORGANIZATIONAL CONFLICTS OF INTEREST (MAY 1994)

(a) The Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as defined in FAR subpart 9.5, or that the Contractor has disclosed all such relevant information.

(b) Prior to commencement of any work, the Contractor agrees to notify the Contracting Officer immediately that, to the best of its knowledge and belief, no actual or potential conflict of interest exists or to identify to the Contracting Officer any actual or potential conflict of interest the firm may have. In emergency situations, however, work may begin but notification shall be made within five (5) working days.

(c) The Contractor agrees that if an actual or potential organizational conflict of interest is identified during performance, the Contractor will immediately make a full disclosure in writing to the Contracting Officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neutralize the actual or potential conflict of interest. The Contractor shall continue performance until notified by the Contracting Officer of any contrary action to be taken.

(d) Remedies—The EPA may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Contractor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose it or misrepresented relevant information to the Contracting officer, the Government may terminate the contract for default, debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.

(e) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph (e), unless otherwise authorized by the Contracting Officer.

(End of clause)

ALTERNATE I

Contracts for other than Superfund work shall include Alternate I in this clause in lieu of paragraph (e).

(e) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder provisions which shall conform substantially to the language of this clause, including this paragraph, unless otherwise authorized by the contracting officer.

[49 FR 8867, Mar. 8, 1994, as amended at 59 FR 18620, Apr. 19, 1994; 61 FR 57339, Nov. 6, 1996; 63 FR 46899, Sept. 3, 1998]

1552.209-72 Organizational conflict of interest certification.

As prescribed in 1509.507-1(b), insert the following provision in all solicitation documents when applicable.

ORGANIZATIONAL CONFLICT OF INTEREST
CERTIFICATION (APR 1984)

The offeror [] is [] is not aware of any information bearing on the existence of any potential organizational conflict of interest. If the offeror is aware of information bearing on whether a potential conflict may exist, the offeror shall provide a disclosure statement describing this information. (See section L of the solicitation for further information.)

(End of provision)

[49 FR 8867, Mar. 8, 1994, as amended at 59 FR 18620, Apr. 19, 1994]

1552.209-73 Notification of conflicts of interest regarding personnel.

As prescribed in 1509.507-2(b) insert the following clause:

NOTIFICATION OF CONFLICTS OF INTEREST
REGARDING PERSONNEL (MAY 1994)

(a) In addition to the requirements of the contract clause entitled "Organizational Conflicts of Interest," the following provisions with regard to employee personnel performing under this contract shall apply until the earlier of the following two dates: the termination date of the affected employee(s) or the expiration date of the contract.

(b) The Contractor agrees to notify immediately the EPA Project Officer and the Contracting Officer of (1) any actual or potential personal conflict of interest with regard to any of its employees working on or having access to information regarding this con-

tract, or (2) any such conflicts concerning subcontractor employees or consultants working on or having access to information regarding this contract, when such conflicts have been reported to the Contractor. A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair the objectivity of the employee, subcontractor employee, or consultant in performing the contract work.

(c) The Contractor agrees to notify each Project Officer and Contracting Officer prior to incurring costs for that employee's work when an employee may have a personal conflict of interest. In the event that the personal conflict of interest does not become known until after performance on the contract begins, the Contractor shall immediately notify the Contracting Officer of the personal conflict of interest. The Contractor shall continue performance of this contract until notified by the Contracting Officer of the appropriate action to be taken.

(d) The Contractor agrees to insert in any subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph (d), unless otherwise authorized by the Contracting Officer.

(End of clause)

[59 FR 18620, Apr. 19, 1994]

1552.209-74 Limitation of future contracting.

As prescribed in 1509.507-2(c), insert the following clause or alternate:

LIMITATION OF FUTURE CONTRACTING (ARCS)
(DEC 1997)

(a) The parties to this contract agree that the Contractor will be restricted in its future contracting in the manner described below. Except as specifically provided in this clause, the Contractor shall be free to compete for contracts on an equal basis with other companies.

(b) The Contractor will be ineligible to enter into a contract for remedial action projects for which the Contractor has developed the statement of work or the solicitation package.

(c) The following applies when ARCS work is performed under this contract and when both ARCS work and Field Investigative Team (FIT) work are performed on the same site under this contract: Unless prior written approval is obtained from the cognizant EPA Contracting Officer, the Contractor, during

the life of the work assignment and for a period of five (5) years after the completion of the work assignment, agrees not to enter into a contract with or to represent any party, other than EPA, with respect to: (1) any work relating to CERCLA activities which pertain to a site where the Contractor previously performed work for EPA under this contract; or (2) any work that may jeopardize CERCLA enforcement actions which pertain to a site where the Contractor previously performed work for the EPA under this contract.

(d) The following applies to FIT work at sites under this contract where only FIT work is performed, except for those sites where EPA has made a determination of "no further remedial action planned" (NFRAP): Unless prior written approval is obtained from the cognizant EPA Contracting Officer, the Contractor, during the life of the work assignment and for a period of three (3) years after the completion of the work assignment, agrees not to enter into a contract with or to represent any party, other than EPA, with respect to: (1) Any work relating to CERCLA activities which pertain to a site where the Contractor previously performed work for EPA under this contract; or (2) any work that may jeopardize CERCLA enforcement actions which pertain to a site where the Contractor previously performed work for the EPA under this contract.

(e) The Contractor and any subcontractors, during the life of this contract, shall be ineligible to enter into an EPA contract or a subcontract under an EPA contract, which supports EPA's performance of Superfund Headquarters policy work including support for the analysis and development of regulations, policies, or guidance that govern, affect, or relate to the conduct of response action activities, unless otherwise authorized by the Contracting Officer. Examples of such contracts include, but are not limited to, Superfund Management and Analytical support contracts, and Superfund Technical and Analytical support contracts.

(f) The Contractor agrees in advance that if any bids/proposals are submitted for any work that would require written approval of the Contracting Officer prior to entering into a contract subject to the restrictions of this clause, then the bids/proposals are submitted at the Contractor's own risk. Therefore, no claim shall be made against the Government to recover bid/proposal costs as a direct cost whether the request for authorization to enter into the contract is denied or approved.

(g) To the extent that the work under this contract requires access to proprietary or confidential business or financial data of other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure.

(h) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for nondiscretionary technical or engineering services, including treatability studies, well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph (h) unless otherwise authorized by the Contracting Officer. The Contractor may request in writing that the Contracting Officer exempt from this clause a particular subcontract or consultant agreement for nondiscretionary technical or engineering services not specifically listed above, including laboratory analysis. The Contracting Officer will review and evaluate each request on a case-by-case basis before approving or disapproving the request.

(i) If the Contractor seeks an expedited decision regarding its initial future contracting request, the Contractor may submit its request to both the Contracting Officer and the next administrative level within the Contracting Officer's organization.

(j) A review process available to the Contractor when an adverse determination is received shall consist of a request for reconsideration to the Contracting Officer or a request for review submitted to the next administrative level within the Contracting Officer's organization. An adverse determination resulting from a request for reconsideration by the Contracting Officer will not preclude the contractor from requesting a review by the next administrative level. Either a request for review or a request for reconsideration must be submitted to the appropriate level within 30 calendar days after receipt of the initial adverse determination.

(End of clause)

LIMITATION OF FUTURE CONTRACTING
ALTERNATE I (TCRR) (DEC 1997)

(a) The parties to this contract agree that the Contractor will be restricted in its future contracting in the manner described below. Except as specifically provided in this clause, the Contractor shall be free to compete for contracts on an equal basis with other companies.

(b) If the Contractor, under the terms of this contract, or through the performance of work pursuant to this contract, is required to develop specifications or statements of work and such specifications or statements of work are incorporated into an EPA solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime Contractor or subcontractor under an ensuing EPA contract.

(c) Unless prior written approval is obtained from the cognizant EPA Contracting Officer, the Contractor, during the life of the

delivery order or tasking document and for a period of five (5) years after the completion of the delivery order or tasking document, agrees not to enter into a contract with or to represent any party, other than EPA, with respect to: (1) any work relating to CERCLA activities which pertain to a site where the Contractor previously performed work for EPA under this contract; or (2) any work that may jeopardize CERCLA enforcement actions which pertain to a site where the Contractor previously performed work for the EPA under this contract.

(d) During the life of this contract, including any options, the Contractor agrees that unless otherwise authorized by the Contracting Officer:

(1) It will not provide any Technical Assistance Team (TAT) type activities (e.g., TAT contracts) to EPA within the Contractor's Time Critical Rapid Response (TCRR) assigned geographical area(s), either as a prime contractor, subcontractor, or consultant.

(2) It will not provide any Technical Assistance Team (TAT) type activities (e.g., TAT contracts) to EPA as a prime contractor, subcontractor or consultant at a site where it has performed or plans to perform TCRR work.

(3) It will be ineligible for award of TAT type activities contracts for sites within its respective TCRR assigned geographical area(s) which result from a CERCLA administrative order, a CERCLA or RCRA consent decree or a court order.

(e) The Contractor and any subcontractors, during the life of this contract, shall be ineligible to enter into an EPA contract or a subcontract under an EPA contract, which supports EPA's performance of Superfund Headquarters policy work including support for the analysis and development of regulations, policies, or guidance that govern, affect, or relate to the conduct of response action activities, unless otherwise authorized by the Contracting Officer. Examples of such contracts include, but are not limited to, Superfund Management and Analytical support contracts, and Superfund Technical and Analytical support contracts.

(f) The Contractor agrees in advance that if any bids/proposals are submitted for any work that would require written approval of the Contracting Officer prior to entering into a contract subject to the restrictions of this clause, then the bids/proposals are submitted at the Contractor's own risk. Therefore, no claim shall be made against the Government to recover bid/proposal costs as a direct cost whether the request for authorization to enter into the contract is denied or approved.

(g) To the extent that the work under this contract requires access to proprietary or confidential business or financial data of other companies, and as long as such data re-

mains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure.

(h) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for nondiscretionary technical or engineering services, including treatability studies, well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph (h) unless otherwise authorized by the Contracting Officer. The Contractor may request in writing that the Contracting Officer exempt from this clause a particular subcontract or consultant agreement for nondiscretionary technical or engineering services not specifically listed above, including laboratory analysis. The Contracting Officer will review and evaluate each request on a case-by-case basis before approving or disapproving the request.

(i) If the Contractor seeks an expedited decision regarding its initial future contracting request, the Contractor may submit its request to both the Contracting Officer and the next administrative level within the Contracting Officer's organization.

(j) A review process available to the Contractor when an adverse determination is received shall consist of a request for reconsideration to the Contracting Officer or a request for review submitted to the next administrative level within the Contracting Officer's organization. An adverse determination resulting from a request for reconsideration by the Contracting Officer will not preclude the Contractor from requesting a review by the next administrative level. Either a request for review or a request for reconsideration must be submitted to the appropriate level within 30 calendar days after receipt of the initial adverse determination.

(End of clause)

LIMITATION OF FUTURE CONTRACTING,
ALTERNATE II (TAT) (DEC 1997)

(a) The parties to this contract agree that the Contractor will be restricted in its future contracting in the manner described below. Except as specifically provided in this clause, the Contractor shall be free to compete for contracts on an equal basis with other companies.

(b) If the Contractor, under the terms of this contract, or through the performance of work pursuant to this contract, is required to develop specifications or statements of work and such specifications or statements of work are incorporated into an EPA solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime Contractor or subcontractor under an ensuing EPA contract.

(c) Unless prior written approval is obtained from the cognizant EPA Contracting Officer, the Contractor, during the life of the technical direction document and for a period of five (5) years after the completion of the technical direction document, agrees not to enter into a contract with or to represent any party, other than EPA, with respect to: (1) Any work relating to CERCLA activities which pertain to a site where the Contractor previously performed work for EPA under this contract; or (2) any work that may jeopardize CERCLA enforcement actions which pertain to a site where the Contractor previously performed work for the EPA under this contract.

(d) During the life of this contract, including any options, the Contractor agrees that unless otherwise authorized by the Contracting Officer:

(1) It will not provide to EPA cleanup services (e.g., Time Critical Rapid Response (TCRR) contracts) within the Contractor's Technical Assistance Team (TAT) assigned geographical area(s), either as a prime Contractor, subcontractor, or consultant.

(2) Unless an individual design for the site has been prepared by a third party, it will not provide to EPA as a prime contractor, subcontractor or consultant any remedial construction services at a site where it has performed or plans to perform TAT work. This clause will not preclude TAT contractors from performing construction management services under other EPA contracts.

(3) It will be ineligible for award of TCRR type activities contracts for sites within its respective TAT assigned geographical area(s) which result from a CERCLA administrative order, a CERCLA or RCRA consent decree or a court order.

(e) The Contractor and any subcontractors, during the life of this contract, shall be ineligible to enter into an EPA contract or a subcontract under an EPA contract, which supports EPA's performance of Superfund Headquarters policy work including support for the analysis and development of regulations, policies, or guidance that govern, affect, or relate to the conduct of response action activities, unless otherwise authorized by the Contracting Officer. Examples of such contracts include, but are not limited to, Superfund Management and Analytical support contracts, and Superfund Technical and Analytical support contracts.

(f) The Contractor agrees in advance that if any bids/proposals are submitted for any work that would require written approval of the Contracting Officer prior to entering into a contract subject to the restrictions of this clause, then the bids/proposals are submitted at the Contractor's own risk. Therefore, no claim shall be made against the Government to recover bid/proposal costs as a direct cost whether the request for authoriza-

tion to enter into the contract is denied or approved.

(g) To the extent that the work under this contract requires access to proprietary or confidential business or financial data of other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure.

(h) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for nondiscretionary technical or engineering services, including treatability studies, well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph (h) unless otherwise authorized by the Contracting Officer. The Contractor may request in writing that the Contracting Officer exempt from this clause a particular subcontract or consultant agreement for nondiscretionary technical or engineering services not specifically listed above, including laboratory analysis. The Contracting Officer will review and evaluate each request on a case-by-case basis before approving or disapproving the request.

(i) If the Contractor seeks an expedited decision regarding its initial future contracting request, the Contractor may submit its request to both the Contracting Officer and the next administrative level within the Contracting Officer's organization.

(j) A review process available to the Contractor when an adverse determination is received shall consist of a request for reconsideration to the Contracting Officer or a request for review submitted to the next administrative level within the Contracting Officer's organization. An adverse determination resulting from a request for reconsideration by the Contracting Officer will not preclude the Contractor from requesting a review by the next administrative level. Either a request for review or a request for reconsideration must be submitted to the appropriate level within 30 calendar days after receipt of the initial adverse determination.

(End of clause)

LIMITATION OF FUTURE CONTRACTING;
ALTERNATE III (ESAT) (DEC 1997)

(a) The parties to this contract agree that the Contractor will be restricted in its future contracting in the manner described below. Except as specifically provided in this clause, the Contractor shall be free to compete for contracts on an equal basis with other companies.

(b) If the Contractor, under the terms of this contract, or through the performance of work pursuant to this contract, is required to develop specifications or statements of

work and such specifications or statements of work are incorporated into an EPA solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime Contractor or subcontractor under an ensuing EPA contract.

(c) The Contractor and any subcontractors, during the life of this contract, shall be ineligible to enter into an EPA contract or a subcontract under an EPA contract, which supports EPA's performance of Superfund Headquarters policy work including support for the analysis and development of regulations, policies, or guidance that govern, affect, or relate to the conduct of response action activities, unless otherwise authorized by the Contracting Officer. Examples of such contracts include, but are not limited to, Superfund Management and Analytical support contracts, and Superfund Technical and Analytical support contracts.

(d) To the extent that the work under this contract requires access to proprietary or confidential business or financial data of other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure.

(e) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for nondiscretionary technical or engineering services, including treatability studies, well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph (e) unless otherwise authorized by the Contracting Officer. The Contractor may request in writing that the Contracting Officer exempt from this clause a particular subcontract or consultant agreement for nondiscretionary technical or engineering services not specifically listed above, including laboratory analysis. The Contracting Officer will review and evaluate each request on a case-by-case basis before approving or disapproving the request.

(f) If the Contractor seeks an expedited decision regarding its initial future contracting request, the contractor may submit its request to both the Contracting Officer and the next administrative level within the Contracting Officer's organization.

(g) A review process available to the Contractor when an adverse determination is received shall consist of a request for reconsideration to the Contracting Officer or a request for review submitted to the next administrative level within the Contracting Officer's organization. An adverse determination resulting from a request for reconsideration by the Contracting Officer will not preclude the Contractor from requesting a review by the next administrative level. Either a request for review or a request for recon-

sideration must be submitted to the appropriate level within 30 calendar days after receipt of the initial adverse determination.

(End of clause)

LIMITATION OF FUTURE CONTRACTING,
ALTERNATE IV (TES) (DEC 1997)

(a) The parties to this contract agree that the Contractor will be restricted in its future contracting in the manner described below. Except as specifically provided in this clause, the Contractor shall be free to compete for contracts on an equal basis with other companies.

(b) During the performance period of this contract, the Contractor will be ineligible to enter into any contract for remedial planning and/or implementation projects for sites within the assigned geographical area(s) covered by this contract without the prior written approval of the EPA Contracting Officer.

(c) If the Contractor, under the terms of this contract, or through the performance of work pursuant to this contract, is required to develop specifications or statements of work and such specifications or statements of work are incorporated into an EPA solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime Contractor or subcontractor under an ensuing EPA contract.

(d) Unless prior written approval is obtained from the cognizant EPA Contracting Officer, the Contractor, during the life of the work assignment and for a period of seven (7) years after the completion of the work assignment, agrees not to enter into a contract with or to represent any party, other than EPA, with respect to: (1) Any work relating to CERCLA activities which pertain to a site where the Contractor previously performed work for EPA under this contract; or (2) any work that may jeopardize CERCLA enforcement actions which pertain to a site where the Contractor previously performed work for the EPA under this contract.

(e) The Contractor and any subcontractors, during the life of this contract, shall be ineligible to enter into an EPA contract or a subcontract under an EPA contract, which supports EPA's performance of Superfund Headquarters policy work including support for the analysis and development of regulations, policies, or guidance that govern, affect, or relate to the conduct of response action activities, unless otherwise authorized by the Contracting Officer. Examples of such contracts include, but are not limited to, Superfund Management and Analytical support contracts, and Superfund Technical and Analytical support contracts.

(f) The Contractor agrees in advance that if any bids/proposals are submitted for any work that would require written approval of the Contracting Officer prior to entering

into a contract subject to the restrictions of this clause, then the bids/proposals are submitted at the Contractor's own risk. Therefore, no claim shall be made against the Government to recover bid/proposal costs as a direct cost whether the request for authorization to enter into the contract is denied or approved.

(g) To the extent that the work under this contract requires access to proprietary or confidential business or financial data of other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure.

(h) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for nondiscretionary technical or engineering services, including treatability studies, well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph (h) unless otherwise authorized by the Contracting Officer. The Contractor may request in writing that the Contracting Officer exempt from this clause a particular subcontract or consultant agreement for nondiscretionary technical or engineering services not specifically listed above, including laboratory analysis. The Contracting Officer will review and evaluate each request on a case-by-case basis before approving or disapproving the request.

(i) If the Contractor seeks an expedited decision regarding its initial future contracting request, the Contractor may submit its request to both the Contracting Officer and the next administrative level within the Contracting Officer's organization.

(j) A review process available to the Contractor when an adverse determination is received shall consist of a request for reconsideration to the Contracting Officer or a request for review submitted to the next administrative level within the Contracting Officer's organization. An adverse determination resulting from a request for reconsideration by the Contracting Officer will not preclude the Contractor from requesting a review by the next administrative level. Either a request for review or a request for reconsideration must be submitted to the appropriate level within 30 calendar days after receipt of the initial adverse determination.

(End of clause)

LIMITATION OF FUTURE CONTRACTING, ALTERNATE V (HEADQUARTERS SUPPORT) (MAY 1994)

(a) The parties to this contract agree that the Contractor will be restricted in its future contracting in the manner described below. Except as specifically provided in this

clause, the Contractor shall be free to compete for contracts on an equal basis with other companies.

(b) If the Contractor, under the terms of this contract, or through the performance of work pursuant to this contract, is required to develop specifications or statements of work and such specifications or statements of work are incorporated into an EPA solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime Contractor or subcontractor under an ensuing EPA contract.

(c) The Contractor, during the life of this contract, will be ineligible to enter into a contract with EPA to perform response action work (e.g., Alternative Remedial Contracting Strategy (ARCS), Time Critical Rapid Response (TCRR), Technical Assistance Team (TAT), and Technical Enforcement Support (TES) contracts), unless otherwise authorized by the Contracting Officer.

(d) The Contractor agrees in advance that if any bids/proposals are submitted for any work that would require written approval of the Contracting Officer prior to entering into a contract subject to the restrictions of this clause, then the bids/proposals are submitted at the Contractor's own risk. Therefore, no claim shall be made against the Government to recover bid/proposal costs as a direct cost whether the request for authorization to enter into the contract is denied or approved.

(e) To the extent that the work under this contract requires access to proprietary or confidential business or financial data of other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure.

(f) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for nondiscretionary technical or engineering services, including treatability studies, well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph (f) unless otherwise authorized by the Contracting Officer. The Contractor may request in writing that the Contracting Officer exempt from this clause a particular subcontract or consultant agreement for nondiscretionary technical or engineering services not specifically listed above, including laboratory analysis. The Contracting Officer will review and evaluate each request on a case-by-case basis before approving or disapproving the request.

(g) If the Contractor seeks an expedited decision regarding its initial future contracting request, the Contractor may submit its request to both the Contracting Officer

and the next administrative level within the Contracting Officer's organization.

(h) A review process available to the Contractor when an adverse determination is received shall consist of a request for reconsideration to the Contracting Officer or a request for review submitted to the next administrative level within the Contracting Officer's organization. An adverse determination resulting from a request for reconsideration by the Contracting Officer will not preclude the Contractor from requesting a review by the next administrative level. Either a request for review or a request for reconsideration must be submitted to the appropriate level within 30 calendar days after receipt of the initial adverse determination.

(End of clause)

LIMITATION OF FUTURE CONTRACTING;
ALTERNATE VI (SITE SPECIFIC) (DEC 1997)

(a) The parties to this contract agree that the Contractor will be restricted in its future contracting in the manner described below. Except as specifically provided in this clause, the Contractor shall be free to compete for contracts on an equal basis with other companies.

(b) If the Contractor, under the terms of this contract, or through the performance of work pursuant to this contract, is required to develop specifications or statements of work and such specifications or statements of work are incorporated into an EPA solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime contractor or subcontractor under an ensuing EPA contract.

(c) Unless prior written approval is obtained from the cognizant EPA Contracting Officer, the Contractor, during the life of the contract and for a period of five (5) years after the expiration of the contract agrees not to enter into a contract with or to represent any party, other than EPA, with respect to: (1) any work relating to CERCLA activities which pertain to the site where the Contractor previously performed work for EPA under this contract; or (2) any work that may jeopardize CERCLA enforcement actions which pertain to the site where the Contractor previously performed work for the EPA under this contract.

(d) During the life of this contract, including any options, the Contractor agrees that unless otherwise authorized by the Contracting Officer:

(1) It will not provide any Technical Assistance Team (TAT) type activities (e.g., TAT contracts) to EPA on the site either as a prime contractor, subcontractor, or consultant.

(2) It will be ineligible for award of contracts pertaining to this site which result from a CERCLA administrative order, a

CERCLA or RCRA consent decree or a court order.

(e) The Contractor and any subcontractors, during the life of this contract, shall be ineligible to enter into an EPA contract or a subcontract under an EPA contract, which supports EPA's performance of Superfund Headquarters policy work including support for the analysis and development of regulations, policies, or guidance that govern, affect, or relate to the conduct of response action activities, unless otherwise authorized by the Contracting Officer. Examples of such contracts include, but are not limited to, Superfund Management and Analytical support contracts, and Superfund Technical and Analytical support contracts.

(f) The Contractor agrees in advance that if any bids/proposals are submitted for any work that would require written approval of the Contracting Officer prior to entering into a contract subject to the restrictions of this clause, then the bids/proposals are submitted at the Contractor's own risk. Therefore, no claim shall be made against the Government to recover bid/proposal costs as a direct cost whether the request for authorization to enter into the contract is denied or approved.

(g) To the extent that the work under this contract requires access to proprietary or confidential business or financial data of other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure.

(h) Contractors who are performing nondiscretionary technical or engineering services, including construction work, may request a waiver from or modification to this clause by submitting a written request to the Contracting Officer. The Contracting Officer shall make the determination regarding whether to waive or modify the clause on a case-by-case basis.

(i) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for nondiscretionary technical or engineering services, including treatability studies, well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph (i) unless otherwise authorized by the Contracting Officer. The Contractor may request in writing that the Contracting Officer exempt from this clause a particular subcontract or consultant agreement for nondiscretionary technical or engineering services not specifically listed above, including laboratory analysis. The Contracting Officer will review and evaluate each request on a case-by-case basis before approving or disapproving the request.

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(j) If the Contractor seeks an expedited decision regarding its initial future contracting request, the Contractor may submit its request to both the Contracting Officer and the next administrative level within the Contracting Officer's organization.

(k) A review process available to the Contractor when an adverse determination is received shall consist of a request for reconsideration to the Contracting Officer or a request for review submitted to the next administrative level within the Contracting Officer's organization. An adverse determination resulting from a request for reconsideration by the Contracting Officer will not preclude the Contractor from requesting a review by the next administrative level. Either a request for review or a request for reconsideration must be submitted to the appropriate level within 30 calendar days after receipt of the initial adverse determination.

(End of clause)

[59 FR 18620, Apr. 19, 1994, as amended at 62 FR 5348, Feb. 5, 1997; 63 FR 692, Jan. 7, 1998; 65 FR 37292, June 14, 2000]

1552.209-75 Annual certification.

As prescribed in 1509.507-2(d), insert the following clause:

ANNUAL CERTIFICATION (MAY 1994)

The Contractor shall submit an annual conflict of interest certification to the Contracting Officer. In this certification, the Contractor shall certify annually that, to the best of the Contractor's knowledge and belief, all actual or potential organizational conflicts of interest have been reported to EPA. In addition, in this annual certification, the Contractor shall certify that it has informed its personnel who perform work under EPA contracts or relating to EPA contracts of their obligation to report personal and organizational conflicts of interest to the Contractor. Such certification must be signed by a senior executive of the company and submitted in accordance with instructions provided by the Contracting Officer. The initial certification shall cover the one-year period from the date of contract award, and all subsequent certifications shall cover successive annual periods thereafter, until expiration or termination of the contract. The certification must be received by the Contracting Officer no later than 45 days after the close of the certification period covered.

(End of clause)

[59 FR 18623, Apr. 19, 1994. Redesignated at 61 FR 57339, Nov. 6, 1996, as amended at 62 FR 33573, June 20, 1997]

1552.209-76 Contractor performance evaluations.

As prescribed in section 1509.170-1, insert the following clause in all applicable solicitations and contracts.

CONTRACTOR PERFORMANCE EVALUATIONS (MAY 1999)

The contracting officer shall complete a Contractor Performance Report (Report) within ninety (90) business days after the end of each 12 months of contract performance (interim Report) or after the last 12 months (or less) of contract performance (final Report) in accordance with EPAAR 1509.170-5. The contractor shall be evaluated based on the following ratings and performance categories:

Ratings: 0 = unsatisfactory, 1 = poor, 2 = fair, 3 = good, 4 = excellent, 5 = outstanding.

Performance Categories:

Quality: Compliance with contract requirements; accuracy of reports; effectiveness of personnel; and technical excellence.

Rating

- 0—Contractor is not in compliance and is jeopardizing achievement of contract objectives
- 1—Major problems have been encountered
- 2—Some problems have been encountered
- 3—Minor inefficiencies/errors have been identified
- 4—Contractor is in compliance with contract requirements and/or delivers quality products/services
- 5—The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

Cost Control: Record of forecasting and controlling target costs; current, accurate and complete billings; relationship of negotiated costs to actuals; cost efficiencies.

Rating

- 0—Contractor is unable to manage costs effectively
- 1—Contractor is having major difficulty managing costs effectively
- 2—Contractor is having some problems managing costs effectively
- 3—Contractor is usually effective in managing costs
- 4—Contractor is effective in managing costs and submits current, accurate, and complete billings
- 5—The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance

clearly exceeds the performance level described as "Excellent."

Timeliness of Performance: Met interim milestones; reliability; responsive to technical direction; completed on time, including wrap-up and contract administration; met delivery schedules; no liquidated damages assessed.

Rating

- 0—Contractor delays are jeopardizing performance of contract objectives
- 1—Contractor is having major difficulty meeting milestones and delivery schedule
- 2—Contractor is having some problems meeting milestones and delivery schedule
- 3—Contractor is usually effective in meeting milestones and delivery schedule
- 4—Contractor is effective in meeting milestones and delivery schedule
- 5—The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

Business Relations: Effective management, including subcontracts; reasonable/cooperative behavior; responsive to contract requirements; notification of problems; flexibility; pro-active versus reactive; effective small/small disadvantage business subcontracting program.

Rating

- 0—Response to inquiries, technical/service/administrative issues is not effective
- 1—Response to inquiries, technical/service/administrative issues is marginally effective
- 2—Response to inquiries, technical/service/administrative issues is somewhat effective
- 3—Response to inquiries, technical/service/administrative issues is usually effective
- 4—Response to inquiries, technical/service/administrative issues is effective
- 5—The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

(a) The contracting officer shall initiate the process for completing interim Reports within five (5) business days after the end of each 12 months of contract performance by requesting the project officer to evaluate contractor performance for the interim Report. In addition, the contracting officer shall initiate the process for completing final Reports within five (5) business days after the last 12 months (or less) of contract performance by requesting the project officer

to evaluate contractor performance for the final Report. The final Report shall cover the last 12 months (or less) of contract performance. Within thirty (30) business days after the project officer receives a request from the contracting officer to complete an evaluation, the project officer shall:

- (1) Complete a description of the contract requirements;
- (2) Evaluate contractor performance and assign a rating for quality, cost control, and timeliness of performance categories (including a narrative for each rating);
- (3) Provide any information regarding subcontracts, key personnel, and customer satisfaction;
- (4) Assign a recommended rating for the business relations performance category (including a narrative for the rating); and
- (5) Provide additional information appropriate for the evaluation or future evaluations.

(b) The contracting officer shall:

- (1) Ensure the accuracy of the project officer's evaluation by verifying that the information in the contract file corresponds with the designated project officer's ratings;
- (2) Assign a rating for the business relations performance category (including a narrative for the rating);
- (3) Concur with or revise the project officer's ratings after consultation with the project officer;
- (4) Provide any additional information concerning the quality, cost control, and timeliness of performance categories if deemed appropriate for the evaluation or future evaluations (if any), and provide any information regarding subcontracts, key personnel, and customer satisfaction; and
- (5) Forward the Report to the contractor within ten (10) business days after the contracting officer receives the project officer's evaluation.

(c) The contractor shall be granted thirty (30) business days from the date of the contractor's receipt of the Report to review and provide a response to the contracting officer regarding the contents of the Report. The contractor shall:

- (1) Review the Report;
- (2) Provide a response (if any) to the contracting officer on company letter head or electronically;
- (3) Complete contractor representation information; and
- (4) Forward the Report to the contracting officer within the designated thirty (30) business days.

(d) The contractor's response to the Report may include written comments, rebuttals (disagreements), or additional information. If the contractor does not respond to the Report within the designated thirty (30) business days, the specified ratings in the Report are deemed appropriate for the evaluation

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period. In this instance, the contracting officer shall complete the Agency review and sign the Report within three (3) business days after expiration of the specified 30 business days.

(e) If the contractor submits comments, rebuttals (disagreements), or additional information to the contracting officer which contests the ratings, the contracting officer, in consultation with the project officer, shall initially try to resolve the disagreement(s) with the contractor.

(f) If the disagreement(s) is (are) not resolved between the contractor and the contracting officer, the contracting officer shall provide a written recommendation to one level above the contracting officer for resolution as promptly as possible, but no later than five (5) business days after the contracting officer is made aware that the disagreement(s) has (have) not been resolved with the contractor. The individual who is one level above the contracting officer shall:

(1) Review the contracting officer's written recommendation; and

(2) Provide a written determination to the contracting officer for summary ratings (ultimate conclusion for ratings pertaining to the performance period being evaluated) within five (5) business days after the individual one level above the contracting officer receives the contracting officer's written recommendation.

(g) If the disagreement is resolved, the contracting officer shall complete the Agency review and sign the Report within three (3) business days after consultation.

(h) The contracting officer shall complete the Agency review and sign the Report within three (3) business days after the contracting officer receives a written determination for summary ratings from one level above the contracting officer.

(i) An interim or final Report is considered completed after the contracting officer signs the Report. The contracting officer must provide a copy of completed Reports (interim and final) to the contractor within two (2) business days after completion.

[64 FR 20204, Apr. 26, 1999]

1552.210-71 [Reserved]

1552.210-73—1552.210-74 [Reserved]

1552.211-70 Reports of work.

As prescribed in 1511.011-70, insert one of the contract clauses in this subsection when the contract requires the delivery of reports, including plans, evaluations, studies, analyses and manuals. The basic clause should be used when reports are specified in a contract attachment. Alternate I is to

be used to specify reports in the contract schedule.

REPORTS OF WORK (FEB 1998)

The Contractor shall prepare and deliver reports, including plans, evaluations, studies, analyses and manuals in accordance with Attachment . Each report shall cite the contract number, identify the U.S. Environmental Protection Agency as the sponsoring agency, and identify the name of the contractor preparing the report.

The OMB clearance number for progress reports delivered under this contract is 2030-0005 with an expiration date of January 31, 2000.

(End of clause)

ALTERNATE I (FEB 1998)

The Contractor shall prepare and deliver the below listed reports, including plans, evaluations, studies, analyses and manuals to the designated addressees. Each report shall cite the contract number, identify the U.S. Environmental Protection Agency as the sponsoring agency, and identify the name of the contractor preparing the report.

The OMB clearance number for progress reports delivered under this contract is 2030-0005 with an expiration date of January 31, 2000. Required reports are:

Reports description	No. copies	Addressees
.....
.....
.....

(End of clause)

[49 FR 8867, Mar. 8, 1984. Redesignated at 61 FR 57339, Nov. 6, 1996, as amended at 62 FR 33573, June 20, 1997; 63 FR 10549, Mar. 4, 1998; 63 FR 46899, Sept. 3, 1998]

1552.211-72 Monthly progress report.

As prescribed in 1511.011-72, insert the following clause:

MONTHLY PROGRESS REPORT (JUN 1996)

(a) The Contractor shall furnish copies of the combined monthly technical and financial progress report stating the progress made, including the percentage of the project completed, and a description of the work accomplished to support the cost. If the work is ordered using work assignments or delivery orders, include the estimated percentage of task completed during the reporting period for each work assignment or delivery order.

(b) Specific discussions shall include difficulties encountered and remedial action taken during the reporting period, and anticipated activity with a schedule of

deliverables for the subsequent reporting period.

(c) The Contractor shall provide a list of outstanding actions awaiting Contracting Officer authorization, noted with the corresponding work assignment, such as subcontractor/consultant consents, overtime approvals, and work plan approvals.

(d) The report shall specify financial status at the contract level as follows:

(1) For the current reporting period, display the amount claimed.

(2) For the cumulative period and the cumulative contract life display: the amount obligated, amount originally invoiced, amount paid, amount suspended, amount disallowed, and remaining approved amount. The remaining approved amount is defined as the total obligated amount, less the total amount originally invoiced, plus total amount disallowed.

(3) Labor hours.

(i) A list of employees, their labor categories, and the numbers of hours worked for the reporting period.

(ii) For the current reporting period, display the expended direct labor hours and costs broken out by EPA contract labor hour category for the prime contractor and each subcontractor and consultant.

(iii) For the cumulative contract period and the cumulative contract life display: the negotiated, expended and remaining direct labor hours and costs broken out by EPA contract labor hour category for the prime contractor, and each subcontractor and consultant.

(iv) Display the estimated direct labor hours and costs to be expended during the next reporting period.

(4) Display the current dollar ceilings in the contract, net amount invoiced, and remaining amounts for the following categories: Direct labor hours, total estimated cost, award fee pool (if applicable), subcontracts by individual subcontractor, travel, program management, and Other Direct Costs (ODCs).

(5) Unbilled allowable costs. Display the total costs incurred but unbilled for the current reporting period and cumulative for the contract.

(6) Average cost of direct labor. Compare the actual average cost per hour to date with the average cost per hour of the approved work plans for the current contract period.

(e) The report shall specify financial status at the work assignment or delivery order level as follows:

(1) For the current period, display the amount claimed.

(2) For the cumulative period display: amount shown on workplan, or latest work assignment/delivery order amendment amount (whichever is later); amount currently claimed; amount paid; amount suspended; amount disallowed; and remaining

approved amount. The remaining approved amount is defined as: the workplan amount or latest work assignment or delivery order amount (whichever is later), less total amounts originally invoiced, plus total amount disallowed.

(3) Labor hours.

(i) A list of employees, their labor categories, and the number of hours worked for the reporting period.

(ii) For the current reporting period, display the expended direct labor hours and costs broken out by EPA contract labor hour category for the prime contractor and each subcontractor and consultant.

(iii) For the current reporting period, cumulative contract period, and the cumulative contract life display: the negotiated, expended and remaining direct labor hours and costs broken out by EPA contract labor hour category for the prime contractor and each subcontractor and consultant.

(iv) Display the estimated direct labor hours and costs to be expended during the next reporting period.

(v) Display the estimates of remaining direct labor hours and costs required to complete the work assignment or delivery order.

(4) Unbilled allowable costs. Display the total costs incurred but unbilled for the current reporting period and cumulative for the work assignment.

(5) Average cost of direct labor. Display the actual average cost per hour with the cost per hour estimated in the workplan.

(6) A list of deliverables for each work assignment or delivery order during the reporting period.

(f) This submission does not change the notification requirements of the "Limitation of Cost" or "Limitation of Funds" clauses requiring separate written notice to the Contracting Officer.

(g) The reports shall be submitted to the following addresses on or before the of each month following the first complete reporting period of the contract. See EPAAR 1552.232-70, Submission of Invoices, paragraph (e), for details on the timing of submittals. Distribute reports as follows:

No. of copies	Addressee
.....	Project Officer.
.....	Contracting Officer.

[61 FR 29317, June 10, 1996. Redesignated at 61 FR 57339, Nov. 6, 1996, as amended at 62 FR 33573, June 20, 1997]

1552.211-73 Level of effort—cost-reimbursement term contract.

As prescribed in 1511.011-73, insert the following contract clause in cost-reimbursement term contracts including

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cost contracts without fee, cost-sharing contracts, cost-plus-fixed-fee (CPFF) contracts, cost-plus-incentive-fee contracts (CPIF), and cost-plus-award-fee contracts (CPAF).

LEVEL OF EFFORT—COST-REIMBURSEMENT TERM CONTRACT (APR 1984)

(a) The Contractor shall perform all work and provide all required reports within the level of effort specified below. The Government hereby orders—direct labor hours for the base period, which represents the Government's best estimate of the level of effort to fulfill these requirements.

(b) Direct labor includes personnel such as engineers, scientists, draftsmen, technicians, statisticians, and programmers and not support personnel such as company management, typists, and key punch operators even though such support personnel are normally treated as direct labor by the Contractor. The level of effort specified in paragraph (a) includes Contractor, subcontractor, and consultant labor hours.

(c) If the Contractor provides less than 90 percent of the level of effort specified for the base period or any optional period ordered, an equitable downward adjustment of the fixed fee, if any, for that period will be made. The Government may require the Contractor to provide additional effort up to 110 percent of the level of effort for any period until the estimated cost for that period has been reached. However, this additional effort shall not result in any increase in the fixed fee, if any. If this is a cost-plus-incentive-fee (CPIF) contract, the term "fee" in this paragraph means "base fee and incentive fee." If this is a cost-plus-award-fee (CPAF) contract, the term "fee" in this paragraph means "base fee and award fee."

(d) If the level of effort specified to be ordered during a given base or option period is not ordered during that period, that level of effort may not be accumulated and ordered during a subsequent period.

(e) These terms and conditions do not supersede the requirements of either the "Limitation of Cost" or "Limitation of Funds" clauses.

(End of clause)

[49 FR 8867, Mar. 8, 1984. Redesignated at 61 FR 57339, Nov. 6, 1996, as amended at 62 FR 33573, June 20, 1997]

1552.211-74 Work assignments.

As prescribed in 1511.011-74, insert the following contract clause in cost-reimbursement type term form contracts when work assignments are to be used.

WORK ASSIGNMENTS (APR 1984)

(a) The contractor shall perform work under this contract as specified in written work assignments issued by the Contracting Officer.

(b) Each work assignment will include (1) a numerical designation, (2) the estimate of required labor hours, (3) the period of performance and schedule of deliverables, and (4) the description of the work.

(c) The Contractor shall acknowledge receipt of each work assignment by returning to the Contracting Officer a signed copy of the work assignment within calendar days after its receipt. The Contractor shall begin work immediately upon receipt of a work assignment. Within calendar days after receipt of a work assignment, the Contractor shall submit copies of a work plan to the Project Officer and copies to the Contracting Officer. The work plan shall include a detailed technical and staffing plan and a detailed cost estimate. Within calendar days after receipt of the work plan, the Contracting Officer will provide written approval or disapproval of it to the Contractor. If the Contractor has not received approval on a work plan within calendar days after its submission, the Contractor shall stop work on that work assignment. Also, if the Contracting Officer disapproves a work plan, the Contractor shall stop work until the problem causing the disapproval is resolved. In either case, the Contractor shall resume work only when the Contracting Officer finally approves the work plan.

(d) This clause does not change the requirements of the "Level of Effort" clause, nor the notification requirements of either the "Limitation of Cost" or "Limitation of Funds" clauses.

(e) Work assignments shall not allow for any change to the terms or conditions of the contract. Where any language in the work assignment may suggest a change to the terms or conditions, the Contractor shall immediately notify the Contracting Officer.

(End of clause)

Alternate I. As prescribed in 1512.104(b), modify the existing clause by adding the following paragraph (f) to the basic clause:

(f) Within 20 days of receipt of the work assignment or similar tasking document, the Contractor shall provide a conflict of interest certification. Where work assignments or similar tasking documents are issued under this contract for work on or directly related to a site, the Contractor is only required to provide a conflict of interest certification for the first work assignment issued for that site. For all subsequent work on that site under this contract, the Contractor has a continuing obligation to search and report

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any actual or potential conflicts of interest, but no additional conflict of interest certifications are required.

Before submitting the conflict of interest certification, the contractor shall search its records accumulated, at a minimum, over the past three years immediately prior to the receipt of the work assignment or similar tasking document. In the COI certification, the Contractor must certify to the best of the Contractor's knowledge and belief, that all actual or potential organizational conflicts of interest have been reported to the Contracting Officer or that to the best of the Contractor's knowledge and belief, no actual or potential organizational conflicts of interest exist. In addition, the Contractor must certify that its personnel who perform work under this work assignment or relating to this work assignment have been informed of their obligation to report personal and organizational conflicts of interest to the Contractor. The certification shall also include a statement that the Contractor recognizes its continuing obligation to identify and report any actual or potential conflicts of interest arising during performance of this work assignment or other work related to this site.

Alternate II. As prescribed in 1512.104(b), modify the existing clause by adding the following paragraph (f) to the basic clause:

(f) Within 20 days of receipt of the work assignment or similar tasking document, the Contractor shall provide a conflict of interest certification. Where work assignments or similar tasking documents are issued under this contract for work on or directly related to a site, the Contractor is only required to provide a conflict of interest certification for the first work assignment issued for that site. For all subsequent work on that site under this contract, the Contractor has a continuing obligation to search and report any actual or potential conflicts of interest, but no additional conflict of interest certifications are required.

Before submitting the conflict of interest certification, the contractor shall initially search through all of its available records to identify any actual or potential conflicts of interest. During the first three years of this contract, the contractor shall search through all records created since the beginning of the contract plus the records of the contractor prior to the award of the contract until a minimum of three years of records are accumulated. Once three years of records have accumulated, prior to certifying, the contractor shall search its records accumulated, at a minimum, over the past three years immediately prior to the receipt of the work assignment or similar tasking document. In the certification, the Contractor must certify to the best of the Contractor's

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knowledge and belief, that all actual or potential organizational conflicts of interest have been reported to the Contracting Officer or that to the best of the Contractor's knowledge and belief, no actual or potential organizational conflicts of interest exist. In addition, the Contractor must certify that its personnel who perform work under this work assignment or relating to this work assignment have been informed of their obligation to report personal and organizational conflicts of interest to the Contractor. The certification shall also include a statement that the Contractor recognizes its continuing obligation to identify and report any actual or potential conflicts of interest arising during performance of this work assignment or other work related to this site.

(End of clause)

[49 FR 8867, Mar. 8, 1994, as amended at 59 FR 18624, Apr. 19, 1994. Redesignated at 61 FR 57339, Nov. 6, 1996, as amended at 62 FR 33573, June 20, 1997]

1552.211-75 Working files.

As prescribed in 1511.011-75, insert the following clause in all applicable EPA contracts.

WORKING FILES (APR 1984)

The Contractor shall maintain accurate working files (by task or work assignment) on all work documentation including calculations, assumptions, interpretations of regulations, sources of information, and other raw data required in the performance of this contract. The Contractor shall provide the information contained in its working files upon request of the Contracting Officer.

(End of clause)

[49 FR 8867, Mar. 8, 1984. Redesignated at 55 FR 39622, Sept. 28, 1990, as amended at 21994, May 4, 1995. Redesignated at 61 FR 57339, Nov. 6, 1996, as amended at 62 FR 33573, June 20, 1997]

1552.211-76 Legal analysis.

As prescribed in 1511.011-76, insert this contract clause when it is determined that the contract involves legal analysis.

LEGAL ANALYSIS (APR 1984)

The Contractor shall furnish to the Project Officer one (1) copy of any draft legal analysis. The Government will provide a response to the Contractor within thirty (30) calendar days after receipt. The Contractor shall not

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finalize the analysis until the Government has given approval.

(End of clause)

[49 FR 8867, Mar. 8, 1984. Redesignated at 55 FR 39622, Sept. 28, 1990, as amended at 60 FR 21994, May 4, 1995. Redesignated at 61 FR 57339, Nov. 6, 1996, as amended at 62 FR 33573, June 20, 1997]

1552.211-77 Final reports.

As prescribed in 1511.011-77, insert this contract clause when a contract requires a draft and a final report.

FINAL REPORTS (APR 1984)

(a) "Draft Report"—The Contractor shall submit to the Project Officer copies of the draft final report on or before (date)

The Contractor shall furnish to the Contracting Officer a copy of the letter transmitting the draft. The draft shall be typed double-spaced or space-and-a-half and shall include all pertinent material required in the final report. The Government will review for approval or disapproval the draft and provide a response to the Contractor within calendar days after receipt. If the Government does not provide a response within the allotted review time, the Contractor immediately shall notify the Contracting Officer in writing.

(b) "Final Report"—The Contractor shall deliver a final report on or before the last day of the period of performance specified in the contract. Distribution is as follows:

No. of copies	Addressee
1	EPA Library.
1	Contracting Officer.
1	Project Officer.

(End of clause)

[49 FR 8867, Mar. 8, 1984. Redesignated at 55 FR 39622, Sept. 28, 1990, as amended at 60 FR 21994, May 4, 1995. Redesignated at 61 FR 57339, Nov. 6, 1996, as amended at 62 FR 33573, June 20, 1997]

1552.211-78 Management consulting services.

As prescribed in 1511.011-78, insert the following contract clause in all contracts for management consulting services.

MANAGEMENT CONSULTING SERVICES (APR 1985)

All reports containing recommendations to the Environmental Protection Agency shall include the following information on the

cover of each report: (a) Name and business address of the contractor; (b) contract number; (c) contract dollar amount; (d) whether the contract was subject to full and open competition or a sole source acquisition; (e) name of the EPA Project Officer and the EPA Project Officer's office identification and location; and (f) date of report.

(End of clause)

[50 FR 14360, Apr. 11, 1985; 50 FR 15425, Apr. 18, 1985. Redesignated at 55 FR 39622, Sept. 28, 1990, as amended at 60 FR 21994, May 4, 1995. Redesignated at 61 FR 57339, Nov. 6, 1996, as amended at 62 FR 33573, June 20, 1997]

1552.211-79 Compliance with EPA Policies for Information Resources Management.

As prescribed in 1511.011-79, insert the following clause:

COMPLIANCE WITH EPA POLICIES FOR INFORMATION RESOURCES MANAGEMENT (SEP 1991)

(a) *Definition.* Information Resources Management (IRM) is defined as any planning, budgeting, organizing, directing, training, promoting, controlling, and managing activities associated with the burden, collection, creation, use and dissemination of information. IRM includes both information itself, and the management of information and related resources such as personnel, equipment, funds, and technology. Examples of these services include but are not limited to the following:

(1) The acquisition, creation, or modification of a computer program or automated data base for delivery to EPA or use by EPA or contractors operating EPA programs.

(2) The analysis of requirements for, study of the feasibility of, evaluation of alternatives for, or design and development of a computer program or automated data base for use by EPA or contractors operating EPA programs.

(3) Services that provide EPA personnel access to or use of computer or word processing equipment, software, or related services.

(4) Services that provide EPA personnel access to or use of: Data communications; electronic messaging services or capabilities; electronic bulletin boards, or other forms of electronic information dissemination; electronic record-keeping; or any other automated information services.

(5) Services that are subject to the Brooks Act of 1965, as amended (Pub. L. 89-306).

(b) *General.* The Contractor shall perform any IRM related work under this contract in accordance with the IRM policies, standards and procedures set forth in this clause and noted below. Upon receipt of a work request (i.e. delivery order or work assignment), the

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Contractor shall check this listing of directives (see paragraph (d) for electronic access). The applicable directives for performance of the work request are those in effect on the date of issuance of the work request.

(1) IRM Policies, Standards and Procedures. The 2100 Series (2100-2199) of the Agency's Directive System contains the majority of the Agency's IRM policies, standards and procedures.

(2) Groundwater Program IRM Requirement. A contractor performing any work related to collecting Groundwater data; or developing or enhancing data bases containing Groundwater quality data shall comply with *EPA Order 7500.1A—Minimum Set of Data Elements for Groundwater*.

(3) EPA Computing and Telecommunications Services. *The Enterprise Technology Services Division (ETSD) Operational Directives Manual* contains procedural information about the operation of the Agency's computing and telecommunications services. Contractors performing work for the Agency's National Computer Center or those who are developing systems which will be operating on the Agency's national platforms must comply with procedures established in the Manual. (This document is only available through electronic access.)

(c) *Printed Documents*. Documents listed in (b)(1) and (b)(2) may be obtained from: U.S. Environmental Protection Agency Office of Administration Facilities Management and Services Division Distribution Section Mail Code: 3204 1200 Pennsylvania Ave., NW., Washington, D.C. 20460 Phone: (202) 260-5797

(d) *Electronic access*. (1) *Internet*. A complete listing, including full text, of documents included in the 2100 Series of the Agency's Directive System, as well as the two other EPA documents noted in this clause, is maintained on the EPA Public Access Server on the Internet. Gopher Access: *gopher.epa.gov* is the address to access the EPA Gopher. Select 'menu keyword search' from the menu and search on the term 'IRM Policy'. Look for IRM Policy, Standards and Guidance. World Wide Web Access: *http://www.epa.gov* is the address for the EPA's www homepage. From the homepage, search on the term 'IRM Policy' and look for IRM Policy, Standards and Guidance.

(2) *Dial-Up Modem*. All documents, including the listing, are available for browsing and electronic download through a dial-up modem. Dial (919) 558-0335 for access to the menu that contains the listing for EPA policies. Set the communication parameters to 8 data bits, no parity, 1 stop bit (8,N,1) Full Duplex, and the emulator to VT-100. The information is the same whether accessed through dial-up or the Internet. For technical assistance, call 1-800-334-2405.

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(End of Clause)

[56 FR 42236, Aug. 27, 1991, as amended at 61 FR 33693, June 28, 1996. Redesignated at 61 FR 57339, Nov. 6, 1996, as amended at 62 FR 33573, June 20, 1997; 65 FR 47325, Aug. 2, 2000]

1552.213-70 Notice to suppliers of equipment.

As prescribed in 1513.507(b), the Contracting Officer shall insert the following contract clause in orders for or lease of commercially available equipment.

NOTICE TO SUPPLIERS OF EQUIPMENT (APR 1984)

(a) It is the general policy of the Environmental Protection Agency that Contractor or vendor prescribed leases or maintenance agreements for equipment will NOT be executed.

(b) Performance in accordance with the terms and conditions of the vendor's commercial lease, or customer service maintenance agreement, unless specified in the Schedule, may render the vendor's performance unacceptable, thereby permitting the Government to apply such contractual remedies as may be permitted by law, regulation, or the terms of this order.

(End of clause)

[49 FR 8867, Mar. 8, 1984; 49 FR 24734, June 15, 1984]

1552.214-71 Contract award—other factors—formal advertising.

As prescribed in 1514.201-6(b), insert the following solicitation provision in invitations for bids (IFB) when it is appropriate to describe other factors that will be used in evaluating bids for award. This provision is used to describe the other factors mentioned in the solicitation provisions "Contract Award—Formal Advertising" (FAR 52.214-10), and "Contract Award—Construction" (FAR 52.214-19). All other evaluation provisions in the IFB (e.g., evaluation of options) should be cross-referenced in this provision. The other factors set forth in the provision should represent a consolidated statement of the exact basis upon which bids will be evaluated for award.

CONTRACT AWARD—OTHER FACTORS—FORMAL ADVERTISING (APR 1984)

The Government will award a contract resulting from this solicitation as stated in the

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“Contract Award” provision. The other factors that will be considered are:

when combined are significantly more important than cost or price.

(b) Evaluation factors and significant sub-factors to determine quality of product or service:

(End of provision)

[End of provision]

1552.215-70 EPA source evaluation and selection procedures—negotiated procurements.

EVALUATION FACTORS FOR AWARD (AUG 1999)—ALTERNATE I (AUG 2000)

As prescribed in 1515.209(a), insert the following provision:

(a) The Government will make award to the responsible offeror(s) whose offer conforms to the solicitation and is most advantageous to the Government cost or other factors considered. For this solicitation, all evaluation factors other than cost or price when combined are significantly less important than cost or price.

(b) Evaluation factors and significant sub-factors to determine quality of product or service:

EPA SOURCE EVALUATION AND SELECTION PROCEDURES—NEGOTIATED PROCUREMENTS (AUG 1999)

(a) The Government will perform source selection in accordance with FAR Part 15 and the EPA Source Evaluation and Selection Procedures in EPAAR Part 1515 (48 CFR Part 1515). The significant features of this procedure are:

(1) The Government will perform either cost analysis or price analysis of the offeror’s cost/business proposal in accordance with FAR Parts 15 and 31, as appropriate. In addition, the Government will also evaluate proposals to determine contract cost or price realism.

Cost or price realism relates to an offeror’s demonstrating that the proposed cost or price provides an adequate reflection of the offeror’s understanding of the requirements of this solicitation, i.e., that the cost or price is not unrealistically low or unreasonably high.

(2) The Government will evaluate technical proposals as specified in 1552.215-71, Evaluation Factors for Award.

(b) In addition to evaluation of the previously discussed elements, the Government will consider in any award decision the responsibility factors set forth in FAR Part 9.

[End of provision]

EVALUATION FACTORS FOR AWARD, AUG 1999—ALTERNATE II, AUG 2000

(a) The Government will make award to the responsible offeror(s) whose offer conforms to the solicitation and is most advantageous to the Government cost or other factors considered. For this solicitation, all evaluation factors other than cost or price when combined are approximately equal to cost or price.

(b) Evaluation factors and significant sub-factors to determine the quality of product or service:

(End of Provision)

[End of provision]

[61 FR 47067, Sept. 6, 1996, as amended at 61 FR 57339, Nov. 6, 1996; 64 FR 47415, Aug. 31, 1999]

EVALUATION FACTORS FOR AWARD, AUG 1999—ALTERNATE III, (AUG 2000)

1552.215-71 Evaluation factors for award.

(a) The Government will make award to the offeror with the lowest-evaluated cost or price, whose proposal meets or exceeds the acceptability standards for non-cost factors. In the event that there are two or more technically acceptable, equal price (cost) offers, the Government will consider socioeconomic, environmental and other similar factors, as listed below in descending order of importance:

As prescribed in 1515.209(a), insert one of the following provisions.

EVALUATION FACTORS FOR AWARD (AUG 1999)

(a) The Government will make award to the responsible offeror(s) whose offer conforms to the solicitation and is most advantageous to the Government cost or other factors considered. For this solicitation, all evaluation factors other than cost or price

(b) Factors and significant subfactors for technical acceptability evaluation:

(c) Factors for past performance evaluation (optional):

[End of provision]

[64 FR 47415, Aug. 31, 1999]

1552.215-72 Instructions for the Preparation of Proposals.

As prescribed in 1515.408(a)(1) insert the following provision:

INSTRUCTIONS FOR THE PREPARATION OF PROPOSALS (AUG 1999)

(a) Other than cost proposal instructions.

(1) Submit proposal for than cost factors as a separate part of the total proposal package. Omit all cost or pricing details from this proposal.

(2) Special proposal instructions:

(b) Cost or pricing proposal instructions.

The offeror shall prepare and submit cost or pricing information data and supporting attachments in accordance with Table 15-2 of FAR 15.408. In addition to a hard copy of the information, to expedite review of the proposal, submit a 3.5" high density IBM-compatible formatted computer disk containing the financial data required, if this information is available using a commercial spreadsheet program on a personal computer. Submit this information using LOTUS 1-2-3, if available. Identify which version of LOTUS used. If the offeror used another spreadsheet program, indicate the software program used to create this information. Offerors should include the formulas and factors used in calculating the financial data. Although submission of a computer disk will expedite review, failure to submit a disk will not affect consideration of the proposal.

(1) General—Submit cost or pricing information prepared in accordance with FAR Table 15-2, Instructions for Submitting Cost/Price Proposals When Cost or Pricing Information Are Required and the following:

(i) Clearly identify separate cost or pricing information associated with any:

(A) Options to extend the term of the contract;

(B) Options for the Government to order incremental quantities; and/or

(C) Major tasks, if required by the special instructions.

(ii) If the contract schedule includes a "Fixed Rate for Services" clause, please provide in the cost proposal a schedule dupli-

cating the format in the clause and include proposed fixed hourly rates per labor category for the base and any optional contract periods.

(iii) If the contract includes the clause at EPAAR 1552.232-73 "Payments—Fixed-Rate Services Contract," or the clause at FAR 52.232-7, "Payments Under Time and Materials and Labor-Hour Contracts," include in the cost proposal the estimated costs and burden rate to be applied to materials, other direct costs, or subcontracts. The Government will include these costs as part of its cost proposal evaluation.

(iv) If other divisions, subsidiaries, a parent or affiliated companies will perform work, provide the name and location of such affiliate and offeror's intercompany pricing policy. Separately identify costs and supporting data for each entity proposed.

(v) The realism of costs, including personnel compensation rates (including effective hourly rates due to uncompensated overtime) will be part of the proposal evaluation. Any reductions to proposed costs or differences between proposed and known EPA/DCAA recommended rates must be fully explained. If an offeror makes a reduction which makes its offer or portions of its offer below anticipated costs, the offeror shall identify where (i.e., which elements of costs) the proposed reductions will be made. Unsubstantiated rates may result in an upward or downward adjustment of the cost proposals to reflect more realistic costs. Based on this analysis, a projected cost for the offeror will be calculated to reflect the Government's estimate of the offeror's probable costs. Any inconsistency, whether real or apparent, between the promised performance and cost or price should be explained. The burden of proof for cost credibility rests with the offeror.

(2) Direct Labor.

(i) The direct technical labor hours (level-of-effort) appearing in the solicitation are for professional and technical labor only. These hours do not include management at a level higher than project management, e.g., corporate and day-to-day management, nor do they include clerical and support staff at a level lower than technician. If it is the offeror's normal practice to charge these types of costs as direct costs, include these costs along with an estimate of the directly chargeable labor-hours for these personnel. These direct charges are to be shown separately from the technical (level-of-effort) effort. If this type of effort is normally included in the offeror's indirect cost allocations, no estimate is required. However, direct charging of these on any resulting contract will not be allowed. Additionally the direct technical labor hours are the workable hours required by the Government and do not include release time (i.e., holidays, vacation, etc.) Submit the proposal utilizing the

labor categories and distribution of the level-of-effort specified in the solicitation. These are approximate distribution levels and do not necessarily represent the actual levels which may be experienced during contract performance.

(ii) Explain the basis of the proposed labor rates, including a complete justification for all judgmental factors used to develop weights applied to company's category or individual rates that comprise the rates for labor categories specified in the solicitation. This explanation should describe how technical approach coincides with the proposed costs. If the proposed direct labor rates are based on an average of the individuals proposed to work on the contract, provide a list of the individuals proposed and the hours associated with each individual in deriving the rates. If the proposed direct labor rates are based on an average of company category rates, identify and describe the labor categories and the percentages associated with each category in deriving the rates, explaining in detail the basis for the percentages assigned.

(iii) Describe for each labor category proposed, the company's qualifications and experience requirements. If individual rates are used, provide the employee's name. If specific individuals are identified in the technical proposal, correlate these individuals with the labor categories specified in the solicitation.

(iv) Provide a matrix summarizing the effort proposed, including the subcontracts, by professional and technical level specified in the solicitation.

(v) Indicate whether current rates or escalated rates are used. If escalation is included, state the degree (percent) and methodology. The methodology shall include the effective date of the base rates and the policy on salary reviews (e.g. anniversary date of employee or salary reviews for all employees on a specific date).

(vi) State whether any additional direct labor (new hire or temporary hires) will be required during the performance period of this acquisition. If so, state the number required, the professional or technical level and the methodology used to estimate proposed labor rates.

(vii) With respect to educational institutions, include the following information for those professional staff members whose salary is expected to be covered by a stipulated salary support agreement pursuant to OMB Circular A-21.

(A) Individual's name;

(B) Annual salary and the period for which the salary is applicable;

(C) List of other research Projects or proposals for which salaries are allocated, and the proportionate time charged to each; and

(D) Other duties, such as teaching assignments, administrative assignments, and

other institutional activities. Show the proportionate time charged to each. (Show proportionate time charges as a percentage of 100% of time for the entire academic year, exclusive of vacation or sabbatical leave.)

(viii) Uncompensated overtime. The decision to propose uncompensated overtime is the offeror's decision. Should the offeror, however, elect to propose uncompensated overtime, the offeror must propose a methodology that is consistent with their cost accounting practices and company policy. If proposed, provide an estimate of any uncompensated overtime proposed for exempt personnel working at the offeror's facilities. This estimate should identify the number of uncompensated labor hours and the percentage of compensated labor. Uncompensated labor hours are defined as hours for exempt personnel in excess of regular hours for a pay period which are actually worked and recorded in accordance with company policy. Provide a copy of the company policy on uncompensated overtime. Provide historical percentages of uncompensated overtime for the past three years. If proposed for subcontractors, provide separately with subcontractor information.

(ix) For labor rate contracts, for each fixed labor rate, offerors shall identify the basis for the loaded fixed hourly rate for each contract period for example, the rate might consist of the following cost elements: raw wage or salary rate, plus fringe benefits (if applicable), plus overhead rate (if applicable), plus G&A expense rate (if applicable), plus profit.

When determining the composite raw wage for a labor category, the offeror shall:

(A) provide in narrative form the basis for the raw wage for each labor category. If actual wages of current employees are used, the basis for the projections should be explained.

(B) If employees are subject to the Service Contract Act or Davis Bacon Act, they must be compensated at least at the minimum wage rate required by the applicable Wage Determination.

(3) Indirect costs (fringe, overhead, general, and administrative expenses).

(i) If the rates have been recently approved, include a copy of the rate agreement. If the agreement does not cover the projected performance period of the proposed effort, provide the rationale and any estimated rate calculations for the proposed performance period.

(ii) Submit supporting documentation for rates which have not been approved or audited. Indicate whether computations are based upon historical or projected data.

(iii) Provide actual pool expenses, base dollars, or hours (as applicable for the past five years). Include the actual indirect rates for the past five years including the indirect

rates proposed, the actual indirect rates experienced and, if available, the final negotiated rate. Indicate the amount of unallowable costs included in the historical data.

(iv) Offerors who propose indirect rates for new or substantially reorganized cost centers should consider offering to accept ceilings on the indirect rates at the proposed rates. Similarly, offerors whose subcontractors propose indirect rates for new or substantially reorganized cost centers should likewise consider offering to accept ceilings on the subcontractors' indirect rates at the proposed rates.

Note to paragraph (b)(3)(iv): The Government reserves the right to adjust an offeror's or its subcontractor's estimated indirect costs for evaluation purposes based on the Agency's judgment of the most probable costs up to the amount of any stated ceiling.

(v) If the employees are subject to the Service Contract Act or Davis Bacon Act, employees must receive the minimum level of benefits stated in the applicable Wage Determination.

(4) Travel expense.

(i) If the solicitation specifies the amount of travel costs, this amount is exclusive of any applicable indirect costs and fee.

(ii) If the solicitation does not specify the amount of travel costs, attach a schedule illustrating how travel was computed. Include a breakdown indicating number of trips, number of travelers, destinations from and to, purpose and cost, e.g., mileage, transportation costs, subsistence rates.

(5) Equipment, facilities and special equipment, including tooling.

(i) If direct charges for use of existing contractor equipment are proposed, provide a description of these items, including estimated usage hours, rates, and total costs.

(ii) If equipment purchases are proposed, provide a description of these items, and a justification as to why the Government should furnish the equipment or allow its purchase with contract funds. (Unless specified elsewhere in this solicitation, FAR 45.302-1 requires contractors to furnish all facilities in performance of contracts with certain limited exceptions.)

(iii) Identify Government-owned property in the possession of the offeror or proposed to be used in the performance of the contract, and the Government agency which has cognizance over the property.

(iv) Submit proposed rates or use charges for equipment, along with documentation to support those rates.

(v) If special purposes facilities or equipment are being proposed, provide a description of these items, details for the proposed costs including competitive prices, and justification as to why the Government should furnish the equipment or allow its purchase with contract funds.

(vi) If fabrication by the prime contractor is contemplated, include details of material, labor, and overhead.

(6) Other Direct Costs (ODC).

(i) If the solicitation specifies the amount of other direct costs, this amount is exclusive of any applicable indirect cost and fee.

(ii) If the amount is not specified in the solicitation, attach a schedule detailing how other direct costs were computed. Identify the major ODC items that under the accounting system would be a direct charge on any resulting contract.

(iii) If any of the cost elements identified as part of the specified other direct costs are recovered as an indirect cost, in accordance with the offeror's accounting system, those costs should not be included as a direct cost. Complete explanation of this adjustment and the contractor's practice should be provided.

(iv) Provide historical other direct costs dollars per level of effort hour on similar contracts or work assignments.

(7) Team Subcontracts. When the cost of a subcontract is substantial (5 percent of the total estimated contract dollar value or \$100,000, whichever is less), the offeror shall include the following subcontractor information:

(i) Provide details of subcontract costs in the same format as the prime contractor's costs. This detailed information may be provided separately to the EPA if the subcontractor does not wish to provide this data to the prime contractor. Cost data provided separately by a contractor must be received by the time, date and at the location specified for the receipt of proposals. The subcontractor's package should be clearly marked with the RFP number, the name of the prime offeror, and a statement that the package is subcontractor data relevant to the proposal from the prime offeror. If submitted with the prime contractor's proposal, identify the subcontractors. State the amount of service estimated to be required and the quoted daily or hourly rate. Offerors are encouraged to provide letters of intent, signed by subcontractors, agreeing to a specified rate for life of the contract. Include a cost or price analysis of the subcontractor cost showing the reasons why the costs are considered reasonable;

(ii) Describe how the prospective team subcontractors were chosen as part of the offeror's proposed team; and rationale for selection;

(iii) Describe the necessity for the subcontractor's effort as either a supplement or complement to the offeror's in-house expertise;

(iv) Identify the areas of the scope of work and the level of effort the subcontractors are anticipated to perform. Provide a reconciliation summary of the proposed hours and ODCs for the prime contractor and proposed subcontractor(s).

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(v) Describe the prime contractor's management structure and internal controls to ensure efficient and quality performance of team subcontractors.

(8) Facilities Capital Cost of Money (FCCM). When an offeror elects to claim FCCM as an allowable cost, the offeror must submit Form CASB-CNF and show calculation of the proposed amount. FCCM will be an allowable cost under the contemplated contract, if the criteria for allowability at FAR 31.205-10(a)(2) are met.

[End of Provision]

Alternate I, Aug 1999. If the Government's requirement is a fully dedicated staff person for a twelve month period(s) for each specified position and performance is on a Government facility, add the following paragraph (b)(2)(x) to the basic provision:

(x) The level of effort for each position is to be proposed in work years. A work year is considered to consist of 2080 hours inclusive of direct and indirect time (40 hours per week × 52 weeks per year=2080 hours). The proposal must identify proposed work years and clearly identify how many hours in each work year are direct (i.e., productive working hours) and how many are indirect (i.e., paid absences). If the company policy includes a different base work week, the total available hours would be different. For example, if the company's policy calls for a 37.5 hour work week, offeror would deduct paid absences from 1950 hour (37.5 hours/week × 52 weeks/year=1950 hours). Offeror should clearly identify the paid absences as to how many hours are for holiday and how many hours are for vacation and sick leave. The amount of indirect time (paid absences) identified in the proposal must be consistent with company policy and must allow for the ten Federal government holidays.

Alternate II, Aug 1999. If the Government's requirement is a fully dedicated staff person for a twelve month period(s) for each specified position and performance is not on a Government facility; add the following paragraph (b)(2)(x) to the basic provision:

(x) The level of effort for each position is to be proposed in work years. A work year is considered to consist of 2080 hours inclusive of direct and indirect time (40 hours per week × 52 weeks per year=2080 hours). The proposal must identify proposed work years and clearly identify how many hours in each work year are direct (i.e., productive working hours) and how many are indirect (i.e., paid absences). If the company policy includes a different base work week, the total available hours would be different. For example, if the company's policy calls for a 37.5 hour work week, offeror would deduct paid absences from 1950 hour (37.5 hours/week × 52 weeks/year=1950 hours). Offeror should clearly identify the paid absences as to how many

hours are for holiday and how many hours are for vacation and sick leave.

Alternate III, Aug 1999. If the requirement is for the acquisition of supplies or equipment, substitute the following paragraphs (a)(iv)–(viii) and add (a)(ix) and (b).

(iv) Provide information as to how the proposed supplies or equipment meet the salient characteristics required by the contract line item;

(v) Provide published brochures, catalogs, or other technical literature by contract line item;

(vi) Meet any interface or compatibility requirements by contract line item;

(vii) Describe warranty services and how delivered by contract line item;

(viii) Assumptions, deviations and exceptions (as necessary); and

(ix) Additional information.

(b) Supplies—Provide unit pricing by contract line items for:

(i) each line item;

(ii) delivery;

(iii) installation;

(iv) sets of operating manuals;

(v) training;

(vi) warranty;

(vii) maintenance; and

(viii) volume discounts.

[64 FR 47415, Aug. 31, 1999]

1552.215-73 General financial and organizational information.

As prescribed in 1515.408(a)(2), insert the following provision:

GENERAL FINANCIAL AND ORGANIZATIONAL INFORMATION: (AUG 1999)

Offerors or quoters are requested to provide information regarding the following items in sufficient detail to allow a full and complete business evaluation. If the question indicated is not applicable or the answer is none, it should be annotated. If the offeror has previously submitted the information, it should certify the validity of that data currently on file at EPA and to whom and where it was submitted or update all outdated information on file.

(a) Contractor's Name:

(b) Address (If financial records are maintained at some other location, show the address of the place where the records are kept):

(c) Telephone Number:

(d) Individual(s) to contact re. this proposal:

(e) Cognizant Government:
 Audit Agency:
 Address:
 Auditor:

(f)(1) Work Distribution for the Last Completed Fiscal Accounting Period:

Sales:
 Government cost-reimbursement type prime contracts and subcontracts \$
 Government fixed-price prime contracts and subcontracts \$
 Commercial Sales \$
 Total Sales \$
 (2) Total Sales for first and second fiscal years immediately preceding last completed fiscal year.
 Total Sales for First Preceding Fiscal Year \$
 Total Sales for Second Preceding Fiscal Year \$

(g) Is company a separate rate entity or division?
 Yes
 No

If a division or subsidiary corporation, name parent company:

(h) Date Company Organized:
 (i) Manpower:
 Total Employees:
 Direct:
 Indirect:
 Standard Work Week (Hours):

(j) Commercial Products:
 (k) Attach a current organizational chart of the company.

(l) Description of Contractor's system of estimating and accumulating costs under Government contracts. (Check appropriate blocks.)

	Estimated/actual cost	Standard cost
Estimating System:		
Job Order		
Process		
Accumulating System:		
Job Order		
Process		

Has your cost estimating system been approved by any Government agency?
 Yes No

If yes, give name, date or approval, and location of agency:

Has your cost accumulation system been approved by any Government agency?
 Yes No

If yes, give name, date of approval, and address of agency:

(m) What is your fiscal year period? (Give month-to-month dates):

What were the indirect cost rates for your last completed fiscal year?

Fiscal year	Indirect cost rate	Basis of allocation
Fringe Benefits		
Overhead		
G&A Expense		
Other		

(n) Have the proposed indirect cost rate(s) been evaluated and accepted by any Government agency?
 Yes No

If yes, give name, date of approval, and location of the Government agency:

Date of last preaward audit review by a Government agency:

If the answer is no, data supporting the proposed rates must accompany the cost or price proposal. A breakdown of the items comprising overhead and G&A must be furnished.

(o) Cost estimating is performed by:
 Accounting Department
 Contracting Department
 Other (describe)

(p) Has system of control of Government property been approved by a Government agency?
 Yes No

If yes, give name, date of approval, and location of the Government agency:

(q) Purchasing System: FAR 44.302 requires EPA, where it is the cognizant Government agency, to conduct a Contractor Purchasing System Review for each contractor whose sales to the Government, using other than sealed bid procedures, are expected to exceed \$25 million (annual billings) during the next twelve months. The \$25 million sales threshold is comprised of prime contracts, sub-contractors under Government prime contracts, and modifications (except when the negotiated price is based on established catalog or market prices or is set by law or regulation).

Has your purchasing system been approved by a Government agency?
 Yes No

Environmental Protection Agency

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If yes, name and location of the Government agency:

Period of Approval:

If no, do you estimate that your negotiated sales to the Government during the next twelve months will meet the \$25 million threshold? Yes No

If you responded yes to the \$25 million threshold question, is EPA the cognizant agency for your organization based on the preponderance of Government contract dollars? Yes No

If EPA is not your cognizant Government agency, provide the name and location of the cognizant agency

Are your purchasing policies and procedures written? Yes No

(r) Does your firm have an established written incentive compensation or bonus plan? Yes No

(s) Additionally, offerors shall submit current financial statements, including a Balance Sheet, Statement of Income (Loss), and Cash Flow for the last two completed fiscal years. Specify resources available to perform the contract without assistance from any outside source. If sufficient resources are not available, indicate in proposal the amount required and the anticipated source (i.e., bank loans, letter or lines of credit, etc.).

(END OF PROVISION)

[64 FR 47417, Aug. 31, 1999]

1552.215-74 Advanced understanding—uncompensated time.

As prescribed in 1515.408(b), insert the following provision or one substantially the same as the following provision:

ADVANCED UNDERSTANDING—UNCOMPENSATED TIME (AUG 1999)

(a) The estimated cost of this contract is based upon the Contractor's proposal which specified that exempt personnel identified to work at the Contractor's facilities will provide uncompensated labor hours to the contract totaling percent of compensated labor. (Note: the commitment for uncompensated time, and the formula elements in paragraph (b) below, apply only to exempt personnel working at the Contractor's facilities and does not include non-exempt personnel or exempt personnel working at other facilities.) Uncompensated labor hours are defined as hours of exempt personnel in excess of regular hours for a pay period which are actually

worked and recorded in accordance with the company policy, entitled,

(b) Recognizing that the probable cost to the Government for the labor provided under this contract is calculated assuming a proposed level of uncompensated labor hours, it is hereby agreed that in the event the proposed level of uncompensated labor hours are not provided, an adjustment, calculated in accordance with the following formula will be made to the contract amount.

Formula:

Adjustment equals estimated value of uncompensated time hours not provided.

Target uncompensated time percent minus percent.

Shortage of uncompensated time percent minus actual cost percent.

Estimated value of uncompensated time hours not provided equals shortage of uncompensated time percent times total exempt applicable direct labor costs (including applicable indirect costs).

(c) Within three weeks after the end of the contract, the Contractor shall submit a statement concerning the amount of uncompensated time hours delivered during the contract. In the event there is a shortage of uncompensated time hours provided, a calculation, utilizing the above formula will be made and this calculation will be the basis for an adjustment in the contract amount.

(d) In the event adjustments are made to the contract, the adjusted amounts shall not be allowable as a direct or indirect cost to this or any other Government contract.

[End of clause]

[64 FR 47418, Aug. 31, 1999]

1552.215-75 [Reserved]

1552.215-76 General financial and organizational information.

As prescribed in 1515.407(a)(3), insert the following provisions:

GENERAL FINANCIAL AND ORGANIZATIONAL INFORMATION (APR 1984)

Offerors or quoters are requested to provide information regarding the following items in sufficient detail to allow a full and complete business evaluation. If the question indicated is not applicable or the answer is none, it should be annotated. If the offeror has previously submitted the information, it should certify the validity of that data currently on file at EPA or update all outdated information on file.

(a) Contractor's Name:

(b) Address (If financial records are maintained at some other location, show the address of the place where the records are kept):

(c) Telephone Number: .
 (d) Individual(s) to contact re this proposal:

(e) Cognizant Government:
 Audit Agency:
 Address:
 Auditor:
 (f) (1) Work Distribution for the Last Completed Fiscal Accounting Period:

Sales:

Government cost-reimbursement type prime contracts and subcontracts	\$.....
Government fixed-price prime contracts and subcontracts ...	\$.....
Commercial sales	\$.....
<hr/>	
Total sales	\$.....

(2) Total sales for first and second fiscal years immediately preceding last completed fiscal year.

Total sales for first preceding fiscal year	\$.....
Total sales for second preceding fiscal year	\$.....

(g) Is company a separate entity or division?

If a division or subsidiary corporation, name parent company:

(h) Date Company Organized: .
 (i) Manpower:
 Total Employer:
 Direct:
 Indirect:
 Standard Work Week (Hours):

(j) Commercial Products:
 (k) Attach a current organizational chart of the company.

(l) Description of Contractor's system of estimating and accumulating costs under Government contracts. (Check appropriate blocks.)

	Estimated/actual cost	Standard cost
Estimating System:		
Job Order
Process
Accumulating System:		
Job Order
Process

Has your cost estimating system been approved by any Government agency?
 Yes No
 If yes, give name and address of agency:

Has your cost accumulation system been approved by any Government agency?
 Yes No
 If yes, give name and address of agency:

(m) What is your fiscal year period? (Give month-to-month dates):

What were the indirect cost rates for your last completed fiscal year?

Fiscal year	Indirect cost rate	Basis of allocation
Fringe Benefits
Overhead
G&A Expense
Other

(n) Have the proposed indirect cost rate(s) been evaluated and accepted by any Government agency?

Yes No
 If yes, name and location of the Government agency:

Date of last preaward audit review by a Government agency:

(If the answer is no, data supporting the proposed rates must accompany the cost or price proposal. A breakdown of the items comprising overhead and G&A must be furnished.)

(o) Cost estimating is performed by:
 Accounting Department
 Contracting Department
 Other

(describe)

(p) Has system of control of Government property been approved by a Government agency?

Yes No
 If yes, name and location of the Government agency:

(q) Purchasing System: FAR 44.302 requires EPA, where it is the cognizant Government agency, to conduct a Contractor Purchasing System Review for each contractor whose sales to the Government, using other than sealed bid procedures, are expected to exceed \$10 million (annual billings) during the next twelve months. The \$10 million sales threshold is comprised of prime contracts, subcontracts under Government prime contracts, and modifications (except when the negotiated price is based on established catalog or market prices or is set by law or regulation). Has your purchasing system been approved by a Government agency?

Yes No
 If yes, name and location of the Government agency:

Period of Approval:
 If no, do you estimate that your negotiated sales to the Government during the next twelve months will meet the \$10 million threshold?
 Yes No

Environmental Protection Agency

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If you respond yes to the \$10 million threshold question, is EPA the cognizant agency for your organization based on the preponderance of Government contract dollars?

Yes No

If EPA is not your cognizant Government agency, provide the name and location of the cognizant agency

Are your purchasing policies and procedures written?

Yes No

(r) Does your firm have an established written incentive competition or bonus plan?

Yes No

(End of provision)

(Approved by the Office of Management and Budget under control number 2030-0006)

[49 FR 8867, Mar. 8, 1984, as amended at 54 FR 36980, Sept. 6, 1989; 55 FR 13535, Apr. 11, 1990]

1552.216-70 Award Fee.

As prescribed in 1516.405(a), insert the following clause:

AWARD FEE (MAY 2000)

(a) The Government shall pay the contractor a base fee, if any, and such additional fee as may be earned, as provided in the award fee plan incorporated into the Schedule.

(b) Award fee determinations made by the Government under this contract are unilaterally determined by the Fee Determination Official (FDO). The amount of the award fee to be paid is determined by the Government's judgmental evaluation of the contractor's performance in terms of the criteria stated in the contract. This determination and the methodology for determining the award fee are unilateral decisions made solely at the discretion of the Government.

(c) The Government may unilaterally change the award fee plan at any time, via contract modification, at least thirty (30) calendar days prior to the beginning of the applicable evaluation period. Changes issued in a unilateral modification are not subject to equitable adjustments, consideration, or any other renegotiation of the contract.

(End of Clause)

[60 FR 43404, Aug. 21, 1995, as amended at 65 FR 31500, May 18, 2000]

1552.216-71 Date of incurrence of cost.

At prescribed in 1516.307, insert the following contract clause in cost-reimbursement contracts when an anticipatory cost letter has been issued on

the project. The beginning dates and the not-to-exceed amount to be inserted in the clause should be those in the anticipatory cost letter.

DATE OF INCURRENCE OF COST (APR 1984)

The Contractor is entitled to reimbursement for allowable, allocable costs incurred during the period of _____ to the award date of this contract in an amount not to exceed \$ _____

All terms and conditions of this contract are in effect from _____

(End of clause)

1552.216-72 Ordering—by designated ordering officers.

As prescribed in 1516.505(a), insert the following in indefinite delivery/indefinite quantity contracts.

ORDERING—BY DESIGNATED ORDERING OFFICERS (APR 1984)

(a) The Government will order any supplies and services to be furnished under this contract by issuing delivery orders on Optional Form 347, or any agency prescribed form, from _____ through _____. In addition to the Contracting Officer, the following individuals are authorized ordering officers.

(b) A Standard Form 30 will be the method of amending delivery orders.

(c) The Contractor shall acknowledge receipt of each order and shall prepare and forward to the Ordering Officer within ten (10) calendar days the proposed staffing plan for accomplishing the assigned task within the period specified.

(d) If the Contractor considers the estimated labor hours or specified work completion date to be unreasonable, he/she shall promptly notify the Ordering Officer and Contracting Officer in writing within 10 calendar days, stating why the estimated labor hours or specified completion date is considered unreasonable.

(e) Each delivery order will have a ceiling price, which the Contractor may not exceed. When the Contractor has reason to believe that the labor payment and support costs for the order, which will accrue in the next thirty (30) days, will bring total cost to over 85 percent of the ceiling price specified in the order, the Contractor shall notify the Ordering Officer.

(f) Paragraphs (c), (d), and (e) of this clause apply only when services are being ordered.

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(End of clause)

**1552.216-73 Fixed rates for services—
indefinite delivery/indefinite quantity contract.**

As prescribed in 1516.505(b), insert the following clause to specify fixed rates for services in indefinite delivery/indefinite quantity contracts. When the contract contains options, the clause should be modified to reflect the information and data for the base period and any option periods.

FIXED RATES FOR SERVICES—INDEFINITE DELIVERY/INDEFINITE QUANTITY CONTRACT (APR 1984)

The following fixed rates shall apply for payment purposes for the duration of the contract.

Personnel classification	Skill level	Estimated direct labor hours	Fixed hourly rate	Total
.....
.....
.....
.....

The rate, or rates, set forth above cover all expenses, including report preparation, salaries, overhead, general and administrative expenses, and profit.

The Contractor shall voucher for only the time of the personnel whose services are applied directly to the work called for in individual Delivery Orders and accepted by the EPA Project Officer. The Government shall pay the Contractor for the life of a delivery order at rates in effect when the delivery order was issued, even if performance under the delivery order crosses into another period. The Contractor shall maintain time and labor distribution records for all employees who work under the contract. These records must document time worked and work performed by each individual on all Delivery Orders.

(End of clause)

1552.216-74 Payment of fee.

As prescribed in 1516.307(b), insert the following clause:

PAYMENT OF FEE (MAY 1991)

(a) The term *fee* in this clause refers to either the fixed fee under a cost-plus-fixed-fee type contract, or the base fee under a cost-plus-award-fee type contract.

(b) The Government will make provisional fee payments on the basis of percentage of work completed. Percentage of work completed is the ratio of direct labor hours performed to the direct labor hours set forth in

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clause 1552.211-73, *Level of Effort—Cost-Reimbursement Term Contract.*

(End of clause)

[56 FR 43711, Sept. 4, 1991, as amended at 63 FR 46899, Sept. 3, 1998]

1552.216-75 Base fee and award fee proposal.

As prescribed in 1516.405(b), insert the following clause:

BASE FEE AND AWARD FEE PROPOSAL (FEB 1999)

For the purpose of this solicitation, offerors shall propose a combination of base fee and award fee. Base fee shall not exceed 3% of the estimated cost, excluding fee, and the award fee shall not be less than % of the total estimated cost, excluding fee. The combined percentages of base and award fee shall not exceed % of the total estimated cost, excluding fee.

(End of clause)

[64 FR 3876, Jan. 26, 1999]

1552.216-76 Estimated cost and cost-sharing.

As prescribed in 1516.307(c), insert the following clause:

ESTIMATED COST AND COST-SHARING (APR 1996)

(a) The total estimated cost of performing the work under this contract is \$. The Contractor's share of this cost shall not exceed \$. The Government's share of this cost shall not exceed \$.

(b) For performance of the work under the contract, the Contractor shall be reimbursed for not more than percent of the cost of performance determined to be allowable under the Allowable Cost and Payment clause. The remaining balance of allowable cost shall constitute the Contractor's share.

(c) Fee shall not be paid to the prime contractor under this cost-sharing contract.

(d) The Contractor shall maintain records of all costs incurred and claimed for reimbursement as well as any other costs claimed as part of its cost share. Those records shall be subject to audit by the Government.

(e) Costs contributed by the Contractor shall not be charged to the Government under any other contract, grant or agreement (including allocation to other contracts as part of an independent research and development program) nor be included as contributions under any other Federal contract.

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(End of Clause)

[61 FR 14505, Apr. 2, 1996]

1552.217-70 Evaluation of contract options.

As prescribed in 1517.208(a), insert the following solicitation provision in Requests for Proposals when the solicitation contains options.

EVALUATION OF CONTRACT OPTIONS (APR 1984)

For award purposes, in addition to an offeror's response to the basic requirement, the Government will evaluate its response to all options, both technical and cost. Evaluation of options will not obligate the Government to exercise the options. For this solicitation the options are as specified in section H.

(End of provision)

1552.217-71 Option to extend the term of the contract—cost-type contract.

As prescribed in 1517.208(b), insert this contract clause in cost-reimbursement type term form contracts when applicable. If only one option period is used, enter "NA" in the proper places of the clause. If more than two option periods apply, the clause may be modified accordingly.

OPTION TO EXTEND THE TERM OF THE CONTRACT—COST-TYPE CONTRACT (APR 1984)

The Government has the option to extend the term of this contract for additional period(s). If more than 60 days remain in the contract period of performance, the Government, without prior written notification, may exercise this option by issuing a contract modification. To exercise this option within the last 60 days of the period of performance, the Government must provide to the Contractor written notification prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option. The Government's estimated level of effort is direct labor hours for the first option period and for the second. Use of an option will result in the following contract modifications:

(a) The "Period of Performance" clause will be amended to cover a base period from to and option periods from to and to .

(b) Paragraph (a) of the "Level of Effort" clause will be amended to reflect a new and separate level of effort of for the first option period and a new and separate level of effort of for the second option period.

(c) The "Estimated Cost and Fixed Fee" clause will be amended to reflect increased estimated costs and fixed fee for each option period as follows:

	Option 1	Option 2
Estimated cost
Fixed fee
Total

(d) If the contract contains "not to exceed amounts" for elements of other direct costs (ODC), those amounts will be increased as follows:

Other direct cost item	Option 1	Option 2
.....
.....
.....

(End of clause)

1552.217-72 Option to extend the term of the contract—cost-plus-award-fee contract.

As prescribed in 1517.208(c), insert this contract clause in cost-plus-award-fee term contracts when applicable. If only one option period is used, enter "NA" in the proper places of the clause. If more than two option periods apply, modify the clause accordingly.

OPTION TO EXTEND THE TERM OF THE CONTRACT—COST-PLUS-AWARD-FEE CONTRACT (APR 1984)

(a) The Government has the option to extend the term of this contract for additional periods. If more than 60 days remain in the contract period of performance, the Government, without prior written notification, may exercise this option by issuing a contract modification. To exercise this option within the last 60 days of the period of performance, the Government must provide to the Contractor written notification prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option. The Government's estimated level of effort is direct labor hours for the first option period and for the second. Use of an option will result in the following contract modifications:

(b) The "Period of Performance" clause will be amended to cover a base period from to and option periods from to and to .

(c) Paragraph (a) of the "Level of Effort" clause will be amended to reflect a new and separate level of effort of for the first

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option period and a new and separate level of effort of _____ for the second option period.

(d) The "Estimated Cost Base Fee and Award Fee" clause will be amended to reflect increased estimated costs and base fee and award fee pool for each option period as follows:

	Option 1	Option 2
Estimated cost
Base fee
Award fee pool
Total

(e) If this contract contains "not to exceed amounts" for elements of other direct costs (ODC), those amounts will be increased as follows:

Other direct cost item	Option 1	Option 2
.....
.....
.....
.....

(End of clause)

[49 FR 8867, Mar. 8, 1984; 49 FR 24734, June 15, 1984]

1552.217-73 Option for increased quantity—cost-type contract.

As prescribed in 1517.208(d), insert this contract clause in cost-reimbursement type term form contracts when applicable. If only one option period is used, enter "NA" in the proper places of the clause. If more than two option periods apply, modify the clause accordingly.

OPTION FOR INCREASED QUANTITY—COST-TYPE CONTRACT (JUN 1997)

(a) By issuing a contract modification, the Government may increase the estimated level of effort by _____ direct labor hours during the base period, _____ during the first option period, and _____ during the second option period. The Government may issue a maximum of _____ orders to increase the level of effort in blocks of _____ hours during any given period. The estimated cost and fixed fee of each block of hours is as follows:

	Base period	Option 1	Option 2
Estimated cost
Fixed fee
Total

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(b) When these options are exercised, paragraph (a) of the "Level of Effort" clause and the "Estimated Cost and Fixed Fee" clause will be modified accordingly.

(c) If this contract contains "not to exceed amounts" for elements of other direct costs (ODCs), those amounts will be increased as follows:

Other direct cost item	Option 1	Option 2
.....

(End of clause)

[49 FR 8867, Mar. 8, 1984, as amended at 62 FR 37149, July 11, 1997; 62 FR 60667, Nov. 12, 1997]

1552.217-74 Option for increased quantity—cost-plus-award-fee contract.

As prescribed in 1517.208(e), insert this contract clause in cost-plus-award-fee term contracts when applicable. If only one option period is used, enter "NA" in the proper places of the clause. If more than two option periods apply, the clause may be modified accordingly.

OPTION FOR INCREASED QUANTITY—COST-PLUS-AWARD-FEE CONTRACT (JUN 1997)

(a) By issuing a contract modification, the Government may increase the estimated level of effort by _____ direct labor hours during the base period, _____ during the first option period, and _____ during the second option period. The Government may issue a maximum of _____ orders to increase the level of effort in blocks of _____ hours during any given period. The estimated cost, base fee, and award fee pool of each block of hours is as follows:

	Base period	Option 1	Option 2
Estimated cost
Base fee
Award fee pool
Total

(b) When these options are exercised, paragraph (a) of the "Level of Effort" clause and the "Estimated Cost, Base Fee, and Award Fee" clause will be modified accordingly.

(c) If this contract contains "not to exceed amounts" for elements of other direct costs (ODCs), those amounts will be increased as follows:

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Other direct cost item	Option 1	Option 2

(End of clause)

[49 FR 8867, Mar. 8, 1984, as amended at 62 FR 37149, July 11, 1997; 62 FR 60667, Nov. 12, 1997]

1552.217-75 Option to extend the effective period of the contract—time and materials or labor hour contract.

As prescribed in 1517.208(f), insert this clause in time and materials or labor hour type contracts when applicable. This clause will be modified to reflect the actual number of option periods for the acquisition. If only one option period is used, modify (c) accordingly.

OPTION TO EXTEND THE EFFECTIVE PERIOD OF THE CONTRACT—TIME AND MATERIALS OR LABOR HOUR CONTRACT (APR 1984)

(a) The Government has the option to extend the effective period of this contract for additional period(s). If more than sixty (60) days remain in the contract effective period, the Government, without prior written notification, may exercise this option by issuing a contract modification. To unilaterally exercise this option within the last 60 days of the effective period, the Government must issue written notification of its intent to exercise the option prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option.

(b) If the option(s) are exercised, the "Ceiling Price" clause will be modified to reflect a new and separate ceiling price of \$ for the first option period and a new and separate ceiling price of \$ for the second option period.

(c) The "Effective Period of the Contract" clause will be modified to cover a base period from to and option periods from to and to .

(End of clause)

[49 FR 8867, Mar. 8, 1984; 49 FR 24734, June 15, 1984]

1552.217-76 Option to extend the effective period of the contract—indefinite delivery/indefinite quantity contract.

As prescribed in 1517.208(g), the following is used in indefinite delivery/in-

definite quantity type contracts with options to extend the effective period of the contract. The clause may be adjusted depending upon the number of options. If only one option period is used, modify (b) and (c) accordingly.

OPTION TO EXTEND THE EFFECTIVE PERIOD OF THE CONTRACT—INDEFINITE DELIVERY/INDEFINITE QUANTITY CONTRACT

(a) The Government has the option to extend the effective period of this contract for additional period(s). If more than sixty (60) days remain in the contract effective period, the Government, without prior written notification, may exercise this option by issuing a contract modification. To unilaterally exercise this option within the last 60 days of the effective period, the Government must issue written notification of its intent to exercise the option prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option.

(b) If the options are exercised, the "Minimum and Maximum Contract Amount" clause will be modified to reflect new and separate minimums of for the first option period and for the second option period, and new and separate maximums of for the first option period and for the second option period.

(c) The "Effective Period of the Contract" clause will be modified to cover a base period from to and option periods from to and to .

(End of clause)

1552.223-70 Protection of human subjects.

As prescribed in 1523.303-70, insert the following contract clause when the contract involves human test subjects.

PROTECTION OF HUMAN SUBJECTS (APR 1984)

(a) The Contractor shall protect the rights and welfare of human subjects in accordance with the procedures specified in its current Institutional Assurance on file with the Agency. The Contractor shall certify at least annually that an appropriate institutional committee has reviewed and approved the procedures which involve human subjects in accordance with the applicable Institutional Assurance accepted by the Agency.

(b) The Contractor shall bear full responsibility for the proper and safe performance of all work and services involving the use of human subjects under this contract.

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(End of clause)

1552.224-70 Social security numbers of consultants and certain sole proprietors and Privacy Act statement.

As prescribed in 1524.104, insert the following provision in all solicitations.

SOCIAL SECURITY NUMBERS OF CONSULTANTS AND CERTAIN SOLE PROPRIETORS AND PRIVACY ACT STATEMENT (APR 1984)

(a) Section 6041 of title 26 of the U.S. Code requires EPA to file Internal Revenue Service (IRS) Form 1099 with respect to individuals who receive payments from EPA under purchase orders or contracts. Section 6109 of title 26 of the U.S. Code authorizes collection by EPA of the social security numbers of such individuals for the purpose of filing IRS Form 1099. Social security numbers obtained for this purpose will be used by EPA for the sole purpose of filing IRS Form 1099 in compliance with section 6041 of title 26 of the U.S. Code.

(b) If the offeror or quoter is an individual, consultant, or sole proprietor and has no Employer Identification Number, insert the offeror's or quoter's social security number on the following line.

(End of provision)

1552.227-76 Project employee confidentiality agreement.

As prescribed in 1527.409, insert the following clause:

PROJECT EMPLOYEE CONFIDENTIALITY AGREEMENT (MAY 1994)

(a) The Contractor recognizes that Contractor employees in performing this contract may have access to data, either provided by the Government or first generated during contract performance, of a sensitive nature which should not be released to the public without Environmental Protection Agency (EPA) approval. Therefore, the Contractor agrees to obtain confidentiality agreements from all of its employees working on requirements under this contract.

(b) Such agreements shall contain provisions which stipulate that each employee agrees that the employee will not disclose, either in whole or in part, to any entity external to EPA, the Department of Justice, or the Contractor, any information or data (as defined in FAR Section 27.401) provided by the Government or first generated by the Contractor under this contract, any site-specific cost information, or any enforcement strategy without first obtaining the written permission of the EPA Contracting Officer. If a contractor, through an employee or otherwise, is subpoenaed to testify or produce documents, which could result in such disclosure,

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sure, the Contractor must provide immediate advance notification to the EPA so that the EPA can authorize such disclosure or have the opportunity to take action to prevent such disclosure. Such agreements shall be effective for the life of the contract and for a period of five (5) years after completion of the contract.

(c) The EPA may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to prevent the unauthorized disclosure of information to outside entities. If such a disclosure occurs without the written permission of the EPA Contracting Officer, the Government may terminate the contract, for default or convenience, or pursue other remedies as may be permitted by law or this contract.

(d) The Contractor further agrees to insert in any subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph, unless otherwise authorized by the Contracting Officer.

(End of clause)

[59 FR 18624, Apr. 19, 1994]

1552.229-70 State and local taxes.

As prescribed in 1529.401-70, insert the following clause:

STATE AND LOCAL TAXES (NOV 1989)

In accordance with FAR 29.303 and FAR 31.205-41, the Contractor or any subcontractor under this contract shall not be reimbursed for payment of any State and local taxes for which an exemption is available. The Contractor is responsible for determining the availability of State and local tax exemptions and obtaining such exemptions, if available. The Contractor shall include this clause, suitably modified to identify the parties, in all subcontracts at any tier. The Contractor shall notify the Contracting Officer if problems arise in obtaining a State and local tax exemption. The contractor may seek a waiver by the Contracting Officer from this requirement if the administrative burden of seeking an exemption appears to outweigh the potential savings to the Government.

(End of clause)

[54 FR 49998, Dec. 4, 1989]

1552.232-70 Submission of invoices.

As prescribed in 1532.908, insert the following clause:

SUBMISSION OF INVOICES (JUN 1996)

In order to be considered properly submitted, an invoice or request for contract financing payment must meet the following contract requirements in addition to the requirements of FAR 32.905:

(a) Unless otherwise specified in the contract, an invoice or request for contract financing payment shall be submitted as an original and five copies. The Contractor shall submit the invoice or request for contract financing payment to the following offices/individuals designated in the contract: the original and two copies to the Accounting Operations Office shown in Block on the cover of the contract; two copies to the Project Officer (the Project Officer may direct one of these copies to a separate address); and one copy to the Contracting Officer.

(b) The Contractor shall prepare its invoice or request for contract financing payment on the prescribed Government forms. Standard Forms Number 1034, Public Voucher for Purchases and Services other than Personal, shall be used by contractors to show the amount claimed for reimbursement. Standard Form 1035, Public Voucher for Purchases and Services other than Personal—Continuation Sheet, shall be used to furnish the necessary supporting detail or additional information required by the Contracting Officer. The Contractor may submit self-designed forms which contain the required information.

(c)(1) The Contractor shall prepare a contract level invoice or request for contract financing payment in accordance with the invoice preparation instructions identified as a separate attachment in Section J of the contract. If contract work is authorized by individual work assignments, the invoice or request for contract financing payment shall also include a summary of the current and cumulative amounts claimed by cost element for each work assignment and for the contract total, as well as any supporting data for each work assignment as identified in the instructions.

(2) The invoice or request for contract financing payment shall include current and cumulative charges by major cost element such as direct labor, overhead, travel, equipment, and other direct costs. For current costs, each major cost element shall include the appropriate supporting schedule identified in the invoice preparation instructions. Cumulative charges represent the net sum of current charges by cost element for the contract period.

(3) The charges for subcontracts shall be further detailed in a supporting schedule

showing the major cost elements for each subcontract. The degree of detail for any subcontract exceeding \$5,000 is to be the same as that set forth under (c)(2).

(4) The charges for consultants shall be further detailed in the supporting schedule showing the major cost elements of each consultant. For current costs, each major cost element of the consulting agreement shall also include the supporting schedule identified in the invoice preparation instructions.

(d) Invoices or requests for contract financing payment must clearly indicate the period of performance for which payment is requested. Separate invoices or requests for contract financing payment are required for charges applicable to the basic contract and each option period.

(e)(1) Notwithstanding the provisions of the clause of this contract at FAR 52.216-7, Allowable Cost and Payment, invoices or requests for contract financing payment shall be submitted once per month unless there has been a demonstrated need and Contracting Officer approval for more frequent billings. When submitted on a monthly basis, the period covered by invoices or requests for contractor financing payments shall be the same as the period for monthly progress reports required under this contract.

(2) If the Contracting Officer allows submissions more frequently than monthly, one submittal each month shall have the same ending period of performance as the monthly progress report.

(3) Where cumulative amounts on the monthly progress report differ from the aggregate amounts claimed in the invoice(s) or request(s) for contract financing payments covering the same period, the contractor shall provide a reconciliation of the difference as part of the payment request. Alternate I (JUN 1996). If used in a fixed-rate type contract, substitute the following paragraphs (c)(1) and (2) for paragraphs (c)(1) and (2) of the basic clause:

(c)(1) The Contractor shall prepare a contract level invoice or request for contract financing payment in accordance with the invoice preparation instructions identified as a separate attachment in Section J of the contract. If contract work is authorized by individual delivery orders, the invoice or request for contract financing payment shall also include a summary of the current and cumulative amounts claimed by cost element for each delivery order and for the contract total, as well as any supporting data for each delivery order as identified in the instructions.

(2) The invoice or request for contract financing payment that employs a fixed rate feature shall include current and cumulative charges by contract labor category and by other major cost elements such as travel,

equipment, and other direct costs. For current costs, each cost element shall include the appropriate supporting schedules identified in the invoice preparation instructions.

[61 FR 29317, June 10, 1996]

1552.232-71—1552.232-72 [Reserved]

1552.232-73 Payments—fixed-rate services contract.

As prescribed in 1532.111, insert the following in indefinite delivery/indefinite quantity contracts with fixed services rates.

**PAYMENTS—FIXED-RATE SERVICES CONTRACT
(APR 1984)**

The Government shall pay the Contractor as follows upon the submission of invoices or vouchers approved by the Contracting Officer:

(a) Hourly rate. (1) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the Schedule by the number of direct labor hours performed. The rates shall include wages, indirect costs, general and administrative expenses, and profit. Fractional parts of an hour shall be payable on a prorated basis. Vouchers may be submitted once each month (or at more frequent intervals, if approved by the Contracting Officer) to the paying office. The Contractor shall substantiate vouchers by evidence of actual payment and by individual daily job, timecards, or other substantiation approved by the Contracting Officer. Promptly after receipt of each substantiated voucher, the Government shall, except as otherwise provided in this contract and subject to the terms of paragraph (e) of this contract, pay the voucher as approved by the Contracting Officer.

(2) Unless otherwise prescribed in the Schedule, the Contracting Officer shall withhold 5 percent of the amounts due under this paragraph (a), but the total amount withheld shall not exceed \$50,000. The amounts withheld shall be retained until the execution and delivery of a release by the Contractor as provided in paragraph (f) of this contract.

(3) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis. If no overtime rates are provided in the Schedule and overtime work is approved in advance by the Contracting Officer, overtime rates shall be negotiated. Failure to agree upon these overtime rates shall be treated as a dispute under the "Disputes" clause of this contract. If the Schedule provides rates for overtime the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

(b) Materials, other direct costs, and subcontracts. (1) The allowability of direct materials and other direct costs shall be determined by the Contracting Officer in accordance with subpart 31.2 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract. Reasonable and allocable material handling costs or indirect costs may be included in the charge for material or other direct costs to the extent they are clearly excluded from the hourly rate. Material handling and/or indirect cost rates are specified in the "Indirect Costs" clause. Material handling costs are comprised of indirect costs, including, when appropriate, general and administrative expense allocated to direct materials in accordance with the Contractor's usual accounting practices consistent with subpart 31.2 of the FAR. The Contractor shall be reimbursed for items and services purchased directly for the contract only when cash, checks, or other forms of actual payment have been made for such purchased items or services. Direct materials or other direct costs, as used in this clause, are those items which enter directly into the end product, or which are used or consumed directly in connection with the furnishing of the end product.

(2) Subcontracted effort may be included in the fixed hourly rates discussed in paragraph (a)(1) of this clause and will be reimbursed as discussed in that paragraph. Otherwise, the cost of subcontracts that are authorized under the subcontracts clause of this contract shall be reimbursable costs under this clause provided that the costs are consistent with paragraph (3) of this clause. Reimbursable costs in connection with subcontracts shall be limited to the amounts paid to the subcontractor in the same manner as for items and services purchased directly for the contract under paragraph (1) of this clause; however, this requirement shall not apply to a Contractor that is a small business concern. Reimbursable costs shall not include any costs arising from the letting, administration, or supervision of performance of the subcontract, if the costs are included in the hourly rates payable under paragraph (a)(1) of this clause.

(3) To the extent able, the Contractor shall (i) obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and (ii) take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and other benefits. When unable to take advantage of the benefits, the Contractor shall promptly notify the Contracting Officer and give the reasons. Credit shall be given to the Government for cash and trade discounts, rebates, allowances, credits, salvage, the value of any appreciable scrap, commissions, and other amounts that have accrued to the benefit of the Contractor, or would have accrued except for the

fault or neglect of the Contractor. The benefits lost without fault or neglect on the part of the Contractor, or lost through fault of the Government, shall not be deducted from gross costs.

(4) If the nature of the work to be performed requires the Contractor to furnish material which is regularly sold to the general public in the normal course of business by the Contractor, the price to be paid for such material, notwithstanding paragraph (b)(1) of this contract, shall be on the basis of an established catalog or list price, in effect when the material is furnished, less all applicable discounts to the Government; provided, that in no event shall such price be in excess of the Contractor's sales price to its most favored customer for the same item in like quantity, or the current market price, whichever is lower.

(c) Contracting Officer notification. For contract administration purposes, the Contractor shall notify the Contracting Officer in writing when the total value of all delivery orders issued exceeds 85 percent of the maximum price specified in the schedule.

(d) Maximum amount. The Government shall not be obligated to pay the Contractor any amount in excess of the maximum amount in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the maximum amount set forth in the Schedule, unless or until the Contracting Officer shall have notified the Contractor in writing that the maximum amount has been increased and shall have specified in the notice a revised maximum that shall constitute the maximum amount for performance under this contract. When and to the extent that the maximum amount set forth in the Schedule has been increased, any hours expended, and material or other direct costs incurred by the Contractor in excess of the maximum amount before the increase, shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the maximum amount.

(e) Audit. At any time before final payment under this contract, the Contracting Officer may request audit of the invoices or vouchers and substantiating material. Each payment previously made shall be subject to reduction to the extent of amounts, on preceding invoices or vouchers, that are found by the Contracting Officer not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. Upon receipt and approval of the voucher or invoice designated by the Contractor as the "completion voucher" or "completion invoice" and substantiating material, and upon compliance by the Contractor with all terms of this contract (including, without limitation, terms relating to patents and the terms of para-

graphs (f) and (g) of this clause), the Government shall promptly pay any balance due the Contractor. The completion invoice or voucher, and substantiating material, shall be submitted by the Contractor as promptly as practicable following completion of the work under this contract, but in no event, later than one year (or such longer period as the Contracting Officer may approve in writing) from the date of completion.

(f) Assignment. The Contractor, and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(1) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible of exact statement by the Contractor.

(2) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(3) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this contract relating to patents.

(g) Refunds. The Contractor agrees that any refunds, rebates, or credits (including any related interest) accruing to or received by the Contractor or any assignee, that arise under the materials portion of this contract and for which the Contractor has received reimbursement, shall be paid by the Contractor to the Government. The Contractor and each assignee, under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, an assignment to the Government of such refunds, rebates, or credits (including any interest) in form and substance satisfactory to the Contracting Officer.

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(End of clause)

1552.233-70 Notice of filing requirements for agency protests.

As prescribed in 1533.103, insert the following clause in all types of solicitations:

NOTICE OF FILING REQUIREMENTS FOR AGENCY PROTESTS (JUL 1999)

Agency protests must be filed with the Contracting Officer in accordance with the requirements of FAR 33.103 (d) and (e). Within 10 calendar days after receipt of an adverse Contracting Officer decision, the protester may submit a written request for an independent review by the Head of the Contracting Activity. This independent review is available only as an appeal of a Contracting Officer decision on a protest. Accordingly, as provided in 4 CFR 21.2(a)(3), any protest to the GAO must be filed within 10 days of knowledge of the initial adverse Agency action.

[64 FR 17110, Apr. 8, 1999]

1552.235-70 Screening business information for claims of confidentiality.

As prescribed in 1535.007-70(a), insert the following contract clause in all types of contracts when the Contracting Officer has determined that during performance of this contract, the Contractor may be required to collect information to perform the work required under this contract. Some of the information may consist of trade secrets or commercial or financial information that would be considered as proprietary or confidential by the business that has the right to the information. The following clause enables EPA to resolve any claims of confidentiality concerning the information that the Contractor will furnish under a contract. The clause entitled "Treatment of Confidential Business Information" shall also be included in the contract:

SCREENING BUSINESS INFORMATION FOR CLAIMS OF CONFIDENTIALITY (APR 1984)

(a) Whenever collecting information under this contract, the Contractor agrees to comply with the following requirements:

(1) If the Contractor collects information from public sources, such as books, reports, journals, periodicals, public records, or other sources that are available to the public without restriction, the Contractor shall submit a list of these sources to the appropriate pro-

gram office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(2) If the Contractor collects information from a State or local Government or from a Federal agency, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(3) If the Contractor collects information directly from a business or from a source that represents a business or businesses, such as a trade association:

(i) Before asking for the information, the Contractor shall identify itself, explain that it is performing contractual work for the U.S. Environmental Protection Agency, identify the information that it is seeking to collect, explain what will be done with the information, and give the following notice:

(A) You may, if you desire, assert a business confidentiality claim covering part or all of the information. If you do assert a claim, the information will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR part 2, subpart B.

(B) If no such claim is made at the time this information is received by the Contractor, it may be made available to the public by the Environmental Protection Agency without further notice to you.

(C) The contractor shall, in accordance with FAR part 9, execute a written agreement regarding the limitations of the use of this information and forward a copy of the agreement to the Contracting Officer.

(ii) Upon receiving the information, the Contractor shall make a written notation that the notice set out above was given to the source, by whom, in what form, and on what date.

(iii) At the time the Contractor initially submits the information to the appropriate program office, the Contractor shall submit a list of these sources, identify the information according to source, and indicate whether the source made any confidentiality claim and the nature and extent of the claim.

(b) The Contractor shall keep all information collected from nonpublic sources confidential in accordance with the clause in this contract entitled "Treatment of Confidential Business Information" as if it had been furnished to the Contractor by EPA.

(c) The Contractor agrees to obtain the written consent of the Contracting Officer, after a written determination by the appropriate program office, prior to entering into

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any subcontract that will require the subcontractor to collect information. The Contractor agrees to include this clause, including this paragraph (c), and the clause entitled "Treatment of Confidential Business Information" in all subcontracts awarded pursuant to this contract that require the subcontractor collect information.

(End of clause)

1552.235-71 Treatment of confidential business information.

As prescribed in 1535.007-70(b), insert the following contract clause in all types of contracts when the Contracting Officer has determined that in the performance of a contract, EPA may furnish confidential business information to the Contractor that EPA obtained under the Clean Air Act (42 U.S.C. 7401 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. 1251, *et seq.*), the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*), the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*), the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*), or the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*). EPA regulations on confidentiality of business information in 40 CFR part 2 subpart B require that the Contractor agree to the clause entitled "Treatment of Confidential Business Information" before any confidential business information may be furnished to the Contractor:

TREATMENT OF CONFIDENTIAL BUSINESS INFORMATION (APR 1984)

(a) The Contracting Officer, after a written determination by the appropriate program office, may disclose confidential business information to the Contractor necessary to carry out the work required under this contract. The Contractor agrees to use the confidential information only under the following conditions:

(1) The Contractor and Contractor's Employees shall: (i) use the confidential information only for the purposes of carrying out the work required by the contract; (ii) not disclose the information to anyone other than EPA employees without the prior written approval of the Assistant General Counsel for Contracts and Information Law; and (iii) return to the Contracting Officer all copies of the information, and any abstracts or excerpts therefrom, upon request by the Contracting Officer, whenever the information is no longer required by the Contractor

for the performance of the work required by the contract, or upon completion of the contract.

(2) The Contractor shall obtain a written agreement to honor the above limitations from each of the Contractor's employees who will have access to the information before the employee is allowed access.

(3) The Contractor agrees that these contract conditions concerning the use and disclosure of confidential information are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

(4) The Contractor shall not use any confidential information supplied by EPA or obtained during performance hereunder to compete with any business to which the confidential information relates.

(b) The Contractor agrees to obtain the written consent of the Contracting Officer, after a written determination by the appropriate program office, prior to entering into any subcontract that will involve the disclosure of confidential business information by the Contractor to the subcontractor. The Contractor agrees to include this clause, including this paragraph (b), in all subcontracts awarded, pursuant to this contract, that require the furnishing of confidential business information to the subcontractor.

(End of clause)

1552.235-72 [Reserved]

1552.235-73 Access to Federal Insecticide, Fungicide, and Rodenticide Act Confidential Business Information (Apr 1996).

As prescribed in 1535.007(a), insert the following provision:

ACCESS TO FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT CONFIDENTIAL BUSINESS INFORMATION (APR 1996)

In order to perform duties under the contract, the Contractor will need to be authorized for access to Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) confidential business information (CBI). The Contractor and all of its employees handling CBI while working under the contract will be required to follow the procedures contained in the security manual entitled "FIFRA Information Security Manual." These procedures include applying for FIFRA CBI access authorization for each individual working under the contract who will have access to FIFRA CBI, execution of confidentiality agreements, and designation by the Contractor of an individual to serve as a Document Control Officer. The Contractor will be required to abide by those clauses contained

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in EPAAR 1552.235-70, 1552.235- 71, and 1552.235-77 that are appropriate to the activities set forth in the contract.

Until EPA has approved the Contractor's security plan, the Contractor may not be authorized for FIFRA CBI access away from EPA facilities.

(End of Provision)

[61 FR 14265, Apr. 1, 1996]

1552.235-74 [Reserved]

1552.235-75 Access to Toxic Substances Control Act Confidential Business Information (Apr 1996).

As prescribed in 1535.007(b), insert the following provision:

ACCESS TO TOXIC SUBSTANCES CONTROL ACT CONFIDENTIAL BUSINESS INFORMATION (APR 1996)

In order to perform duties under the contract, the Contractor will need to be authorized for access to Toxic Substances Control Act (TSCA) confidential business information (CBI). The Contractor and all of its employees handling CBI while working under the contract will be required to follow the procedures contained in the security manual entitled "TSCA Confidential Business Information Security Manual." These procedures include applying for TSCA CBI access authorization for each individual working under the contract who will have access to TSCA CBI, execution of confidentiality agreements, and designation by the Contractor of an individual to serve as a Document Control Officer. The Contractor will be required to abide by those clauses contained in EPAAR 1552.235-70, 1552.235-71, and 1552.235-78 that are appropriate to the activities set forth in the contract.

Until EPA has inspected and approved the Contractor's facilities, the Contractor may not be authorized for TSCA CBI access away from EPA facilities.

(End of Provision)

[61 FR 14265, Apr. 1, 1996]

1552.235-76 Treatment of Confidential Business Information (Apr 1996).

As prescribed in 1535.007-70(c), insert the following clause:

TREATMENT OF CONFIDENTIAL BUSINESS INFORMATION (TSCA)(APR 1996)

(a) The Project Officer (PO) or his/her designee, after a written determination by the appropriate program office, may disclose confidential business information (CBI) to the Contractor necessary to carry out the

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work required under this contract. The Contractor agrees to use the CBI only under the following conditions:

(1) The Contractor and Contractor's employees shall (i) use the CBI only for the purposes of carrying out the work required by the contract; (ii) not disclose the information to anyone other than properly cleared EPA employees without the prior written approval of the Assistant General Counsel for Information Law or his/her designee; and (iii) return the CBI to the PO or his/her designee, whenever the information is no longer required by the Contractor for performance of the work required by the contract, or upon completion of the contract.

(2) The Contractor shall obtain a written agreement to honor the above limitations from each of the Contractor's employees who will have access to the information before the employee is allowed access.

(3) The Contractor agrees that these contract conditions concerning the use and disclosure of CBI are included for the benefit of, and shall be enforceable by, both EPA and any affected businesses having a proprietary interest in the information.

(4) The Contractor shall not use any CBI supplied by EPA or obtained during performance hereunder to compete with any business to which the CBI relates.

(b) The Contractor agrees to obtain the written consent of the CO, after a written determination by the appropriate program office, prior to entering into any subcontract that will involve the disclosure of CBI by the Contractor to the subcontractor. The Contractor agrees to include this clause, including this paragraph (b), in all subcontracts awarded pursuant to this contract that require the furnishing of CBI to the subcontractor.

(End of Clause)

[61 FR 14266, Apr. 1, 1996, as amended at 61 FR 57339, Nov. 6, 1996]

1552.235-77 Data Security for Federal Insecticide, Fungicide and Rodenticide Act Confidential Business Information (December 1997).

As prescribed in 1535.007-70(d), insert the following clause:

DATA SECURITY FOR FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT CONFIDENTIAL BUSINESS INFORMATION (DEC 1997)

The Contractor shall handle Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) confidential business information (CBI) in accordance with the contract clause entitled "Treatment of Confidential Business Information" and "Screening Business Information for Claims of Confidentiality,"

the provisions set forth below, and the Contractor's approved detailed security plan.

(a) The Project Officer (PO) or his/her designee, after a written determination by the appropriate program office, may disclose FIFRA CBI to the contractor necessary to carry out the work required under this contract. The Contractor shall protect all FIFRA CBI to which it has access (including CBI used in its computer operations) in accordance with the following requirements:

(1) The Contractor and Contractor's employees shall follow the security procedures set forth in the FIFRA Information Security Manual. The manual may be obtained from the Project Officer (PO) or the Chief, Information Services Branch (ISB), Program Management and Support Division, Office of Pesticide Programs (OPP) (H7502C), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

(2) The Contractor and Contractor's employees shall follow the security procedures set forth in the Contractor's security plan(s) approved by EPA.

(3) Prior to receipt of FIFRA CBI by the Contractor, the Contractor shall ensure that all employees who will be cleared for access to FIFRA CBI have been briefed on the handling, control, and security requirements set forth in the FIFRA Information Security Manual.

(4) The Contractor Document Control Officer (DCO) shall obtain a signed copy of the FIFRA "Contractor Employee Confidentiality Agreement" from each of the Contractor's employees who will have access to the information before the employee is allowed access.

(b) The Contractor agrees that these requirements concerning protection of FIFRA CBI are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

(c) The Contractor understands that CBI obtained by EPA under FIFRA may not be disclosed except as authorized by the Act, and that any unauthorized disclosure by the Contractor or the Contractor's employees may subject the Contractor and the Contractor's employees to the criminal penalties specified in FIFRA (7 U.S.C. 136h(f)). For purposes of this contract, the only disclosures that EPA authorizes the Contractor to make are those set forth in the clause entitled "Treatment of Confidential Business Information."

(d) The Contractor agrees to include the provisions of this clause, including this paragraph (d), in all subcontracts awarded pursuant to this contract that require the furnishing of CBI to the subcontractor.

(e) At the request of EPA or at the end of the contract, the Contractor shall return to the EPA PO or his/her designee all documents, logs, and magnetic media which con-

tain FIFRA CBI. In addition, each Contractor employee who has received FIFRA CBI clearance will sign a "Confidentiality Agreement for Contractor Employees Upon Relinquishing FIFRA CBI Access Authority." The Contractor DCO will also forward those agreements to the EPA PO or his/her designee, with a copy to the CO, at the end of the contract.

(f) If, subsequent to the date of this contract, the Government changes the security requirements, the CO shall equitably adjust affected provisions of this contract, in accordance with the "Changes" clause when:

(1) The Contractor submits a timely written request for an equitable adjustment; and

(2) The facts warrant an equitable adjustment.

(End of Clause)

[61 FR 14266, Apr. 1, 1996, as amended at 62 FR 38478, July 18, 1997; 63 FR 418, Jan. 6, 1998; 65 FR 47325, Aug. 2, 2000]

1552.235-78 Data Security for Toxic Substances Control Act Confidential Business Information (December 1997).

As prescribed in 1535.007-70(e), insert the following clause:

DATA SECURITY FOR TOXIC SUBSTANCES CONTROL ACT CONFIDENTIAL BUSINESS INFORMATION (DEC 1997)

The Contractor shall handle Toxic Substances Control Act (TSCA) confidential business information (CBI) in accordance with the contract clause entitled "Treatment of Confidential Business Information" and "Screening Business Information for Claims of Confidentiality."

(a) The Project Officer (PO) or his/her designee, after a written determination by the appropriate program office, may disclose TSCA CBI to the contractor necessary to carry out the work required under this contract. The Contractor shall protect all TSCA CBI to which it has access (including CBI used in its computer operations) in accordance with the following requirements:

(1) The Contractor and Contractor's employees shall follow the security procedures set forth in the TSCA CBI Security Manual. The manual may be obtained from the Director, Information Management Division (IMD), Office of Pollution Prevention and Toxics (OPPT), U.S. Environmental Protection Agency (EPA), 1200 Pennsylvania Ave., NW., Washington, DC 20460. Prior to receipt of TSCA CBI by the Contractor, the Contractor shall ensure that all employees who will be cleared for access to TSCA CBI have been briefed on the handling, control, and security requirements set forth in the TSCA CBI Security Manual.

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(2) The Contractor shall permit access to and inspection of the Contractor's facilities in use under this contract by representatives of EPA's Assistant Administrator for Administration and Resources Management, and the TSCA Security Staff in the OPPT, or by the EPA Project Officer.

(3) The Contractor Document Control Officer (DCO) shall obtain a signed copy of EPA Form 7740-6, "TSCA CBI Access Request, Agreement, and Approval," from each of the Contractor's employees who will have access to the information before the employee is allowed access. In addition, the Contractor shall obtain from each employee who will be cleared for TSCA CBI access all information required by EPA or the U.S. Office of Personnel Management for EPA to conduct a Minimum Background Investigation.

(b) The Contractor agrees that these requirements concerning protection of TSCA CBI are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

(c) The Contractor understands that CBI obtained by EPA under TSCA may not be disclosed except as authorized by the Act, and that any unauthorized disclosure by the Contractor or the Contractor's employees may subject the Contractor and the Contractor's employees to the criminal penalties specified in TSCA (15 U.S.C. 2613(d)). For purposes of this contract, the only disclosures that EPA authorizes the Contractor to make are those set forth in the clause entitled "Treatment of Confidential Business Information."

(d) The Contractor agrees to include the provisions of this clause, including this paragraph (d), in all subcontracts awarded pursuant to this contract that require the furnishing of CBI to the subcontractor.

(e) At the request of EPA or at the end of the contract, the Contractor shall return to the EPA PO or his/her designee, all documents, logs, and magnetic media which contain TSCA CBI. In addition, each Contractor employee who has received TSCA CBI clearance will sign EPA Form 7740-18, "Confidentiality Agreement for Contractor Employees Upon Relinquishing TSCA CBI Access Authority." The Contractor DCO will also forward those agreements to the EPA OPPT/IMD, with a copy to the CO, at the end of the contract.

(f) If, subsequent to the date of this contract, the Government changes the security requirements, the CO shall equitably adjust affected provisions of this contract, in accordance with the "Changes" clause, when:

- (1) The Contractor submits a timely written request for an equitable adjustment; and,
- (2) The facts warrant an equitable adjustment.

(End of Clause)

[61 FR 14266, Apr. 1, 1996, as amended at 62 FR 38478, July 18, 1997; 63 FR 418, Jan. 6, 1998; 65 FR 47325, Aug. 2, 2000]

1552.235-79 Release of contractor confidential business information (Apr 1996).

As prescribed in 1535.007-70(f), insert the following clause:

RELEASE OF CONTRACTOR CONFIDENTIAL BUSINESS INFORMATION (APR 1996)

(a) The Environmental Protection Agency (EPA) may find it necessary to release information submitted by the Contractor either in response to this solicitation or pursuant to the provisions of this contract, to individuals not employed by EPA. Business information that is ordinarily entitled to confidential treatment under existing Agency regulations (40 CFR Part 2) may be included in the information released to these individuals. Accordingly, by submission of this proposal or signature on this contract or other contracts, the Contractor hereby consents to a limited release of its confidential business information (CBI).

(b) Possible circumstances where the Agency may release the Contractor's CBI include, but are not limited to the following:

(1) To other Agency contractors tasked with assisting the Agency in the recovery of Federal funds expended pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sec. 9607, as amended, (CERCLA or Superfund);

(2) To the U.S. Department of Justice (DOJ) and contractors employed by DOJ for use in advising the Agency and representing the Agency in procedures for the recovery of Superfund expenditures;

(3) To parties liable, or potentially liable, for costs under CERCLA Sec. 107 (42 U.S.C. Sec. 9607), et al, and their insurers (Potentially Responsible Parties) for purposes of facilitating settlement or litigation of claims against such parties;

(4) To other Agency contractors who, for purposes of performing the work required under the respective contracts, require access to information the Agency obtained under the Clean Air Act (42 U.S.C. 7401 et seq.); the Federal Water Pollution Control Act (33 U.S.C.1251 et seq.); the Safe Drinking Water Act (42 U.S.C. 300f et seq.); the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.);

(5) To other Agency contractors tasked with assisting the Agency in handling and

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processing information and documents in the administration of Agency contracts, such as providing both preaward and post award audit support and specialized technical support to the Agency's technical evaluation panels;

(6) To employees of grantees working at EPA under the Senior Environmental Employment (SEE) Program;

(7) To Speaker of the House, President of the Senate, or Chairman of a Committee or Subcommittee;

(8) To entities such as the General Accounting Office, boards of contract appeals, and the Courts in the resolution of solicitation or contract protests and disputes;

(9) To Agency contractor employees engaged in information systems analysis, development, operation, and maintenance, including performing data processing and management functions for the Agency; and

(10) Pursuant to a court order or court-supervised agreement.

(c) The Agency recognizes an obligation to protect the contractor from competitive harm that may result from the release of such information to a competitor. (See also the clauses in this document entitled "Screening Business Information for Claims of Confidentiality" and "Treatment of Confidential Business Information.") Except where otherwise provided by law, the Agency will permit the release of CBI under subparagraphs (1), (3), (4), (5), (6), or (9) only pursuant to a confidentiality agreement.

(d) With respect to contractors, 1552.235-71 will be used as the confidentiality agreement. With respect to Potentially Responsible Parties, such confidentiality agreements may permit further disclosure to other entities where necessary to further settlement or litigation of claims under CERCLA. Such entities include, but are not limited to accounting firms and technical experts able to analyze the information, provided that they also agree to be bound by an appropriate confidentiality agreement.

(e) This clause does not authorize the Agency to release the Contractor's CBI to the public pursuant to a request filed under the Freedom of Information Act.

(f) The Contractor agrees to include this clause, including this paragraph (f), in all subcontracts at all levels awarded pursuant to this contract that require the furnishing of confidential business information by the subcontractor.

(End of clause)

[61 FR 14267, Apr. 1, 1996]

1552.236-70 Samples and certificates.

As prescribed in 1536.521, insert the following contract clause in construction contracts.

SAMPLES AND CERTIFICATES (APR 1984)

When required by the specifications or the Contracting Officer, samples, certificates, and test data shall be submitted after award of the contract, prepaid, in time for proper action by the Contracting Officer or his/her designated representative. Certificates and test data shall be submitted in triplicate to show compliance of materials and construction specified in the contract performance requirements. Samples shall be submitted in duplicate by the Contractor, except as otherwise specified, to show compliance with the contract requirements. Materials or equipment for which samples, certifications or test data are required shall not be used in the work until approved in writing by the Contracting Officer.

(End of clause)

1552.237-70 Contract publication review procedures.

As prescribed in 1537.110, insert the following contract clause when the products of the contract are subject to contract publication review.

CONTRACT PUBLICATION REVIEW PROCEDURES (APR 1984)

(a) Material generated under this contract intended for release to the public is subject to the Agency's publication review process in accordance with the EPA Order on this subject and the following.

(b) Except as indicated in paragraph (c) of this contract, the Contractor shall not independently publish or print material generated under this contract until after completion of the EPA review process. The Project Officer will notify the Contractor of review completion within calendar days after the Contractor's transmittal to the Project Officer of material generated under this contract. If the Contractor does not receive Project Officer notification within this period, the Contractor shall immediately notify the Contracting Officer in writing.

(c) The Contractor may publish, in a scientific journal, material resulting directly or indirectly from work performed under this contract, subject to the following:

(1) The Contractor shall submit to the Contracting Officer and the Project Officer, at least 30 days prior to publication, a copy of any paper, article, or other dissemination of information intended for publication.

(2) The Contractor shall include the following statement in a journal article which has not been subjected to EPA review: "Although the research described in this article has been funded wholly or in part by the United States Environmental Protection

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Agency contract (number) to (Name of Contractor), it has not been subject to the Agency's review and therefore does not necessarily reflect the views of the Agency, and no official endorsement should be inferred."

(3) Following publication of the journal article, the Contractor shall submit five copies of the journal article to the Project Officer, and one copy to the Contracting Officer.

(d) If the Government has completed the review process and agreed that the contract material may be attributed to EPA, the Contractor shall include the following statement in the document:

This material has been funded wholly or in part by the United States Environmental Protection Agency under contract (number) to (name). It has been subject to the Agency's review, and it has been approved for publication as an EPA document. Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

(e) If the Government has completed the review process, but decides not to publish the material, the Contractor may independently publish and distribute the material for its own use and its own expense, and shall include the following statement in any independent publication:

Although the information described in this article has been funded wholly or in part by the United States Environmental Protection Agency under contract (number) to (name), it does not necessarily reflect the views of the Agency and no official endorsement should be inferred.

(End of clause)

1552.237-71 Technical direction.

As prescribed in 1537.110, insert the following contract clause in cost-reimbursement contracts.

TECHNICAL DIRECTION (APR 1984)

(a) The Project Officer will provide technical direction on contract performance. Technical direction includes:

(1) Direction to the Contractor which assists him in accomplishing the Statement of Work.

(2) Comments on and approval of reports or other deliverables.

(b) Technical direction must be within the contract Statement of Work. The Project Officer does not have the authority to issue technical direction which (1) institutes additional work outside the scope of the contract; (2) constitutes a change as defined in the "Changes" clause; (3) causes an increase or decrease in the estimated cost of the contract; (4) alters the period of performance; or (5) changes any of the other express terms or conditions of the contract.

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(c) Technical direction will be issued in writing by the Project Officer or confirmed by him in writing within five (5) calendar days after verbal issuance.

(End of clause)

1552.237-72 Key personnel.

As prescribed in 1537.110, insert the following contract clause when it is necessary for contract performance to identify Contractor key personnel.

KEY PERSONNEL (APR 1984)

(a) The Contractor shall assign to this contract the following key personnel:

(b) During the first ninety (90) days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (c) of this clause. After the initial 90-day period, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least 15 days prior to making any permanent substitutions.

(c) The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on substitutions. This clause will be modified to reflect any approved changes of key personnel.

(End of clause)

1552.237-73 Consultant services and consent.

As prescribed in 1537.110, insert the following contract clause in contracts where the services of consultants are required. Enter "none" in paragraph (b) if consent is not given for one or more consultants at the time of award.

CONSULTANT SERVICES AND CONSENT (APR 1984)

(a) The Contractor shall obtain the consent of the Contracting Officer prior to using any consultant on this contract. The Contractor shall determine whether any consultant that

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is used has in effect an agreement with another Federal agency for similar or like services and, if so, shall notify the Contracting Officer.

(b) The Contractor may use the following consultants for the period of time at the rate shown.

Name	Number of (days) (hours)	Not to exceed the (daily) (hourly) rate of
.....	\$.....
.....	\$.....

(End of clause)

1552.237-74 Publicity.

As prescribed in 1537.110, insert the following contract clause in contracts pertaining to the removal or remedial activities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) ("Super Fund") program. The term "on-scene coordinator" may be substituted with "Project Officer."

PUBLICITY (APR 1984)

(a) The Contractor agrees to notify and obtain the verbal approval of the on-scene coordinator (or Project Officer) prior to releasing any information to the news media regarding the removal or remedial activities being conducted under this contract.

(b) It is also agreed that the Contractor shall acknowledge EPA support whenever the work funded in whole or in part by this contract is publicized in any news media.

(End of clause)

1552.237-75 Paperwork Reduction Act.

As prescribed in 1537.110, insert this contract clause in any contract requiring the collection of identical information from ten (10) or more public respondents.

PAPERWORK REDUCTION ACT (APR 1984)

If it is established at award or subsequently becomes a contractual requirement to collect identical information from ten (10) or more public respondents, the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* applies. In that event, the Contractor shall not take any action to solicit information from any of the public respondents until notified in writing by the Contracting officer that the required Office of Management and Budget (OMB) final clearance was received.

(End of clause)

1552.237-76 Government-Contractor Relations.

As prescribed in 1537.110(g), insert the following clause:

GOVERNMENT-CONTRACTOR RELATIONS (JUNE 1999)

(a) The Government and the Contractor understand and agree that the services to be delivered under this contract by the contractor to the Government are non-personal services and the parties recognize and agree that no employer-employee relationship exists or will exist under the contract between the Government and the Contractor's personnel. It is, therefore, in the best interest of the Government to afford both parties a full understanding of their respective obligations.

(b) Contractor personnel under this contract shall not:

(1) Be placed in a position where they are under the supervision, direction, or evaluation of a Government employee.

(2) Be placed in a position of command, supervision, administration or control over Government personnel, or over personnel of other Contractors under other EPA contracts, or become a part of the Government organization.

(3) Be used in administration or supervision of Government procurement activities.

(c) Employee relationship. (1) The services to be performed under this contract do not require the Contractor or his/her personnel to exercise personal judgment and discretion on behalf of the Government. Rather the Contractor's personnel will act and exercise personal judgment and discretion on behalf of the Contractor.

(2) Rules, regulations, directives, and requirements that are issued by the U.S. Environmental Protection Agency under its responsibility for good order, administration, and security are applicable to all personnel who enter the Government installation or who travel on Government transportation. This is not to be construed or interpreted to establish any degree of Government control that is inconsistent with a non-personal services contract.

(d) Inapplicability of employee benefits. This contract does not create an employer-employee relationship. Accordingly, entitlements and benefits applicable to such relationships do not apply.

(1) Payments by the Government under this contract are not subject to Federal income tax withholdings.

(2) Payments by the Government under this contract are not subject to the Federal Insurance Contributions Act.

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(3) The Contractor is not entitled to unemployment compensation benefits under the Social Security Act, as amended, by virtue of performance of this contract.

(4) The Contractor is not entitled to workman's compensation benefits by virtue of this contract.

(5) The entire consideration and benefits to the Contractor for performance of this contract is contained in the provisions for payment under this contract.

(e) Notice. It is the Contractor's, as well as, the Government's responsibility to monitor contract activities and notify the Contracting Officer if the Contractor believes that the intent of this clause has been or may be violated.

(1) The Contractor should notify the Contracting Officer in writing promptly, within (to be negotiated and inserted into the basic contract at contract award) calendar days from the date of any incident that the Contractor considers to constitute a violation of this clause. The notice should include the date, nature and circumstance of the conduct, the name, function and activity of each Government employee or Contractor official or employee involved or knowledgeable about such conduct, identify any documents or substance of any oral communication involved in the conduct, and the estimate in time by which the Government must respond to this notice to minimize cost, delay or disruption of performance.

(2) The Contracting Officer will promptly, within (to be negotiated and inserted into the basic contract at contract award) calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer will either:

(i) Confirm that the conduct is in violation and when necessary direct the mode of further performance,

(ii) Countermand any communication regarded as a violation,

(iii) Deny that the conduct constitutes a violation and when necessary direct the mode of further performance; or

(iv) In the event the notice is inadequate to make a decision, advise the Contractor what additional information is required, and establish the date by which it should be furnished by the Contractor and the date thereafter by which the Government will respond.

(End of Clause)

[64 FR 30444, June 8, 1999]

1552.239-103 Acquisition of Energy Star Compliant Microcomputers, Including Personal Computers, Monitors and Printers.

As prescribed in 1523.7003, insert the following clause:

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ACQUISITION OF ENERGY STAR COMPLIANT MICROCOMPUTERS, INCLUDING PERSONAL COMPUTERS, MONITORS, AND PRINTERS (APR 1996)

(a) The Contractor shall provide computer products that meet EPA Energy Star requirements for energy efficiency. By acceptance of this contract, the Contractor certifies that all microcomputers, including personal computers, monitors, and printers to be provided under this contract meet EPA Energy Star requirements for energy efficiency.

(b) The Contractor shall ship all products with the standby feature activated or enabled.

(c) The Contractor shall provide models that have equivalent functionality to similar non-power managed models. This functionality should include as a minimum:

(1) The ability to run commercial off-the-shelf software both before and after recovery from a low power state, including retention of files opened (with no loss of data) before the power management feature was activated.

(2) If equipment will be used on a local area network (LAN), the contractor shall provide equipment that is fully compatible with network environments, e.g., personal computers resting in a low-power state should not be disconnected from the network.

(d) The contractor shall provide monitors that are capable of being powered down when connected to the accompanying personal computer.

(End of clause)

[61 FR 14507, Apr. 2, 1996]

1552.242-70 Indirect costs.

As prescribed in 1542.705-70, insert the following clause in all cost-reimbursement type contracts. If ceilings are not being established, enter "not applicable" in (c).

INDIRECT COSTS (APR 1984)

(a) In accordance with paragraph (d) of the "Allowable Cost and Payment" clause, the final indirect cost rates applicable to this contract shall be established between the Contractor and the appropriate Government representative (EPA, other Government agency, or auditor), as provided by FAR 42.703-1(a). EPA's procedures require a Contracting Officer determination of indirect cost rates for its contracts. In those cases where EPA is the cognizant agency (see FAR 42.705-1), the final rate proposal shall be submitted to the cognizant audit activity and to the following designated Contracting Officer: Environmental Protection Agency, Chief, Cost Policy and Rate Negotiation Branch

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(3804F), Cost Advisory and Financial Analysis Division, Washington, DC 20460.

Where EPA is not the cognizant agency, the final rate proposal shall be submitted to the above-cited address, to the cognizant audit agency, and to the designated Contracting Officer of the cognizant agency. Upon establishment of the final indirect cost rates, the Contractor shall submit an executed Certificate of Current Cost or Pricing Data (see FAR 15.406-2) applicable to the data furnished in connection with the final rates to the cognizant audit agency. The final rates shall be contained in a written understanding between the Contractor and the appropriate Government representative. Pursuant to the "Allowable Cost and Payment" clause, the allowable indirect costs under this contract shall be obtained by applying the final agreed upon rate(s) to the appropriate bases.

(b) Until final annual indirect cost rates are established for any period, the Government shall reimburse the contractor at billing rates established by the appropriate Government representative in accordance with FAR 42.704, subject to adjustment when the final rates are established. The established billing rates are currently as follows:

Cost center	Period	Rate	Base
.....
.....

These billing rates may be prospectively or retroactively revised by mutual agreement, at the request of either the Government or the Contractor, to prevent substantial overpayment or underpayment.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this clause, ceilings are hereby established on indirect costs reimbursable under this contract. The Government shall not be obligated to pay the Contractor any additional amount on account of indirect costs in excess of the ceiling rates listed below:

Cost center	Period	Rate	Base
.....
.....

(End of clause)

[49 FR 8867, Mar. 8, 1984, as amended at 59 FR 18977, Apr. 21, 1994; 64 FR 3876, Jan. 26, 1999]

1552.245-70 Decontamination of government property.

As prescribed in 1545.106(a) and 1545.303-71, insert the following contract clause when it is anticipated that a Contractor will use Government-furnished or Contractor-acquired property

in the cleanup of hazardous or toxic substances in the environment.

DECONTAMINATION OF GOVERNMENT PROPERTY (APR 1984)

In addition to the requirements of the "Government Property" clause, the Contractor shall certify in writing that any Government-furnished property or Contractor-acquired property is returned to the Government free from contamination by any hazardous or toxic substances.

(End of clause)

1552.245-71 Government-furnished data.

As prescribed in 1545.106(b), insert the following contract clause in any contract that the Government is to furnish the Contractor data. Identify in the clause the data to be provided.

GOVERNMENT-FURNISHED DATA (APR 1984)

(a) The Government shall deliver to the Contractor the Government-furnished data described in the contract. If the data, suitable for its intended use, is not delivered to the Contractor, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the "Changes" clause when:

- (1) The Contractor submits a timely written request for an equitable adjustment; and
- (2) The facts warrant an equitable adjustment.

(b) Title to Government-furnished data shall remain in the Government.

(c) The Contractor shall use the Government-furnished data only in connection with this contract.

(d) The following data will be furnished to the Contractor on or about the time indicated:

(End of clause)

1552.245-72 Fabrication or acquisition of nonexpendable property.

As prescribed in 1545.106(c), insert the following contract clause in all cost-reimbursement type contracts or contracts with cost-reimbursement portions.

FABRICATION OR ACQUISITION OF NONEXPENDABLE PROPERTY (APR 1984)

The Contractor shall not fabricate nor acquire under this contract, either directly or indirectly through a subcontract, any item

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of nonexpendable property without written approval from the Contracting Officer.

(End of clause)

1552.246-70 Quality Assurance (QA) Program plan.

As prescribed in 1546.201(b), insert the following solicitation provision in Requests for Proposals if a program plan is required. A QA program plan is a general statement of an offeror's capability for QA.

**QUALITY ASSURANCE (QA) PROGRAM PLAN
(APR 1984)**

Each offeror, as a separate and identifiable part of its technical proposal, shall submit a Quality Assurance (QA) program plan setting forth the offeror's capability for quality assurance. The plan shall address the following:

- (a) A statement of policy concerning the organization's commitment to implement a Quality Control/Quality Assurance program to assure generation of measurement data of adequate quality to meet the requirements of the Statement of Work.
- (b) An organizational chart showing the position of a QA function or person within the organization. It is highly desirable that the QA function or person be independent of the functional groups which generate measurement data.
- (c) A delineation of the authority and responsibilities of the QA function or person and the related data quality responsibilities of other functional groups of the organization.
- (d) The type and degree of experience in developing and applying Quality Control/Quality Assurance procedures to the proposed sampling and measurement methods needed for performance of the Statement of Work.
- (e) The background and experience of the proposed personnel relevant to accomplish the QA specifications in the Statement of Work.
- (f) The offeror's general approach for accomplishing the QA specifications in the Statement of Work.

(End of provision)

1552.246-71 Quality Assurance (QA) Project Plan.

As prescribed in 1546.201(c)(1), insert the following solicitation provision in Requests for Proposals when a QA project plan is required as part of the proposal submission. A QA project plan is a specific delineation of an offeror's approach for accomplishing the QA specifications in a Statement of Work.

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When offerors are required to submit a project plan, a program plan may or may not be required. The project plan may be a part of an offeror's technical proposal, or a deliverable under the contract.

**QUALITY ASSURANCE (QA) PROJECT PLAN
(APR 1984)**

The offeror, as a separate and identifiable part of its technical proposal, shall submit a Quality Assurance (QA) project plan which shall describe specific procedures and responsibilities needed to accomplish the QA specifications in the Statement of Work. The project plan shall consist of the following form and content:

- (a) Title page, with provision for approval signatures.
- (b) Table of contents.
- (c) Project description.
- (d) Project organization(s) and responsibilities.
- (e) Quality Assurance objectives for measurement data, in terms of precision, accuracy, completeness, representativeness and comparability.
- (f) Sampling procedures.
- (g) Sample custody.
- (h) Calibration procedures, references, and frequency.
- (i) Analytical procedures.
- (j) Data reduction, validation, and reporting.
- (k) Internal quality control checks and frequency.
- (l) Quality assurance performance audits, system audits, and frequency.
- (m) Quality Assurance reports to management.
- (n) Preventive maintenance procedures and schedules.
- (o) Specific procedures to be used in routinely assessing data precision and accuracy, representativeness, comparability, and completeness of the specific measurement parameters involved.
- (p) Correction action.

(End of provision)

[49 FR 8867, Mar. 8, 1984; 49 FR 24735, June 15, 1984]

1552.246-72 Quality Assurance (QA) Project Plan documentation.

As prescribed in 1546.201(c)(2), insert the following clause in negotiated contracts when QA Project Plan Documentation is needed. A QA project plan is a specific delineation of an offeror's approach for accomplishing the QA specifications in a Statement of Work. When offerors are required to submit a

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project plan, a program plan may or may not be required. When a QA project plan was not a required part of the technical proposal, the project plan may be required as a deliverable under the contract by use of the following. However, the Statement of Work must contain a specification for the form and content of the project plan before this paragraph may be used.

QUALITY ASSURANCE (QA) PROJECT PLAN DOCUMENTATION (APR 1984)

(a) The Contractor shall submit to the Project Officer _____ copies of a Draft Project Plan for Quality Assurance within _____ days after the effective date of the contract.

(b) The Government will review and return the Draft Project Plan indicating approval or disapproval, and comments, if necessary, within _____ calendar days. In the event the government delays review and return of the Draft Project Plan beyond the period specified, the Contractor shall immediately notify the Contracting Officer in writing. The Contractor shall deliver the Final Project Plan within _____ days after the effective date of the contract.

(c) The Contracting Officer will incorporate the approved Quality Assurance Project Plan into the contract.

(End of clause)

PART 1553—FORMS

Sec.

1553.000 Scope of part.

Subpart 1553.2—Prescription of Forms

1553.209 Contractor qualifications.

1553.209-70 EPA Form 1900-26, Contracting Officer's Evaluation of Contractor Performance.

1553.209-71 EPA Form 1900-27, Project Officer's Evaluation of Contractor Performance.

1553.213 Small purchases and other simplified purchase procedures.

1553.213-70 EPA Form 1900-8, Procurement Request/Order.

1553.216 Types of contracts.

1553.216-70 EPA Form 1900-41A, CPAF Contract Summary of Significant Performance Observation.

1553.216-71 EPA Form 1900-41B, CPAF Contract Individual Performance Event.

1553.232 Contract financing.

1553.232-70 EPA Form 1900-3, Assignee's Release.

1553.232-71 EPA Form 1900-4, Assignee's Assignment of Refunds, Rebates, Credits and Other Amounts.

1553.232-72 EPA Form 1900-5, Contractor's Assignment of Refunds, Rebates, and Credits.

1553.232-73 EPA Form 1900-6, Contractor's Release.

1553.232-74 EPA Form 1900-10, Contractor's Cumulative Claim and Reconciliation.

1553.232-75 EPA Form 1900-68, notice of contract costs suspended and/or disallowed.

1553.232-76 [Reserved]

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SOURCE: 49 FR 8886, Mar. 8, 1984, unless otherwise noted.

EDITORIAL NOTE: Forms referenced in part 1553 do not appear in the Code of Federal Regulations.

1553.000 Scope of part.

This part prescribes Agency forms for use in acquisitions and contains requirements and information generally applicable to the forms.

Subpart 1553.2—Prescription of Forms

1553.209 Contractor qualifications.

1553.209-70 EPA Form 1900-26, Contracting Officer's Evaluation of Contractor Performance.

As prescribed in 1509.170-4(a), EPA Form 1900-26 shall be used by the Contracting Officer to record his/her evaluation of Contractor performance.

1553.209-71 EPA Form 1900-27, Project Officer's Evaluation of Contractor Performance.

As prescribed in 1509.170-4(a), EPA Form 1900-27 shall be used by the Project Officer to record his/her evaluation of Contractor performance.

1553.213 Small purchases and other simplified purchase procedures.

1553.213-70 EPA Form 1900-8, Procurement Request/Order.

As prescribed in 1513.505-2, EPA Form 1900-8 may be used in lieu of Optional Forms 347 and 348 for individual purchases.

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1553.216 Types of contracts.

1553.216-70 EPA Form 1900-41A, CPAF Contract Summary of Significant Performance Observation.

As prescribed in 1516.404-278, EPA Form 1900-41A shall be used to document significant performance observations under CPAF contracts.

1553.216-71 EPA Form 1900-41B, CPAF Contract Individual Performance Event.

As prescribed in 1516.404-278, EPA Form 1900-41B shall be used to document individual performance events under CPAF contracts.

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1553.232-70 EPA Form 1900-3, Assignee's Release.

As prescribed in 1532.805-70(a), the EPA Form 1900-3 is required to be submitted by the assignee for cost-reimbursement contracts prior to final payment under the contract.

1553.232-71 EPA Form 1900-4, Assignee's Assignment of Refunds, Rebates, Credits and Other Amounts.

As prescribed in 1532.805-70(b), the EPA Form 1900-4 must accompany the assignee's release prior to final payment under cost-reimbursement contracts.

1553.232-72 EPA Form 1900-5, Contractor's Assignment of Refunds, Rebates, and Credits.

As prescribed in 1532.805-70(c), the EPA Form 1900-5 must be prepared by the Contractor prior to final payment under cost-reimbursement contracts and must accompany the Contractor's release.

1553.232-73 EPA Form 1900-6, Contractor's Release.

As prescribed in 1532.805-70(d), the EPA Form 1900-6 must be submitted by the Contractor under cost-reimbursement contracts prior to final payment thereunder.

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1553.232-74 EPA Form 1900-10, Contractor's Cumulative Claim and Reconciliation.

As prescribed in 1532.170(a), the EPA Form 1900-10 shall be used for an accounting of the cumulative charges and costs for cost-reimbursement contracts from the inception of the contract to completion. It shall be submitted by the Contractor along with the completion voucher.

1553.232-75 EPA Form 1900-68, notice of contract costs suspended and/or disallowed.

As prescribed in 1532.170(b), the Contracting Officer shall insert EPA Form 1900-68 in all cost-reimbursement type and fixed-rate type contracts.

[61 FR 29318, June 10, 1996]

1553.232-76 [Reserved]

APPENDIX I TO CHAPTER 15—
ENVIRONMENTAL PROTECTION AGENCY; CLASS JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION IN ACQUISITIONS FROM THE FEDERAL PRISON INDUSTRIES AND THE GOVERNMENT PRINTING OFFICE

1. The Environmental Protection Agency (EPA) anticipates the acquisition of supplies from the Federal Prison Industries (UNICOR) and the acquisition of Government printing and related supplies from the Government Printing Office (GPO) to meet the needs of the Agency.

2. The Agency is authorized to make these acquisitions from the UNICOR and GPO without full and open competition under the authority in 41 U.S.C. 253(c)(5) as sources required by statute, i.e., 18 U.S.C. 4124 and 44 U.S.C. 501-504, 1121.

3. The anticipated cost of these acquisitions to the Agency will be fair and reasonable.

4. This class justification applies to any proposed acquisition made by the EPA from the UNICOR or GPO.

5. This class justification will remain in effect until April 1, 1988.

6. The undersigned certifies that this class justification is accurate and complete to the best of his knowledge and belief.

[50 FR 14361, Apr. 11, 1985]