



Department of Energy

Field Office, Albuquerque
Los Alamos Area Office
Los Alamos, New Mexico 87544

SEP 30 1993

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

TA-55
Benito Garcia, Acting Bureau Chief
Hazardous and Radioactive Waste Bureau
New Mexico Environment Department
Harold Runnels Building
1190 St. Francis Drive
Santa Fe, New Mexico 87503

Dear Mr. Garcia:

Pursuant to a suggestion by the New Mexico Environment Department (NMED), the Department of Energy (DOE), and the University of California are submitting an application (enclosed) for a Resource Conservation and Recovery Act (RCRA) temporary emergency permit to allow the processing of nitrated cheesecloth at the Los Alamos National Laboratory. The temporary emergency permit is being sought because the continued storage of the nitrated cheesecloth at Technical Area (TA) 55 presents an imminent and substantial endangerment to human health or the environment.

Pursuant to the emergency permit, the cheesecloth will be processed to recover plutonium from the material in an inert atmosphere decomposing unit (IADU) at TA-55. It is still LANL's contention that, pursuant to the Hazardous Waste Management Regulations (HWMR-7), Pt. II, Section 261.6 (c), the processing of the cheesecloth in the IADU is part of a recycling process and, therefore, does not require a RCRA permit.

The application addresses the material to be processed, the process location and how it operates, why the emergency permit is needed, and the process operating procedures.



4365

Benito Garcia

2

If you should have any questions regarding this matter, please contact Jon Mack of my staff at 665-5026.

Sincerely,



Joseph C. Vozella, Chief
Environment, Safety, and Health
Branch

LESH:3JM-075

Enclosure

cc w/enclosure:

J. Mack, ES&H, LAAO
T. Gunderson, EM-DO, LANL,
MS-J591

cc w/o enclosure:

A. Tiedman, ADO, LANL,
MS-A120
K. Hargis, EM-8, LANL,
MS-K490
J. Rochelle, LC\GL, LANL,
MS-A187
B. McKerley, NMT-2, LANL,
MS-E501

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**RESOURCE CONSERVATION AND RECOVERY ACT
EMERGENCY PERMIT APPLICATION
LOS ALAMOS NATIONAL LABORATORY**

1.0 INTRODUCTION

The Department of Energy (DOE) and the University of California, co-operators of the Los Alamos National Laboratory (LANL), are requesting the issuance of a Resource Conservation and Recovery Act (RCRA) temporary emergency permit for the processing of nitrated cheesecloth. The emergency permit is necessary since the continued storage of the nitrated cheesecloth presents an imminent and substantial endangerment to human health and the environment, and the method that will be used as a component of the process to recover plutonium from the cheesecloth is not called out in LANL's existing Hazardous Waste Permit (NM0890010515). The request for the emergency permit is made pursuant to the New Mexico Hazardous Waste Management Regulations (HWMR-7), Pt. IX, Part 270 "EPA Administered Permit Programs: The Hazardous Waste Permit Program." To provide the New Mexico Environment Department (NMED) with the information necessary to issue the emergency permit, this application addresses the material to be processed, the process location and how it operates, why the emergency permit is needed, and the process operating procedures.

The purpose of the process is to recover plutonium from the nitrated cheesecloth. The destruction of the nitrated cheesecloth is actually one step in an extensive process that consists of ashing the nitrated cheesecloth, crushing the residue, drying the residue through a calcination process, acid leaching of plutonium from the residue, separation of plutonium from impurities by nitrate anion exchange, precipitation of plutonium oxalate, filtration of the precipitate, and then calcination of the oxalate compound resulting in a plutonium oxide product.

2.0 MATERIAL INCLUDED IN THE EMERGENCY PERMIT

The material that will be processed pursuant to the emergency permit consists of less than 44 liters of nitrated cheesecloth combined with water. Prior to July, 1989, cheesecloth (which is composed of cellulose) was used to wipe the interior surface of gloveboxes to remove plutonium particles and other material. When the cheesecloth was used to clean gloveboxes containing nitric acid to recover plutonium, the cellulose became nitrated. The nitrated cellulose caused the cheesecloth to potentially exhibit the hazardous waste characteristics of ignitability and reactivity. The nitrated cheesecloth is no longer being generated. The storage of the cheesecloth in water for an extended period is the result of 1989 New Mexico Law, House Bill #59, which restricted the use of incinerators, the technique that was previously utilized as one step in the plutonium recovery process. Sorb_x 2 (plastic) materials are now used in place of the cheesecloth.

The existing inventory of nitrated cheesecloth is currently stored at Technical Area (TA)-55 in Building 4, the facility in which the material was generated. The nitrated cheesecloth is in 11 separate 4-liter stainless steel containers with slip lids. The nitrated cheesecloth must be kept moist at all times to prevent spontaneous combustion, so it is submerged in liquid in the containers. The containers are kept in a glovebox and inspected each day the facility is in operation.

3.0 PROCESS LOCATION AND OPERATION

The processing of the nitrated cheesecloth will take place at LANL at TA-55. LANL is located in north central New Mexico on the Pajarito Plateau, west of the Rio Grande on the eastern slopes of the Jemez Mountains (see figure 1). LANL includes 50 TAs, 38 of which are developed, and covers approximately 111 square kilometers (27,500 acres) in and adjacent to Los Alamos County (see figure 2). TA-55 is located near the center of

LANL on a narrow mesa formed between a branch of Mortandad Canyon on the north and Pajarito Canyon on the south. At TA-55, the operation of the process will occur in Building 4, the Plutonium Facility, Room 420 (see figure 3).

The nitrated cheesecloth will be ashed in an inert atmosphere decomposing unit (IADU). The method uses a stainless steel vessel to contain the nitrated cheesecloth as it is heated to approximately 900 degrees Celsius with electric resistance heaters (Attachment 1). A positive flow of argon gas into the vessel maintains an inert environment. When the unit reaches approximately 900 degrees Celsius, the processed material is thermally decomposed to an ash-like material by breaking the organic bonds and recombining them with the oxygen present in the initial matrix. The offgas that is produced during the process passes through an aqueous caustic scrubber and then out the high efficiency particulate air (HEPA) filters. The aqueous caustic scrubber is designed to absorb acid gases and volatile organic compounds from the thermal decomposition. After exiting the scrubber, the offgas goes through the room HEPA filter and three banks of building HEPA filters before being released through a monitored stack at TA-55, Building 4. The residue that is generated from the ashing of the cheesecloth and from the filtration of residual water is subsequently processed through a rotary calciner drying unit and then reintroduced into the plutonium recovery process.

The thermal decomposition of the nitrated cheesecloth will be conducted under a Special Work Permit (SWP). A SWP is the normal method used by TA-55 for short-term and non-routine activities that are less than 90 days in duration. The SWP will address the procedural steps to be followed in the operation of the process. The procedural steps will be explained in detail below, and include performing an initial inspection of the unit, preparing the unit for operation, preparing the cheesecloth for thermal decomposition and loading it into the IADU, performing actual thermal decomposition, conducting an

analysis of the furnace residue, filtering and analyzing the residual process solutions, and performing routine maintenance on the HEPA filter and caustic scrubber.

During the initial inspection and preparation of the IADU, the process control panel will be energized. The solenoid valves used to circulate the chilled water supply of the scrubber system and the return lines will then be energized and the circulation of the chilled water will be verified. The scrubber will be inspected, the furnace can and furnace heating coils will be removed and cleaned, and the vacuum gauges will be checked.

Preparing the cheesecloth for thermal decomposition and loading it into the IADU will involve removing a portion of the nitrated cheesecloth from the storage container, separating the water from the nitrated cheesecloth through filtration, and then wrapping the cheesecloth around the annulus, a wire mesh cylinder, to enhance uniform ashing. The annulus and wrapped cheesecloth will then be weighed and placed into the furnace can. The furnace can will not be loaded with more than 10 percent by weight of nitrated cheesecloth. The heating coils will then be placed into the furnace chamber and the furnace can will be inserted into the heating coils. At this point, the inlet tube for the argon gas and a thermocouple will be inserted into the pneumatic lid and the furnace can. A pneumatic/hydraulic lift will then be used to lower the furnace and the pneumatic lid to the floor of the glovebox. The pneumatic lid, which completely covers the furnace and acts as an additional safety shield, will then be clamped to the floor of the glovebox. The glovebox in which the process takes place will have the gloves clamped together on the exterior by using a ball joint clamp to assure they are not damaged by high heat exposure.

Actual thermal decomposition will include opening the air vent valves for the scrubber vacuum system, energizing the thermocouple readout, and then energizing the vacuum pump. A vacuum of 5 to 10 inches of water will be maintained by using the air vent valves. The valve for the argon gas supply will then be opened and the furnace can will be purged with argon for at least 15 minutes. After the furnace has been purged with argon, the high-temperature furnace will be energized. The start time of the process, the temperature of the furnace can at the start time, and the maximum temperature of the process run and time of observation will be recorded. The furnace will then be deenergized and, after cooling, the furnace lid will be unclined and removed from the glovebox using the pneumatic/hydraulic lift. The argon gas supply tubing will be removed from the furnace can inlet tube. The vacuum pump will be deenergized when off-gassing from the furnace can has ceased. Off-gassing ceases when the unit is close to returning to room temperature. The furnace can will then be removed from the heating coils and the time will be recorded.

After thermal decomposition has been completed, the residue will be transferred from the furnace can to a storage container and the weight of the residue will be determined and recorded. The residue will then be transferred to the countroom for non-destructive assay and the special nuclear material weight will be recorded. The material will then be transferred from the countroom to the vault for storage, pending further recovery operations.

The residual water from the storage of the cheesecloth will be filtered through vacuum filtration, the residual water will be sampled, and a radiochemical analysis of the solution will be performed. The residual water will be put through anion exchange processing and then piped to TA-50 for additional treatment and solidification in cement. The residue from the filtration of the residual water will be combined with the furnace residue.

Maintenance of the caustic scrubber will be performed when, based on the visual observation of the scrubber water by the IADU operator, the water appears darkened or discolored. Maintenance is expected after the completion of every 3 to 5 runs. During the maintenance of the caustic scrubber, the solution in the scrubber will be transferred to a holding tank and then run through vacuum filtration. This filter residue will also be combined with the furnace residue. The remaining liquid effluents will be sampled to determine the alpha activity. If the alpha activity is below discard limits, the liquid effluents will be transferred to TA-50 for treatment via the caustic waste line. If the liquid effluent is above discard limits, the liquid will be put through anion exchange processing until below limits and then transferred to TA-50. The discard limit for neutral or basic solutions being transferred to TA-50 is 5×10^9 counts per-minute per-liter. The limit for acidic solutions being transferred to TA-50 is 7×10^7 counts per-minute per-liter.

After the caustic scrubber has been drained, the scrubber will be flushed with steam. The liquid from the flushing will be filtered and then piped to TA-50 if below discard limits. The liquid will be put through anion exchange if it is above discard limits and then piped to TA-50. This filter residue will also be combined with the furnace residue. The scrubber will then be filled with fresh water and a new caustic supply.

4.0 NECESSITY FOR EMERGENCY PERMIT

The permitting agency may issue an emergency permit with the finding of an imminent and substantial endangerment to human health or the environment. An imminent and substantial endangerment exists with the continued storage of the nitrated cheesecloth due to the risks associated with storing the nitrated cheesecloth in liquid. As indicated before, the nitrated cheesecloth must be kept moist at all times to prevent spontaneous combustion. It is possible for dehydration of the nitrated cheesecloth to occur if a

container holding the nitrated cheesecloth were to leak. Corrosion which can be caused by the liquid coming in contact with the stainless steel storage container could cause the container to leak. Packaging the material in an alternative type of container or overpacking is not feasible due to the problems created by the radioactive components of the waste. Glass and plastic can become brittle and crack in an environment where alpha or gamma radiation is present, and criticality safety guidelines restrict overpacking the existing containers into a larger container because the storage would prevent neutron leakage. Neutron leakage is necessary to prevent radioactive material from reaching criticality. Under normal operations where the nitrated cheesecloth would be treated on a regular basis, the threat of the containers leaking would not be present since the material would not typically be stored in the stainless steel containers for extended periods.

The possibility of a container leaking and causing the nitrated cheesecloth to dry establishes the threat of the material becoming unstable. Nitrated cheesecloth, due to its high cellulose content, is ignitable and reactive when dry. The possibility of the nitrated cheesecloth drying, becoming unstable, and igniting must be abated since a fire in the glovebox could result in the loss of radiation containment and the potential contamination of personnel within the facility. The threat, which only increases with the passage of time, should be addressed with the issuance of the temporary emergency permit.

5.0 OPERATING PROCEDURES

The IADU will be operated in a manner that is comparable to the standards of HWMR-7, Pt. V, Part 264 "Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities." The comparable requirements will be addressed in this section.

The location, design, and construction of the IADU prevents releases that may have adverse effects on human health and the environment due to migration of constituents in the ground water, surface water, soil, or air. A release inside Building 4 within Room 420 must pass through a concrete floor that contains no drain and is sealed with epoxy, preventing the migration of any spills to ground water, surface water, or soil. The aqueous caustic scrubber, the HEPA filter in Room 420, the series of 3 HEPA filters in Building 4, and the monitored stack that the IADU emissions must pass through prevent a release to the air.

Concerning material analysis, a detailed chemical and physical characterization will be performed by LANL prior to the processing of the material. The primary method for characterizing material at LANL is through application of knowledge of process. Knowledge of process is defined in HWMR-7, Pt. III, Section 262.11 as determining if a listing applies or, for characteristic waste, applying knowledge of the hazardous characteristics of the waste, based on the materials and/or the processes used. The characterization of the nitrated cheesecloth comes from knowledge of process.

Concerning security, TA-55 is a secured area at LANL. The TA is under 24-hour surveillance by guards and television monitors, and a number of artificial barriers, including but not limited to security fences, surround the area. All personnel enter TA-55 through a guarded entrance, and all visitors not cleared for work at TA-55 are allowed to enter the TA only with a cleared escort (see figure 4 for location of artificial barriers).

Inspections of the IADU will identify equipment malfunctions and operator errors that occur during processing. Inspections will be conducted at a sufficient frequency to identify problems promptly and allow for timely repair and cleanup. The IADU will be

inspected immediately prior to and during operation. If a problem is discovered during an inspection, the treatment process SWP will address the methods for resolution.

Concerning training, the primary objective of the training is to prepare persons to operate and maintain the treatment process safely. The training for the operation of the IADU will be actual on-the-job training. In addition, the personnel that will be operating the IADU have operated the unit in the past and are familiar with the process. The operating personnel also receive extensive training on the standard and safe operating procedures for the handling of radioactive materials. Records of the training that the personnel have received are maintained at the facility.

After the processing of the nitrated cheesecloth has been completed, another use for the IADU will be considered. In the interim period, the unit will be decontaminated of RCRA constituents through a sweep and vacuum process. A vacuum cleaner will be used to extract all residual material after the process has been completed and the extraction will be visually verified. The vacuumed material will be run through a vacuum filter bag and then processed to reclaim recoverable amounts of plutonium.

In the event of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents during the operation of the IADU, LANL provides effective response by maintaining the proper equipment, Emergency Managers (equivalent to RCRA Emergency Coordinators), evacuation plans, emergency response teams, and arrangements with local authorities.

During the operation of the IADU, if an emergency occurs the unit will be shutdown by deenergizing the unit, and the flow of argon gas into the unit will be increased to the maximum flow rate. The continuous flow of argon gas will create an inert gas

atmosphere in the IADU that will help stabilize the nitrated cheesecloth until access to the area is established and thermal decomposition is completed. This response will help control a potential fire or explosion and help prevent a release. In the event a fire, explosion, or release of hazardous waste constituents does occur, personnel are instructed to evacuate the area and activate the alarm system. Access to the room where the process will be conducted by personnel other than the IADU operator will be prohibited during process operations with the use of an electrical interlock system.

To prevent contamination, prior to the operator entering the area where the caustic scrubber is located the Health Physics Operations group will monitor the area. Anyone entering the area will be required to wear protective clothing, including two pair of long-sleeved coveralls with taped openings, LANL furnished T-shirt and socks, two pair of surgeon's gloves with the inner pair taped to the coverall sleeves, and two pair of booties. Self-monitoring is required each time hands are withdrawn from a glovebox or a potentially contaminated hood and whenever a worker leaves the area where the caustic scrubber is located.

The emergency and communication equipment at TA-55 located in and around Room 420 is listed in Table 1. The equipment is tested as necessary to assure proper operation; the equipment at TA-55 is checked weekly. An alarm system and emergency communication device is readily available to personnel during the operation of the IADU, as is evident from the listings and locations of the equipment provided in Table 1.

TABLE 1

**EMERGENCY EQUIPMENT ASSOCIATED WITH
TA-55, BUILDING 4, ROOM 420**

I. FIRE CONTROL EQUIPMENT:

A. Fire Extinguishers

Location:

2 26-pound Halon 1211s in Room 420

Description of General Capabilities:

The fire extinguishers in Room 420 are for use only in case of fire outside of the gloveboxes. The fire extinguishers are portable, manually-operated units. They may be used by any employee in case of fire.

B. Fire Alarm Systems

Locations:

1 pull box outside of Room 420

5 drop box alarm pushbutton stations in Room 420

Description of General Capabilities:

Fire alarms may be activated by any employee in the event of fire.

C. An automatic fire suppression sprinkler system is located in Room 420.

D. Automatic thermal alarms are located in the gloveboxes in Room 420.

E. Fire hoses located in the hallway outside Room 420 are connected to a water source located outside of TA-55, Building 4.

F. Seven fire hydrants are located outdoors on the north, south, and west sides of TA-55, Building 4.

II. SPILL CONTROL EQUIPMENT:

A. There is curbing between the rooms which will constrain any spills which may occur in the room.

B. A mobile cart is located in the basement of TA-55, Building 4. The spill cart may be transported to any spill location when the need arises. The spill cart contains:

2 boxes of latex gloves, 4 rolls of masking tape, 6 rolls of yellow vinyl tape, 2 rolls of yellow caution tape (1 acid, 1 caustic), 1 box of polyethylene booties, 4 boxes of shoulder-length polyethylene gloves, 2 boxes of yellow latex gloves, 1 wrench, 30 yellow protective suits (assorted sizes), 2 rolls of cheesecloth, 33 pair of chemical protective goggles, 92 spill pillows, 3 bottles of Neutra Acid and spray triggers, 1 bottle of base neutralizer, 3 canisters for Mine Safety Appliance (MSA) canister gas masks, 8 pair of neoprene gloves, and a vinyl bag.

TABLE 1
(Continued)

III. COMMUNICATION EQUIPMENT

A. 5 telephones are located in or near Room 420. These telephones are capable of receiving incoming and transmitting outgoing calls and paging.

B. Alarms at TA-55, Building 4:

1. Fire alarm is an area-wide whooping sound. If a dropbox pushbutton station is used, a local, high-pitched constant tone will also be activated.
2. Evacuation alarm is a facility-wide warbled tone.
3. Continuous Air Monitor (CAM) alarm is a local short, fast pulsing high-pitched tone.
4. Ventilation alarm is a local slow, repeating high-pitched tone.
5. The PA system may also be used to announce an evacuation.

IV. DECONTAMINATION EQUIPMENT

A. 2 safety showers are located in Room 420.

B. 2 eye washes are located in Room 420.

C. Material Safety Data Sheets (MSDSs) for each chemical handled in Room 420 are available.

V. PERSONAL PROTECTIVE EQUIPMENT

A. Four Self-Contained Breathing Apparatus (SCBAs) are located in the hallway outside Room 420. Three SCBAs are located in the northside hallway in Building 4.

B. Change rooms with protective clothing available are located on the first floor of Building 4 (Rooms 132 and 133).

C. More than 100 respirators are located in Building 3 (Room 107) and Building 4 (Room 515) at TA-55 for all personnel in Building 4. Particulate and toxic gas canisters are available in Building 4, Room 515.

During an emergency situation, line management (i.e., the Group Leader of the affected area) works with the designated Emergency Manager from LANL's Environmental Management and Response (EM&R) Office. EM&R assumes the primary responsibility for managing emergency response operations. Emergency Managers work on alternating shifts and can always be reached by contacting the EM&R Office (667-6211 during working hours, 667-7080 after working hours) or the Central Alarm Station (CAS) dispatcher (9-911).

The facility will be evacuated upon the voice command to evacuate the area, or upon the sounding of the evacuation alarm or the fire alarm. Personnel are instructed to shut down equipment prior to evacuating the building unless an immediate building evacuation is announced or signaled. The evacuation routes are provided in Figure 5.

The emergency response teams maintained by LANL consist of the Health and Safety (HS) Division response groups and the Environmental Management (EM) Division response groups. From HS Division, Health Physics Operations (HS-1) maintains a decontamination facility at TA-55 and can perform radiological monitoring and decontamination under the supervision of certified health physicists; Occupational Medicine (HS-2) maintains a medical facility at TA-3 with a fully-equipped emergency room and decontamination facility, and maintains a satellite first-aid station at TA-55; Industrial Hygiene (HS-5) provides information on correct handling of chemicals and makes recommendations on protective clothing and equipment; and LANL's Hazardous Material (HAZMAT) Response Team (HS-10) provides aggressive mitigation of chemical and mixed waste emergencies, including field decontamination of victims and responders. The EM Division response groups include Waste Management (EM-7) and Environmental Protection (EM-8). EM-7 provides guidance for normal operation of RCRA units, and EM-8 provides regulatory guidance and determines the environmental effects of a release.

Due to arrangements with local authorities, assistance may also be obtained from the Los Alamos County Fire Department (LACFD) and Los Alamos County Police Department (LACPD) in the event of an emergency. The LACFD provides fire protection and ambulance coverage for the communities of Los Alamos and White Rock, and for LANL. In the case of an emergency within LANL, the LACFD coordinates fire suppression efforts. The agreement between DOE and the County of Los Alamos for the LACFD to provide assistance in the event of an emergency at LANL is provided in Attachment 2. The interaction between LANL and the LACPD during an emergency situation is limited to traffic control on DOE roads and to criminal investigations. The agreement between DOE and the County of Los Alamos for the LACPD to provide assistance in the event of an emergency at LANL is provided in Attachment 3.

LANL also maintains agreements with medical facilities for the facilities to provide assistance if an emergency occurs at LANL. Medical cases that cannot be handled at the HS-2 medical facility will typically be transferred to the Los Alamos Medical Center (LAMC), where LANL maintains a fully-equipped decontamination room adjacent to the emergency room. HS-2 provides medical support personnel for the emergency room staff in the event that a case is sent to the hospital. The agreements between DOE and the medical centers to provide assistance in the event of an emergency at LANL are provided in Attachment 4.

6.0 CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to be the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.



Allen J. Tiedman
Associate Director for Support
Los Alamos National Laboratory
Operator

9/22/93
Date Signed



Jerry Bellows
Area Manager, Los Alamos Area Office
U.S. Department of Energy
Albuquerque Operations
Owner/Operator

9/28/93
Date Signed

7.0 FIGURES AND ATTACHMENTS

FIGURE 1

**REGIONAL MAP IDENTIFYING LOCATION OF
LOS ALAMOS NATIONAL LABORATORY**

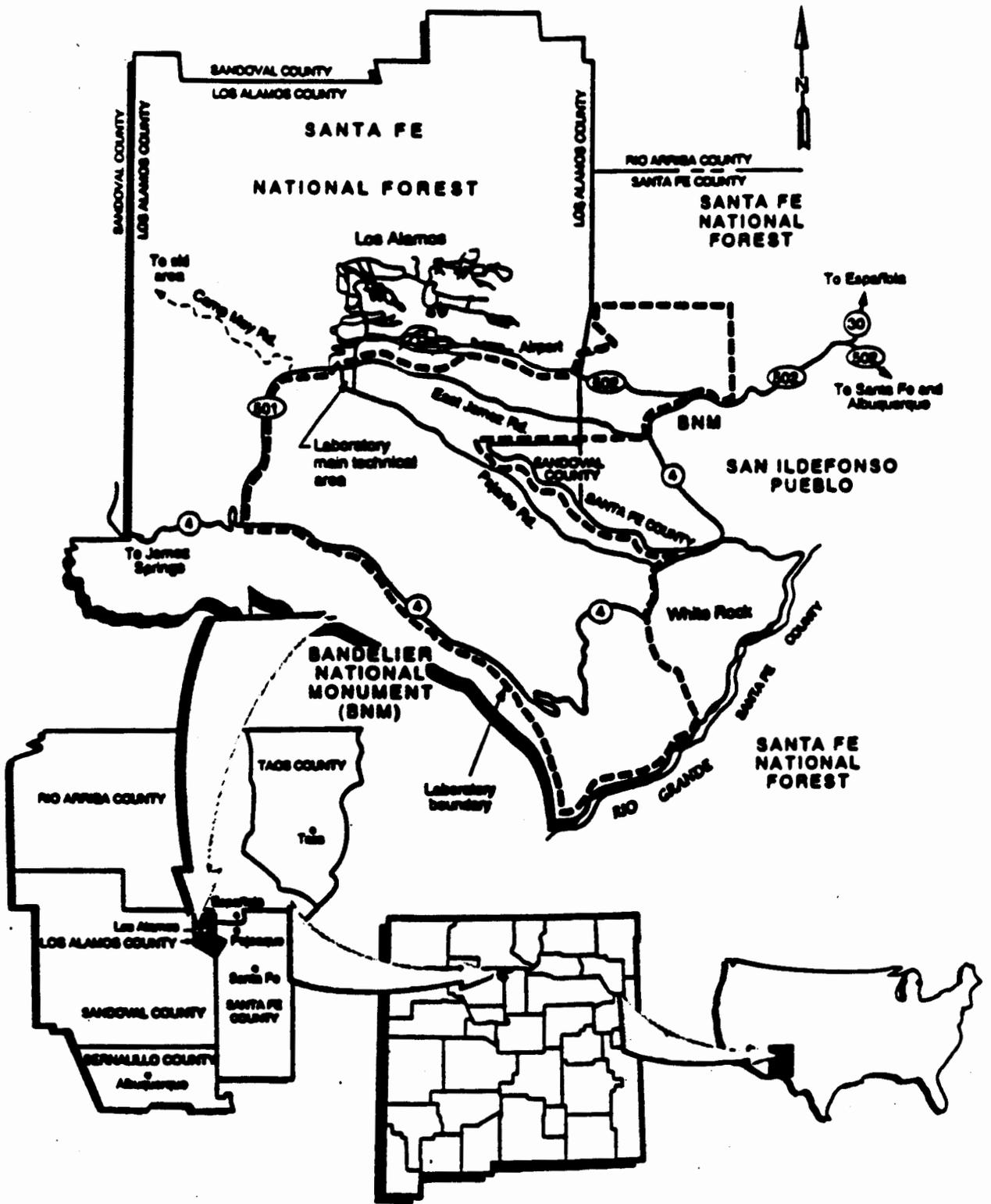


FIGURE 2
LOCATION MAP OF
LOS ALAMOS NATIONAL LABORATORY
TECHNICAL AREAS

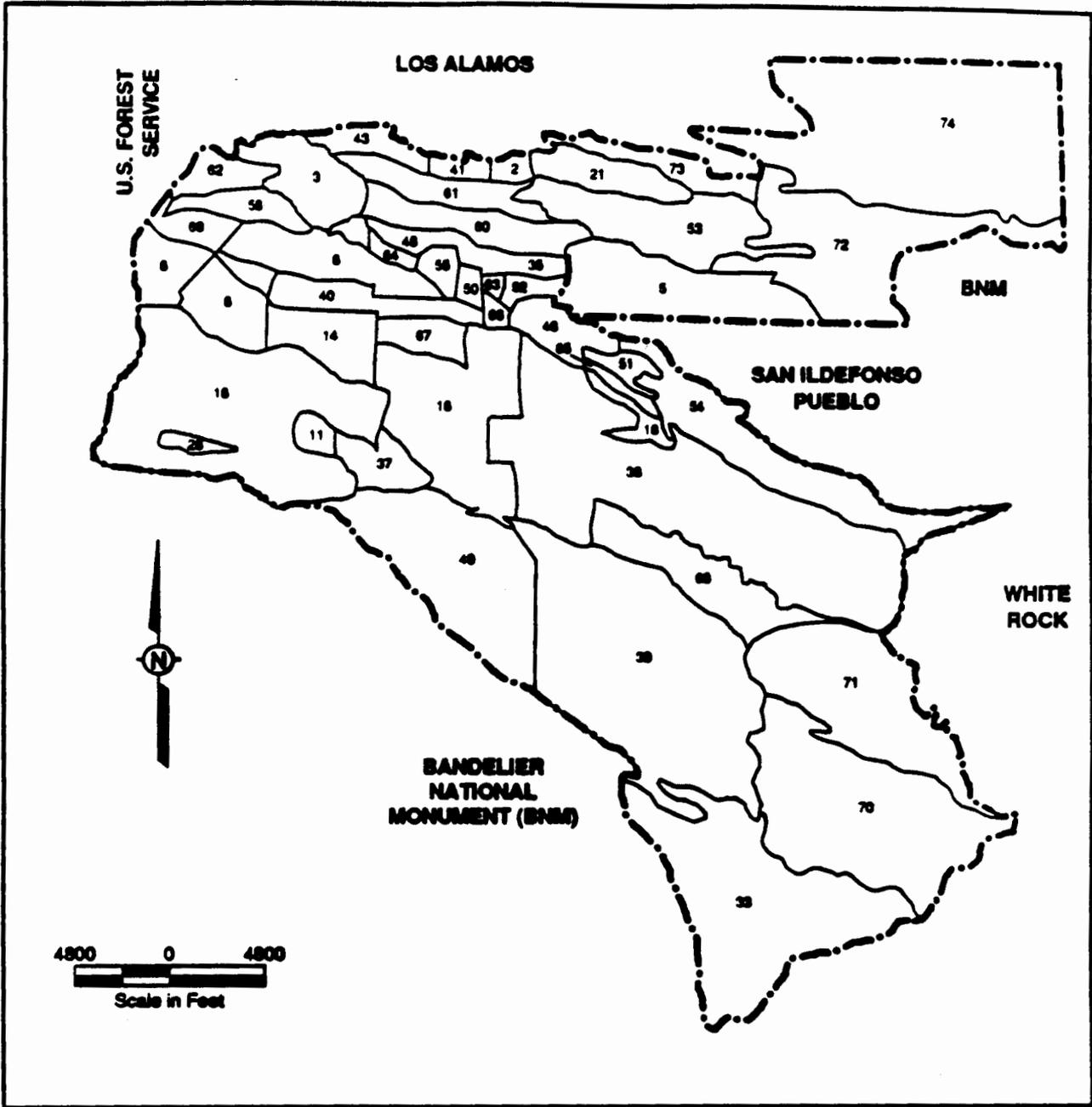


FIGURE 3
LOCATION MAP OF
TA-55, BUILDING 4, ROOM 420

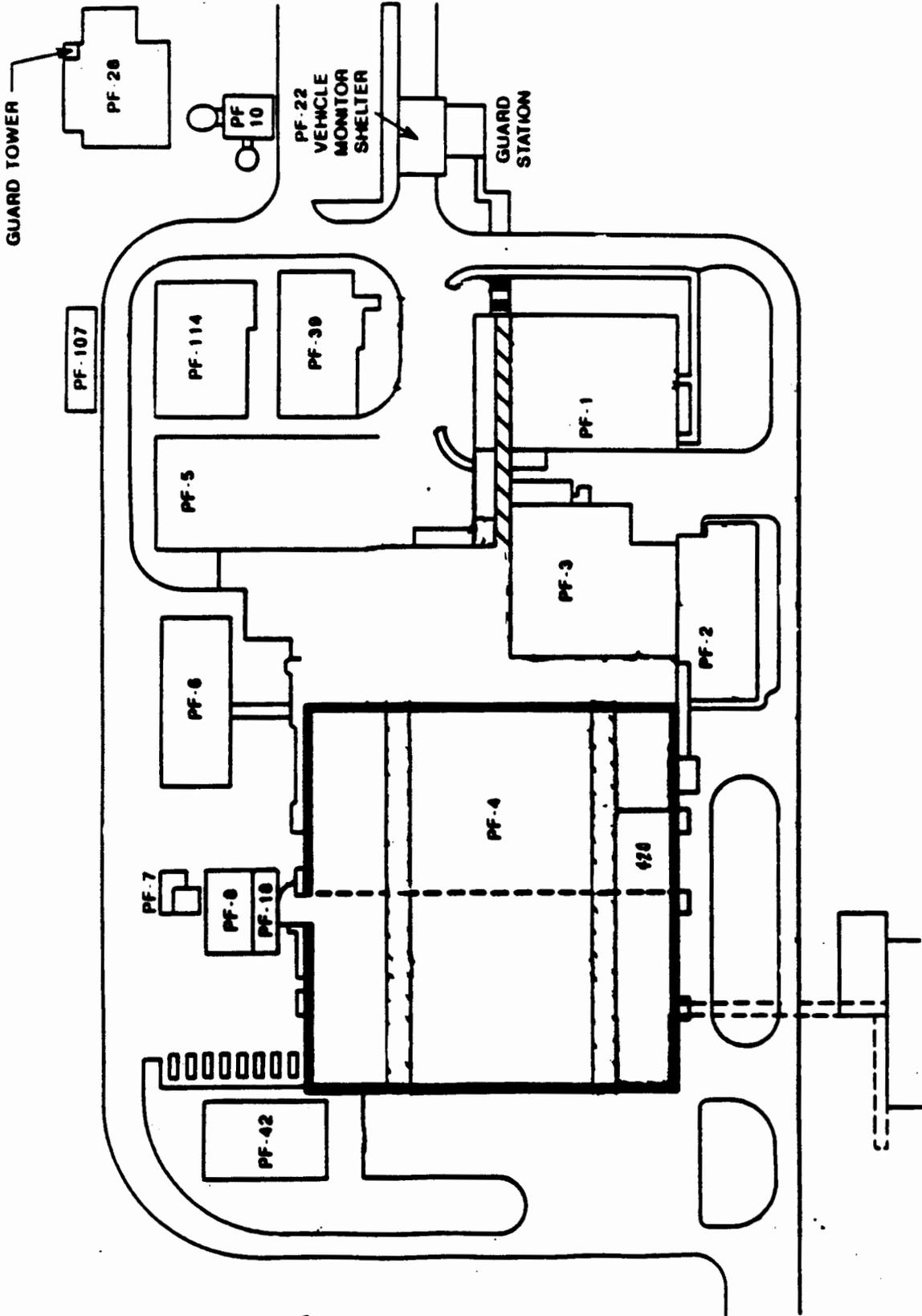
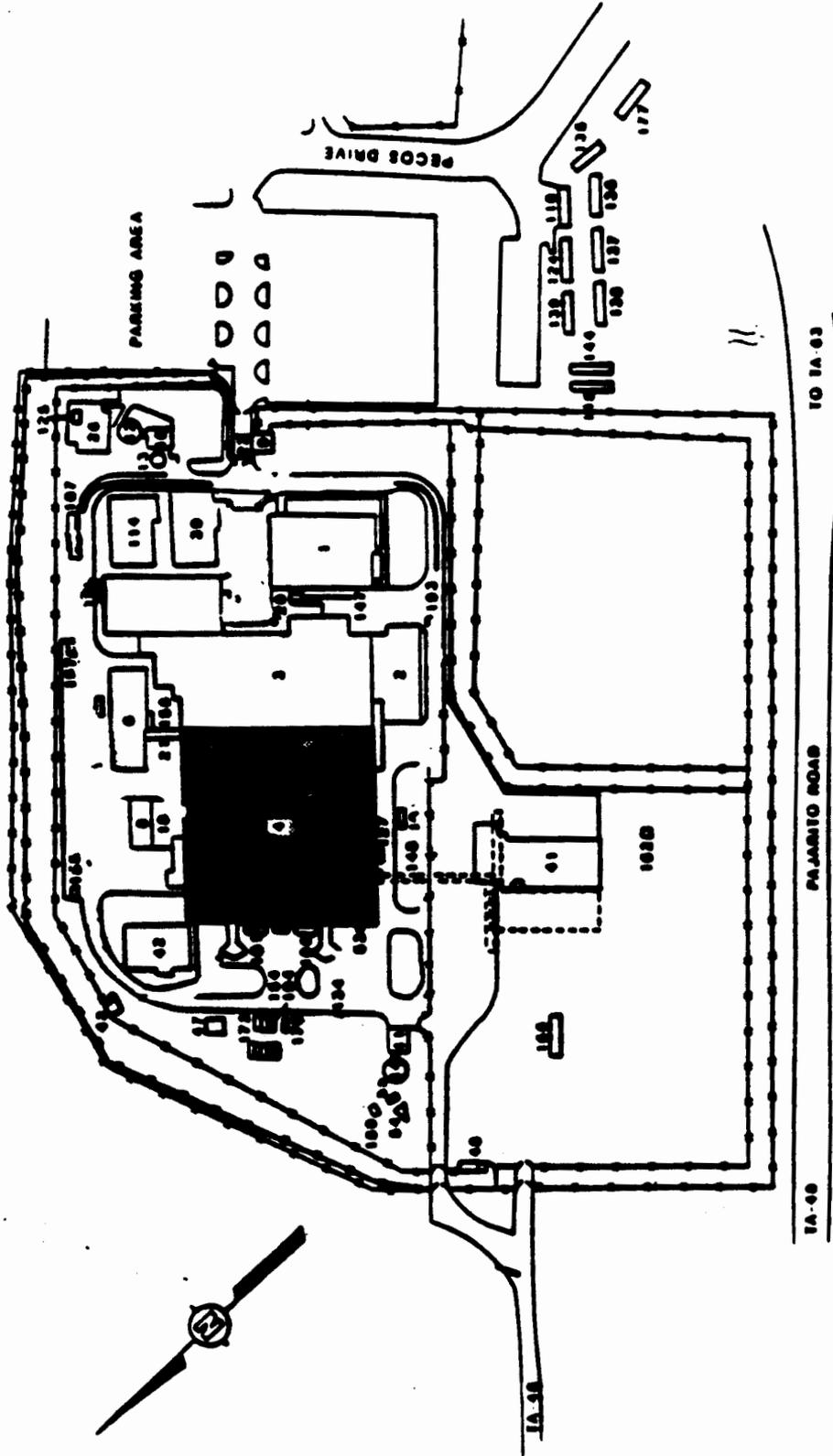


FIGURE 4

**LOCATION MAP OF
SECURITY PERIMETER**

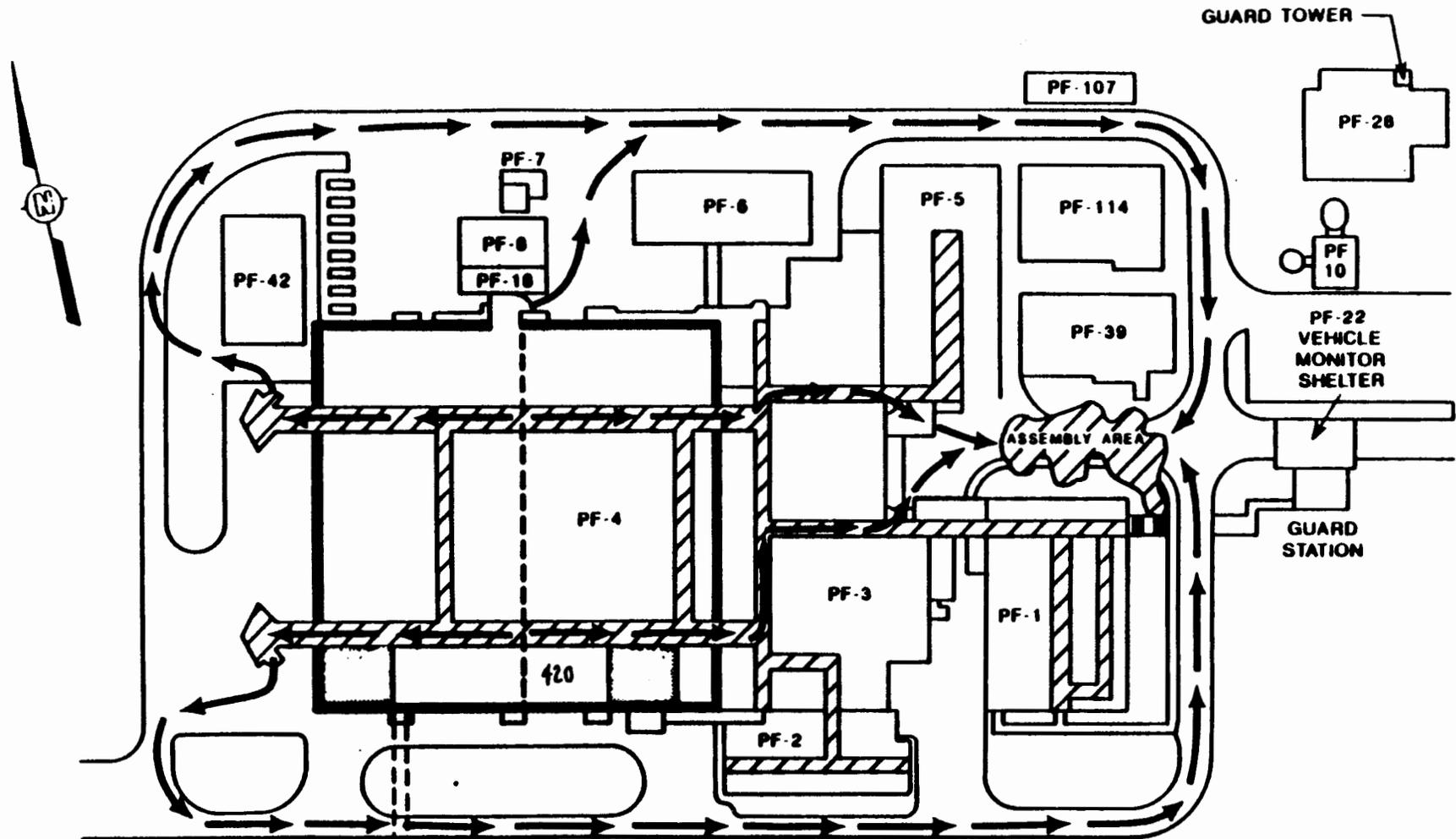
TA-55



200 0 200 FEET

SECURITY FENCE

FIGURE 5
EVACUATION ROUTES
FOR TA-55, BUILDING 4

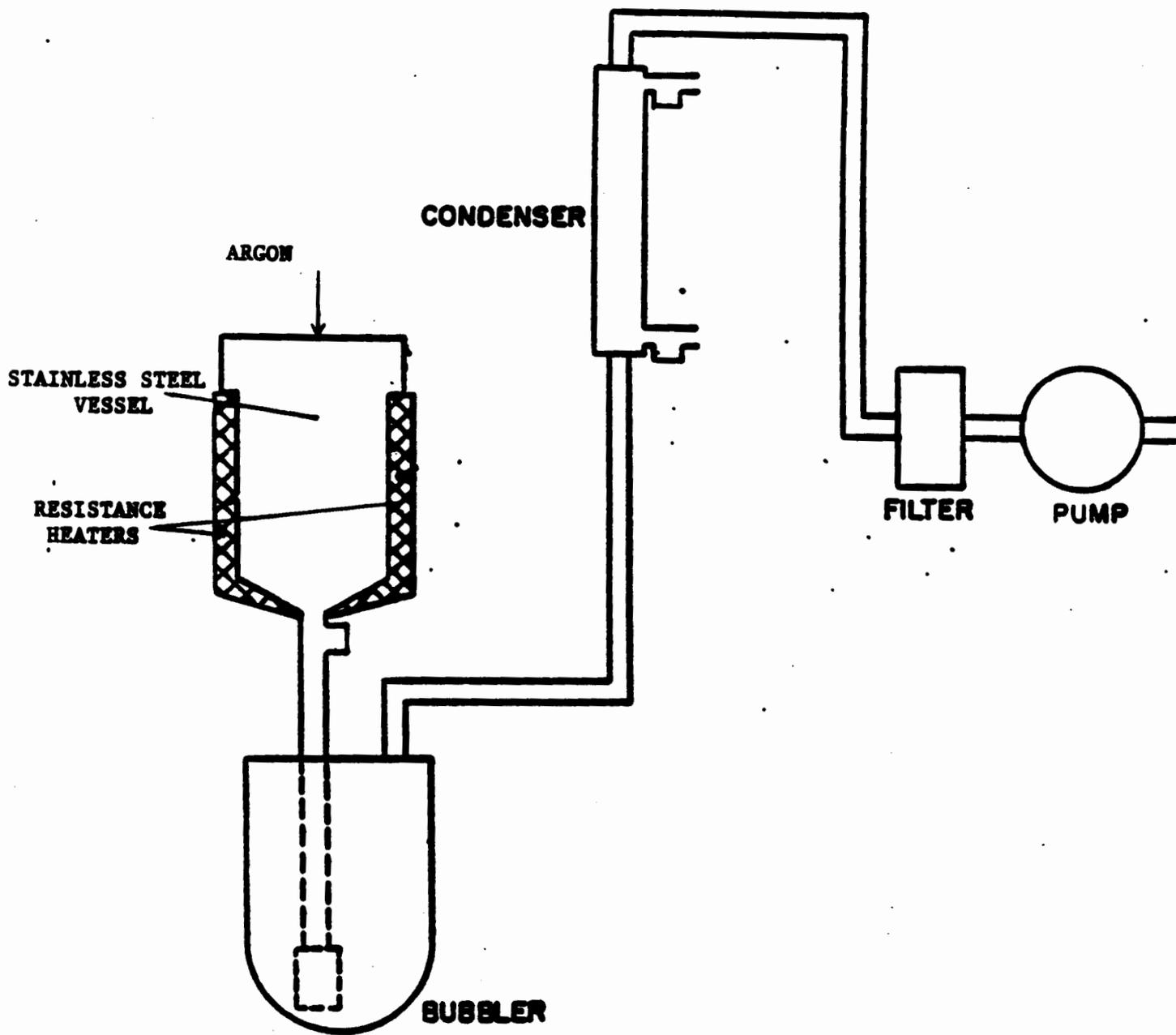


LEGEND

-  MAIN CORRIDORS
-  EVACUATION ROUTES

NOT TO SCALE

ATTACHMENT 1
SCHEMATIC FOR IADU



SCHEMATIC

ATTACHMENT 2

**ASSISTANCE AGREEMENT BETWEEN THE DEPARTMENT OF ENERGY
AND THE COUNTY OF LOS ALAMOS
- FIRE DEPARTMENT -**

AWARD/CONTRACT

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

RATING

PAGE OF PAGES

See Block 16

CONTRACT (Proc. Inst. Ident.) NO.

EFFECTIVE DATE

4. REQUISITION

PURCHASE REQUEST/PROJECT NO.

DE-AC32-93AL64100

DEC 01 1992

32-93AL64100.000

ISSUED BY

CODE

6. ADMINISTERED BY (If other than Item 5)

CODE

U. S. Department of Energy
Alamos Area Office
Los Alamos, NM, 87544

NAME AND ADDRESS OF CONTRACTOR (No., street, city, county, State and ZIP Code)

Incorporated County of Los Alamos
P.O. Box 30
Los Alamos, New Mexico 87544

8. DELIVERY

See Section F

FOB ORIGIN

OTHER (See below)

9. DISCOUNT FOR PROMPT PAYMENT

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

ITEM

See Block 12

ODE

FACILITY CODE

1. SHIP TO/MARK FOR

CODE

12. PAYMENT WILL BE MADE BY

CODE

See Section F

U.S. Department of Energy
Financial Management Division
P.O. Box 5400-Albuquerque, NM, 87115

3. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION:

10 U.S.C. 2304(c)

41 U.S.C. 253(c)

14. ACCOUNTING AND APPROPRIATION DATA

B&R Code: CR0103041 Appropriation: 89 X 0240 Funds Obligated: \$3,675,395

5A. ITEM NO.

15B. SUPPLIES/SERVICES

15C. QUANTITY

15D. UNIT

15E. UNIT PRICE

15F. AMOUNT

(See Continuation Pages)

15G. TOTAL AMOUNT OF CONTRACT \$

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CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE

7. CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 3 copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)

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

19A. NAME AND TITLE OF SIGNER (Type or print)
WALLACE J. WALTERS, COUNCIL CHAIRMAN

20A. NAME OF CONTRACTING OFFICER
JERRY L. BELLAWS
Area Manager
Contracting Officer

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

19C. DATE SIGNED
11/24/92

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

20C. DATE SIGNED
11-25-92

1 11:26 AM '92

B.02 ITEMS BEING ACQUIRED

The Contractor shall furnish all personnel, equipment, materials, supplies, and services (except as may be expressly set forth in this contract as furnished by the Government) and otherwise do all things necessary for, or incident to, performing and providing the services in strict accordance with all terms and conditions of this contract.

B.03 ESTIMATED COST

The total net estimated cost for this five-year contract is \$39,862,355.00, broken down as follows:

	<u>Estimated Costs</u>	<u>Less: County Share (Fixed)</u>	<u>Plus: Management Allowance (Fixed)</u>	<u>Net Estimated Costs</u>
1st Year	\$7,350,790	\$ 0	\$ 0	\$ 7,350,790
2nd Year	7,568,368	0	0	7,568,368
3rd Year	7,895,868	118,800	40,600	7,817,668
4th Year	8,299,374	237,600	81,200	8,142,974
5th Year	8,738,687	356,400	121,800	8,504,087
				<hr/>
			Total Net Estimated Costs	\$39,383,887

The estimated cost for each year shall not be exceeded without prior Contracting Officer approval. No fee shall be paid to the Contractor under this contract; however, a management allowance as described in Paragraph B.05, Management Allowance, shall be paid to the County.

DOE shall reimburse the Contractor for providing the services described herein to the areas identified in Attachment D, "Los Alamos Fire Department Service Area," and to other areas outside the County to the extent provided for in this Contract. The County shall be responsible for all costs of providing these services to any residential, commercial and industrial areas outside of the Municipal Development Area developed after July 28, 1989.

B.04 COUNTY'S SHARE OF COST

The County agrees to assume the cost of community fire protection based on a formula which multiplies the ratio of the 1988 appraised value of the property in the County to the combined appraised value of County and Laboratory property by Contract No. DE-AC32-88AL44118 price as of July 18, 1989,

PART I
THE SCHEDULE

SECTION A - AWARD/CONTRACT (STANDARD FORM 26 - COVER)

SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

B.01 BACKGROUND AND PURPOSE OF THE CONTRACT

DOE is authorized pursuant to the Department of Energy Organization Act (Public Law 95-91) and other applicable law, including the Atomic Energy Act of 1954, as amended, to provide or otherwise arrange for fire suppression and related facilities and services at project sites where such facilities and services are not available. As permitted by this authority, DOE and the County entered into Contract No. DE-ACO4-88AL44118 which was changed in Contract Modification No. M011 to Contract No. DE-AC32-88AL44118. Under Contract No. DE-AC32-88AL44118 the County operated the DOE-owned fire department serving the County of Los Alamos, the DOE's Los Alamos National Laboratory and other property and facilities of DOE, as well as persons and property, within and outside the County.

DOE and the County have now determined that it is to their mutual benefit for the County to continue operating the DOE-owned fire department. The County has the authority to and is willing to perform the services specified in this contract.

Since the transfer of the Atomic Energy Commission-owned community to the County in the 1960's, the Government has made annual assistance payments to the County pursuant to the provisions of the Atomic Energy Community Act of 1955, as amended (Public Law 84-221). During this period, it has been the goal of the Government and the County to work towards making the County self-sufficient. One step in achieving this goal has been a concentrated effort in recent years to obtain Congressional approval for a buy-out in the form of a one-time lump-sum payment which would liquidate all remaining obligations of the Government to the County. Another step toward self-sufficiency was the transfer of responsibility for providing fire suppression and related services to the County by means of DOE Contract No. DE-AC32-88AL44118. This contract represents a further step in that process by requiring the County to begin paying the cost of services for the community.

monthly installments at the end of each month; provided, however, that in the event of termination or expiration, the final installment shall be retained pending compliance with subparagraph (e) of Paragraph H.16, Advance Payments.

B.06 LIMITATION OF FUNDS

Pursuant to the Contract Clause entitled, "Limitation of Funds," total funds in the amount of \$3,675,395 have been allotted for obligation for the first six months with funds obligated every six months thereafter with the issuance of a unilateral modification to this contract. The funds allotted for obligation are available for payment of all allowable costs to be incurred for this contract.

B.07 WORK SCHEDULE

Work schedules will be established to meet the requirements and intent of Section 7(k) of the Fair Labor Standards Act (29 USCA. Section 207[k]) for shift firefighter personnel and a 40 hour-per-week work schedule for all other Fire Department personnel.

SECTION C - DESCRIPTION/SPECIFICATION/WORK STATEMENT

C.01 STATEMENT OF WORK

The Statement of Work is Attachment A to this contract.

C.02 REPORTS

Reports and deliverables shall be submitted by the Contractor in accordance with the provisions of this contract. See Attachment J for listing. This listing may not be inclusive of all the reporting requirements of this contract and the absence of a particular requirement herein does not waive the Contractors responsibility to provide it in the manner and at the time required elsewhere in this contract.

SECTION D - PACKAGING AND MARKING

D.01 PACKAGING

Preservation, packaging, and packing for shipment or mailing of all work deliverable hereunder shall be in accordance with good commercial practice and adequate to insure acceptance by common carrier and safe transportation at the most economical rates.

which was \$5,669,692. Based upon this formula the County shall contribute \$594,000 annually toward Fire Department operations. This annual amount shall remain fixed at this level unless modified at the request of one of the parties upon agreement that this amount is no longer fair and reasonable.

The County will begin paying a portion of its share of the Fire Department costs as described above beginning the third year of this contract. The County shall phase such payment over a five-year period. The County shall pay 20 percent of \$594,000 the third year of the Contract for its full share; 40 percent the fourth year of the Contract; and 60 percent the fifth year of the Contract. If the parties enter into a follow-on contract following the expiration of this Contract, or if this Contract is extended, the County shall continue to phase in payment in 20 percent increments; that is 80 and 100 percent in the next two years respectively. The County's annual share of Fire Department costs shall be deposited in the Special Bank account in twelve monthly installments on the first work day of each month.

B.05 MANAGEMENT ALLOWANCE

In addition to the costs and expenses reimbursed under the Contract Clause entitled "Allowable Cost and Payment," the County shall be given a management allowance, subject to Paragraph B.04 above, of \$203,000 annually. This figure represents four percent of one year of operation under Contract No. DE-AC32-88AL44118 as of July 18, 1989, less the County's share of operating costs. This figure shall remain fixed unless the figure given in Paragraph B.04 above, representing the County's full share of Fire Department costs, is changed. DOE reserves the right, however, to request that the County reduce this figure by an amount equal to any savings or additional revenues that DOE may achieve in the County's operation by other means. The County reserves the right to refuse such a request if it does not appear to be in the County's best interest. Payment of the management allowance described in this Paragraph shall be phased in beginning the third year of this contract in 20 percent increments over a five-year period in the same manner in which the County's payment of its share of Fire Department costs is phased in as described in Paragraph B.04 above. DOE shall pay the annual management allowance to the County in twelve equal

SECTION G - CONTRACT ADMINISTRATION DATA

G.01 CORRESPONDENCE PROCEDURE

- (a) To promote timely and effective administration, correspondence, including invoices and reports required by the contract to be submitted to the Government, shall be sent to the Contracting Officer.

U. S. Department of Energy
Los Alamos Area Office
528 35th Street
Los Alamos, NM 87544

- (b) All correspondence, including approvals, from the Government to the Contractor shall be sent to the Contract Administrator at the address set forth below:

Contract Administrator
County Administrator
Incorporated County of Los Alamos
P. O. Box 30
Los Alamos, NM 87544

G.02 GOVERNMENT CONTACT FOR POST AWARD ADMINISTRATION

The Contractor shall use the Contracting Officer as the focal point for all matters regarding this contract except as otherwise provided by the Contracting Officer in writing. The Los Alamos Area Office (LAAO) is the contract administration office.

G.03 BILLING INSTRUCTIONS

In connection with the Contract Clause entitled "Allowable Cost and Payment" and Paragraph H.16, Advance Payments, and in order to support the amounts withdrawn from the Special Bank Account, the Contractor shall submit invoices to the Contracting Officer on a monthly basis. Such invoices shall be prepared in compliance with the Billing Instructions set forth in Attachment H of the contract and such other directions as may be provided by the Contracting Officer.

D.02 MARKING

(a) Each package, report or other deliverable shall be accompanied by a letter or other document which:

(1) Identifies the contract by number under which the item is being delivered.

(2) Identifies the deliverable Item Number or Report Requirement which requires the delivered item(s).

(3) Indicates whether the Contractor considers the delivered item to be a partial or full satisfaction of the requirement.

(b) For any package, report or other deliverable being delivered to a party other than the Contracting Officer, a copy of the document required in (a) above shall be simultaneously provided to the office administering the contract, as identified in Section G of the contract, or if none, to the Contracting Officer.

SECTION E - INSPECTION AND ACCEPTANCE

E.01 INSPECTION

Requirements for inspection are established in FAR Clause 52.246-5 under the Contract Clauses of this contract. Inspection of all items under this contract shall be accomplished by the DOE Technical Representative, or any other duly authorized Government representative of the Contracting Officer.

E.02 ACCEPTANCE

Any acceptance or approval of services under this contract (including reporting requirements) shall be accomplished by the Contracting Officer.

SECTION F - DELIVERIES OR PERFORMANCE

F.01 PERIOD OF PERFORMANCE

This contract shall commence on the effective date of the contract and shall be for a period of five (5) years unless sooner terminated as provided in the article entitled "TERMINATION."

G.04 ANNUAL INDIRECT COST RATE SUBMISSION

- (a) In accordance with the contract clause entitled "Allowable Cost and Payment", the Contractor, as soon as possible but not later than one hundred eighty (180) days after the expiration of its fiscal year, shall submit to the indirect cost rate Cognizant Contracting Officer (CCO), identified in paragraph (e) of this clause, a proposed final indirect rate or rates for that period based on the Contractor's actual cost experience during that period, together with supporting data or calculations.
- (b) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the cost principles in effect as of the date of this contract.
- (c) The settlement of final indirect cost rates and indirect costs shall be accomplished prior to the Contracting Officer's approval of the final payment.
- (d) Pending settlement of final indirect cost rates for any period, the Contractor shall be reimbursed for indirect rates at billing rates acceptable to the CCO. These billing rates are subject to appropriate adjustments when the final indirect cost rates are settled. The Contractor shall provide to the CCO annually, within 180 days after the expiration of its fiscal year, a billing rate proposal, together with supporting data. If billing rates change substantially at any time during the contract performance period, the Contractor shall notify the CCO in writing. Upon review of the annual billing rate proposal, or any notification of substantial rate change during the contract performance period, the CCO may adjust the approved billing rate. In the event that adjustment is to be applied retroactively, the Contractor shall make appropriate adjustments on its next voucher.
- (e) The indirect cost rate CCO and address is as follows:

Herman Smith
U. S. Department of Energy
Albuquerque Operations Office
Financial Management Division
P. O. Box 5400
Albuquerque, New Mexico 87115
Telephone No. (505) 845-4107

The Contractor shall use the CCO as the point of contact for indirect cost rate matters as defined by the contract clause entitled "Allowable Cost and Payment."

- (f) The billing rate for indirect costs for the first year of operation will be established as a provisional billing rate of 15% to be applied to salaries and benefits. If, during the period of performance of this contract, provisional rates have not been established for a subsequent period, via a contract modification, then the Contractor shall continue to bill those rates most recently approved by the Contracting Officer, or at lower rates until such time as the contract is modified to reflect the most current approved rates.

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.01 ADDITIONAL DEFINITIONS

With reference to the Contract Clause entitled "Definitions," and as used in the Statement of Work listed below are definitions which apply to the Contract;

(a) The term "University" means the Regents of the University of California which manages and operates the Los Alamos National Laboratory under DOE Contract No. W-7405-ENG-36.

(b) The terms "Laboratory" or "LANL" mean the Department of Energy owned Los Alamos National Laboratory located in Los Alamos, New Mexico.

(c) The term "County" and "Contractor" are used interchangeably and mean the Incorporated County of Los Alamos.

Interpretation of the terms and conditions of this Agreement shall be made in accordance with the definitions of the most recently published edition of the National Fire Protection Association (NFPA) standards unless such definitions are contrary to the express terms and conditions of this Agreement.

H.02 UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION

- (a) Definition. Unclassified Controlled Nuclear Information (UCNI) is defined as, and limited to, sensitive but unclassified Atomic Energy Defense Program information concerning design, production,

utilization, and safeguards of nuclear weapons or material. (See Title 10, Code of Federal Regulations (CFR) Part 1017, for complete details.) Official procedures for access to, and protection and transmission of UCNI are given below.

- (b) Legend. Documents originated by the Contractor or furnished by the Government or the University to the Contractor in connection with this contract may contain UCNI as defined in Section 148 of the Atomic Energy Act of 1954, as amended. The following legend will be stamped or typed on the cover of such documents:

UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION
NOT FOR PUBLIC DISSEMINATION

Unauthorized dissemination subject to civil and criminal sanctions under Section 148 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2168).

The Contractor shall be responsible for protecting such information from unauthorized dissemination in accordance with DOE regulations, requirements, and instructions.

- (c) Access. UCNI may only be made available to authorized individuals, which, for purposes of this contract, means only to U. S. citizens who have a need to know in the performance of official duties or DOE authorized activities and who are employees of the Government, employees of a Government contractor or subcontractor, or employees of a prospective Government contractor or subcontractor for the purpose of bidding on a Government contract.

- (d) Protection of UCNI. All parties shall be obliged under penalty of law to protect such information as required by 10 CFR 1017.17, such responsibility including, but not limited to, the following:

- (1) General. UCNI required protection from unauthorized dissemination. UCNI must be protected and controlled in a manner consistent with that customarily accorded other types of unclassified but sensitive information (e.g.,

proprietary business information, personnel or medical records of employees, attorney-client information). The Contractor shall establish and maintain a system for the protection of UCNI in its possession or under its control that is consistent with the physical protection standards established in this section. Each Authorized Individual or person granted special access to UCNI who receives, acquires, or produces an UCNI or a document or material containing UCNI shall take reasonable and prudent steps to ensure that it is protected from unauthorized dissemination.

- (2) Protection in Use or Storage. An Authorized Individual or a person granted special access to UCNI shall maintain physical control over any document or materials containing an UCNI notice that is in use so as to prevent unauthorized access to it. When any document or material containing an UCNI notice is not in use, it must be stored in a secure container (e.g., locked desk or file cabinet) or in a location where access is limited (e.g., locked or guarded office, controlled access facility).
- (3) Reproduction. A document or material containing an UCNI notice may be reproduced to the minimum extent necessary consistent with the need to carry out official duties without permission of the originator provided the reproduced document or material is marked and protected in the same manner as the original document or material.
- (4) Destruction. A document or material containing an UCNI notice may be disposed of by any method which assures sufficiently complete destruction to prevent its retrieval (providing the disposal is authorized by the Archivist of the United States under 41 CFR 101-11.4 and by agency records disposition schedules).

(5) Transmission.

- (i) A document or material containing an UCNI notice must be packaged to prevent disclosure of the presence of UCNI when transmitted by a means which could allow access to the document or material by a person who is not an Authorized Individual or a person granted special access to UCNI. The address and return address must be indicated on the outside of the package.
 - (ii) A document or material containing an UCNI notice may be transmitted by:
 - A. U. S. first class, express, certified, or registered mail;
 - B. Any means approved for the transmission of classified documents or material;
 - C. An Authorized Individual or a person granted special access to UCNI when he or she can control access to the document or material being transmitted; or
 - D. Any other means determined by the DOE Assistant Secretary for Defense Programs to be sufficiently secure.
 - (iii) UCNI may be discussed or transmitted over an unprotected telephone or telecommunications circuit when required by operational considerations. More secure means of communication should be utilized whenever possible.
- (6) Automated Data Processing (ADP). UCNI may be processed or produced on any ADP system which is certified for classified information which complies with the guidelines of Office of Management and Budget Circular No. A-130, "Management of Federal Information Resources," or which has been approved for such use in accordance with the provisions of applicable DOE directives.

- (e) Penalties. Any person who violates Section 148 of the Atomic Energy Act or any regulation or order of the Head of Agency issued under Section 148 of the Atomic Energy Act, including the requirements of this Paragraph H.02, may be subject to a civil penalty; and may also be subject to a criminal penalty under Section 223 of the Atomic Energy Act of 1954, as amended. The DOE Assistant Secretary for Defense Programs may recommend to the Head of the Agency imposition of this civil penalty which shall not exceed \$100,000 for each violation.

H.03 CONFIDENTIALITY OF INFORMATION

- (a) To the extent that the work under this contract requires that the Contractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Contractor shall after receipt thereof, treat such information as confidential and agrees not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by the Contracting Officer in writing. The foregoing obligations, however, shall not apply to:
- (1) Information which, at the time of receipt by the Contractor, is in the public domain;
 - (2) Information which is published by others after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;
 - (3) Information which the Contractor can demonstrate was in its possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies pursuant to this contract;
 - (4) Information which the Contractor can demonstrate was received by it from a third party who did not require the Contractor to hold it in confidence.

- (b) The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, of each employee permitted access, whereby the employee agrees that he or she will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the Contract.
- (c) The Contractor agrees, if requested by the Government, to sign an agreement identical, in all material respects, to the provisions of this Para. H.03, with each company supplying information to the Contractor under this contract, and to supply a copy of such agreement to the Contracting Officer. From time to time upon request of the Contracting Officer, the Contractor shall supply the Government with reports itemizing information received as confidential or proprietary and setting forth the company or companies from which the Contractor received such information.
- (d) The Contractor agrees that upon request by the Contracting Officer it will execute a DOE approved agreement with any party whose facilities or proprietary data it is given access to or is furnished, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by the Contracting Officer, such an agreement shall also be signed by Contractor personnel.

H.04 REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS

The Representations, Certifications and Other Statements of Offeror, submitted by the Contractor and that apply to this contract, are incorporated here by reference.

H.05 MODIFICATION AUTHORITY

Notwithstanding any of the other provisions of this contract, the Contracting Officer shall be the only individual authorized to:

- (a) waive any requirement of this contract, or
- (b) modify any term or condition of this contract.

H.06 GOVERNMENT-FURNISHED PROPERTY AND SERVICES

This Paragraph H.06 supplements the Contract Clause entitled, "Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts)."

- (a) General. Unless the Contracting Officer and the Contractor agree otherwise, DOE shall furnish, without cost to the Contractor, the property and services listed below subject to procedures prescribed by the Contracting Officer for the performance of this contract. In providing these services, the DOE may use any source available at the LANL. These sources may include the University of California, including any of its sub-contractors, or other sources as DOE may deem appropriate.
- (b) Property.
 - (1) Equipment and Vehicles. The equipment and vehicles described in Attachment B.
 - (2) Facilities. The facilities described in Attachment C. No alterations to the facilities shall be made without specific written permission from the Contracting Officer; however, such permission shall not be unreasonably withheld.
 - (3) Supplies. Supplies, parts and materials which are on hand at the termination of Contract No. DE-AC32-88AL44118 shall be furnished to the Contractor and shall be accounted for and included in the Contractor's Property Management System.
- (c) Services
 - (1) Utilities. Gas, electricity, water, steam and sewage.
 - (2) Telephone Service. Telephone services for local toll and long distance calls with access to the Federal Telephone System. Use of telephone services shall be in accordance with DOE Order 1450.3 dated May 26, 1988.

- (3) Central Alarm Center. The computer based alarm system established at the Laboratory will operate as it currently exists, and responsibility for this system will remain with the University. The University through the Government's Central Alarm Station/Central Guard Facility shall notify the Contractor of all alarms and requests for service. Such notification shall include all available information for the Contractor to formulate the required response and tactics.
- (4) Maintenance and Repair Services (Vehicles and Facilities). Services for repair and maintenance services for vehicles and facilities in order to keep them in a functional state of repair can be provided by the DOE, its contractors or subcontractors providing these services at the LANL to the extent that they are available.
- (5) Health, Safety, and Environmental Services.
- (i) Occupational Medicine: Pre-employment and annual physical examinations, as specified by NFPA, DOT, and substance abuse testing for Contractor Fire Department personnel as authorized by the Contracting Officer.
 - (ii) Emergency Response Training (including hazardous materials) and specific orientation and training on LANL facilities will be provided to Contractor for responses to fire suppression, emergency medical and rescue services.
 - (iii) Ionizing Radiation: Radiation monitoring services to Contractor fire suppression, emergency medical and rescue services personnel that include dosimetry, bioassay sampling, invivo counting, monitoring and instrumentation. DOE will evaluate the results and provide reports to the Contractor. The Contractor shall administer the issuance and collection of instruments, dosimetry devices, and samples and shall request and schedule services for its employees.

- (6) Training. The Contractor may use DOE-owned facilities for training to meet requirements of the contract and is authorized to attend government-sponsored training programs and services.
- (7) Communications. Access to the LANL trunk radio system and use of communications equipment is authorized by DOE. In addition, radios on the MEDNET public safety band are assigned to ambulances. In addition, the Contractor may also use the services of the Central Alarm Center, TA-64-1, to handle radio communications for the Fire Department's dispatch function.
- (8) Instrumentation. Maintenance and repair services for Government radios and associated equipment and radiation detectors assigned to the Contractor for the performance of this contract.
- (9) Security/Protective Services. Necessary Security and Protective services.
- (10) Locksmith Services. Locksmith services including locks, lock cores, and keys.
- (11) Supplies, Materials and Services Sources. The Contractor will use established sources available to DOE at Los Alamos. These sources include but are not limited to General Services Administration and the Los Alamos National Laboratory (LANL) warehouses to obtain supplies and materials if these sources are determined the most economical to meet the need. Additionally, the Contractor should also request Government rates for travel, lodging, etc., when possible.

H.07 INSURANCE REQUIREMENTS

In accordance with the Contract Clause entitled "Insurance - Liability to Third Persons," the following kinds and minimum amounts of insurance are required during the performance of this contract:

- (a) **Worker's Compensation and Employer's Liability Insurance:**
- (1) The amount required by the State of New Mexico under applicable Worker's Compensation and occupational disease statutes.
 - (2) Employer's liability insurance in the amount of \$100,000.
- (b) **General Liability Insurance:** Bodily injury liability coverage written on the comprehensive form of policy of at least \$500,000 per occurrence.
- (c) **Automobile Liability Insurance:** Coverage shall be on the comprehensive form of policy. It shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage.
- (d) The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.

H.08 LIMITATION OF LIABILITY

Notwithstanding anything to the contrary in the Contract Clause entitled "Insurance-Liability to Third Persons" or any other clause of this contract, no provision of this contract waives any of the sovereign immunity or statutory limitation of liability of the State of New Mexico or any of its political subdivisions, governmental entities, or public employees which is applicable to the Contractor.

H.09 PERSONNEL SECURITY "Q" CLEARANCES

All County personnel who are assigned to or oversee the Fire Department and who require a DOE "Q" clearance to perform their contract functions will be required to hold an active DOE "Q" clearance. The Government will conduct and assume all

cost and responsibility for background investigations for "Q" clearances. However, the Contractor shall be responsible for all pre-employment checks necessary to determine an individual's suitability for employment prior to requesting the Government to perform a background investigation on the individual for the purpose of obtaining a "Q" clearance.

H.10 COST PRINCIPLES FOR STATE AND LOCAL GOVERNMENTS

The contractor shall be subject to OMB Circular A-87 , Cost Principles for State and Local Governments. Should OMB Circular A-87 as it exists on the effective date of this contract be amended to impose upon contractors the requirements of the Civilian Employee and Contractor Travel Expenses Act of 1985, Public Law 99-234, the Contractor shall thereafter be required to comply with such amended provisions of OMB Circular A-87 for the remainder of the contract performance period.

H.11 AUDITS OF STATE AND LOCAL GOVERNMENTS

The Contractor shall be subject to OMB Circular A-128, Audits of State and Local Governments

H.12 SUBCONTRACTING PLAN

In accordance with the provision set forth in the clause entitled "Small Business and Small Disadvantaged Business Subcontracting Plan," the Contractor's Subcontracting Plan is attached hereto as Attachment F to the contract and is hereby made a part of this contract.

H.13 CONTRACT REPRESENTATIVES

(a) Department of Energy (DOE)

- (1) The Contracting Officer may designate for the contract, a Contracting Officer Representative (COR) who shall be identified to the Contractor in writing by the Contracting Officer. The limitation on the authority of the COR to act for the Contracting Officer shall be set forth in writing and a copy provided to the Contractor.

- (2) The Contracting Officer may designate a Technical Representative for this contract who may be an employee of the University of California. Such individual's name shall be identified, in writing, by the Contracting Officer. The duties of the Technical Representative shall be to monitor the contract performance by the Contractor for technical compliance with the terms of the contract and to provide technical advice to the Contracting Officer. The following duties will be performed by the Technical Representative:

(i) Assist with Technical Matters

- A. Monitor compliance of Contractor with technical requirements of Contract.
- B. Inform the Contracting Officer in writing of any performance failure.
- C. In conjunction with the contract requirements establish a tracking system to assist the Government with meeting its Contract obligations. This includes, but is not limited to Government-furnished property and services and timely Government comment on deliverables required by the Contract.
- D. Assist the Contractor in interpreting technical requirements of the Contract. All technical questions which cannot be resolved without increasing costs or requiring changes to the Contract shall be reported in writing to the Contracting Officer for immediate resolution. Such reports should contain the facts and recommendations pertinent to the questions at issue.
- E. Recommend to the Contracting Officer technical changes required to meet minimum DOE Orders requirements for fire suppression, emergency and rescue services at LANL.

(ii) Monitor the Administrative and Funds Aspects.

- A. Notify the Contracting Officer immediately, in writing of any indication that the cost to the Government, for completing performance under the Contract, will exceed the amount stated in the Contract.
- B. Report any indication that costs are being incurred which are not appropriately chargeable to the Contract.

(iii) Property Management

Review and make recommendations on the Contractor's request for Government-furnished facilities, supplies materials, and equipment and forward the request to the Contracting Officer for disposition.

(iv) Assist in Closeout of the Contract

Upon expiration or termination of the contract, forward to the Contracting Officer a written statement attesting to the acceptability of the Contractor's technical performance and attesting to the completion of certain elements of the contract work including, but not limited to, submittals, reports, and other deliverables required by the contract.

- (3) DOE and the Contractor understand and agree that all activities designated to be performed by the Technical Representative or other employees or agents of the University of California pursuant to this contract are performed for DOE under and pursuant to Contract No. W-7405-ENG-36 between the University and DOE.

(b) County of Los Alamos (County)

The County shall designate, in writing, a full time Contract Manager and an alternate who shall be responsible for the administration of this contract. The Contract Manager shall be authorized and responsible to make and implement decisions within the scope of the contract and authorized to represent the County at meetings on Contract matters.

H.14 PAYMENT FOR OVERTIME PREMIUMS

- (a) DOE is in the process of seeking from the Secretary of the United States Department of Labor a waiver for this contract from the requirement of the Contract Work Hours and Safety Standards Act to pay one and one-half times the basic rate of pay for all hours worked in excess of forty hours per week. The requirements of the clause entitled "Contract Work Hours and Safety Standards Act-- Overtime Compensation" will not be effective until such time as the Secretary of Labor makes a determination on the request for waiver and then only in the event that the request for waiver is denied. In the event the request for waiver is denied, the clause will be effective retroactively on the effective date of this contract. The Contractor will be notified by letter of the Secretary of Labor's determination as soon as DOE receives it. Upon receipt of notice that the referenced clause is applicable, the Contractor shall submit a cost proposal for any necessary contract price adjustment necessary to cover retroactive and prospective costs of the application of the clause.
- (b) The use of overtime for hours worked in excess of the work schedules established pursuant to Paragraph B.07, Work Schedules, is authorized under this contract if the overtime premium does not exceed the amount established by the budget submitted by the Contractor and approved by the Contracting Officer as required by the Statement of Work, Part III, Attachment A, Paragraph IIIA, or the overtime premium is paid for work:
- (1) Necessary to cope with emergencies such as those resulting from accidents or natural disasters;
 - (2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting; or
 - (3) That will result in lower overall costs to the Government. However, continued use of overtime to replace or supplement full-time personnel will not be allowed.
- (c) Each incident requiring the payment of overtime premiums in excess of the standard work week shall be documented and such documentation shall contain the following information with copies provided to the Contracting Officer:
- (1) The identity of the work unit (e.g., department or section in which the requested overtime was used),

together with present work load, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime; and

- (2) An explanation of the effect that denial of the overtime would have had on contract performance.
- (3) Documentation explaining how Contracting Officer approval was obtained, where appropriate.

H.15 PRIVACY ACT SYSTEMS OF RECORDS

Reference is made to the Contract Clauses entitled "Privacy Act Notification" and "Privacy Act." The Contractor will be required to operate the following system of records under this contract: Personnel Radiation Exposure Records (System No.DOE-35).

H.16 ADVANCE PAYMENTS

- (a) Payments from Funds Available Under the Contract. Within the total funds obligated under this contract the Government, from time to time, shall advance funds necessary for performance of this contract. The payment for allowable costs and indirect costs, or for other payments which the Contracting Officer has specifically approved in writing, shall be made from funds advanced by the Government or otherwise available under the contract. The Contractor shall submit a separate voucher for each installment of indirect costs thirty (30) days after the end of the month covered by the voucher, and shall pay such installment of the indirect cost out of funds advanced by the Government or otherwise available under this contract.
- (b) Special Bank Accounts - Use. All advances of Government funds shall be withdrawn pursuant to a Letter of Credit in favor of a bank qualified as a depository for federal monies or, at the option of the Government, shall be made by check payable to the Contractor, and shall be deposited only in the Special Bank Account established by a Special Bank Account Agreement for Use With the Checks-Paid Method of Letter of Credit Financing in the form and containing the provisions set forth in Attachment G of this contract. The Contractor shall likewise deposit in the Special Bank Account any revenues received by the Contractor in connection with the work under this contract. No part of the funds in the Special Bank Account shall be (1) mingled with any funds of the Contractor or (2) used for a purpose other than that of making payments for the management allowance and for costs allowable under this contract or payments for other items specifically

approved in writing by the Contracting Officer and the Contractor's indirect costs as provided for elsewhere in this contract. If the Contracting Officer shall at any time determine that the balance on such bank account exceeds the Contractor's current needs, the Contractor shall promptly make such disposition of the excess as the Contracting Officer may direct.

- (c) Title to Funds Advanced. Title to the unexpended balance of any funds advanced and of any bank account established pursuant to this Paragraph H.16 shall remain in the Government and be superior to any claim or lien of the bank of deposit or others. It is understood that an advance to the Contractor hereunder is not a loan to the Contractor, and will not require the payment of interest by the Contractor, and that the Contractor acquires no right, title or interest in or to such advance other than the right to make expenditures therefrom, as provided in this Paragraph H.16.
- (d) Review and Approval of Costs Incurred. The Contractor shall prepare and submit monthly (30 days after the end of the report month) a voucher for the total of net expenditures accrued (i.e., net costs incurred) for the period covered by the voucher, and DOE, after audit and appropriate adjustment, will approve such voucher. This approval by DOE will constitute an acknowledgment by DOE that the net costs incurred are allowable under the contract and that they have been recorded in the accounts maintained by the Contractor in accordance with DOE accounting policies, but will not relieve the Contractor of responsibility for DOE's assets in its care, for appropriate subsequent adjustments, or for errors later becoming known to DOE.
- (e) Financial Settlement. The Government shall promptly pay to the Contractor the unpaid balance of allowable costs, indirect costs, and the final installment of the management allowance as provided for in Paragraph B.05, Management Allowance, upon expiration of the term of the contract, or completion of the work and its acceptance by the Government after (1) compliance by the Contractor with DOE's patent clearance requirements, and (2) the furnishing by the Contractor of:
 - (i) an assignment of the Contractor's rights to any refunds, rebates, allowances, accounts receivable, or other credits applicable to allowable costs under the contract;
 - (ii) a closing financial statement;

- (iii) the accounting for Government-owned property required by the Contract Clause entitled "Government Property (Cost-Reimbursement, Time-and-Material or Labor-Hour Contracts)"; and
- (iv) a release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract subject only to the following exceptions:
 - (A) specified claims in stated amounts or in estimated amounts where the amounts are not susceptible to exact statement by the Contractor.
 - (B) claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided that such claims are not known to the Contractor on the date of the execution of the release; and provided further that the Contractor gives notice of such claims in writing to the Contracting Officer not more than six 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; and
 - (C) Claims for reimbursement of costs (other than expenses of the Contractor by reason of any indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents. In arriving at the amount due the Contractor under this Paragraph H.16, there shall be deducted any claim which the Government may have against the Contractor in connection with this contract, and deductions due under the terms of this contract, and not otherwise recovered by or credited to the Government. The unliquidated balance of the Special Bank Account may be applied to the amount due and any balance shall be returned to the Government forthwith.
- (f) Claims. Claims for credit against funds advanced or for payment shall be accompanied by such supporting documents and justifications as the Contracting Officer shall prescribe.
- (g) Discounts. The Contractor shall take and afford the Government the advantage of all known and available cash and trade discounts, rebates, allowances, credits, salvage, and commissions unless the Contracting Officer finds that action is not in the best interest of the Government.

- (h) Revenues. All revenues accruing to the Contractor in connection with the work under this contract shall be Government property and shall be deposited in the Special Bank Account to be available for payment of allowable costs under this contract, except as shall be otherwise directed in writing by the Contracting Officer.
- (i) Direct Payment of Charges. The Government reserves the right, upon 10 days written notice from the Contracting Officer to the Contractor, to pay directly to the persons concerned all amounts due which otherwise would be allowable under this contract. Any payment so made shall discharge the Government of all liability to the Contractor therefore.

H.17 OWNERSHIP OF RECORDS

(a) Government's Records.

- (1) Except as is provided in subparagraph (b) of this Paragraph H.17 and as may be otherwise agreed upon by the Government and the Contractor, all records acquired or generated by the Contractor under this contract shall be the property of the Government, and shall be delivered to the Government or otherwise disposed of by the Contractor either as the Contracting Officer may from time to time direct during the progress of the work or, in any event, as the Contracting Officer shall direct upon settlement of this contract. The Contractor shall, subject to DOE's security regulations and requirements and other provisions of the contract, have the right to inspect and at its own expense duplicate any records delivered or to be delivered to the Government by the Contractor under this contract; or to retain duplicates which are in excess of the Government's requirements; provided, however, that nothing in this subparagraph shall constitute any commitments on the part of the Government to retain such records for any period beyond the DOE's customary retention periods for the various types of records.
- (2) If the Contractor, pursuant to the New Mexico Public Records Act or any similar "rights to know" type of law or regulation, is requested to disclose any of the Government's records as defined in subparagraph (a)(1) above, the Contractor will not make any such disclosures and shall promptly notify DOE of such request and DOE shall be solely responsible for responding to such request and for any defense against such disclosure and shall have complete control of the defense and all litigation or negotiations associated therewith.

- (b) Contractor's Own Records. The following records are considered the property of the Contractor and not within the scope of subparagraph (a) above:
- (1) Personnel and medical records and files (excluding personnel radiation exposure records) maintained on individual employees, applicants and former employees;
 - (2) Worker's compensation files;
 - (3) Internal health and safety files;
 - (4) Employee relations records and files, such as records and files pertaining to:
 - (i) Qualifications or suitability for employment of any employee, applicant, or former employee;
 - (ii) Employee and union grievances;
 - (iii) Arbitration proceedings pursuant to the provisions of any labor contract;
 - (iv) Allegations, investigations, and resolution of employee misconduct;
 - (v) Employee discipline;
 - (vi) Employee charges of discrimination;
 - (vii) Negotiations with any labor organization in connection with any labor contract;
 - (5) Records and files pertaining to wages, salaries and benefits and wage, salary and benefit administration;
 - (6) Privileged or confidential Contractor financial information and correspondence between the Fire Department and other segments of the Contractor's organization located separate from the Fire Department; and
 - (7) Internal legal files. Upon expiration of this contract, however, if requested by DOE, copies of any such records pertaining to employees that continue in the employ of a successor contractor operating the Los Alamos Fire Department shall be, unless otherwise prohibited by law, delivered to the successor contractor.

- (c) The provisions of subparagraph (b) above apply to all records described therein without regard to the date or origination of any such record.
- (d) Inspection and Audit of Records. All records acquired or generated by the Contractor under this contract in the possession of the Contractor, including those described in subparagraph (b) above, shall be subject to inspection and audit by DOE at all reasonable times, and the Contractor shall afford DOE proper facilities for such inspection and audit; provided, however, that upon request by the Contracting Officer, the Contractor shall deliver such records to a location specified by the Contracting Officer for inspection by DOE.

H.18 FIRE DEPARTMENT MANAGEMENT TEAM

- (a) Establishment - The County and the DOE hereby agree to establish a Fire Department Management Team (FDMT) which shall assist in the management of the Fire Department as described by the functions below. The FDMT shall be composed of equal representation from the County and DOE. A minimum of two (2) representatives from each organization shall be appointed to serve on the FDMT as voting members. A maximum of two (2) additional non-voting representatives may be appointed by the voting members of the FDMT. At least one member from each agency shall have technical knowledge and experience of Fire Department-type operations. Establishment of the FDMT shall be within 30 days after award of the contract.
- (b) Mission - The mission of the FDMT shall be to provide both the DOE and the County a vehicle by which to collectively review and communicate the Fire Department's ability to provide essential services and to meet Fire Contract requirements. The FDMT shall also provide a forum for the resolution of conflicting interests.
- (c) Functions - Specific functions to be performed by the FDMT shall include:
 - (1) Monitor the operations of the Fire Department to assure compliance with the terms of the Contract.
 - (2) Review the Fire Department operating procedures to assure that the Fire Department is operated to optimally utilize available resources in the most efficient and economical method possible.

- (3) Review the Fire Department development of long range plans to assure that they reflect the future requirements of the Fire Department to meet the Doe and Los Alamos County needs.
- (4) Provide recommendation to the Fire Chief to implement changes within the scope of the contract to meet County or DOE requirements for fire suppression, emergency medical, and rescue services.
- (5) Review and make recommendations to the County and DOE regarding changes proposed by the Fire Department for staffing and equipment assignments to stations.
- (6) Review and recommend for approval the Fire Department's annual operating budget.
- (7) Develop for County and DOE approval, written operating procedures that will be used by the FDMT to perform the duties set forth herein. These procedures shall set forth the FDMT's operating rules to be followed in performing its function for issues involving policy. These procedures shall be submitted for DOE and County approval within 60 calendar days after appointment of the FDMT.
- (8) Refer issues that cannot be resolved or that are not within the scope of the contract to the County and DOE for resolution.
- (9) The FDMT will provide an annual report to the County and DOE on the overall state of the Fire Department. This written report shall be submitted in the first week of August of each year.

H.19 AUTHORITY HAVING JURISDICTION

With respect to the Los Alamos National Laboratory Fire Service Area, as defined in the Statement of Work and Attachment D to this contract, the Contracting Officer shall be the "authority having jurisdiction," as that term is defined in National Fire Protection Association publications. This authority is limited to matters involving the approval of equipment, facilities, and procedures affecting any facility owned by DOE or operated by DOE or any of its contractors.

H.20 EQUIVALENT FEDERAL WAGE RATES

In the performance of this contract the Contractor shall comply with the requirements of U. S. Department of Labor Wage Determination a copy of which is attached to this contract (see

Part III - SECTION J, Attachment I.) Furthermore, Clause(s), "Service Contract Act of 1965, as amended" and "Statement of Equivalent for Federal Hires Rates" are applicable and located in the contract Clauses Section of this Contract.

H.21 SUBCONTRACTS

Prior to the placement of subcontracts and in accordance with the clause, "Subcontract (Cost-Reimbursement and Letter Contract), "the Contractor shall insure that:

- (a) They contain all of the clauses of this contract (altered when necessary for proper identification of the contracting parties) which contain a requirement for such inclusion in applicable subcontracts;
- (b) Any applicable subcontractor Cost or Pricing Data and a Certificate of Current Cost or Pricing Data (see FAR 15.804-2) and subcontractor Representations and Certifications (see Part IV, Section K); and
- (c) Any required prior notice and description of the subcontract is given to the Contracting Officer and any required consent is received. Except as may be expressly set forth therein, any consent by the Contracting Officer to the placement of subcontracts shall not be construed to constitute approval of the subcontractor or any subcontract terms or conditions, determination of the allowability of any cost, revision of this contract or any of the respective obligations of the parties thereunder, or creation of any subcontractor privity of contract with the Government.
- (d) The Contractor shall also obtain and furnish to the Contracting Officer either an OCI Disclosure Statement or Representation form in accordance with DEAR 909.570-7 "Organizational Conflicts of Interest Disclosure or Representation" for all subcontractors to be utilized under this contract. No work shall be performed by the subcontractor until the Contracting Officer has cleared the subcontractor for Organizational Conflicts of Interest (OCI).

H.22 RELEASE OF INFORMATION

Any proposed public release of information including publications, exhibits or audiovisual productions pertaining to this contract or the work called for by this contract shall be submitted for approval prior to printing and distribution. Approval authority is HQ DOE, OPA/HQ, Washington, DC. Proposed releases are to be submitted to the Contracting Officer. All proposed releases should conform to the requirements of DOE Order 1340.1A, and 1350.

H.23 AUTOMATED DATA PROCESSING EQUIPMENT (ADPE) USAGE

Requirements for ADPE which were not included in the Contractor's original proposal may not be acquired (leased or purchased) without the prior written consent of the Contracting Officer. Whenever Contracting Officer written consent is required, the Contractor will furnish to the Contracting Officer information concerning the need for and selection of such ADPE, the specific make(s) and model(s), and the lease versus purchase determination.

H.24 AUTOMATED DATA PROCESSING EQUIPMENT (ADPE) LEASING

- (a) If the Contractor leases ADPE equipment for use under this contract, the Contractor shall include a provision in the rental contract stating that the Government shall have the unilateral right to exercise any purchase option under the rental contract between the Contractor and the ADPE equipment vendor and to realize any other benefits earned through rental payments.
- (b) The Contractor shall furnish a copy of the rental contract to the Contracting Officer.

H.25 APPRAISALS

- (a) The Contracting Officer will perform an annual appraisal of the overall Fire Department operation to determine the adequacy of services provided as required in the Contract. Performance criteria will be based on specified service levels and adherence to developed plans, policies, and procedures referenced in the Contract.
- (b) Pursuant to paragraph (a) above, the following performance appraisal areas will be evaluated:

- (1) General Management and Planning Support. Factors in this area include the Fire Department's performance as an organization in complying with stated goals and mission, organizational planning, staffing, and coordination/cooperation with external sectors.

In addition, this area will address achievement of direct Contract-related objectives and cover activities such as program planning; quality and quantity of work; adherence to cost and schedule commitments; technical information management and reporting; and achievements in development of systems and methods to better meet requirements.

- (2) Operations Support. Included in this area are required activities addressing quality assurance; security; information classification and control; facilities

management (facilities maintenance; real and personal property management); and operational safety, health, and environmental activities.

- (3) Indirect Administrative Support. This area addresses the reimbursed indirect support to the Fire Department and includes such functions as human resource planning and management, auditing, computing resources management, procurement services, industrial relations, accounting, budgeting, and other indirect support activities (e.g., legal and public affairs) if applicable.
- (c) The Contracting Officer will develop a report which will be made available to the Contractor for review and comment; the Contractor will have the opportunity to respond to the Contracting Officer's findings and provide additional information to clarify issues on any performance findings. A final report will be provided to the Contractor which defines final findings, priorities, and timeliness for corrective action.
 - (d) The following performance descriptors will be used:
 - (1) Satisfactory - Meets or exceeds the standard of performance; operational activities and tasks conducted in an efficient, timely, and acceptable manner. Deficiencies do not substantively affect performance.
 - (2) Marginal - Below the standard of performance; deficiencies are such that management attention and corrective action are required.
 - (3) Unsatisfactory - Below an acceptable standard of performance; serious deficiencies may require management attention and corrective action be taken promptly.

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1. DEAR 952.202-1 DEFINITIONS (APR 1984)

(a) The term "Head of Agency" means the Secretary, Deputy Secretary or Under Secretary of the Department of Energy.

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

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

(d) The term "DOE" means the Department of Energy.

2. FAR 52.203-1 OFFICIALS NOT TO BENEFIT (APR 1984)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

3. FAR 52.203-3 GRATUITIES (APR 1984)

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

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

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

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

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

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

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee.

(This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

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

4. FAR 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

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

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

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

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

5. FAR 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1985)

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

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

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

6. FAR 52.203-7 ANTI-KICKBACK PROCEDURES (OCT 1988)

(a) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. FAR 52.203-9 REQUIREMENT FOR CERTIFICATE OF PROCUREMENT INTEGRITY MODIFICATION (SEP 1990)

(a) Definition. The definitions set forth in FAR 3,104-4 are hereby incorporated in this clause.

(b) The Contractor agrees that it will execute the certification set forth in paragraph (c) of this clause when requested by the Contracting Officer in connection with the execution of any modification of this contract.

(c) Certification. As required in paragraph (b) of this clause, the officer or employee responsible for the modification proposal shall execute the following certification:

CERTIFICATE OF PROCUREMENT INTEGRITY - MODIFICATION (SEP 1990)

(1) I, (Name of certifier) am the officer or employee responsible for the preparation of this modification proposal and hereby certify that, to the best of my knowledge and belief, with the exception of any information described in this certification, I have no information concerning a violation or possible violation of subsection 27(a), (b), (d), or (f) of the Office of Federal Procurement Policy Act, as amended* (41 U.S.C. 423), (hereinafter referred to as "the Act"), as implemented in the FAR, occurring during the conduct of this procurement (contract and modification number).

- (2) As required by subsection 27(e)(1)(B) of the Act, I further certify that to the best of my knowledge and belief, each officer, employee, agent, representative, and consultant of (Name of Offeror) who has participated personally and substantially in the preparation or submission of this proposal has certified that he or she is familiar with, and will comply with, the requirements of subsection 27(a) of the Act, as implemented in the FAR, and will report immediately to me any information concerning a violation or possible violation of subsections 27(a), (b), (d), or (f) of the Act, as implemented in the FAR, pertaining to this procurement.
- (3) Violations or possible violations: (Continue on plain bond paper if necessary and label Certificate of Procurement Integrity - Modification (Continuation Sheet), ENTER "NONE" IF NONE EXISTS)

(Signature of the officer or employee responsible for the modification proposal and date)
(Typed name of the officer or employee responsible for the modification proposal)

*The Act became effective on December 1, 1990.
THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER TITLE 18, UNITED STATES CODE, SECTION 1001.

(End of certification)

(d) In making the certification in paragraph (2) of the certificate, the officer or employee of the competing Contractor responsible for the offer or bid, may rely upon a one-time certification to the competing Contractor, supplemented by periodic training. These certifications shall be maintained by the Contractor for a period of 6 years from the date a certifying employee's employment with the company ends or, for an agency, representative, or consultant, 6 years from the date such individual ceases to act on behalf of the contractor.

(e) The certification required by paragraph (c) of this clause is a material representation of fact upon which reliance will be placed in executing this modification.

8. FAR 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (SEPT 1990)

(a) The Government, at its election, may reduce the price of a fixed-price-type contract or contract modification and the total cost and fee under a cost-type contract or contract modification by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or his or her designee, determines that there was a violation of subsection 27(a) of the Office of Federal Procurement Policy Act as amended (41 U. S. C. 423) as implemented in the FAR. In the case of a contract modification, the fee subject to reduction is the fee specified in the particular contract modification at the time of execution, except as provided in subparagraph (b)(5) of this clause.

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

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

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

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

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

(ii) If no base fee is specified in the contract, 10 percent of the amount of each award fee otherwise payable to the contractor for each incentive period or at each award fee determination point.

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

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

(ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract.

The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.

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

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

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

9. FAR 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JAN 1990)

(a) Definitions.

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

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

(a) The awarding of any Federal contract.

(b) The making of any Federal grant.

(c) The making of any Federal Loan.

(d) The entering into of any cooperative agreement.

(e) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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

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

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

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

(a) An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment.

(b) A member of the uniformed services, as defined in subsection 101(3), title 37, United States Code.

(c) A special Government employee, as defined in Section 202, Title 18, United States Code.

(d) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, Appendix 2.

"Person," as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, or local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

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

AWARD/CONTRACT

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

RATING

PAGE OF PAGES

See Block 16

CONTRACT (Proc. Inst. Ident.) NO.

EFFECTIVE DATE

DEC 01 1992

4. REQUISITION

PURCHASE REQUEST/PROJECT NO.

DE-AC32-93AL64100

32-93AL64100.000

ISSUED BY

CODE

6. ADMINISTERED BY (If other than Item 5)

CODE

U. S. Department of Energy
Alamos Area Office
Alamos, NM, 87544

7. NAME AND ADDRESS OF CONTRACTOR (No., street, city, county, State and ZIP Code)

Incorporated County of Los Alamos
P.O. Box 30
Los Alamos, New Mexico 87544

8. DELIVERY

See Section F

FOB ORIGIN

OTHER (See below)

9. DISCOUNT FOR PROMPT PAYMENT

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

ITEM

See Block 12

ODE

FACILITY CODE

11. SHIP TO/MARK FOR

CODE

12. PAYMENT WILL BE MADE BY

CODE

See Section F

U.S. Department of Energy
Financial Management Division
P.O. Box 5400-Albuquerque, NM, 87115

13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION:

10 U.S.C. 2304(c)

41 U.S.C. 253(c)

14. ACCOUNTING AND APPROPRIATION DATA

B&R Code: Appropriation: Funds Obligated:

CR0103041

89 X 0240

\$3,675,395

5A. ITEM NO.

15B. SUPPLIES/SERVICES

15C. QUANTITY

15D. UNIT

15E. UNIT PRICE

15F. AMOUNT

(See Continuation Pages)

15G. TOTAL AMOUNT OF CONTRACT \$

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CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE

7. CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 3 copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)

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

19A. NAME AND TITLE OF SIGNER (Type or print)
WALLACE J. WALTERS, Council Chairman

20A. NAME OF CONTRACTING OFFICER
Jerry L. Bellows
Area Manager
Contracting Officer

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

19C. DATE SIGNED
11/24/92

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

20C. DATE SIGNED
11-25-92

1 FEB 26 AM '93

PART I
THE SCHEDULE

SECTION A - AWARD/CONTRACT (STANDARD FORM 26 - COVER)

SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

B.01 BACKGROUND AND PURPOSE OF THE CONTRACT

DOE is authorized pursuant to the Department of Energy Organization Act (Public Law 95-91) and other applicable law, including the Atomic Energy Act of 1954, as amended, to provide or otherwise arrange for fire suppression and related facilities and services at project sites where such facilities and services are not available. As permitted by this authority, DOE and the County entered into Contract No. DE-AC04-88AL44118 which was changed in Contract Modification No. M011 to Contract No. DE-AC32-88AL44118. Under Contract No. DE-AC32-88AL44118 the County operated the DOE-owned fire department serving the County of Los Alamos, the DOE's Los Alamos National Laboratory and other property and facilities of DOE, as well as persons and property, within and outside the County.

DOE and the County have now determined that it is to their mutual benefit for the County to continue operating the DOE-owned fire department. The County has the authority to and is willing to perform the services specified in this contract.

Since the transfer of the Atomic Energy Commission-owned community to the County in the 1960's, the Government has made annual assistance payments to the County pursuant to the provisions of the Atomic Energy Community Act of 1955, as amended (Public Law 84-221). During this period, it has been the goal of the Government and the County to work towards making the County self-sufficient. One step in achieving this goal has been a concentrated effort in recent years to obtain Congressional approval for a buy-out in the form of a one-time lump-sum payment which would liquidate all remaining obligations of the Government to the County. Another step toward self-sufficiency was the transfer of responsibility for providing fire suppression and related services to the County by means of DOE Contract No. DE-AC32-88AL44118. This contract represents a further step in that process by requiring the County to begin paying the cost of services for the community.

B.02 ITEMS BEING ACQUIRED

The Contractor shall furnish all personnel, equipment, materials, supplies, and services (except as may be expressly set forth in this contract as furnished by the Government) and otherwise do all things necessary for, or incident to, performing and providing the services in strict accordance with all terms and conditions of this contract.

B.03 ESTIMATED COST

The total net estimated cost for this five-year contract is \$39,862,355.00, broken down as follows:

	<u>Estimated Costs</u>	<u>Less: County Share (Fixed)</u>	<u>Plus: Management Allowance (Fixed)</u>	<u>Net Estimated Costs</u>
1st Year	\$7,350,790	\$ 0	\$ 0	\$ 7,350,790
2nd Year	7,568,368	0	0	7,568,368
3rd Year	7,895,868	118,800	40,600	7,817,668
4th Year	8,299,374	237,600	81,200	8,142,974
5th Year	8,738,687	356,400	121,800	8,504,087
				<hr/>
			Total Net Estimated Costs	\$39,383,887

The estimated cost for each year shall not be exceeded without prior Contracting Officer approval. No fee shall be paid to the Contractor under this contract; however, a management allowance as described in Paragraph B.05, Management Allowance, shall be paid to the County.

DOE shall reimburse the Contractor for providing the services described herein to the areas identified in Attachment D, "Los Alamos Fire Department Service Area," and to other areas outside the County to the extent provided for in this Contract. The County shall be responsible for all costs of providing these services to any residential, commercial and industrial areas outside of the Municipal Development Area developed after July 28, 1989.

B.04 COUNTY'S SHARE OF COST

The County agrees to assume the cost of community fire protection based on a formula which multiplies the ratio of the 1988 appraised value of the property in the County to the combined appraised value of County and Laboratory property by Contract No. DE-AC32-88AL44118 price as of July 18, 1989,

which was \$5,669,692. Based upon this formula the County shall contribute \$594,000 annually toward Fire Department operations. This annual amount shall remain fixed at this level unless modified at the request of one of the parties upon agreement that this amount is no longer fair and reasonable.

The County will begin paying a portion of its share of the Fire Department costs as described above beginning the third year of this contract. The County shall phase such payment over a five-year period. The County shall pay 20 percent of \$594,000 the third year of the Contract for its full share; 40 percent the fourth year of the Contract; and 60 percent the fifth year of the Contract. If the parties enter into a follow-on contract following the expiration of this Contract, or if this Contract is extended, the County shall continue to phase in payment in 20 percent increments; that is 80 and 100 percent in the next two years respectively. The County's annual share of Fire Department costs shall be deposited in the Special Bank account in twelve monthly installments on the first work day of each month.

B.05 MANAGEMENT ALLOWANCE

In addition to the costs and expenses reimbursed under the Contract Clause entitled "Allowable Cost and Payment," the County shall be given a management allowance, subject to Paragraph B.04 above, of \$203,000 annually. This figure represents four percent of one year of operation under Contract No. DE-AC32-88AL44118 as of July 18, 1989, less the County's share of operating costs. This figure shall remain fixed unless the figure given in Paragraph B.04 above, representing the County's full share of Fire Department costs, is changed. DOE reserves the right, however, to request that the County reduce this figure by an amount equal to any savings or additional revenues that DOE may achieve in the County's operation by other means. The County reserves the right to refuse such a request if it does not appear to be in the County's best interest. Payment of the management allowance described in this Paragraph shall be phased in beginning the third year of this contract in 20 percent increments over a five-year period in the same manner in which the County's payment of its share of Fire Department costs is phased in as described in Paragraph B.04 above. DOE shall pay the annual management allowance to the County in twelve equal

monthly installments at the end of each month; provided, however, that in the event of termination or expiration, the final installment shall be retained pending compliance with subparagraph (e) of Paragraph H.16, Advance Payments.

B.06 LIMITATION OF FUNDS

Pursuant to the Contract Clause entitled, "Limitation of Funds," total funds in the amount of \$3,675,395 have been allotted for obligation for the first six months with funds obligated every six months thereafter with the issuance of a unilateral modification to this contract. The funds allotted for obligation are available for payment of all allowable costs to be incurred for this contract.

B.07 WORK SCHEDULE

Work schedules will be established to meet the requirements and intent of Section 7(k) of the Fair Labor Standards Act (29 USCA. Section 207[k]) for shift firefighter personnel and a 40 hour-per-week work schedule for all other Fire Department personnel.

SECTION C - DESCRIPTION/SPECIFICATION/WORK STATEMENT

C.01 STATEMENT OF WORK

The Statement of Work is Attachment A to this contract.

C.02 REPORTS

Reports and deliverables shall be submitted by the Contractor in accordance with the provisions of this contract. See Attachment J for listing. This listing may not be inclusive of all the reporting requirements of this contract and the absence of a particular requirement herein does not waive the Contractors responsibility to provide it in the manner and at the time required elsewhere in this contract.

SECTION D - PACKAGING AND MARKING

D.01 PACKAGING

Preservation, packaging, and packing for shipment or mailing of all work deliverable hereunder shall be in accordance with good commercial practice and adequate to insure acceptance by common carrier and safe transportation at the most economical rates.

D.02 MARKING

(a) Each package, report or other deliverable shall be accompanied by a letter or other document which:

(1) Identifies the contract by number under which the item is being delivered.

(2) Identifies the deliverable Item Number or Report Requirement which requires the delivered item(s).

(3) Indicates whether the Contractor considers the delivered item to be a partial or full satisfaction of the requirement.

(b) For any package, report or other deliverable being delivered to a party other than the Contracting Officer, a copy of the document required in (a) above shall be simultaneously provided to the office administering the contract, as identified in Section G of the contract, or if none, to the Contracting Officer.

SECTION E - INSPECTION AND ACCEPTANCE

E.01 INSPECTION

Requirements for inspection are established in FAR Clause 52.246-5 under the Contract Clauses of this contract. Inspection of all items under this contract shall be accomplished by the DOE Technical Representative, or any other duly authorized Government representative of the Contracting Officer.

E.02 ACCEPTANCE

Any acceptance or approval of services under this contract (including reporting requirements) shall be accomplished by the Contracting Officer.

SECTION F - DELIVERIES OR PERFORMANCE

F.01 PERIOD OF PERFORMANCE

This contract shall commence on the effective date of the contract and shall be for a period of five (5) years unless sooner terminated as provided in the article entitled "TERMINATION."

SECTION G - CONTRACT ADMINISTRATION DATA

G.01 CORRESPONDENCE PROCEDURE

- (a) To promote timely and effective administration, correspondence, including invoices and reports required by the contract to be submitted to the Government, shall be sent to the Contracting Officer.

U. S. Department of Energy
Los Alamos Area Office
528 35th Street
Los Alamos, NM 87544

- (b) All correspondence, including approvals, from the Government to the Contractor shall be sent to the Contract Administrator at the address set forth below:

Contract Administrator
County Administrator
Incorporated County of Los Alamos
P. O. Box 30
Los Alamos, NM 87544

G.02 GOVERNMENT CONTACT FOR POST AWARD ADMINISTRATION

The Contractor shall use the Contracting Officer as the focal point for all matters regarding this contract except as otherwise provided by the Contracting Officer in writing. The Los Alamos Area Office (LAAO) is the contract administration office.

G.03 BILLING INSTRUCTIONS

In connection with the Contract Clause entitled "Allowable Cost and Payment" and Paragraph H.16, Advance Payments, and in order to support the amounts withdrawn from the Special Bank Account, the Contractor shall submit invoices to the Contracting Officer on a monthly basis. Such invoices shall be prepared in compliance with the Billing Instructions set forth in Attachment H of the contract and such other directions as may be provided by the Contracting Officer.

G.04 ANNUAL INDIRECT COST RATE SUBMISSION

- (a) In accordance with the contract clause entitled "Allowable Cost and Payment", the Contractor, as soon as possible but not later than one hundred eighty (180) days after the expiration of its fiscal year, shall submit to the indirect cost rate Cognizant Contracting Officer (CCO), identified in paragraph (e) of this clause, a proposed final indirect rate or rates for that period based on the Contractor's actual cost experience during that period, together with supporting data or calculations.
- (b) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the cost principles in effect as of the date of this contract.
- (c) The settlement of final indirect cost rates and indirect costs shall be accomplished prior to the Contracting Officer's approval of the final payment.
- (d) Pending settlement of final indirect cost rates for any period, the Contractor shall be reimbursed for indirect rates at billing rates acceptable to the CCO. These billing rates are subject to appropriate adjustments when the final indirect cost rates are settled. The Contractor shall provide to the CCO annually, within 180 days after the expiration of its fiscal year, a billing rate proposal, together with supporting data. If billing rates change substantially at any time during the contract performance period, the Contractor shall notify the CCO in writing. Upon review of the annual billing rate proposal, or any notification of substantial rate change during the contract performance period, the CCO may adjust the approved billing rate. In the event that adjustment is to be applied retroactively, the Contractor shall make appropriate adjustments on its next voucher.
- (e) The indirect cost rate CCO and address is as follows:

Herman Smith
U. S. Department of Energy
Albuquerque Operations Office
Financial Management Division
P. O. Box 5400
Albuquerque, New Mexico 87115
Telephone No. (505) 845-4107

The Contractor shall use the CCO as the point of contact for indirect cost rate matters as defined by the contract clause entitled "Allowable Cost and Payment."

- (f) The billing rate for indirect costs for the first year of operation will be established as a provisional billing rate of 15% to be applied to salaries and benefits. If, during the period of performance of this contract, provisional rates have not been established for a subsequent period, via a contract modification, then the Contractor shall continue to bill those rates most recently approved by the Contracting Officer, or at lower rates until such time as the contract is modified to reflect the most current approved rates.

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.01 ADDITIONAL DEFINITIONS

With reference to the Contract Clause entitled "Definitions," and as used in the Statement of Work listed below are definitions which apply to the Contract;

(a) The term "University" means the Regents of the University of California which manages and operates the Los Alamos National Laboratory under DOE Contract No. W-7405-ENG-36.

(b) The terms "Laboratory" or "LANL" mean the Department of Energy owned Los Alamos National Laboratory located in Los Alamos, New Mexico.

(c) The term "County" and "Contractor" are used interchangeably and mean the Incorporated County of Los Alamos.

Interpretation of the terms and conditions of this Agreement shall be made in accordance with the definitions of the most recently published edition of the National Fire Protection Association (NFPA) standards unless such definitions are contrary to the express terms and conditions of this Agreement.

H.02 UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION

- (a) Definition. Unclassified Controlled Nuclear Information (UCNI) is defined as, and limited to, sensitive but unclassified Atomic Energy Defense Program information concerning design, production,

utilization, and safeguards of nuclear weapons or material. (See Title 10, Code of Federal Regulations (CFR) Part 1017, for complete details.) Official procedures for access to, and protection and transmission of UCNI are given below.

- (b) Legend. Documents originated by the Contractor or furnished by the Government or the University to the Contractor in connection with this contract may contain UCNI as defined in Section 148 of the Atomic Energy Act of 1954, as amended. The following legend will be stamped or typed on the cover of such documents:

UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION
NOT FOR PUBLIC DISSEMINATION

Unauthorized dissemination subject to civil and criminal sanctions under Section 148 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2168).

The Contractor shall be responsible for protecting such information from unauthorized dissemination in accordance with DOE regulations, requirements, and instructions.

- (c) Access. UCNI may only be made available to authorized individuals, which, for purposes of this contract, means only to U. S. citizens who have a need to know in the performance of official duties or DOE authorized activities and who are employees of the Government, employees of a Government contractor or subcontractor, or employees of a prospective Government contractor or subcontractor for the purpose of bidding on a Government contract.
- (d) Protection of UCNI. All parties shall be obliged under penalty of law to protect such information as required by 10 CFR 1017.17, such responsibility including, but not limited to, the following:
- (1) General. UCNI required protection from unauthorized dissemination. UCNI must be protected and controlled in a manner consistent with that customarily accorded other types of unclassified but sensitive information (e.g.,

proprietary business information, personnel or medical records of employees, attorney-client information). The Contractor shall establish and maintain a system for the protection of UCNI in its possession or under its control that is consistent with the physical protection standards established in this section. Each Authorized Individual or person granted special access to UCNI who receives, acquires, or produces an UCNI or a document or material containing UCNI shall take reasonable and prudent steps to ensure that it is protected from unauthorized dissemination.

- (2) Protection in Use or Storage. An Authorized Individual or a person granted special access to UCNI shall maintain physical control over any document or materials containing an UCNI notice that is in use so as to prevent unauthorized access to it. When any document or material containing an UCNI notice is not in use, it must be stored in a secure container (e.g., locked desk or file cabinet) or in a location where access is limited (e.g., locked or guarded office, controlled access facility).
- (3) Reproduction. A document or material containing an UCNI notice may be reproduced to the minimum extent necessary consistent with the need to carry out official duties without permission of the originator provided the reproduced document or material is marked and protected in the same manner as the original document or material.
- (4) Destruction. A document or material containing an UCNI notice may be disposed of by any method which assures sufficiently complete destruction to prevent its retrieval (providing the disposal is authorized by the Archivist of the United States under 41 CFR 101-11.4 and by agency records disposition schedules).

(5) Transmission.

- (i) A document or material containing an UCNI notice must be packaged to prevent disclosure of the presence of UCNI when transmitted by a means which could allow access to the document or material by a person who is not an Authorized Individual or a person granted special access to UCNI. The address and return address must be indicated on the outside of the package.
 - (ii) A document or material containing an UCNI notice may be transmitted by:
 - A. U. S. first class, express, certified, or registered mail;
 - B. Any means approved for the transmission of classified documents or material;
 - C. An Authorized Individual or a person granted special access to UCNI when he or she can control access to the document or material being transmitted; or
 - D. Any other means determined by the DOE Assistant Secretary for Defense Programs to be sufficiently secure.
 - (iii) UCNI may be discussed or transmitted over an unprotected telephone or telecommunications circuit when required by operational considerations. More secure means of communication should be utilized whenever possible.
- (6) Automated Data Processing (ADP). UCNI may be processed or produced on any ADP system which is certified for classified information which complies with the guidelines of Office of Management and Budget Circular No. A-130, "Management of Federal Information Resources," or which has been approved for such use in accordance with the provisions of applicable DOE directives.

- (e) Penalties. Any person who violates Section 148 of the Atomic Energy Act or any regulation or order of the Head of Agency issued under Section 148 of the Atomic Energy Act, including the requirements of this Paragraph H.02, may be subject to a civil penalty; and may also be subject to a criminal penalty under Section 223 of the Atomic Energy Act of 1954, as amended. The DOE Assistant Secretary for Defense Programs may recommend to the Head of the Agency imposition of this civil penalty which shall not exceed \$100,000 for each violation.

H.03 CONFIDENTIALITY OF INFORMATION

- (a) To the extent that the work under this contract requires that the Contractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Contractor shall after receipt thereof, treat such information as confidential and agrees not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by the Contracting Officer in writing. The foregoing obligations, however, shall not apply to:
- (1) Information which, at the time of receipt by the Contractor, is in the public domain;
 - (2) Information which is published by others after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;
 - (3) Information which the Contractor can demonstrate was in its possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies pursuant to this contract;
 - (4) Information which the Contractor can demonstrate was received by it from a third party who did not require the Contractor to hold it in confidence.

- (b) The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, of each employee permitted access, whereby the employee agrees that he or she will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the Contract.
- (c) The Contractor agrees, if requested by the Government, to sign an agreement identical, in all material respects, to the provisions of this Para. H.03, with each company supplying information to the Contractor under this contract, and to supply a copy of such agreement to the Contracting Officer. From time to time upon request of the Contracting Officer, the Contractor shall supply the Government with reports itemizing information received as confidential or proprietary and setting forth the company or companies from which the Contractor received such information.
- (d) The Contractor agrees that upon request by the Contracting Officer it will execute a DOE approved agreement with any party whose facilities or proprietary data it is given access to or is furnished, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by the Contracting Officer, such an agreement shall also be signed by Contractor personnel.

H.04 REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS

The Representations, Certifications and Other Statements of Offeror, submitted by the Contractor and that apply to this contract, are incorporated here by reference.

H.05 MODIFICATION AUTHORITY

Notwithstanding any of the other provisions of this contract, the Contracting Officer shall be the only individual authorized to:

- (a) waive any requirement of this contract, or
- (b) modify any term or condition of this contract.

H.06 GOVERNMENT-FURNISHED PROPERTY AND SERVICES

This Paragraph H.06 supplements the Contract Clause entitled, "Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts)."

- (a) General. Unless the Contracting Officer and the Contractor agree otherwise, DOE shall furnish, without cost to the Contractor, the property and services listed below subject to procedures prescribed by the Contracting Officer for the performance of this contract. In providing these services, the DOE may use any source available at the LANL. These sources may include the University of California, including any of its sub-contractors, or other sources as DOE may deem appropriate.
- (b) Property.
- (1) Equipment and Vehicles. The equipment and vehicles described in Attachment B.
 - (2) Facilities. The facilities described in Attachment C. No alterations to the facilities shall be made without specific written permission from the Contracting Officer; however, such permission shall not be unreasonably withheld.
 - (3) Supplies. Supplies, parts and materials which are on hand at the termination of Contract No. DE-AC32-88AL44118 shall be furnished to the Contractor and shall be accounted for and included in the Contractor's Property Management System.
- (c) Services
- (1) Utilities. Gas, electricity, water, steam and sewage.
 - (2) Telephone Service. Telephone services for local toll and long distance calls with access to the Federal Telephone System. Use of telephone services shall be in accordance with DOE Order 1450.3 dated May 26, 1988.

- (3) Central Alarm Center. The computer based alarm system established at the Laboratory will operate as it currently exists, and responsibility for this system will remain with the University. The University through the Government's Central Alarm Station/Central Guard Facility shall notify the Contractor of all alarms and requests for service. Such notification shall include all available information for the Contractor to formulate the required response and tactics.
- (4) Maintenance and Repair Services (Vehicles and Facilities). Services for repair and maintenance services for vehicles and facilities in order to keep them in a functional state of repair can be provided by the DOE, its contractors or subcontractors providing these services at the LANL to the extent that they are available.
- (5) Health, Safety, and Environmental Services.
- (i) Occupational Medicine: Pre-employment and annual physical examinations, as specified by NFPA, DOT, and substance abuse testing for Contractor Fire Department personnel as authorized by the Contracting Officer.
 - (ii) Emergency Response Training (including hazardous materials) and specific orientation and training on LANL facilities will be provided to Contractor for responses to fire suppression, emergency medical and rescue services.
 - (iii) Ionizing Radiation: Radiation monitoring services to Contractor fire suppression, emergency medical and rescue services personnel that include dosimetry, bioassay sampling, invivo counting, monitoring and instrumentation. DOE will evaluate the results and provide reports to the Contractor. The Contractor shall administer the issuance and collection of instruments, dosimetry devices, and samples and shall request and schedule services for its employees.

- (6) Training. The Contractor may use DOE-owned facilities for training to meet requirements of the contract and is authorized to attend government-sponsored training programs and services.
- (7) Communications. Access to the LANL trunk radio system and use of communications equipment is authorized by DOE. In addition, radios on the MEDNET public safety band are assigned to ambulances. In addition, the Contractor may also use the services of the Central Alarm Center, TA-64-1, to handle radio communications for the Fire Department's dispatch function.
- (8) Instrumentation. Maintenance and repair services for Government radios and associated equipment and radiation detectors assigned to the Contractor for the performance of this contract.
- (9) Security/Protective Services. Necessary Security and Protective services.
- (10) Locksmith Services. Locksmith services including locks, lock cores, and keys.
- (11) Supplies, Materials and Services Sources. The Contractor will use established sources available to DOE at Los Alamos. These sources include but are not limited to General Services Administration and the Los Alamos National Laboratory (LANL) warehouses to obtain supplies and materials if these sources are determined the most economical to meet the need. Additionally, the Contractor should also request Government rates for travel, lodging, etc., when possible.

H.07 INSURANCE REQUIREMENTS

In accordance with the Contract Clause entitled "Insurance - Liability to Third Persons," the following kinds and minimum amounts of insurance are required during the performance of this contract:

(a) **Worker's Compensation and Employer's Liability Insurance:**

(1) The amount required by the State of New Mexico under applicable Worker's Compensation and occupational disease statutes.

(2) Employer's liability insurance in the amount of \$100,000.

(b) **General Liability Insurance:** Bodily injury liability coverage written on the comprehensive form of policy of at least \$500,000 per occurrence.

(c) **Automobile Liability Insurance:** Coverage shall be on the comprehensive form of policy. It shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage.

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

H.08 LIMITATION OF LIABILITY

Notwithstanding anything to the contrary in the Contract Clause entitled "Insurance-Liability to Third Persons" or any other clause of this contract, no provision of this contract waives any of the sovereign immunity or statutory limitation of liability of the State of New Mexico or any of its political subdivisions, governmental entities, or public employees which is applicable to the Contractor.

H.09 PERSONNEL SECURITY "Q" CLEARANCES

All County personnel who are assigned to or oversee the Fire Department and who require a DOE "Q" clearance to perform their contract functions will be required to hold an active DOE "Q" clearance. The Government will conduct and assume all

cost and responsibility for background investigations for "Q" clearances. However, the Contractor shall be responsible for all pre-employment checks necessary to determine an individual's suitability for employment prior to requesting the Government to perform a background investigation on the individual for the purpose of obtaining a "Q" clearance.

H.10 COST PRINCIPLES FOR STATE AND LOCAL GOVERNMENTS

The contractor shall be subject to OMB Circular A-87 , Cost Principles for State and Local Governments. Should OMB Circular A-87 as it exists on the effective date of this contract be amended to impose upon contractors the requirements of the Civilian Employee and Contractor Travel Expenses Act of 1985, Public Law 99-234, the Contractor shall thereafter be required to comply with such amended provisions of OMB Circular A-87 for the remainder of the contract performance period.

H.11 AUDITS OF STATE AND LOCAL GOVERNMENTS

The Contractor shall be subject to OMB Circular A-128, Audits of State and Local Governments

H.12 SUBCONTRACTING PLAN

In accordance with the provision set forth in the clause entitled "Small Business and Small Disadvantaged Business Subcontracting Plan," the Contractor's Subcontracting Plan is attached hereto as Attachment F to the contract and is hereby made a part of this contract.

H.13 CONTRACT REPRESENTATIVES

(a) Department of Energy (DOE)

- (1) The Contracting Officer may designate for the contract, a Contracting Officer Representative (COR) who shall be identified to the Contractor in writing by the Contracting Officer. The limitation on the authority of the COR to act for the Contracting Officer shall be set forth in writing and a copy provided to the Contractor.

(2) The Contracting Officer may designate a Technical Representative for this contract who may be an employee of the University of California. Such individual's name shall be identified, in writing, by the Contracting Officer. The duties of the Technical Representative shall be to monitor the contract performance by the Contractor for technical compliance with the terms of the contract and to provide technical advice to the Contracting Officer. The following duties will be performed by the Technical Representative:

(i) Assist with Technical Matters

- A. Monitor compliance of Contractor with technical requirements of Contract.
- B. Inform the Contracting Officer in writing of any performance failure.
- C. In conjunction with the contract requirements establish a tracking system to assist the Government with meeting its Contract obligations. This includes, but is not limited to Government-furnished property and services and timely Government comment on deliverables required by the Contract.
- D. Assist the Contractor in interpreting technical requirements of the Contract. All technical questions which cannot be resolved without increasing costs or requiring changes to the Contract shall be reported in writing to the Contracting Officer for immediate resolution. Such reports should contain the facts and recommendations pertinent to the questions at issue.
- E. Recommend to the Contracting Officer technical changes required to meet minimum DOE Orders requirements for fire suppression, emergency and rescue services at LANL.

(ii) Monitor the Administrative and Funds Aspects.

- A. Notify the Contracting Officer immediately, in writing of any indication that the cost to the Government, for completing performance under the Contract, will exceed the amount stated in the Contract.
- B. Report any indication that costs are being incurred which are not appropriately chargeable to the Contract.

(iii) Property Management

Review and make recommendations on the Contractor's request for Government-furnished facilities, supplies materials, and equipment and forward the request to the Contracting Officer for disposition.

(iv) Assist in Closeout of the Contract

Upon expiration or termination of the contract, forward to the Contracting Officer a written statement attesting to the acceptability of the Contractor's technical performance and attesting to the completion of certain elements of the contract work including, but not limited to, submittals, reports, and other deliverables required by the contract.

- (3) DOE and the Contractor understand and agree that all activities designated to be performed by the Technical Representative or other employees or agents of the University of California pursuant to this contract are performed for DOE under and pursuant to Contract No. W-7405-ENG-36 between the University and DOE.

(b) County of Los Alamos (County)

The County shall designate, in writing, a full time Contract Manager and an alternate who shall be responsible for the administration of this contract. The Contract Manager shall be authorized and responsible to make and implement decisions within the scope of the contract and authorized to represent the County at meetings on Contract matters.

H.14 PAYMENT FOR OVERTIME PREMIUMS

- (a) DOE is in the process of seeking from the Secretary of the United States Department of Labor a waiver for this contract from the requirement of the Contract Work Hours and Safety Standards Act to pay one and one-half times the basic rate of pay for all hours worked in excess of forty hours per week. The requirements of the clause entitled "Contract Work Hours and Safety Standards Act--Overtime Compensation" will not be effective until such time as the Secretary of Labor makes a determination on the request for waiver and then only in the event that the request for waiver is denied. In the event the request for waiver is denied, the clause will be effective retroactively on the effective date of this contract. The Contractor will be notified by letter of the Secretary of Labor's determination as soon as DOE receives it. Upon receipt of notice that the referenced clause is applicable, the Contractor shall submit a cost proposal for any necessary contract price adjustment necessary to cover retroactive and prospective costs of the application of the clause.
- (b) The use of overtime for hours worked in excess of the work schedules established pursuant to Paragraph B.07, Work Schedules, is authorized under this contract if the overtime premium does not exceed the amount established by the budget submitted by the Contractor and approved by the Contracting Officer as required by the Statement of Work, Part III, Attachment A, Paragraph IIIA, or the overtime premium is paid for work:
- (1) Necessary to cope with emergencies such as those resulting from accidents or natural disasters;
 - (2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting; or
 - (3) That will result in lower overall costs to the Government. However, continued use of overtime to replace or supplement full-time personnel will not be allowed.
- (c) Each incident requiring the payment of overtime premiums in excess of the standard work week shall be documented and such documentation shall contain the following information with copies provided to the Contracting Officer:
- (1) The identity of the work unit (e.g., department or section in which the requested overtime was used),

together with present work load, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime; and

- (2) An explanation of the effect that denial of the overtime would have had on contract performance.
- (3) Documentation explaining how Contracting Officer approval was obtained, where appropriate.

H.15 PRIVACY ACT SYSTEMS OF RECORDS

Reference is made to the Contract Clauses entitled "Privacy Act Notification" and "Privacy Act." The Contractor will be required to operate the following system of records under this contract: Personnel Radiation Exposure Records (System No.DOE-35).

H.16 ADVANCE PAYMENTS

- (a) Payments from Funds Available Under the Contract. Within the total funds obligated under this contract the Government, from time to time, shall advance funds necessary for performance of this contract. The payment for allowable costs and indirect costs, or for other payments which the Contracting Officer has specifically approved in writing, shall be made from funds advanced by the Government or otherwise available under the contract. The Contractor shall submit a separate voucher for each installment of indirect costs thirty (30) days after the end of the month covered by the voucher, and shall pay such installment of the indirect cost out of funds advanced by the Government or otherwise available under this contract.
- (b) Special Bank Accounts - Use. All advances of Government funds shall be withdrawn pursuant to a Letter of Credit in favor of a bank qualified as a depository for federal monies or, at the option of the Government, shall be made by check payable to the Contractor, and shall be deposited only in the Special Bank Account established by a Special Bank Account Agreement for Use With the Checks-Paid Method of Letter of Credit Financing in the form and containing the provisions set forth in Attachment G of this contract. The Contractor shall likewise deposit in the Special Bank Account any revenues received by the Contractor in connection with the work under this contract. No part of the funds in the Special Bank Account shall be (1) mingled with any funds of the Contractor or (2) used for a purpose other than that of making payments for the management allowance and for costs allowable under this contract or payments for other items specifically

approved in writing by the Contracting Officer and the Contractor's indirect costs as provided for elsewhere in this contract. If the Contracting Officer shall at any time determine that the balance on such bank account exceeds the Contractor's current needs, the Contractor shall promptly make such disposition of the excess as the Contracting Officer may direct.

- (c) Title to Funds Advanced. Title to the unexpended balance of any funds advanced and of any bank account established pursuant to this Paragraph H.16 shall remain in the Government and be superior to any claim or lien of the bank of deposit or others. It is understood that an advance to the Contractor hereunder is not a loan to the Contractor, and will not require the payment of interest by the Contractor, and that the Contractor acquires no right, title or interest in or to such advance other than the right to make expenditures therefrom, as provided in this Paragraph H.16.
- (d) Review and Approval of Costs Incurred. The Contractor shall prepare and submit monthly (30 days after the end of the report month) a voucher for the total of net expenditures accrued (i.e., net costs incurred) for the period covered by the voucher, and DOE, after audit and appropriate adjustment, will approve such voucher. This approval by DOE will constitute an acknowledgment by DOE that the net costs incurred are allowable under the contract and that they have been recorded in the accounts maintained by the Contractor in accordance with DOE accounting policies, but will not relieve the Contractor of responsibility for DOE's assets in its care, for appropriate subsequent adjustments, or for errors later becoming known to DOE.
- (e) Financial Settlement. The Government shall promptly pay to the Contractor the unpaid balance of allowable costs, indirect costs, and the final installment of the management allowance as provided for in Paragraph B.05, Management Allowance, upon expiration of the term of the contract, or completion of the work and its acceptance by the Government after (1) compliance by the Contractor with DOE's patent clearance requirements, and (2) the furnishing by the Contractor of:
 - (i) an assignment of the Contractor's rights to any refunds, rebates, allowances, accounts receivable, or other credits applicable to allowable costs under the contract;
 - (ii) a closing financial statement;

- (iii) the accounting for Government-owned property required by the Contract Clause entitled "Government Property (Cost-Reimbursement, Time-and-Material or Labor-Hour Contracts)"; and
- (iv) a release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract subject only to the following exceptions:
 - (A) specified claims in stated amounts or in estimated amounts where the amounts are not susceptible to exact statement by the Contractor.
 - (B) claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided that such claims are not known to the Contractor on the date of the execution of the release; and provided further that the Contractor gives notice of such claims in writing to the Contracting Officer not more than six 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; and
 - (C) Claims for reimbursement of costs (other than expenses of the Contractor by reason of any indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents. In arriving at the amount due the Contractor under this Paragraph H.16, there shall be deducted any claim which the Government may have against the Contractor in connection with this contract, and deductions due under the terms of this contract, and not otherwise recovered by or credited to the Government. The unliquidated balance of the Special Bank Account may be applied to the amount due and any balance shall be returned to the Government forthwith.
- (f) Claims. Claims for credit against funds advanced or for payment shall be accompanied by such supporting documents and justifications as the Contracting Officer shall prescribe.
- (g) Discounts. The Contractor shall take and afford the Government the advantage of all known and available cash and trade discounts, rebates, allowances, credits, salvage, and commissions unless the Contracting Officer finds that action is not in the best interest of the Government.

- (h) Revenues. All revenues accruing to the Contractor in connection with the work under this contract shall be Government property and shall be deposited in the Special Bank Account to be available for payment of allowable costs under this contract, except as shall be otherwise directed in writing by the Contracting Officer.
- (i) Direct Payment of Charges. The Government reserves the right, upon 10 days written notice from the Contracting Officer to the Contractor, to pay directly to the persons concerned all amounts due which otherwise would be allowable under this contract. Any payment so made shall discharge the Government of all liability to the Contractor therefore.

H.17 OWNERSHIP OF RECORDS

(a) Government's Records.

- (1) Except as is provided in subparagraph (b) of this Paragraph H.17 and as may be otherwise agreed upon by the Government and the Contractor, all records acquired or generated by the Contractor under this contract shall be the property of the Government, and shall be delivered to the Government or otherwise disposed of by the Contractor either as the Contracting Officer may from time to time direct during the progress of the work or, in any event, as the Contracting Officer shall direct upon settlement of this contract. The Contractor shall, subject to DOE's security regulations and requirements and other provisions of the contract, have the right to inspect and at its own expense duplicate any records delivered or to be delivered to the Government by the Contractor under this contract; or to retain duplicates which are in excess of the Government's requirements; provided, however, that nothing in this subparagraph shall constitute any commitments on the part of the Government to retain such records for any period beyond the DOE's customary retention periods for the various types of records.
- (2) If the Contractor, pursuant to the New Mexico Public Records Act or any similar "rights to know" type of law or regulation, is requested to disclose any of the Government's records as defined in subparagraph (a)(1) above, the Contractor will not make any such disclosures and shall promptly notify DOE of such request and DOE shall be solely responsible for responding to such request and for any defense against such disclosure and shall have complete control of the defense and all litigation or negotiations associated therewith.

- (b) Contractor's Own Records. The following records are considered the property of the Contractor and not within the scope of subparagraph (a) above:
- (1) Personnel and medical records and files (excluding personnel radiation exposure records) maintained on individual employees, applicants and former employees;
 - (2) Worker's compensation files;
 - (3) Internal health and safety files;
 - (4) Employee relations records and files, such as records and files pertaining to:
 - (i) Qualifications or suitability for employment of any employee, applicant, or former employee;
 - (ii) Employee and union grievances;
 - (iii) Arbitration proceedings pursuant to the provisions of any labor contract;
 - (iv) Allegations, investigations, and resolution of employee misconduct;
 - (v) Employee discipline;
 - (vi) Employee charges of discrimination;
 - (vii) Negotiations with any labor organization in connection with any labor contract;
 - (5) Records and files pertaining to wages, salaries and benefits and wage, salary and benefit administration;
 - (6) Privileged or confidential Contractor financial information and correspondence between the Fire Department and other segments of the Contractor's organization located separate from the Fire Department; and
 - (7) Internal legal files. Upon expiration of this contract, however, if requested by DOE, copies of any such records pertaining to employees that continue in the employ of a successor contractor operating the Los Alamos Fire Department shall be, unless otherwise prohibited by law, delivered to the successor contractor.

- (c) The provisions of subparagraph (b) above apply to all records described therein without regard to the date or origination of any such record.
- (d) Inspection and Audit of Records. All records acquired or generated by the Contractor under this contract in the possession of the Contractor, including those described in subparagraph (b) above, shall be subject to inspection and audit by DOE at all reasonable times, and the Contractor shall afford DOE proper facilities for such inspection and audit; provided, however, that upon request by the Contracting Officer, the Contractor shall deliver such records to a location specified by the Contracting Officer for inspection by DOE.

H.18 FIRE DEPARTMENT MANAGEMENT TEAM

- (a) Establishment - The County and the DOE hereby agree to establish a Fire Department Management Team (FDMT) which shall assist in the management of the Fire Department as described by the functions below. The FDMT shall be composed of equal representation from the County and DOE. A minimum of two (2) representatives from each organization shall be appointed to serve on the FDMT as voting members. A maximum of two (2) additional non-voting representatives may be appointed by the voting members of the FDMT. At least one member from each agency shall have technical knowledge and experience of Fire Department-type operations. Establishment of the FDMT shall be within 30 days after award of the contract.
- (b) Mission - The mission of the FDMT shall be to provide both the DOE and the County a vehicle by which to collectively review and communicate the Fire Department's ability to provide essential services and to meet Fire Contract requirements. The FDMT shall also provide a forum for the resolution of conflicting interests.
- (c) Functions - Specific functions to be performed by the FDMT shall include:
 - (1) Monitor the operations of the Fire Department to assure compliance with the terms of the Contract.
 - (2) Review the Fire Department operating procedures to assure that the Fire Department is operated to optimally utilize available resources in the most efficient and economical method possible.

- (3) Review the Fire Department development of long range plans to assure that they reflect the future requirements of the Fire Department to meet the Doe and Los Alamos County needs.
- (4) Provide recommendation to the Fire Chief to implement changes within the scope of the contract to meet County or DOE requirements for fire suppression, emergency medical, and rescue services.
- (5) Review and make recommendations to the County and DOE regarding changes proposed by the Fire Department for staffing and equipment assignments to stations.
- (6) Review and recommend for approval the Fire Department's annual operating budget.
- (7) Develop for County and DOE approval, written operating procedures that will be used by the FDMT to perform the duties set forth herein. These procedures shall set forth the FDMT's operating rules to be followed in performing its function for issues involving policy. These procedures shall be submitted for DOE and County approval within 60 calendar days after appointment of the FDMT.
- (8) Refer issues that cannot be resolved or that are not within the scope of the contract to the County and DOE for resolution.
- (9) The FDMT will provide an annual report to the County and DOE on the overall state of the Fire Department. This written report shall be submitted in the first week of August of each year.

H.19 AUTHORITY HAVING JURISDICTION

With respect to the Los Alamos National Laboratory Fire Service Area, as defined in the Statement of Work and Attachment D to this contract, the Contracting Officer shall be the "authority having jurisdiction," as that term is defined in National Fire Protection Association publications. This authority is limited to matters involving the approval of equipment, facilities, and procedures affecting any facility owned by DOE or operated by DOE or any of its contractors.

H.20 EQUIVALENT FEDERAL WAGE RATES

In the performance of this contract the Contractor shall comply with the requirements of U. S. Department of Labor Wage Determination a copy of which is attached to this contract (see

Part III - SECTION J, Attachment I.) Furthermore, Clause(s), "Service Contract Act of 1965, as amended" and "Statement of Equivalent for Federal Hires Rates" are applicable and located in the contract Clauses Section of this Contract.

H.21 SUBCONTRACTS

Prior to the placement of subcontracts and in accordance with the clause, "Subcontract (Cost-Reimbursement and Letter Contract), "the Contractor shall insure that:

- (a) They contain all of the clauses of this contract (altered when necessary for proper identification of the contracting parties) which contain a requirement for such inclusion in applicable subcontracts;
- (b) Any applicable subcontractor Cost or Pricing Data and a Certificate of Current Cost or Pricing Data (see FAR 15.804-2) and subcontractor Representations and Certifications (see Part IV, Section K); and
- (c) Any required prior notice and description of the subcontract is given to the Contracting Officer and any required consent is received. Except as may be expressly set forth therein, any consent by the Contracting Officer to the placement of subcontracts shall not be construed to constitute approval of the subcontractor or any subcontract terms or conditions, determination of the allowability of any cost, revision of this contract or any of the respective obligations of the parties thereunder, or creation of any subcontractor privity of contract with the Government.
- (d) The Contractor shall also obtain and furnish to the Contracting Officer either an OCI Disclosure Statement or Representation form in accordance with DEAR 909.570-7 "Organizational Conflicts of Interest Disclosure or Representation" for all subcontractors to be utilized under this contract. No work shall be performed by the subcontractor until the Contracting Officer has cleared the subcontractor for Organizational Conflicts of Interest (OCI).

H.22 RELEASE OF INFORMATION

Any proposed public release of information including publications, exhibits or audiovisual productions pertaining to this contract or the work called for by this contract shall be submitted for approval prior to printing and distribution. Approval authority is HQ DOE, OPA/HQ, Washington, DC. Proposed releases are to be submitted to the Contracting Officer. All proposed releases should conform to the requirements of DOE Order 1340.1A, and 1350.

H.23 AUTOMATED DATA PROCESSING EQUIPMENT (ADPE) USAGE

Requirements for ADPE which were not included in the Contractor's original proposal may not be acquired (leased or purchased) without the prior written consent of the Contracting Officer. Whenever Contracting Officer written consent is required, the Contractor will furnish to the Contracting Officer information concerning the need for and selection of such ADPE, the specific make(s) and model(s), and the lease versus purchase determination.

H.24 AUTOMATED DATA PROCESSING EQUIPMENT (ADPE) LEASING

- (a) If the Contractor leases ADPE equipment for use under this contract, the Contractor shall include a provision in the rental contract stating that the Government shall have the unilateral right to exercise any purchase option under the rental contract between the Contractor and the ADPE equipment vendor and to realize any other benefits earned through rental payments.
- (b) The Contractor shall furnish a copy of the rental contract to the Contracting Officer.

H.25 APPRAISALS

- (a) The Contracting Officer will perform an annual appraisal of the overall Fire Department operation to determine the adequacy of services provided as required in the Contract. Performance criteria will be based on specified service levels and adherence to developed plans, policies, and procedures referenced in the Contract.
- (b) Pursuant to paragraph (a) above, the following performance appraisal areas will be evaluated:
 - (1) General Management and Planning Support. Factors in this area include the Fire Department's performance as an organization in complying with stated goals and mission, organizational planning, staffing, and coordination/cooperation with external sectors.

In addition, this area will address achievement of direct Contract-related objectives and cover activities such as program planning; quality and quantity of work; adherence to cost and schedule commitments; technical information management and reporting; and achievements in development of systems and methods to better meet requirements.

- (2) Operations Support. Included in this area are required activities addressing quality assurance; security; information classification and control; facilities

management (facilities maintenance; real and personal property management); and operational safety, health, and environmental activities.

- (3) Indirect Administrative Support. This area addresses the reimbursed indirect support to the Fire Department and includes such functions as human resource planning and management, auditing, computing resources management, procurement services, industrial relations, accounting, budgeting, and other indirect support activities (e.g., legal and public affairs) if applicable.
- (c) The Contracting Officer will develop a report which will be made available to the Contractor for review and comment; the Contractor will have the opportunity to respond to the Contracting Officer's findings and provide additional information to clarify issues on any performance findings. A final report will be provided to the Contractor which defines final findings, priorities, and timeliness for corrective action.
- (d) The following performance descriptors will be used:
- (1) Satisfactory - Meets or exceeds the standard of performance; operational activities and tasks conducted in an efficient, timely, and acceptable manner. Deficiencies do not substantively affect performance.
 - (2) Marginal - Below the standard of performance; deficiencies are such that management attention and corrective action are required.
 - (3) Unsatisfactory - Below an acceptable standard of performance; serious deficiencies may require management attention and corrective action be taken promptly.

PART II
CONTRACT CLAUSES
SECTION I

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1. DEAR 952.202-1 DEFINITIONS (APR 1984)

(a) The term "Head of Agency" means the Secretary, Deputy Secretary or Under Secretary of the Department of Energy.

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

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

(d) The term "DOE" means the Department of Energy.

2. FAR 52.203-1 OFFICIALS NOT TO BENEFIT (APR 1984)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

3. FAR 52.203-3 GRATUITIES (APR 1984)

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

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

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

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

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

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

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee.

(This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

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

4. FAR 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

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

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

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

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

5. FAR 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1985)

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

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

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

6. FAR 52.203-7 ANTI-KICKBACK PROCEDURES (OCT 1988)

(a) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. FAR 52.203-9 REQUIREMENT FOR CERTIFICATE OF PROCUREMENT INTEGRITY MODIFICATION (SEP 1990)

(a) Definition. The definitions set forth in FAR 3,104-4 are hereby incorporated in this clause.

(b) The Contractor agrees that it will execute the certification set forth in paragraph (c) of this clause when requested by the Contracting Officer in connection with the execution of any modification of this contract.

(c) Certification. As required in paragraph (b) of this clause, the officer or employee responsible for the modification proposal shall execute the following certification:

CERTIFICATE OF PROCUREMENT INTEGRITY - MODIFICATION (SEP 1990)

- (1) I, (Name of certifier) am the officer or employee responsible for the preparation of this modification proposal and hereby certify that, to the best of my knowledge and belief, with the exception of any information described in this certification, I have no information concerning a violation or possible violation of subsection 27(a), (b), (d), or (f) of the Office of Federal Procurement Policy Act, as amended* (41 U.S.C. 423), (hereinafter referred to as "the Act"), as implemented in the FAR, occurring during the conduct of this procurement (contract and modification number).

- (2) As required by subsection 27(e)(1)(B) of the Act, I further certify that to the best of my knowledge and belief, each officer, employee, agent, representative, and consultant of (Name of Offeror) who has participated personally and substantially in the preparation or submission of this proposal has certified that he or she is familiar with, and will comply with, the requirements of subsection 27(a) of the Act, as implemented in the FAR, and will report immediately to me any information concerning a violation or possible violation of subsections 27(a), (b), (d), or (f) of the Act, as implemented in the FAR, pertaining to this procurement.
- (3) Violations or possible violations: (Continue on plain bond paper if necessary and label Certificate of Procurement Integrity - Modification (Continuation Sheet), ENTER "NONE" IF NONE EXISTS)

(Signature of the officer or employee responsible for the modification proposal and date)
(Typed name of the officer or employee responsible for the modification proposal)

*The Act became effective on December 1, 1990. THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER TITLE 18, UNITED STATES CODE, SECTION 1001.

(End of certification)

(d) In making the certification in paragraph (2) of the certificate, the officer or employee of the competing Contractor responsible for the offer or bid, may rely upon a one-time certification to the competing Contractor, supplemented by periodic training. These certifications shall be maintained by the Contractor for a period of 6 years from the date a certifying employee's employment with the company ends or, for an agency, representative, or consultant, 6 years from the date such individual ceases to act on behalf of the contractor.

(e) The certification required by paragraph (c) of this clause is a material representation of fact upon which reliance will be placed in executing this modification.

8. FAR 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (SEPT 1990)

(a) The Government, at its election, may reduce the price of a fixed-price-type contract or contract modification and the total cost and fee under a cost-type contract or contract modification by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or his or her designee, determines that there was a violation of subsection 27(a) of the Office of Federal Procurement Policy Act as amended (41 U. S. C. 423) as implemented in the FAR. In the case of a contract modification, the fee subject to reduction is the fee specified in the particular contract modification at the time of execution, except as provided in subparagraph (b)(5) of this clause.

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

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

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

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

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

(ii) If no base fee is specified in the contract, 10 percent of the amount of each award fee otherwise payable to the contractor for each incentive period or at each award fee determination point.

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

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

(ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract.

The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.

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

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

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

9. FAR 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JAN 1990)

(a) Definitions.

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

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

- (a) The awarding of any Federal contract.
- (b) The making of any Federal grant.
- (c) The making of any Federal Loan.
- (d) The entering into of any cooperative agreement.
- (e) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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

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

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

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

(a) An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment.

(b) A member of the uniformed services, as defined in subsection 101(3), title 37, United States Code.

(c) A special Government employee, as defined in Section 202, Title 18, United States Code.

(d) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, Appendix 2.

"Person," as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, or local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

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

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

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

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

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

(b) Prohibitions

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

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

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

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

(i) Agency and legislative liaison by own employees.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities nor directly related to a covered Federal action.

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

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

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

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

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

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

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

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

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

(ii) Professional and technical services.

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

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

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

(B) For purposes of subdivision (b)(3)(ii)(A) of this clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable.

Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provided advice and analysis directly applying their professional or technical expertise and unless the

advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provided legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission, or negotiation of a covered Federal action.

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

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

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

(iii) Disclosure.

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

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

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

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

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

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

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

(iv) Agreement. The Contractor agrees not to make any payment prohibited by the clause.

(v) Penalties.

(A) Any person who makes an expenditure prohibited under paragraph (a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

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

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

10. DEAR 952.204-2 SECURITY (OCT 1987)

(a) Responsibility. It is the contractor's duty to safeguard all classified information, special nuclear material, and other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for safeguarding all classified information, and protecting against sabotage, espionage, loss and theft, the classified documents and material in the Contractor's possession in connection with the performance of work under this contract. Except as otherwise expressly provided in this contract, the Contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter in the possession of the Contractor or any person under the Contractor's control in connection with performance of this contract. If retention by the Contractor of any classified matter is required after the completion or termination of the contract and such retention is approved by the Contracting Officer, the Contractor will complete a certificate of possession to be furnished to DOE specifying the classified matter to be retained. The certification shall identify the items and types or categories of retained, the conditions governing the retention of the matter, and the period of retention, if known. If the retention is approved by the Contracting Officer, the security provisions of the contract will continue to be applicable to the matter retained. Special nuclear material will not be retained after the completion or termination of the contract.

(b) Regulations. The Contractor agrees to conform to all security regulations and requirements of DOE.

(c) Definition of Classified Information. The term "Classified Information" means Restricted Data, Formerly Restricted Data, or National Security Information.

(d) Definition of Restricted Data. The term "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended.

(e) Definition of Formerly Restricted Data. The term "Formerly Restricted Data" means all data removed from the Restricted Data category under section 142 d. of the Atomic Energy Act of 1954, as amended.

(f) Definition of National Security Information. The term "National Security Information" means any information or material, regardless of its physical form or characteristics,

that is owned by, produced for or by, or is under the control of the United States Government, that has been determined pursuant to Executive Order 12356 or prior Orders to require protection against unauthorized disclosure, and which is so designated.

(g) Definition of Special Nuclear Material (SNM). SNM means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, as amended, has been determined to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(h) Security clearance of personnel. The Contractor shall not permit any individual to have access to any classified information, except in accordance with the Atomic Energy Act of 1954, as amended, Executive Order 12356, and the DOE's regulations or requirements applicable to the particular level and category of classified information to which access is required.

(i) Criminal liability. It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any classified information that may come to the Contractor or any person under the Contractor's control in connection with work under this contract, may subject the Contractor, its agents, employees, or subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794; and Executive Order 12356).

(j) Subcontracts and purchase orders. Except as otherwise authorized in writing by the Contracting Officer, the Contractor shall insert provisions similar to the foregoing in all subcontracts and purchase orders under this contract.

11. DEAR 952.204-70 CLASSIFICATION (APR 1984)

In the performance of the work under this contract, the Contractor shall ensure that an Authorized Original Classifier or Derivative Classifier shall assign classifications to all documents, material, and equipment originated or generated under the contract in accordance with classification regulations and guidance furnished to the Contractor by the DOE. Every subcontract and purchase order issued hereunder involving the origination or generation of classified documents, material, or equipment shall include a provision to the effect that in the performance of such subcontract or purchase order, the subcontractor or supplier shall ensure that an Authorized

Original Classifier or Derivative Classifier shall assign classifications to all such documents, materials, and equipment in accordance with classification regulations and guidance furnished to such subcontractor or supplier by the Contractor.

12. DEAR 952.204-74 FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE OVER CONTRACTOR (APR 1984)

(a) For purposes of this clause, a foreign interest is defined as any of the following:

- (1) A foreign government or foreign government agency;
- (2) Any form of business enterprise organized under the laws of any country other than the United States or its possessions;
- (3) Any form of business enterprise organized or incorporated under the laws of the U.S., or a State or other jurisdiction within the U.S., which is owned, controlled, or influenced by a foreign government, agency, firm, corporation or person; or
- (4) Any person who is not a U.S. citizen.

(b) Foreign Ownership, Control, or Influence (FOCI) means the situation where the degree of ownership, control, or influence over a contractor by a foreign interest is such that a reasonable basis exists for concluding that compromise of classified information, special nuclear material as defined in 10 CFR Part 710, may result.

(c) For purposes of this clause, subcontractor means any subcontractor at any tier and the term "contracting officer" shall mean DOE contracting officer. When this clause is included in a subcontract, the term "contractor" shall mean subcontractor and the term "contract" shall mean subcontract.

(d) The contractor shall immediately provide the contracting officer written notice of any changes in the extent and nature of FOCI over the contractor which would affect the answers to the questions presented in DEAR 952.204-73. Further, notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice shall also be furnished concurrently to the contracting officer.

(e) In those cases where a contractor has changes involving FOCI, the DOE must determine whether the changes will pose an undue risk to the common defense and security. In making

this determination, the contracting officer shall consider proposals made by the contractor to avoid or mitigate foreign influences.

(f) If the contracting officer at any time determines that the contractor is, or is potentially, subject to FOCI, the contractor shall comply with such instructions as the contracting officer shall provide in writing to safeguard any classified information or significant quantity of special nuclear material.

(g) The contractor agrees to insert terms that conform substantially to the language of this clause including this paragraph (g) in all subcontracts under this contract that will require access to classified information or a significant quantity of special nuclear material. Additionally, the contractor shall require such subcontractors to submit a completed certification required in DEAR 952.204-73 prior to award of a subcontract. Information to be provided by a subcontractor pursuant to this clause may be submitted directly to the contracting officer.

(h) Information submitted by the contractor or any affected subcontractor as required pursuant to this clause shall be treated by DOE to the extent permitted by law, as business or financial information submitted in confidence to be used solely for purposes of evaluating FOCI.

(i) The requirements of this clause are in addition to the requirement that a contractor obtain and retain the security clearances required by the contract. This clause shall not operate as a limitation on DOE's rights, including its rights to terminate this contract.

(j) The contracting officer may terminate this contract for default either if the contractor fails to meet obligations imposed by this clause, e.g., provide the information required by this clause, comply with the contracting officer's instructions about safeguarding classified information, or make this clause applicable to subcontractors, or if, in the contracting officer's judgment, the contractor creates a FOCI situation in order to avoid performance or a termination for default. The contracting officer may terminate this contract for convenience if the contractor becomes subject to FOCI and for reasons other than avoidance of performance of the contract, cannot, or chooses not to, avoid or mitigate the FOCI problem.

13. DEAR 952.208-70 PRINTING (APR 1984)

The contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the U.S. 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 copies of a single unit, or no more than 25,000 units in the aggregate of multiple units, will not be deemed to be printing. A unit is defined as one sheet, size 8 1/2 by 11 inches one side only, one color. A requirement is defined as a single publication document.

(1) The term "printing" includes the following processes: composition, plate making, presswork, binding, microform publishing, or the end items produced by such processes.

(2) If fulfillment of the contract will necessitate reproduction in excess of the limits set forth above, the contractor shall notify the contracting officer in writing and obtain the contracting officer's approval prior to acquiring on DOE's behalf production, acquisition, and dissemination of printed matter. Such printing must be obtained from the Government Printing Office (GPO), a contract source designated by GPO or a Joint Committee on Printing authorized federal printing plant.

(3) Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

(4) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (4).

14. FAR 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUN 1991)

(a) The Government suspends or debar Contractors to protect the Government's interests. Contractors shall not enter into any subcontract in excess of the small purchase limitation at FAR 13.000 with a Contractor that has been debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed the small purchase limitation at FAR 13.000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

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

(1) The name of the subcontractor;

(2) The Contractor's knowledge of the reasons for the subcontractor being on the list of Parties Excluded from Procurement Programs;

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the list of Parties Excluded from Procurement Programs; and

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

(End of Clause)

15. DEAR 952.209-71 ORGANIZATIONAL CONFLICTS OF INTEREST-GENERAL (APR 1984)

(a) The Contractor warrants that, to the best of his knowledge and belief, and except as otherwise disclosed, there are no relevant facts which could give rise to organizational conflicts of interest, as defined in CFR 909.570 or that the Contractor has disclosed all relevant information.

(b) The Contractor agrees that, if after award, an organizational conflict of interest with respect to this contract is discovered, an immediate and full disclosure in writing shall be made to the Contracting Officer which shall include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. The Department may, however, terminate the contract for its convenience if it deems such termination to be in the best interest of the Government.

(c) In the event that the Contractor was aware of an organizational conflict of interest prior to the award of this contract and did not disclose the conflict to the Contracting Officer, the Government may terminate the contract for default.

(d) The provisions of this clause shall be included in all subcontracts for work to be performed similar to the service provided by the prime Contractor, and the terms "contract," "Contractor," and "Contracting Officer" modified appropriately to preserve the Government's rights.

(e) Prior to a contract modification when the Statement of Work is modified to add new work, the period of performance is significantly increased, or the parties to the contract are changed, the Department will request and the Contractor is required to submit either an organizational conflict of interest disclosure or representation (see 48 CFR 904.70 and 909.5), or an update of the previously submitted disclosure or representation.

16. FAR 52.212-13 STOP-WORK ORDER - (AUG 1989) ALTERNATE I

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

- (1) Cancel the stop-work order; or
- (2) Terminate the work covered by the order as provided in the Termination clause of this contract.

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

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

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

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

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

17. DEAR 952.212-71 PRIORITIES AND ALLOCATIONS (ATOMIC ENERGY)
(JUN 1987)

The Contractor shall follow the provisions of the Defense Priorities and Allocations System (DPAS) regulation (see 15 CFR Part 350) in obtaining controlled materials and other products and materials needed to fill this contract.

18. FAR 52.215-1 EXAMINATION OF RECORDS BY COMPTROLLER GENERAL
(APR 1984)

(a) This clause applies if this contract exceeds \$10,000 and was entered into by negotiation.

(b) The Comptroller General of the United States or a duly authorized representative from the General Accounting Office shall, until 3 years after final payment under this contract or for any shorter period specified in Federal Acquisition Regulation (FAR) Subpart 4.7, Contractor Records Retention, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract.

(c) The Contractor agrees to include in first-tier subcontracts under this contract a clause to the effect that the Comptroller General or a duly authorized representative from the General Accounting Office shall, until 3 years after final payment under the subcontract or for any shorter period specified in FAR Subpart 4.7, have access to and the right to examine any of the subcontractor's directly pertinent books, documents,

papers, or other records involving transactions related to the subcontract. "Subcontract," as used in this clause, excludes (1) purchase orders not exceeding \$10,000 and (2) subcontracts or purchase orders for public utility services at rates established to apply uniformly to the public, plus any applicable reasonable connection charge.

(d) The periods of access and examination in paragraphs (b) and (c) above for records relating to (1) appeals under the Disputes clause, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the Comptroller General or a duly authorized representative from the General Accounting Office has taken exception shall continue until such appeals, litigation, claims, or exceptions are disposed of.

19. FAR 52.215-2 AUDIT--NEGOTIATION (DEC 1989)

(a) Examination of costs. If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of these, the Contractor shall maintain-and the Contracting Officer or representatives of the Contracting Officer shall have the right to examine and audit books, records, documents, and other evidence and accounting procedures and practices, regardless of form (e.g. data bases, applications software, data base management software, utilities, etc.), sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred in performing this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract.

(b) Cost or pricing data. If, pursuant to law, the Contractor has been required to submit cost or pricing data in connection with pricing this contract or any modification to this contract, the Contracting Officer or representatives of the Contracting Officer who are employees of the Government shall have the right to examine and audit all of the Contractor's books, records, documents, and other data, regardless of form (e.g., machine readable media such as disk, tape, etc.) or type (e.g., data bases, applications software, data base management software, utilities, etc.), including computations and projections related to proposing, negotiating, pricing, or performing the contract or modification in order to evaluate the accuracy, completeness, and currency of the cost or pricing data. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used.

(c) Reports. If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or representatives of the Contracting Officer who are employees of the Government shall have the right to examine and audit books, records, other documents, and supporting materials, for the purpose of evaluating (1) the effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports and (2) the data reported.

(d) Availability. The Contractor shall make available at its office at all reasonable times the materials described in paragraphs (a) and (b) above, for examination, audit, or reproduction, until 3 years after final payment under this contract, or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation, or for any longer period required by statute or by other clauses of this contract. In addition-

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

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

(e) Except as otherwise provided in FAR Subpart 4.7, Contractor Records Retention, the Contractor may transfer computer data in machine readable form from one reliable computer medium to another. The Contractor's computer data retention and transfer procedures shall maintain the integrity, reliability, and security of the original data. The contractor's choice of form or type of materials described in paragraphs (a), (b), and (c) of this clause affects neither the Contractor's obligations nor the Government's rights under this clause.

(f) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (f), in all subcontracts over \$10,000 under this contract, altering the clause only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

20. FAR 52.215-33 ORDER OF PRECEDENCE (JAN 1986)

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

(End of Clause)

21. FAR 52.215-22 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (JAN 1991)

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

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

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

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

(b) Any reduction in the contract price under paragraph (a) above due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

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

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

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

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

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

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

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

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

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

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

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

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

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 36 U.S.C. 6621(a)(2): and

(2) For Department of Defense contracts only, a penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data which were incomplete, inaccurate, or noncurrent.

22. FAR 52.215-24 SUBCONTRACTOR COST OR PRICING DATA (APR 1985)

(a) Before awarding any subcontract expected to exceed \$100,000 when entered into, or before pricing any subcontract modification involving a pricing adjustment expected to exceed \$100,000, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless the price is--

(1) Based on adequate price competition;

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

(3) Set by law or regulation.

(b) The Contractor shall require the subcontractor to certify in substantially the form prescribed in Subsection 15.804-4 of the Federal Acquisition Regulation (FAR) that, to the best of its knowledge and belief, the data submitted under paragraph (a) above were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(c) In each subcontract that exceeds \$100,000 when entered into, the Contractor shall insert either--

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

(2) The substance of the clause at FAR 52.215-25, Subcontractor Cost or Pricing Data-Modifications.

23. FAR 52.215-27 TERMINATION OF DEFINED BENEFIT PENSION PLANS (SEP 1989)

The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate a defined benefit pension plan or otherwise recapture such pension fund assets. If pension fund assets revert to the Contractor or are

constructively received by it under a termination or otherwise, the Contractor shall make a refund or give a credit to the Government for its equitable share as required by FAR 31.205-6(j)(4). The Contractor shall include the substance of this clause in all subcontracts under this contract which meet the applicability requirement of FAR 15.804(e).

24. DEAR 952.216-7 ALLOWABLE COST AND PAYMENT (JUL 1991)

(a) Invoicing. The Government shall make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with Subpart 31.6 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract and the terms of this contract. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

(b) Reimbursing costs.

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

(i) Those recorded costs that, at the time of the request for reimbursement, the Contractor has paid by cash, check, or other form of actual payment for items or services purchased directly for the contract;

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

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

(B) Direct labor;

(C) Direct travel;

(D) Other direct in-house costs; and

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

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

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

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

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

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

(d) Final indirect cost rates.

(1) Final annual indirect cost rates and the appropriate bases shall be established in accordance with Subpart 42.7 of the Federal Acquisition Regulation (FAR) in effect for the period covered by the indirect cost rate proposal.

(2) The Contractor shall, within 90 days after the expiration of each of its fiscal years, or by a later date approved by the Contracting Officer, submit to the cognizant Contracting Officer responsible for negotiating its final indirect cost rates and, if required by agency procedures, to the cognizant audit activity proposed final indirect cost rates for that period and supporting cost data specifying the contract

and/or subcontract to which the rates apply. The proposed rates shall be based on the contractor's actual cost experience for that period. The appropriate Government representative and Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

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

(4) Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the Disputes clause.

(e) Billing rates. Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the Contracting Officer or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates--

(1) Shall be the anticipated final rates; and

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

(f) Quick-closeout procedures. When the Contractor and Contracting Officer agree, the quick-closeout procedures of Subpart 42.7 of the FAR may be used.

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

(h) Final payment.

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

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

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

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

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

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

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

25. FAR 52.216-11 COST CONTRACT--NO FEE (APR 1984)

(a) The Government shall not pay the Contractor a fee for performing this contract.

(b) After payment of 80 percent of the total estimated cost shown in the Schedule, the Contracting Officer may withhold further payment of allowable cost until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed one percent of the total estimated cost shown in the Schedule or \$100,000, whichever is less.

26. FAR 52.216-12 COST-SHARING CONTRACT--NO FEE (APR 1984)

(a) The Government shall not pay to the Contractor a fee for performing this contract.

(b) After paying 80 percent of the Government's share of the total estimated cost of performance shown in the Schedule, the Contracting Officer may withhold further payment of allowable cost until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed one percent of the Government's share of the total estimated cost shown in the Schedule or \$100,000, whichever is less.

27. DEAR 952.217-70 ACQUISITION OF REAL PROPERTY (APR 1984)

(a) Notwithstanding any other provision of the contract, the prior approval of the contracting officer shall be obtained when, in performance of this contract, the contractor acquires or proposes to acquire use of real property by:

(1) Purchase, on the Government's behalf or in the contractor's own name, with title eventually vesting in the Government.

(2) Lease, and the Government assumes liability for, or will otherwise pay for the obligation under the lease as a reimbursable contract cost.

(3) Acquisition of temporary interest through easement, license or permit, and the Government funds the entire cost of the temporary interest.

(b) Justification of and execution of any real property acquisitions shall be in accordance and compliance with directions provided by the contracting officer.

(c) The substance of this clause, including this paragraph (c), shall be included in any subcontract occasioned by this contract under which property described in paragraph (a) of this clause shall be acquired.

28. FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS (FEB 1990)

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

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(c) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern (1) which is at least 51 percent unconditionally owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is unconditionally owned by one or more socially and economically disadvantaged individuals; and (2) whose management and daily business operations are controlled by one or more of such individuals. This term also means a small business concern that is a least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian organization, or a publicly owned business having at least 51

percent of its stock unconditionally owned by one of these entities which has its management and daily business controlled by members or an economically disadvantaged Indian tribe or Native Hawaiian Organization, and which meets the requirements of 13CFR 124. The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act. The Contractor shall presume that socially and economically disadvantaged entities also include Indian Tribes and Native Hawaiian Organizations.

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

29. DEAR 952.219-9 SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN (JAN 1991)

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

(b) "Commercial product," as used in this clause, means a product in regular production that is sold in substantial quantities to the general public and/or industry at established catalog or market prices. It also means a product which, in the opinion of the Contracting Officer, differs only insignificantly from the Contractor's commercial product.

"Subcontract," as used in this clause, means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, which addresses separately subcontracting with small business concerns and small disadvantaged business concerns and which shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business concerns and small disadvantaged business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of--

(i) Total dollars planned to be subcontracted;

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

(iii) Total dollars planned to be subcontracted to small disadvantaged business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to (i) small business concerns and (ii) small disadvantaged business concerns.

(4) A description of the method used to develop the subcontracting goals in (1) above.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source list, the Procurement Automated Source System (PASS) of the Small Business Administration, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small and small disadvantaged business concerns trade associations).

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

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

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

(9) Assurances that the offeror will include the clause in this contract entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) who receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility), to adopt a plan similar to the plan agreed to by the offeror.

(10) Assurances that the offeror will (i) cooperate in any studies or surveys as may be required, (ii) submit periodic reports in order to allow the Government to determine the extent of compliance by the offeror with the subcontracting plan, (iii) submit, not later than the 25th day of the succeeding month, Standard Form (SF) 294 only, (DOE contractors need not submit SF 295) on a quarterly basis current as the last day of March, June, September and December, and upon contract completion, in accordance with the instructions on the form except the report shall be submitted quarterly rather than semiannually and additionally shall indicate at the remarks block the number and dollar amount of award made to labor surplus area concerns to the extent such reporting is required by the terms of their contract, and (iv) ensure that its subcontractors agree to submit SF 294 in accordance with the instructions at (iii) above.

(11) A recitation of the types of records the offeror will maintain to demonstrate procedures that have been adopted to comply with the requirements and goals in the plan, including established source lists; and a description of its efforts to locate small and small disadvantaged business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists, guides, and other data that identify small and small disadvantaged business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small or small disadvantaged business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating (A) whether small business concerns were solicited and if not, why not, (B) whether small disadvantaged business concerns were solicited and if not, why not, and (C) if applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact (A) trade associations, (B) business development organizations, and (C) conferences and trade fairs to locate small and small disadvantaged business sources.

(v) Records of internal guidance and encouragement provided to buyers through (A) workshops, seminars, training, etc., and (B) monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having company or division-wide annual plans need not comply with this requirement.

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

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

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

(3) Counsel and discuss subcontracting opportunities with representatives of small and small disadvantaged business firms.

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

(f) A master subcontracting plan on a plant or division-wide basis which contains all the elements required by (d) above, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided:

(1) the master plan has been approved,

(2) the offeror provides copies of the approved master plan and evidence of its approval to the Contracting Officer, and

(3) goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) (1) If a commercial product is offered, the subcontracting plan required by this clause may relate to the offeror's production generally, for both commercial and noncommercial products, rather than solely to the Government contract. In these cases, the offeror shall, with the concurrence of the Contracting Officer, submit one company-wide or division-wide annual plan.

(2) The annual plan shall be reviewed for approval by the agency awarding the offeror its first prime contract requiring a subcontracting plan during the fiscal year, or by an agency satisfactory to the Contracting Officer.

(3) The approval plan shall remain in effect during the offeror's fiscal year for all of the offeror's commercial products.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

30. FAR 52.219-13 UTILIZATION OF WOMEN-OWNED SMALL BUSINESSES
(AUG 1986)

(a) "Women-owned small businesses," as used in this clause, means small business concerns that are at least 51 percent owned by women who are United States citizens and who also control and operate the business.

"Control," as used in this clause, means exercising the power to make policy decisions.

"Operate," as used in this clause, means being actively involved in the day-to-day management of the business.

"Small business concern," as used in this clause, means a concern including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(b) It is the policy of the United States that women-owned small businesses shall have the maximum practicable opportunity to participate in performing contracts awarded by any Federal agency.

(c) The Contractor agrees to use its best efforts to give women-owned small businesses the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with the efficient performance of its contract.

(d) The Contractor may rely on written representations by its subcontractors regarding their status as women-owned small businesses.

31. FAR 52.219-16 LIQUIDATED DAMAGES-SMALL BUSINESS
SUBCONTRACTING PLAN (AUG 1989)

(a) "Failure to make a good faith effort to comply with the subcontracting plan," as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business and Small Disadvantaged Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) If, at contract completion, or in the case of a commercial products plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make good faith effort to comply with its

subcontracting plan, established in accordance with the clause in this contract entitled Small and Small Disadvantaged Business Subcontracting Plans, the Contractor shall pay the Government liquidated damages in an amount stated. The amount of damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal or, in the case of a commercial products plan, that portion of the dollar amount allocable to Government contracts by which the Contractor failed to achieve each subcontract goal.

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

(d) With respect to commercial products plans, i.e., company-wide or division-wide subcontracting plans approved under paragraph (g) of the clause in this contract entitled, Small Business and Small Disadvantaged Business Subcontracting Plan, the Contracting Officer of the agency that originally approved the plan will exercise the functions of the Contracting Officer under this clause on behalf of all agencies that awarded contracts covered by that commercial products plan.

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

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

32. FAR 52.220-3 UTILIZATION OF LABOR SURPLUS AREA CONCERNS
(APR 1984)

(a) Applicability. This clause is applicable if this contract exceeds the appropriate small purchase limitation in Part 13 of the Federal Acquisition Regulation.

(b) Policy. It is the policy of the Government to award contracts to concerns that agree to perform substantially in Labor Surplus Areas (LSA's) when this can be done consistent with the efficient performance of the contract and at prices no higher

than are obtainable elsewhere. The Contractor agrees to use its best efforts to place subcontracts in accordance with this policy.

(c) Order of preference. In complying with paragraph (b) above and with paragraph (c) of the clause of this contract entitled Utilization of Small Business Concerns and Small Disadvantaged Business Concerns, the Contractor shall observe the following order of preference in awarding subcontracts:

- (1) small business concerns that are LSA concerns,
- (2) other small business concerns, and
- (3) other LSA concerns.

(d) Definitions.

"Labor Surplus Area," as used in this clause, means a geographical area identified by the Department of Labor in accordance with 20 CFR 654, Subpart A, as an area of concentrated unemployment or underemployment or an area of labor surplus.

"Labor surplus area concern," as used in this clause, means a concern that together with its first-tier subcontractors will perform substantially in labor surplus areas. Performance is substantially in labor surplus areas if the costs incurred under the contract on account of manufacturing, production, or performance of appropriate services in labor surplus areas exceed 50 percent of the contract price.

33. FAR 52.220-4 LABOR SURPLUS AREA SUBCONTRACTING PROGRAM
(APR 1984)

(a) See the Utilization of Labor Surplus Area Concerns clause of this contract for applicable definitions.

(b) The Contractor agrees to establish and conduct a program to encourage Labor Surplus Area (LSA) concerns to compete for subcontracts within their capabilities when the subcontracts are consistent with the efficient performance of the contract at prices no higher than obtainable elsewhere. The Contractor shall--

(1) Designate a liaison officer who will (i) maintain liaison with authorized representatives of the Government on LSA matters, (ii) supervise compliance with the Utilization of Labor Surplus Area Concerns clause, and (iii) administer the Contractor's labor surplus area subcontracting program;

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

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

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

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

(b) Prohibitions

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

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

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

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

(i) Agency and legislative liaison by own employees.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities nor directly related to a covered Federal action.

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

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

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

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

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

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

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

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

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

(ii) Professional and technical services.

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

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

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

(B) For purposes of subdivision (b)(3)(ii)(A) of this clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable.

Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provided advice and analysis directly applying their professional or technical expertise and unless the

advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provided legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission, or negotiation of a covered Federal action.

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

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

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

(iii) Disclosure.

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

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

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

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

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

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

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

(iv) Agreement. The Contractor agrees not to make any payment prohibited by the clause.

(v) Penalties.

(A) Any person who makes an expenditure prohibited under paragraph (a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

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

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

10. DEAR 952.204-2 SECURITY (OCT 1987)

(a) Responsibility. It is the contractor's duty to safeguard all classified information, special nuclear material, and other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for safeguarding all classified information, and protecting against sabotage, espionage, loss and theft, the classified documents and material in the Contractor's possession in connection with the performance of work under this contract. Except as otherwise expressly provided in this contract, the Contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter in the possession of the Contractor or any person under the Contractor's control in connection with performance of this contract. If retention by the Contractor of any classified matter is required after the completion or termination of the contract and such retention is approved by the Contracting Officer, the Contractor will complete a certificate of possession to be furnished to DOE specifying the classified matter to be retained. The certification shall identify the items and types or categories of retained, the conditions governing the retention of the matter, and the period of retention, if known. If the retention is approved by the Contracting Officer, the security provisions of the contract will continue to be applicable to the matter retained. Special nuclear material will not be retained after the completion or termination of the contract.

(b) Regulations. The Contractor agrees to conform to all security regulations and requirements of DOE.

(c) Definition of Classified Information. The term "Classified Information" means Restricted Data, Formerly Restricted Data, or National Security Information.

(d) Definition of Restricted Data. The term "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended.

(e) Definition of Formerly Restricted Data. The term "Formerly Restricted Data" means all data removed from the Restricted Data category under section 142 d. of the Atomic Energy Act of 1954, as amended.

(f) Definition of National Security Information. The term "National Security Information" means any information or material, regardless of its physical form or characteristics,

that is owned by, produced for or by, or is under the control of the United States Government, that has been determined pursuant to Executive Order 12356 or prior Orders to require protection against unauthorized disclosure, and which is so designated.

(g) Definition of Special Nuclear Material (SNM). SNM means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, as amended, has been determined to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(h) Security clearance of personnel. The Contractor shall not permit any individual to have access to any classified information, except in accordance with the Atomic Energy Act of 1954, as amended, Executive Order 12356, and the DOE's regulations or requirements applicable to the particular level and category of classified information to which access is required.

(i) Criminal liability. It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any classified information that may come to the Contractor or any person under the Contractor's control in connection with work under this contract, may subject the Contractor, its agents, employees, or subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794; and Executive Order 12356).

(j) Subcontracts and purchase orders. Except as otherwise authorized in writing by the Contracting Officer, the Contractor shall insert provisions similar to the foregoing in all subcontracts and purchase orders under this contract.

11. DEAR 952.204-70 CLASSIFICATION (APR 1984)

In the performance of the work under this contract, the Contractor shall ensure that an Authorized Original Classifier or Derivative Classifier shall assign classifications to all documents, material, and equipment originated or generated under the contract in accordance with classification regulations and guidance furnished to the Contractor by the DOE. Every subcontract and purchase order issued hereunder involving the origination or generation of classified documents, material, or equipment shall include a provision to the effect that in the performance of such subcontract or purchase order, the subcontractor or supplier shall ensure that an Authorized

Original Classifier or Derivative Classifier shall assign classifications to all such documents, materials, and equipment in accordance with classification regulations and guidance furnished to such subcontractor or supplier by the Contractor.

12. DEAR 952.204-74 FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE OVER CONTRACTOR (APR 1984)

(a) For purposes of this clause, a foreign interest is defined as any of the following:

(1) A foreign government or foreign government agency;

(2) Any form of business enterprise organized under the laws of any country other than the United States or its possessions;

(3) Any form of business enterprise organized or incorporated under the laws of the U.S., or a State or other jurisdiction within the U.S., which is owned, controlled, or influenced by a foreign government, agency, firm, corporation or person; or

(4) Any person who is not a U.S. citizen.

(b) Foreign Ownership, Control, or Influence (FOCI) means the situation where the degree of ownership, control, or influence over a contractor by a foreign interest is such that a reasonable basis exists for concluding that compromise of classified information, special nuclear material as defined in 10 CFR Part 710, may result.

(c) For purposes of this clause, subcontractor means any subcontractor at any tier and the term "contracting officer" shall mean DOE contracting officer. When this clause is included in a subcontract, the term "contractor" shall mean subcontractor and the term "contract" shall mean subcontract.

(d) The contractor shall immediately provide the contracting officer written notice of any changes in the extent and nature of FOCI over the contractor which would affect the answers to the questions presented in DEAR 952.204-73. Further, notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice shall also be furnished concurrently to the contracting officer.

(e) In those cases where a contractor has changes involving FOCI, the DOE must determine whether the changes will pose an undue risk to the common defense and security. In making

this determination, the contracting officer shall consider proposals made by the contractor to avoid or mitigate foreign influences.

(f) If the contracting officer at any time determines that the contractor is, or is potentially, subject to FOCI, the contractor shall comply with such instructions as the contracting officer shall provide in writing to safeguard any classified information or significant quantity of special nuclear material.

(g) The contractor agrees to insert terms that conform substantially to the language of this clause including this paragraph (g) in all subcontracts under this contract that will require access to classified information or a significant quantity of special nuclear material. Additionally, the contractor shall require such subcontractors to submit a completed certification required in DEAR 952.204-73 prior to award of a subcontract. Information to be provided by a subcontractor pursuant to this clause may be submitted directly to the contracting officer.

(h) Information submitted by the contractor or any affected subcontractor as required pursuant to this clause shall be treated by DOE to the extent permitted by law, as business or financial information submitted in confidence to be used solely for purposes of evaluating FOCI.

(i) The requirements of this clause are in addition to the requirement that a contractor obtain and retain the security clearances required by the contract. This clause shall not operate as a limitation on DOE's rights, including its rights to terminate this contract.

(j) The contracting officer may terminate this contract for default either if the contractor fails to meet obligations imposed by this clause, e.g., provide the information required by this clause, comply with the contracting officer's instructions about safeguarding classified information, or make this clause applicable to subcontractors, or if, in the contracting officer's judgment, the contractor creates a FOCI situation in order to avoid performance or a termination for default. The contracting officer may terminate this contract for convenience if the contractor becomes subject to FOCI and for reasons other than avoidance of performance of the contract, cannot, or chooses not to, avoid or mitigate the FOCI problem.

13. DEAR 952.208-70 PRINTING (APR 1984)

The contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the U.S. 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 copies of a single unit, or no more than 25,000 units in the aggregate of multiple units, will not be deemed to be printing. A unit is defined as one sheet, size 8 1/2 by 11 inches one side only, one color. A requirement is defined as a single publication document.

(1) The term "printing" includes the following processes: composition, plate making, presswork, binding, microform publishing, or the end items produced by such processes.

(2) If fulfillment of the contract will necessitate reproduction in excess of the limits set forth above, the contractor shall notify the contracting officer in writing and obtain the contracting officer's approval prior to acquiring on DOE's behalf production, acquisition, and dissemination of printed matter. Such printing must be obtained from the Government Printing Office (GPO), a contract source designated by GPO or a Joint Committee on Printing authorized federal printing plant.

(3) Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

(4) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (4).

14. FAR 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUN 1991)

(a) The Government suspends or debars Contractors to protect the Government's interests. Contractors shall not enter into any subcontract in excess of the small purchase limitation at FAR 13.000 with a Contractor that has been debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed the small purchase limitation at FAR 13.000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

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

(1) The name of the subcontractor;

(2) The Contractor's knowledge of the reasons for the subcontractor being on the list of Parties Excluded from Procurement Programs;

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the list of Parties Excluded from Procurement Programs; and

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

(End of Clause)

15. DEAR 952.209-71 ORGANIZATIONAL CONFLICTS OF INTEREST-GENERAL (APR 1984)

(a) The Contractor warrants that, to the best of his knowledge and belief, and except as otherwise disclosed, there are no relevant facts which could give rise to organizational conflicts of interest, as defined in CFR 909.570 or that the Contractor has disclosed all relevant information.

(b) The Contractor agrees that, if after award, an organizational conflict of interest with respect to this contract is discovered, an immediate and full disclosure in writing shall be made to the Contracting Officer which shall include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. The Department may, however, terminate the contract for its convenience if it deems such termination to be in the best interest of the Government.

(c) In the event that the Contractor was aware of an organizational conflict of interest prior to the award of this contract and did not disclose the conflict to the Contracting Officer, the Government may terminate the contract for default.

(d) The provisions of this clause shall be included in all subcontracts for work to be performed similar to the service provided by the prime Contractor, and the terms "contract," "Contractor," and "Contracting Officer" modified appropriately to preserve the Government's rights.

(e) Prior to a contract modification when the Statement of Work is modified to add new work, the period of performance is significantly increased, or the parties to the contract are changed, the Department will request and the Contractor is required to submit either an organizational conflict of interest disclosure or representation (see 48 CFR 904.70 and 909.5), or an update of the previously submitted disclosure or representation.

16. FAR 52.212-13 STOP-WORK ORDER - (AUG 1989) ALTERNATE I

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

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Termination clause of this contract.

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

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

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

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

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

17. DEAR 952.212-71 PRIORITIES AND ALLOCATIONS (ATOMIC ENERGY)
(JUN 1987)

The Contractor shall follow the provisions of the Defense Priorities and Allocations System (DPAS) regulation (see 15 CFR Part 350) in obtaining controlled materials and other products and materials needed to fill this contract.

18. FAR 52.215-1 EXAMINATION OF RECORDS BY COMPTROLLER GENERAL
(APR 1984)

(a) This clause applies if this contract exceeds \$10,000 and was entered into by negotiation.

(b) The Comptroller General of the United States or a duly authorized representative from the General Accounting Office shall, until 3 years after final payment under this contract or for any shorter period specified in Federal Acquisition Regulation (FAR) Subpart 4.7, Contractor Records Retention, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract.

(c) The Contractor agrees to include in first-tier subcontracts under this contract a clause to the effect that the Comptroller General or a duly authorized representative from the General Accounting Office shall, until 3 years after final payment under the subcontract or for any shorter period specified in FAR Subpart 4.7, have access to and the right to examine any of the subcontractor's directly pertinent books, documents,

papers, or other records involving transactions related to the subcontract. "Subcontract," as used in this clause, excludes (1) purchase orders not exceeding \$10,000 and (2) subcontracts or purchase orders for public utility services at rates established to apply uniformly to the public, plus any applicable reasonable connection charge.

(d) The periods of access and examination in paragraphs (b) and (c) above for records relating to (1) appeals under the Disputes clause, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the Comptroller General or a duly authorized representative from the General Accounting Office has taken exception shall continue until such appeals, litigation, claims, or exceptions are disposed of.

19. FAR 52.215-2 AUDIT--NEGOTIATION (DEC 1989)

(a) Examination of costs. If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of these, the Contractor shall maintain-and the Contracting Officer or representatives of the Contracting Officer shall have the right to examine and audit books, records, documents, and other evidence and accounting procedures and practices, regardless of form (e.g. data bases, applications software, data base management software, utilities, etc.), sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred in performing this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract.

(b) Cost or pricing data. If, pursuant to law, the Contractor has been required to submit cost or pricing data in connection with pricing this contract or any modification to this contract, the Contracting Officer or representatives of the Contracting Officer who are employees of the Government shall have the right to examine and audit all of the Contractor's books, records, documents, and other data, regardless of form (e.g., machine readable media such as disk, tape, etc.) or type (e.g., data bases, applications software, data base management software, utilities, etc.), including computations and projections related to proposing, negotiating, pricing, or performing the contract or modification in order to evaluate the accuracy, completeness, and currency of the cost or pricing data. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used.

(c) Reports. If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or representatives of the Contracting Officer who are employees of the Government shall have the right to examine and audit books, records, other documents, and supporting materials, for the purpose of evaluating (1) the effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports and (2) the data reported.

(d) Availability. The Contractor shall make available at its office at all reasonable times the materials described in paragraphs (a) and (b) above, for examination, audit, or reproduction, until 3 years after final payment under this contract, or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation, or for any longer period required by statute or by other clauses of this contract. In addition-

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

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

(e) Except as otherwise provided in FAR Subpart 4.7, Contractor Records Retention, the Contractor may transfer computer data in machine readable form from one reliable computer medium to another. The Contractor's computer data retention and transfer procedures shall maintain the integrity, reliability, and security of the original data. The contractor's choice of form or type of materials described in paragraphs (a), (b), and (c) of this clause affects neither the Contractor's obligations nor the Government's rights under this clause.

(f) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (f), in all subcontracts over \$10,000 under this contract, altering the clause only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

20. FAR 52.215-33 ORDER OF PRECEDENCE (JAN 1986)

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

(End of Clause)

21. FAR 52.215-22 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (JAN 1991)

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

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

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

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

(b) Any reduction in the contract price under paragraph (a) above due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

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

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

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

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

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

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

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

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

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

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

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

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

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 36 U.S.C. 6621(a)(2): and

(2) For Department of Defense contracts only, a penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data which were incomplete, inaccurate, or noncurrent.

22. FAR 52.215-24 SUBCONTRACTOR COST OR PRICING DATA (APR 1985)

(a) Before awarding any subcontract expected to exceed \$100,000 when entered into, or before pricing any subcontract modification involving a pricing adjustment expected to exceed \$100,000, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless the price is--

(1) Based on adequate price competition;

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

(3) Set by law or regulation.

(b) The Contractor shall require the subcontractor to certify in substantially the form prescribed in Subsection 15.804-4 of the Federal Acquisition Regulation (FAR) that, to the best of its knowledge and belief, the data submitted under paragraph (a) above were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(c) In each subcontract that exceeds \$100,000 when entered into, the Contractor shall insert either--

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

(2) The substance of the clause at FAR 52.215-25, Subcontractor Cost or Pricing Data-Modifications.

23. FAR 52.215-27 TERMINATION OF DEFINED BENEFIT PENSION PLANS (SEP 1989)

The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate a defined benefit pension plan or otherwise recapture such pension fund assets. If pension fund assets revert to the Contractor or are

constructively received by it under a termination or otherwise, the Contractor shall make a refund or give a credit to the Government for its equitable share as required by FAR 31.205-6(j)(4). The Contractor shall include the substance of this clause in all subcontracts under this contract which meet the applicability requirement of FAR 15.804(e).

24. DEAR 952.216-7 ALLOWABLE COST AND PAYMENT (JUL 1991)

(a) Invoicing. The Government shall make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with Subpart 31.6 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract and the terms of this contract. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

(b) Reimbursing costs.

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

(i) Those recorded costs that, at the time of the request for reimbursement, the Contractor has paid by cash, check, or other form of actual payment for items or services purchased directly for the contract;

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

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

(B) Direct labor;

(C) Direct travel;

(D) Other direct in-house costs; and

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

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

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

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

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

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

(d) Final indirect cost rates.

(1) Final annual indirect cost rates and the appropriate bases shall be established in accordance with Subpart 42.7 of the Federal Acquisition Regulation (FAR) in effect for the period covered by the indirect cost rate proposal.

(2) The Contractor shall, within 90 days after the expiration of each of its fiscal years, or by a later date approved by the Contracting Officer, submit to the cognizant Contracting Officer responsible for negotiating its final indirect cost rates and, if required by agency procedures, to the cognizant audit activity proposed final indirect cost rates for that period and supporting cost data specifying the contract

and/or subcontract to which the rates apply. The proposed rates shall be based on the contractor's actual cost experience for that period. The appropriate Government representative and Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

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

(4) Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the Disputes clause.

(e) Billing rates. Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the Contracting Officer or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates--

(1) Shall be the anticipated final rates; and

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

(f) Quick-closeout procedures. When the Contractor and Contracting Officer agree, the quick-closeout procedures of Subpart 42.7 of the FAR may be used.

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

(h) Final payment.

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

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

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

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

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

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

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

25. FAR 52.216-11 COST CONTRACT--NO FEE (APR 1984)

(a) The Government shall not pay the Contractor a fee for performing this contract.

(b) After payment of 80 percent of the total estimated cost shown in the Schedule, the Contracting Officer may withhold further payment of allowable cost until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed one percent of the total estimated cost shown in the Schedule or \$100,000, whichever is less.

26. FAR 52.216-12 COST-SHARING CONTRACT--NO FEE (APR 1984)

(a) The Government shall not pay to the Contractor a fee for performing this contract.

(b) After paying 80 percent of the Government's share of the total estimated cost of performance shown in the Schedule, the Contracting Officer may withhold further payment of allowable cost until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed one percent of the Government's share of the total estimated cost shown in the Schedule or \$100,000, whichever is less.

27. DEAR 952.217-70 ACQUISITION OF REAL PROPERTY (APR 1984)

(a) Notwithstanding any other provision of the contract, the prior approval of the contracting officer shall be obtained when, in performance of this contract, the contractor acquires or proposes to acquire use of real property by:

(1) Purchase, on the Government's behalf or in the contractor's own name, with title eventually vesting in the Government.

(2) Lease, and the Government assumes liability for, or will otherwise pay for the obligation under the lease as a reimbursable contract cost.

(3) Acquisition of temporary interest through easement, license or permit, and the Government funds the entire cost of the temporary interest.

(b) Justification of and execution of any real property acquisitions shall be in accordance and compliance with directions provided by the contracting officer.

(c) The substance of this clause, including this paragraph (c), shall be included in any subcontract occasioned by this contract under which property described in paragraph (a) of this clause shall be acquired.

28. FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS (FEB 1990)

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

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(c) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern (1) which is at least 51 percent unconditionally owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is unconditionally owned by one or more socially and economically disadvantaged individuals; and (2) whose management and daily business operations are controlled by one or more of such individuals. This term also means a small business concern that is a least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian organization, or a publicly owned business having at least 51

percent of its stock unconditionally owned by one of these entities which has its management and daily business controlled by members or an economically disadvantaged Indian tribe or Native Hawaiian Organization, and which meets the requirements of 13CFR 124. The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act. The Contractor shall presume that socially and economically disadvantaged entities also include Indian Tribes and Native Hawaiian Organizations.

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

29. DEAR 952.219-9 SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN (JAN 1991)

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

(b) "Commercial product," as used in this clause, means a product in regular production that is sold in substantial quantities to the general public and/or industry at established catalog or market prices. It also means a product which, in the opinion of the Contracting Officer, differs only insignificantly from the Contractor's commercial product.

"Subcontract," as used in this clause, means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, which addresses separately subcontracting with small business concerns and small disadvantaged business concerns and which shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business concerns and small disadvantaged business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of--

(i) Total dollars planned to be subcontracted;

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

(iii) Total dollars planned to be subcontracted to small disadvantaged business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to (i) small business concerns and (ii) small disadvantaged business concerns.

(4) A description of the method used to develop the subcontracting goals in (1) above.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source list, the Procurement Automated Source System (PASS) of the Small Business Administration, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small and small disadvantaged business concerns trade associations).

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

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

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

(9) Assurances that the offeror will include the clause in this contract entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) who receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility), to adopt a plan similar to the plan agreed to by the offeror.

(10) Assurances that the offeror will (i) cooperate in any studies or surveys as may be required, (ii) submit periodic reports in order to allow the Government to determine the extent of compliance by the offeror with the subcontracting plan, (iii) submit, not later than the 25th day of the succeeding month, Standard Form (SF) 294 only, (DOE contractors need not submit SF 295) on a quarterly basis current as the last day of March, June, September and December, and upon contract completion, in accordance with the instructions on the form except the report shall be submitted quarterly rather than semiannually and additionally shall indicate at the remarks block the number and dollar amount of award made to labor surplus area concerns to the extent such reporting is required by the terms of their contract, and (iv) ensure that its subcontractors agree to submit SF 294 in accordance with the instructions at (iii) above.

(11) A recitation of the types of records the offeror will maintain to demonstrate procedures that have been adopted to comply with the requirements and goals in the plan, including established source lists; and a description of its efforts to locate small and small disadvantaged business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists, guides, and other data that identify small and small disadvantaged business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small or small disadvantaged business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating (A) whether small business concerns were solicited and if not, why not, (B) whether small disadvantaged business concerns were solicited and if not, why not, and (C) if applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact (A) trade associations, (B) business development organizations, and (C) conferences and trade fairs to locate small and small disadvantaged business sources.

(v) Records of internal guidance and encouragement provided to buyers through (A) workshops, seminars, training, etc., and (B) monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having company or division-wide annual plans need not comply with this requirement.

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

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

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

(3) Counsel and discuss subcontracting opportunities with representatives of small and small disadvantaged business firms.

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

(f) A master subcontracting plan on a plant or division-wide basis which contains all the elements required by (d) above, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided:

(1) the master plan has been approved,

(2) the offeror provides copies of the approved master plan and evidence of its approval to the Contracting Officer, and

(3) goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) (1) If a commercial product is offered, the subcontracting plan required by this clause may relate to the offeror's production generally, for both commercial and noncommercial products, rather than solely to the Government contract. In these cases, the offeror shall, with the concurrence of the Contracting Officer, submit one company-wide or division-wide annual plan.

(2) The annual plan shall be reviewed for approval by the agency awarding the offeror its first prime contract requiring a subcontracting plan during the fiscal year, or by an agency satisfactory to the Contracting Officer.

(3) The approval plan shall remain in effect during the offeror's fiscal year for all of the offeror's commercial products.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

30. FAR 52.219-13 UTILIZATION OF WOMEN-OWNED SMALL BUSINESSES
(AUG 1986)

(a) "Women-owned small businesses," as used in this clause, means small business concerns that are at least 51 percent owned by women who are United States citizens and who also control and operate the business.

"Control," as used in this clause, means exercising the power to make policy decisions.

"Operate," as used in this clause, means being actively involved in the day-to-day management of the business.

"Small business concern," as used in this clause, means a concern including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(b) It is the policy of the United States that women-owned small businesses shall have the maximum practicable opportunity to participate in performing contracts awarded by any Federal agency.

(c) The Contractor agrees to use its best efforts to give women-owned small businesses the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with the efficient performance of its contract.

(d) The Contractor may rely on written representations by its subcontractors regarding their status as women-owned small businesses.

31. FAR 52.219-16 LIQUIDATED DAMAGES-SMALL BUSINESS
SUBCONTRACTING PLAN (AUG 1989)

(a) "Failure to make a good faith effort to comply with the subcontracting plan," as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business and Small Disadvantaged Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) If, at contract completion, or in the case of a commercial products plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make good faith effort to comply with its

subcontracting plan, established in accordance with the clause in this contract entitled Small and Small Disadvantaged Business Subcontracting Plans, the Contractor shall pay the Government liquidated damages in an amount stated. The amount of damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal or, in the case of a commercial products plan, that portion of the dollar amount allocable to Government contracts by which the Contractor failed to achieve each subcontract goal.

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

(d) With respect to commercial products plans, i.e., company-wide or division-wide subcontracting plans approved under paragraph (g) of the clause in this contract entitled, Small Business and Small Disadvantaged Business Subcontracting Plan, the Contracting Officer of the agency that originally approved the plan will exercise the functions of the Contracting Officer under this clause on behalf of all agencies that awarded contracts covered by that commercial products plan.

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

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

32. FAR 52.220-3 UTILIZATION OF LABOR SURPLUS AREA CONCERNS
(APR 1984)

(a) Applicability. This clause is applicable if this contract exceeds the appropriate small purchase limitation in Part 13 of the Federal Acquisition Regulation.

(b) Policy. It is the policy of the Government to award contracts to concerns that agree to perform substantially in Labor Surplus Areas (LSA's) when this can be done consistent with the efficient performance of the contract and at prices no higher

than are obtainable elsewhere. The Contractor agrees to use its best efforts to place subcontracts in accordance with this policy.

(c) Order of preference. In complying with paragraph (b) above and with paragraph (c) of the clause of this contract entitled Utilization of Small Business Concerns and Small Disadvantaged Business Concerns, the Contractor shall observe the following order of preference in awarding subcontracts:

- (1) small business concerns that are LSA concerns,
- (2) other small business concerns, and
- (3) other LSA concerns.

(d) Definitions.

"Labor Surplus Area," as used in this clause, means a geographical area identified by the Department of Labor in accordance with 20 CFR 654, Subpart A, as an area of concentrated unemployment or underemployment or an area of labor surplus.

"Labor surplus area concern," as used in this clause, means a concern that together with its first-tier subcontractors will perform substantially in labor surplus areas. Performance is substantially in labor surplus areas if the costs incurred under the contract on account of manufacturing, production, or performance of appropriate services in labor surplus areas exceed 50 percent of the contract price.

33. FAR 52.220-4 LABOR SURPLUS AREA SUBCONTRACTING PROGRAM
(APR 1984)

(a) See the Utilization of Labor Surplus Area Concerns clause of this contract for applicable definitions.

(b) The Contractor agrees to establish and conduct a program to encourage Labor Surplus Area (LSA) concerns to compete for subcontracts within their capabilities when the subcontracts are consistent with the efficient performance of the contract at prices no higher than obtainable elsewhere. The Contractor shall--

(1) Designate a liaison officer who will (i) maintain liaison with authorized representatives of the Government on LSA matters, (ii) supervise compliance with the Utilization of Labor Surplus Area Concerns clause, and (iii) administer the Contractor's labor surplus area subcontracting program;

(2) Provide adequate and timely consideration of the potentialities of LSA concerns in all make-or-buy decisions;

(3) Ensure that LSA concerns have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of offers, quantities, specifications, and delivery schedules so as to facilitate the participation of LSA concerns;

(4) Include the Utilization of LSA Concerns clause in subcontracts that offer substantial LSA subcontracting opportunities; and

(5) Maintain records showing (i) the procedures adopted and (ii) the Contractor's performance, to comply with this clause. The records will be kept available for review by the Government until the expiration of 1 year after the award of this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulations.

(c) The Contractor further agrees to insert in any related subcontract that may exceed \$500,000 and that contains the Utilization of LSA Concerns clause, terms that conform substantially to the language of this clause, including this paragraph (c), and to notify the Contracting Officer of the names of subcontractors.

34. FAR 52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES
(APR 1984)

(a) If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract to which a labor dispute may delay the timely performance of this contract; except that each subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify the next higher tier subcontractor or the prime Contractor, as the case may be, of all relevant information concerning the dispute.

35. FAR 52.222-3 CONVICT LABOR (APR 1984)

The Contractor agrees not to employ any person undergoing sentence of imprisonment in performing this contract except as provided by 18 U.S.C. 4082(c)(2) and Executive Order 11755, December 29, 1973.

36. FAR 52.222-26 EQUAL OPPORTUNITY (APR 1984)

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

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

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

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

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

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

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's

commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

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

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EEO-1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed within 12 months preceding the date of award.

(8) The Contractor shall permit access to its books, records, and accounts by the contracting agency or the Office of Federal Contract Compliance Programs (OFCCP) for the purposes of investigation to ascertain the Contractor's compliance with the applicable rules, regulations, and orders.

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

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

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

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

37. FAR 52.222-28 EQUAL OPPORTUNITY PREAWARD CLEARANCE OF SUBCONTRACTS (APR 1984)

Notwithstanding the clause entitled "Subcontractors," the Contractor shall not enter into a first-tier subcontract for an estimated or actual amount of \$1 million or more without obtaining in writing from the Contracting Officer a clearance that the proposed subcontractor is in compliance with equal opportunity requirements and therefore is eligible for award.

38. FAR 52.222-35 AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS (APR 1984)

(a) Definitions. "Appropriate office of the State employment service system," as used in this clause, means the local office of the Federal-State national system of public employment offices assigned to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"Openings that the Contractor proposes to fill from within its own organization," as used in this clause, means employment openings for which no one outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) will be considered and includes any openings that the Contractor proposes to fill from regularly established "recall" lists.

"Openings that the Contractor proposes to fill under a customary and traditional employer-union hiring arrangement," as used in this clause, means employment openings that the Contractor proposes to fill from union halls, under their customary and traditional employer-union hiring relationship.

"Suitable employment openings," as used in this clause--

(1) Includes, but is not limited to, openings that occur in jobs categorized as--

- (i) Production and nonproduction;
- (ii) Plant and office;
- (iii) Laborers and mechanics;

(iv) Supervisory and nonsupervisory;

(v) Technical; and

(vi) Executive, administrative, and professional positions compensated on a salary basis of less than \$25,000 a year; and

(2) Includes full-time employment, temporary employment of over 3 days, and part-time employment, but not openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement, nor openings in an educational institution that are restricted to students of that institution.

(b) General.

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

(i) Employment;

(ii) Upgrading;

(iii) Demotion or transfer;

(iv) Recruitment;

(v) Advertising;

(vi) Layoff or termination;

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

and

(viii) Selection for training, including apprenticeship.

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

(c) Listing openings.

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

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

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

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

(5) Under the most compelling circumstances, an employment opening may not be suitable for listing, including situations when (i) the Government's needs cannot reasonably be supplied, (ii) listing would be contrary to national security, or (iii) the requirement of listing would not be in the Government's interest.

(d) Applicability.

(1) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 states, the District of Columbia, Puerto Rico, Guam, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(2) The terms of paragraph (c) above of this clause do not apply to openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(e) Postings.

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

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

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

(f) Noncompliance.

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

(g) Subcontracts.

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

39. FAR 52.222-36 AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS
(APR 1984)

(a) General.

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

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion or transfer;
- (iv) Recruitment;
- (v) Advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation;

and

(viii) Selection for training, including apprenticeship.

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

(b) Postings.

(1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped individuals and (ii) the rights of applicants and employees.

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

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

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

(d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$2,500 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Director to enforce the terms, including action for noncompliance.

40. FAR 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1988)

(a) The contractor shall report at least annually, as required by the Secretary of Labor, on:

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

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

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

(c) Reports shall be submitted no later than March 31 of each year beginning March 31, 1988.

(d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date: (1) As of the end of any pay period during the period January through March 1st of the year the report is due, or (2) as of December 31, if the

contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The count of veterans reported according to paragraph (a) of this clause shall be based on voluntary disclosure. Each contractor subject to the reporting requirements at 38 U.S.C. 2012(d) shall invite all special disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program at 38 U.S.C. 2012 to identify themselves to the contractor. The invitation shall state that the information is voluntarily provided, that the information will be kept confidential, that disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment and that the information will be used only in accordance with the regulations promulgated under 38 U.S.C. 2012.

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

41. FAR 52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED
(MAY 1989)

(a) Definitions. "Act," as used in this clause, means the Service Contract Act of 1965, as amended (41. U.S.C. 351, et seq.).

"Contractor," as used in this clause or in any subcontract, shall be deemed to refer to "Government Prime Contractor."

"Service employee," as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) Applicability. This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.

(c) Compensation. (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2) (i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees' themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv) (A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage

and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option or extension of an existing contract, or in any other case where a contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to such conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined pursuant to paragraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with subparagraph (c) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class of employees commenced contract work.

(3) Adjustment of Compensation. If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) Obligation to Furnish Fringe Benefits. The contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments only in accordance with Subpart D of 29 CFR Part 4.

(e) Minimum Wage. In the absence of a minimum wage attachment for this contract, neither the contractor nor any subcontractor under this contract shall pay any person performing work under the contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this provision shall relieve the contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(f) Successor Contracts. If this contract succeeds a contract, subject to the Service Contract Act of 1965 as amended, under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR Part 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR Part 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR Part 4.11, that the collective bargaining agreement applicable to service

employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract. 53 Comp. Gen 401(1973). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) Notification to Employees. The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of Section 2(a)(4) of the Act and of this contract.

(h) Safe and Sanitary Working Conditions. The contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services, and the contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) Records.

(1) The contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

- (i) For each employee subject to the Act--
- (A) Name and address and social security number;
 - (B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of fringe benefits payments in lieu of fringe benefits, and total daily and weekly compensation.
 - (C) Daily and weekly hours worked by each employee; and
 - (D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of services employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of the Department of Labor and notification of the contractor, shall take action to cause suspension of any further payment or advance of funds until such violation ceases.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) Pay Periods. The contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback on any

account. These payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(k) **Withholding of Payments and Termination of Contract.** The contracting officer shall withhold or cause to be withheld from the Government prime contractor under this or any other Government contract with the prime contractor such sums as an appropriate official of the Department of Labor requests or such sums as the contracting officer decides may be necessary to pay underpaid employees employed by the contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the agency may, after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of these clauses relating to the Service Contract Act of 1965, may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost.

(l) **Subcontracts.** The contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) **Collective Bargaining Agreements Applicable to Service Employees.** If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, such agreements shall be reported promptly after negotiation thereof.

(n) **Seniority List.** Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length

of service with a contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish to the Contracting Officer a certified list of the names of all service employees on the contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor contractors of each such service employee. The contracting officer shall turn over such list to the successor contractor at the commencement of the succeeding contract.

(o) Rulings and Interpretations. Rulings and interpretations of the Service Contract Act of 1965, as amended, are contained in Regulations, 29 CFR Part 4.

(p) Contractor's Certification.

(1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to Section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract pursuant to Section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

(q) Variations, Tolerances, and Exemptions Involving Employment. Notwithstanding any of the clauses in paragraphs (b) through (o) of this clause relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to Section 4(b) of the Act prior to its amendment by Public Law 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical, or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by Section 2(a)(1) or 2(b)(1) of the Service Contract Act without diminishing any fringe benefits or cash payments in lieu thereof required under Section 2(a)(2) of that Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners,

handicapped persons, and handicapped clients of sheltered workshops under Section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524 and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524 and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U. S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U. S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program.

(s) Tips. An employee engaged in an occupation in which he or she customarily and regularly receives more than \$30 a month in tips may have the amount of tips credited by the employer against the minimum wage required by Section 2(a)(i) or Section 2(b)(1) of the Act in accordance with Section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531: Provided, however, that the amount of such credit may not exceed \$1.34 per hour beginning January 1, 1981. To use this provision:

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of Section 4(c) of the Act.

(t) Disputes Concerning Labor Standards. The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

42. FAR 52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

This Statement is for Information Only: It is Not a Wage Determination

<u>Employee class</u>	<u>Monetary wage--</u> <u>Fringe benefits</u>
Supervisory Firefighters/GS-081-7 (Station Chief)	22,214/yr.*
Lead Firefighter/GS-081-5	19,992/yr.*
Firefighter/GS-081-5	17,937/yr.*
Firefighter (Trainee II)/GS-081-4	16,031/yr.*
Firefighter (Trainee I)/GS-081-3	14,281/yr.*
Secretary/GS-318-4	16,031/yr.*

*Fringe Benefits:

Annual Leave. Employees earn vacation or "annual" leave. The amount earned carries with the length of Federal Service. Employees earn 13 days of annual leave each year the first three years of employment, 20 days per year for 3 to 15 years. Under certain conditions, time spent in the military service is creditable towards leave earnings rates for annual leave.

Sick Leave. Regardless of the length of service employees earn 13 days of sick leave each year. Sick leave not used accumulates year after year and protects employees from loss and salary due to an extended illness. Accumulated sick leave also enhances retirement benefits.

Health Insurance. Employees can enroll in one of a variety of health plans. Regardless of the plan selected, employees and the Government contribute to the plan.

Life Insurance. Federal employees are eligible for basic life insurance and may select optional life insurance. This coverage will be based on their annual salary and will include payments for loss of limbs and/or eyesight in addition to accidental death.

Retirement. A bill creating a new retirement plan has recently been signed into law for Federal employees hired since January 1, 1987, and provides Social Security benefits earned through Federal employment; a modified retirement plan for which employees will pay 1.3 percent of their salary; and an optional, tax-deferred thrift savings plan with government-matching contributions.

43. FAR 52.223-2 CLEAN AIR AND WATER (APR 1984)

NOTE: This clause applies to this contract only if the price is (a) in excess of \$100,000; (b) a facility to be used has been the subject of a conviction under the applicable portion of the Air Act (42 U.S.C. 7413(c)(1)) or the Water Act (33 U.S.C. 1319(c)) and is listed by EPA as a violating facility; or (c) the acquisition is not exempt under FAR 23.104.

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

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

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

(2) An applicable implementation plan as described in section 110(d) of the Air Act (42 U.S.C. 7410(d));

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

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

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

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

(1) Clean air or water standards; or

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

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

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

(b) The Contractor agrees--

(1) To comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C. 7414) and section 308 of the Clean Water Act (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as other

requirements specified in section 114 and section 308 of the Air Act and the Water Act, and all regulations and guidelines issued to implement those acts before the award of this contract;

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

(3) To use best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed; and

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

44. FAR 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (DEC 1989)

(a) The Contractor agrees to submit a Material Safety Data Sheet (Department of Labor Form OSHA-20), as prescribed in Federal Standard No. 313B, for all hazardous materials 5 days before delivery of the material, whether or not listed in Appendix A of the Standard. This obligation applies to all materials delivered under this contract which will involve exposure to hazardous materials or items containing these materials.

(b) "Hazardous material," as used in this clause, is as defined in Federal Standard No. 313B, in effect on the date of this contract.

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

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

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

(1) To use, duplicate, and disclose any data to which this clause is applicable. The purposes of this right are to (i) apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of

hazardous materials; (ii) obtain medical treatment for those affected by the material; and (iii) have others use, duplicate, and disclose the data for the Government for these purposes.

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

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

(4) That the data shall not be duplicated, disclosed, or released outside the Government, in whole or in part for any acquisition or manufacturing purpose, if the following legend is marked on each piece of data to which this clause applies--

"This is furnished under United States Government Contract No. and shall not be used, duplicated, or disclosed for any acquisition or manufacturing purpose without the permission of..... This legend shall be marked on any reproduction of this data."

(5) That the Contractor shall not place the legend or any other restrictive legend on any data which (i) the Contractor or any subcontractor previously delivered to the Government without limitations or (ii) should be delivered without limitations under the conditions specified in the Federal Acquisition Regulation in the clause at 52.227-14, Rights in Data.

(f) The Contractor shall insert this clause, including this paragraph (f), with appropriate changes in the designation of the parties, in subcontracts at any tier (including purchase designations or purchase orders) under this contract involving hazardous material.

45. FAR 52.223-6 DRUG-FREE WORKPLACE (JUL 1990)

(a) Definitions. As used in this clause,

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

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

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

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

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract.

"Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46. DEAR 952.223-75 PRESERVATION OF INDIVIDUAL OCCUPATIONAL RADIATION EXPOSURE RECORDS (APR 1984)

Individual occupational radiation exposure records generated in the performance of work under this contract shall be subject to inspection by DOE and shall be preserved by the Contractor until disposal is authorized by DOE or at the option of the Contractor delivered to DOE upon completion or termination of the contract. If the Contractor exercises the foregoing option, title to such records shall vest in DOE upon delivery.

47. FAR 52.224-1 PRIVACY ACT NOTIFICATION (APR 1984)

The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violation of the Act may involve the imposition of criminal penalties.

48. FAR 52.224-2 PRIVACY ACT (APR 1984)

(a) The Contractor agrees to-

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies-

(i) The systems of records; and

(ii) The design, development, or operation work that the Contractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the design, development, or operation of a system of records on individuals that is subject to the Act; and

(3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and

criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor and any employee of the Contractor is considered to be an employee of the agency.

(c) (1) "Operation of a system of records," as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

(2) "Record," as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

(3) "System of records on individuals," as used in this clause means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

49. DEAR 952.224-70 PAPERWORK REDUCTION ACT (APR 1984)

(a) In the event that it subsequently becomes a contractual requirement to collect or record information calling either for answer to identical questions from 10 or more persons other than Federal employees, or information from Federal employees which is to be used for statistical compilations of general public interest, the Federal Reports Act will apply to this contract. No plan, questionnaire, interview guide, or other similar device for collecting information (whether repetitive or single-time) may be used without first obtaining clearance from the Office of Management and Budget (OMB).

(b) The contractor shall request the required OMB clearance from the contracting officer before expending any funds or making public contacts for the collection of data. The authority to expend funds and to proceed with the collection of data shall be in writing by the Contracting Officer. The Contractor must plan at least 90 days for OMB clearance. Excessive delay caused by the Government which arises out of

causes beyond the control and without the fault or negligence of the contractor will be considered in accordance with the clause entitled "Excusable Delays," if such clause is applicable. If not, the period of performance may be extended pursuant to this clause if approved by the Contracting Officer.

50. FAR 52.225-3 BUY AMERICAN ACT--SUPPLIES (JAN 1989)

(a) The Buy American Act (41 U.S.C. 10) provides that the Government give preference to domestic end products.

"Components," as used in this clause, means those articles, materials, and supplies incorporated directly into the end products.

"Domestic end product," as used in this clause, means (1) an unmanufactured end product mined or produced in the United States, or (2) an end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as the products referred to in subparagraphs (b)(2) or (3) of this clause shall be treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic. On acquisitions above \$25,000 in value, components of Canadian origin are treated as domestic.

"End products," as used in this clause, means those articles, materials, and supplies to be acquired for public use under this contract.

(b) The Contractor shall deliver only domestic end products, except those--

(1) For use outside the United States;

(2) That the Government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;

(3) For which the agency determines that domestic preference would be inconsistent with the public interest: or;

(4) For which the agency determines the cost to be unreasonable (see section 25.105 of the Federal Acquisition Regulation).

(The foregoing requirements are administered in accordance with Executive Order No. 10582, dated December 17, 1954, as amended, and Subpart 25.1 of the Federal Acquisition Regulation.)

51. FAR 52.225-13 RESTRICTIONS ON CONTRACTING WITH SANCTIONED PERSONS (MAY 1989) ~~DELETE~~

(a) Definitions.

(1) "Component part," means any article which is not usable for its intended functions without being imbedded or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process.

(2) "Finished product," means any article which is usable for its intended function without being imbedded in, or integrated into, any other product. It does not include an article produced by a person, other than a sanctioned person, that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product.

(3) "Sanctioned person," means a company or other foreign person upon whom prohibitions have been imposed.

(4) "Substantially transformed," when referring to a component part or finished product, means that the part or product has been subjected to a substantial manufacturing or processing operation by which the part or product is converted or combined into a new and different article of commerce having a new name, character, and use.

(b) General. Section 2443 of the Multilateral Export Control Enhancement Amendments Act (Pub L. 100-418) and Executive Order 12661, effective December 28, 1988, impose, for a period of 3 years, with certain exceptions, a prohibition on contracting with, or procuring (including rental and lease/purchase) directly or indirectly the products or services of (1) Toshiba Machine Company, (2) Kongsberg Trading Company, (3) Toshiba Corporation, or (4) Kongsberg Vaapenfabrikk. The Act and Executive Order also prohibit, for the same 3-year period, the importation into the United States of all products produced by Toshiba Machine Company and Kongsberg Trading Company. These prohibitions also apply to subsidiaries, successor entities or joint ventures of Toshiba Machine Company or Kongsberg Trading Company.

(c) Restriction. Unless listed by the Contractor in its offer, in the solicitation provision at FAR 52.225-12 Notice of Restrictions on Contracting with Sanctioned Persons, or unless one of the exceptions in paragraph (d) of this clause applies, the Contractor agrees that no products or services delivered to the Government under this contract will be products or services of a sanctioned person.

(d) ~~Exceptions. The restrictions Do Not apply--~~

~~(1) To finished products of nonsanctioned persons containing components of a sanctioned person if these components have been substantially transformed during the manufacture of the finished product.~~

~~(2) To products or services of a sanctioned person provided-~~

~~(i) The products are designed to the specifications of a nonsanctioned person marketed under the trademark, brand or name of the nonsanctioned person;~~

~~(ii) The business relationship between the nonsanctioned person and the sanctioned person clearly existed prior to June 30, 1987; and~~

~~(iii) The nonsanctioned person is not directly or indirectly owned by a sanctioned person.~~

~~(3) If a determination has been made in accordance with FAR 25.1003 (a) or (b).~~

~~(e) Award. Award of any contract resulting from this solicitation will not affect the Contractor's obligation to comply with importation regulations of the Secretary of the Treasury.~~

52. FAR 52.227-1 AUTHORIZATION AND CONSENT (APR 1984)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by United States patent (1) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or (2) used in machinery, tools, or methods whose use necessary results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringements to the extent of the authorization and consent hereinabove granted.

(b) The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed \$25,000; however, omission of this clause from any subcontract, under or over \$25,000, does not affect this authorization and consent.

53. FAR 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (APR 1984)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice of claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed under this contract, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) The Contractor agrees to include, and require inclusion of, this clause in all subcontracts at any tier for supplies or services (including construction and architect-engineer subcontracts and those for material, supplies, models, samples, or design or testing services) expected to exceed the dollar amount set forth in 13.000 of the Federal Acquisition Regulation (FAR).

54. FAR 52.228-7 INSURANCE-LIABILITY TO THIRD PERSONS (APR 1984)

(a) (1) Except as provided in subparagraph (2) immediately following, or in paragraph (h) of this clause (if the clause has a paragraph (h)), the Contractor shall provide and maintain workers' compensation, employer's liability, comprehensive general liability (bodily injury), comprehensive automobile liability (bodily injury and property damage) insurance, and such other insurance as the Contracting Officer may require under this contract.

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

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

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

(c) Except as provided in paragraph (h) of this clause (if the clause has a paragraph (h)), the Contractor shall be reimbursed--

(1) For that portion (i) of the reasonable cost of insurance allocable to this contract and (ii) required or approved under this clause; and

(2) For certain liabilities (and expenses incidental to such liabilities) to third persons not compensated by insurance or otherwise without regard to and as an exception to the limitation of cost or the limitation of funds clause of this contract. These liabilities must arise out of the performance of this contract, whether or not caused by the negligence of the Contractor or of the Contractor's agents, servants, or employees, and must be represented by final judgments or settlements approved in writing by the Government. These liabilities are for--

(i) Loss of or damage to property (other than property owned, occupied, or used by the Contractor, rented to the Contractor, or in the care, custody, or control of the Contractor); or

(ii) Death or bodily injury.

(d) The Government's liability under paragraph (c) of this clause is subject to the availability of appropriated funds at the time a contingency occurs. Nothing in this contract shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

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

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

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

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

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

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

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

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

(g) If any suit or action is filed or any claim is made against the Contractor, the cost and expense of which may be reimbursable to the Contractor under this contract, and the risk of which is then uninsured or is insured for less than the amount claimed, the Contractor shall--

(1) Immediately notify the Contracting Officer and promptly furnish copies of all pertinent papers received;

(2) Authorize Government representatives to collaborate with counsel for the insurance carrier in settling or defending the claim when the amount of the liability claimed exceeds the amount of coverage; and

(3) Authorize Government representatives to settle or defend the claim and to represent the Contractor in or to take charge of any litigation, if required by the Government, when the liability is not insured or covered by bond. The Contractor may, at its own expense, be associated with the Government representatives in any such claim or litigation.

55. FAR 52.229-10 STATE OF NEW MEXICO GROSS RECEIPTS AND COMPENSATING TAX (OCT 1988)

(a) Within thirty (30) days after award of this contract, the Contractor shall advise the State of New Mexico of this contract by registering with the State of New Mexico, Taxation and Revenue Department, Revenue Division, pursuant to the Tax Administration Act of the State of New Mexico and shall identify the contract number.

(b) The Contractor shall pay the New Mexico gross receipts taxes, pursuant to the Gross Receipts and Compensating Tax Act of New Mexico, assessed against the contract fee and costs paid for performance of this contract, or of any part or portion thereof, within the State of New Mexico. The allowability of any gross receipts taxes or local option taxes lawfully paid to the State of New Mexico by the Contractor or its subcontractors will be determined in accordance with the Allowable Cost and Payment clause of this contract except as provided in paragraph (d) of this clause.

(c) The Contractor shall submit applications for Nontaxable Transaction Certificates, Form CSR-3C, to the State of New Mexico Taxation and Revenue Department, Revenue Division, P.O. Box 630, Santa Fe, New Mexico 87509. When the Type 15 Nontaxable Transaction Certificate is issued by the Revenue Division, the Contractor shall use these certificates strictly in accordance with this contract, and the agreement between the U. S. Department of Energy and the New Mexico Taxation and Revenue Department.

(d) The Contractor shall provide Type 15 Nontaxable Transaction Certificates to each vendor in New Mexico selling tangible personal property to the contractor for use in the performance of this contract. Failure to provide a Type 15 Nontaxable Transaction Certificate to vendors will result in the vendor's liability for the gross receipt taxes and those taxes, which are then passed on to the Contractor, shall not be reimbursable as an allowable cost by the Government.

(e) The Contractor shall pay the New Mexico compensating user tax for any tangible personal property which is purchased pursuant to a Nontaxable Transaction Certificate if such property is not used for Federal purposes.

(f) Out-of-state purchase of tangible personal property by the Contractor which would be otherwise subject to compensation tax shall be governed by the principles of this clause. Accordingly, compensating tax shall be due from the contractor only if such property is not used for Federal purposes.

(g) The U. S. Department of Energy may receive information regarding the Contractor from the Revenue Division of the New Mexico Taxation and Revenue Department and, at the discretion of the U. S. Department of Energy, may participate in any matters or proceedings pertaining to this clause or the above-mentioned Agreement. This shall not preclude the Contractor from having its own representative nor does it obligate the U. S. Department of Energy to represent its Contractor.

(h) The Contractor agrees to insert the substance of this clause, including this paragraph (h), in each subcontract which meets the criteria in 29.401-6(b)(1) through (3) of the Federal Acquisition Regulation, 48 CFR Part 29.

(i) Paragraphs (a) through (h) of this clause shall be null and void should the Agreement referred to in paragraph (c) of this clause be terminated; provided, however, that such termination shall not nullify obligations already incurred prior to the date of the termination.

56. FAR 52.230-3 ~~COST ACCOUNTING~~ STANDARDS (SEP 1987)

(a) Unless the contract is exempt under FAR 30.201-1 and 30.201-2, the provisions of Federal Acquisition Regulation (FAR) Subpart 30.3 are incorporated herein by reference and the Contractor, in connection with this contract, shall--

(1) (National Defense Contracts Only) By submission of a Disclosure Statement, disclose in writing the Contractor's cost accounting practices as required by FAR 30.202-1 through 30.202-5. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the Contractor and which contain a Cost Accounting Standards (CAS) clause. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(2) Follow consistently the Contractor's cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in cost accounting practices is made for the purposes of any contract or subcontract subject to CAS requirements, the change must be applied prospectively to this contract and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a)(4) or (a)(5) of this clause, as appropriate.

(3) Comply with all CAS, including any modifications and interpretations indicated thereto contained in FAR Subpart 30.4, in effect on the date of award of this contract or, if the Contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the Contractor's signed certificate of current cost or pricing data. The Contractor shall also comply with any CAS (or modifications to CAS) which hereafter become applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

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

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

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

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with an applicable Cost Accounting Standard, or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States, together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92-41, 85 Stat. 97, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the Contractor or a subcontractor has complied with an applicable CAS in FAR Subpart 30.4 or a CAS rule or regulation in FAR Subpart 30.3 and as to any cost adjustment demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the Disputes clause of this contract.

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

(d) The Contractor shall include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the obligation to comply with all CAS in effect on the subcontract's award data, on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data. This requirement shall apply only to negotiated subcontracts in excess of \$100,000 where the price negotiated is not based on--

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

(2) Prices set by law or regulation, and except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in FAR 30.201-1.

Note (1): New or modified CAS shall be applicable to both national defense and nondefense CAS-covered contracts upon award of a new national defense CAS-covered contract containing the new or modified Standard. The award of a new nondefense CAS-covered contract shall not trigger application of new CAS or modification to CAS.

Note (2): Subcontractors shall be required to submit their Disclosure Statements to the Contractor. However, if a subcontractor has previously submitted its Disclosure Statement to a Government Administrative Contracting Officer (ACO), it may satisfy that requirement by certifying to the Contractor the date of the Statement and the address of the ACO.

Note (3): In any case where a subcontractor determines that the Disclosure Statement information is privileged and confidential and declines to provide it to the Contractor or higher tier subcontractor, the Contractor may authorize direct submission of that subcontractor's Disclosure Statement to the same Government offices to which the Contractor was required to make submission of its Disclosure Statement. Such authorization shall in no way relieve the Contractor of liability as provided in subparagraph (a)(5) of this clause. In view of the foregoing and since the contract may be subject to adjustment under this clause by reason of any failure to comply with rules, regulations, and Standards as specified in FAR Subparts 30.3 and 30.4 in connection with covered subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the Contractor and the subcontractor, provided that they do not conflict with the Government. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification to be submitted by its subcontractors.

Note (4): If the subcontractor is a business unit which, pursuant to FAR 30.201-2(b) is entitled to elect modified contract coverage and to follow 30.401 and 30.402, the clause at 52.230-5, "Disclosure Consistency of Cost Accounting Practices," of the Federal Acquisition Regulation shall be inserted in lieu of this clause.

Note (5): The terms defined in FAR 30.301 and 31.001 shall have the same meanings herein. As there defined, "negotiated subcontract" means any subcontract except a firm-fixed-price subcontract made by a Contractor or subcontractor after receiving offers from at least two persons not associated with each other or with such Contractor or subcontractor, providing (1) the solicitation to all competitors is identical, (2) price is the only consideration in selecting the subcontractor from among the competitors solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted.

57. FAR 52.230-4 ADMINISTRATION OF COST ACCOUNTING STANDARDS
(SEP 1987)

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

(a) Submit to the cognizant Contracting Officer a description of any accounting change, the potential impact of the change on contracts containing a CAS clause, and if not obviously immaterial, a general dollar magnitude cost impact analysis of the change which displays the potential shift of costs between CAS-covered contracts by contract type (i.e., firm-fixed-price, incentive, cost-plus-fixed-fee, etc.) and other contractor business activity. As related to CAS-covered contracts, the analysis should display the potential impact of funds of the various Agencies/Departments (i.e., Department of Energy, National Aeronautics and Space Administration, Army, Navy, Air Force, other Department of Defense, other Government) as follows:

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

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

(3) For any failure to comply with an applicable CAS or to follow a disclosed practice as contemplated by subparagraph (a)(5) of the CAS clause or by subparagraph (a)(4) of the Disclosure and Consistency of Cost Accounting Practices clause, within 60 days (or such other date as may be mutually agreed to) after the date of agreement of noncompliance by the Contractor.

(b) Submit a cost impact proposal in the form and manner specified by the cognizant Contracting Officer within 60 days (or such other date as may be mutually agreed to) after the date of determination of the adequacy and compliance of a change submitted pursuant to paragraph (a) of this clause. If the cost impact proposal is not submitted within the specified time, or any extension granted by the cognizant Contracting Officer, an amount not to exceed 10 percent of each payment made after that date may be withheld until such time as a proposal has been provided in the form and manner specified by the cognizant Contracting Officer.

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

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

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

(2) Include the substance of this clause in all negotiated subcontracts.

In addition, within 30 days after award of the subcontract, submit the following information to the Contractor's cognizant contract administration officer for transmittal to the contract administration office cognizant of the subcontractor's facility:

- (i) Subcontractor's name and subcontract number.
- (ii) Dollar amount and date of award.
- (iii) Name of Contractor making the award.
- (iv) Any changes the subcontractor has made or proposes to make to accounting practices that affect prime contract or subcontracts containing the CAS clause or Disclosure and Consistency of Cost Accounting Practices clause, unless these changes have already been reported. If award of the subcontract results in making one or more CAS effective for the first time, this fact shall also be reported.

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

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

58. FAR 52.232-9 LIMITATION ON WITHHOLDING OF PAYMENTS
(APR 1984)

If more than one clause or Schedule term of this contract authorizes the temporary withholding of amounts otherwise payable to the Contractor for supplies delivered or services performed, the total of the amounts withheld at any one time shall not exceed the greatest amount that may be withheld under any one clause or Schedule term at that time; provided that this limitation shall not apply to-

(a) Withholdings pursuant to any clause relating to wages or hours of employees;

(b) Withholdings not specifically provided for by this contract;

(c) The recovery of overpayments; and

(d) Any other withholding for which the Contracting Officer determines that this limitation is inappropriate.

59. FAR 52.232-22 LIMITATION OF FUNDS (APR 1984)

(a) The parties estimate that performance of this contract will not cost the Government more than (1) the estimated cost specified in the Schedule or, (2) if this is a cost-sharing contract, the Government's state of the estimated cost specified in the Schedule. The Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the Government's and the Contractor's share of the cost.

(b) The Schedule specifies the amount presently available for payment by the Government and allotted to his contract, the items covered, the Government's share of the cost if this is a cost-sharing contract, and the period of performance it is estimated the allotted amount will cover. The parties contemplate that the Government will allot additional funds incrementally to the contract up to the full estimated cost to the Government specified in the Schedule, exclusive of any fee. The Contractor agrees to perform, or have performed, work on the contract up to the point at which the total amount paid and payable by the Government under the contract approximates but does not exceed the total amount actually allotted by the Government to the contract.

(c) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that the costs it expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of (1) the total amount so far allotted to the contract by the Government or, (2) if this is a cost-sharing contract, the amount then allotted to the contract by the Government plus the Contractor's corresponding share. The notice shall state the estimated amount of additional funds required to continue performance of the period specified in the Schedule.

(d) Sixty days before the end of the period specified in the Schedule, the Contractor shall notify the Contracting Officer in writing of the estimated amount of additional funds, if any, required to continue timely performance under the contract or for any further period specified in the Schedule or otherwise agreed upon, and when the funds will be required.

(e) If, after notification, additional funds are not allotted by the end of the period specified in the Schedule or another agree-upon date, upon the Contractor's written request the Contracting Officer will terminate this contract on that date in accordance with the provisions of the Termination clause of this contract. If the Contractor estimates that the funds available will allow it to continue to discharge its obligations beyond that date, it may specify a later date in its request, and the Contracting Officer may terminate this contract on that later date.

(f) Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause--

(1) The Government is not obligated to reimburse the Contractor for costs incurred in excess of the total amount allotted by the Government to this contract; and

(2) The Contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of (i) the amount then allotted to the contract by the Government or, (ii) if this is a cost-sharing contract, the amount then allotted by the Government to the contract plus the Contractor's corresponding share, until the Contracting Officer notifies the Contractor in writing that the amount allotted by the Government has been increased and specifies an increased amount, which shall then constitute the total amount allotted by the Government to this contract.

(g) The estimated cost shall be increased to the extent that (1) the amount allotted by the Government or, (2) if this is a cost-sharing contract, the amount then allotted by the Government to the contract plus the Contractor's corresponding share, exceeds the estimated cost specified in the Schedule. If this is a cost-sharing contract, the increase shall be allocated in accordance with the formula specified in the Schedule.

(h) No notice, communication, or representation in any form other than that specified in subparagraph (f)(2) above, or from any person other than the Contracting Officer, shall affect the amount allotted by the Government to this contract. In the absence of the specified notice, the Government is not obligated to reimburse the Contractor for any costs in excess of the total amount allotted by the Government to this contract, whether incurred during the course of the contract or as a result of termination.

(i) When and to the extent that the amount allotted by the Government to the contract is increased, any costs the Contractor incurs before the increase that are in excess of (1) the amount previously allotted by the Government or, (2) if this is a cost-sharing contract, the amount previously allotted by the Government to the contract plus the Contractor's corresponding share, shall be allowable to the same extent as if incurred afterward, unless the Contracting Officer issues a termination or other notice and directs that the increase is solely to cover termination or other specified expenses.

(j) Change orders shall not be considered an authorization to exceed the amount allotted by the Government specified in the Schedule, unless they contain a statement increasing the amount allotted.

(k) Nothing in this clause shall affect the right of the Government to terminate this contract. If this contract is terminated, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract, based upon the share of costs incurred by each.

(1) If the Government does not allot sufficient funds to allow completion of the work, the Contractor is entitled to a percentage of the fee specified in the Schedule equaling the percentage of the completion of the work contemplated by this contract.

60. FAR 52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

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

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

61. FAR 52.232-25 PROMPT PAYMENT (AUG 1989)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. Definitions of pertinent terms are set forth in 32.902. All days referred to in this clause are calendar days, unless otherwise specified. The term "foreign vendor" means an incorporated concern not incorporated in the United States, or an unincorporated concern having its principal place of business outside the United States.

(a) Invoice Payments.

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

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

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

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

(3) The due date on contracts for meat and meat food products, contracts for perishable agricultural commodities, contracts for dairy products, edible fats or oils, and food products prepared from edible fats or oils, and contracts not requiring submission of an invoice shall be as follows:

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

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

(iii) The due date for dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1963 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, will be as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received.

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

(4) An invoice is the Contractor's bill or written request for payment under the contract for supplies delivered or services performed. An invoice shall be prepared and submitted to the designated billing office specified in the contract. A proper invoice must include the items listed in subdivisions (a)(4)(i) through (a)(4)(viii) of this clause. If the invoice does not comply with these requirements, then the Contractor will be notified of the defect within 7 days after receipt of the invoice at the designated billing office (3 days for meat and meat food products and 5 days for perishable agricultural commodities, edible fats or oils, and food products prepared from edible fats or oils). Untimely notification will be taken into account in the computation of any interest penalty owed the Contractor in the manner described in subparagraph (a)(6) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date.

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

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

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

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

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

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

(5) An interest penalty shall be paid automatically by the Government, without request from the contractor, if payment is not made by the due date and the conditions listed in

subdivisions (a)(5)(i) through (a)(5)(iii) of this clause are met, if applicable. An interest penalty shall not be paid on contracts awarded to foreign vendors outside the United States for work performed outside the United States.

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

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

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

(6) The interest penalty shall be at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority. This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice payment amount and be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the contractor of a defective invoice within the periods prescribed in subparagraph (a)(4) of this clause, then the due date on the corrected invoice will be adjusted by subtracting the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties, if requested by the Contractor.

(i) For the sole purpose of computing an interest penalty that might be due the contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or contractor compliance with a contract provision. In the event that actual acceptance occurs within the constructive

acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

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

(A) The period taken to notify the contractor of defects in invoices submitted to the Government, but this may not exceed 7 days (3 days for meat and meat food products and 5 days for perishable agricultural commodities, dairy products, edible fat or oils, and food products prepared from edible fats or oils).

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

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than 1 year. Interest penalties of less than \$1.00 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

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

(8) If this contract was awarded on or after October 1, 1989, a penalty amount, calculated in accordance with regulations issued by the Office of Management and Budget, shall be paid in addition to the interest penalty amount if the contractor--

(i) Is owed an interest penalty;

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

(iii) Makes a written demand, not later than 40 days after the date the invoice amount is paid, that the agency pay such a penalty.

(b) Contract Financing Payments

(1) For purposes of this clause, "contract financing payment" means a Government disbursement of monies to a Contractor under a contract clause or other authorization prior to acceptance of supplies or services by the Government. Contract financing payments include advance payments, progress payments based on cost under the clause at 52.232-16, Progress Payments, progress payments based on a percentage or stage of completion (32.102(e)(1)) other than those made under the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, or the clause at 52.232-10, Payments Under Fixed-Price Architect-Engineer Contracts, and interim payments on cost type contracts.

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

(3) For advance payments, loans, or other arrangements that do not involve recurrent submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

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

(c) If this contract contains the clause at 5.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

62. FAR 52.233-1 DISPUTES ALTERNATE I (APR 1984)

(a) This contract is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601-613) (the Act).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or a written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$50,000 is not a claim under the Act until certified as required by subparagraph (d)(2) below. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) (1) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) For Contractor claims exceeding \$50,000, the Contractor shall submit with the claim a certification that--

(i) The claim is made in good faith;

(ii) Supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and

(iii) The amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable.

(3) (i) If the Contractor is an individual, the certification shall be executed by that individual.

(ii) If the Contractor is not an individual, the certification shall be executed by--

(A) A senior company official in charge at the Contractor's plant or location involved; or

(B) An officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of \$50,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$50,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (properly certified if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(h) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

63. FAR 52.233-3 PROTEST AFTER AWARD ALTERNATE 1 (JUN 1985)

(a) Upon receipt of a notice of protest (as defined in 33.101 of the FAR) the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Termination clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Office shall make an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract may be affected and the contract shall be modified, in writing, accordingly, if--

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

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

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

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

64. DEAR 952.235-70 KEY PERSONNEL (APR 1984)

The personnel specified below are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other programs, the Contractor shall notify the Contracting Officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the Contractor without the written consent of the Contracting Officer: Provided, that the Contracting Officer may ratify in writing such diversion and such ratification shall constitute the consent of the Contracting Officer required by this clause.

The list below may be amended from time to time during the course of the contract to either add or delete personnel, as appropriate.

<u>Title</u>	<u>Name</u>
Contract Manager	<u>Richard W. Tuttle</u>
Fire Chief	<u>Douglas R. MacDonald</u>

Assistant Chief, Operations*

*To be subsequently named.

65. FAR 52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.

66. FAR 52.237-3 CONTINUITY OF SERVICES (APR 1984)

(a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption and that, upon contract expiration, a successor, either the Government or another Contractor, may continue them. The Contractor agrees to (1) furnish phase-in training and (2) exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) The Contractor shall, upon the Contracting Officer's written notice, (1) furnish phase-in, phase-out services for up to 60 days after this contract expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

(c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct onsite interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

(d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

67. FAR 52.242-1 NOTICE OF INTENT TO DISALLOW COSTS (APR 1984)

(a) Notwithstanding any other clause of this contract--

(1) The Contracting Officer may at any time issue to the Contractor a written notice of intent to disallow specified costs incurred or planned for incurrence under this contract that have been determined not to be allowable under the contract terms; and

(2) The Contractor may, after receiving a notice under subparagraph (1) above, submit a written response to the Contracting Officer, with justification for allowance of the costs. If the Contractor does respond within 60 days, the Contracting Officer shall, within 60 days of receiving the response, either make a written withdrawal of the notice or issue a written decision.

(b) Failure to issue a notice under this Notice of Intent to Disallow Costs clause shall not affect the Government's rights to take exception to incurred costs.

68. FAR 52.243-2 CHANGES--COST-REIMBURSEMENT ALTERNATE I (AUG 1987)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Description of services to be performed.

(2) Time of performance (i.e., hours of the day, days of the week, etc.).

(3) Place of performance of the services.

(b) If any such change cause an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the Contracting Officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the contract accordingly.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(e) Notwithstanding the terms and conditions of paragraphs (a) and (b) above, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance of this contract, shall not be increased or considered to be increased except by specific written modification of the contract indicating the new contract estimated cost and, of this contract is incrementally funded, the new amount allotted to the contract. Until this modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point established in the Limitation of Cost or Limitation of Funds clause of this contract.

69. FAR 52.244-2 SUBCONTRACTS (COST-REIMBURSEMENT AND LETTER CONTRACTS) (JUL 1985)

(a) "Subcontract," as used in this clause, includes but is not limited to purchase orders, and changes and modifications to purchase orders. The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract if--

(1) The proposed subcontract is of the cost-reimbursement, time-and-materials, or labor-hour type;

(2) The proposed subcontract is fixed-price and exceeds either \$25,000 or 5 percent of the total estimated cost of this contract;

(3) The proposed subcontract has experimental, developmental, or research work as one of its purposes; or

(4) This contract is not a facilities contract and the proposed subcontract provides for the fabrication, purchase, rental, installation, or other acquisition of special test equipment valued in excess of \$10,000 or of any items of facilities.

(b) (1) In the case of a proposed subcontract that (i) is of the cost-reimbursement, time-and-materials, or labor-hour type and is estimated to exceed \$10,000, including any fee, (ii) is proposed to exceed \$100,000, or (iii) is one of a number of subcontracts with a single subcontractor, under this contract, for the same or related supplies or services that, in the aggregate, are expected to exceed \$100,000, the advance notification required by paragraph (a) above shall include the information specified in subparagraph (2) below.

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

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

(iii) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontract was selected, including the competition obtained.

(iv) The proposed subcontract price and the Contractor's cost or price analysis.

(v) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

(vii) A negotiation memorandum reflecting--

(A) The principal elements of the subcontract price negotiations;

(B) The most significant consideration controlling establishment of initial or revised prices;

(C) The reason cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(c) The Contractor shall obtain the Contracting Officer's written consent before placing any subcontract for which advance notification is required under paragraph (a) above. However, the Contracting Officer may ratify in writing any such subcontract. Ratification shall constitute the consent of the Contracting Officer.

(d) If the Contractor has an approved purchasing system and the subcontract is within the scope of such approval, the Contractor may enter into the subcontracts described in subparagraphs (a)(1) and (a)(2) above without the consent of the Contracting Officer, unless this contract is for the acquisition of major systems, subsystems, or their components.

(e) Even if the Contractor's purchasing system has been approved, the Contractor shall obtain the Contracting Officer's written consent before placing subcontracts that have been selected for special surveillance and identified in the Schedule of this contract.

(f) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination (1) of the acceptability of any subcontract terms or conditions, (2) of the allowability of any cost under this contract, or (3) to relieve the Contractor of any responsibility for performing this contract.

(g) No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in paragraph 15.903(d) of the Federal Acquisition Regulation (FAR).

(h) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(i) (1) The Contractor shall insert in each price redetermination or incentive price revision subcontract under this contract the substance of the paragraph "Quarterly limitation on payments statement" of the clause at 52.216-5, Price Redetermination--Prospective, 52.216-6, Price Redetermination--Retroactive, 52.216-16, Incentive Price Revision--Firm Target, or 52.216-17, Incentive Price Revision--Successive Targets, as appropriate, modified in accordance with the paragraph entitled "Subcontracts" of that clause.

(2) Additionally, the Contractor shall include in each cost-reimbursement subcontract under this contract a requirement that the subcontractor insert the substance of the appropriate modified subparagraph referred to in subparagraph (1) above in each lower tier price redetermination or incentive price revision subcontract under that subcontract.

(j) To facilitate small business participation in subcontracting, the Contractor agrees to provide progress payments on subcontracts under this contract that are fixed-price subcontracts with small business concerns in conformity with the standards for customary progress payments stated in FAR 32.502-1 and 32.504(f), as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered a handicap or adverse factor in the award of subcontracts.

(k) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

70. FAR 52.244-5 COMPETITION IN SUBCONTRACTING (APR 1984)

The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

71. DEAR 952.245-5 GOVERNMENT PROPERTY (COST REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS) (JAN 1986)

(a) Government-furnished property.

(1) The term "Contractor's managerial personnel," as used in paragraph (g) of this clause, means any of the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of--

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

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

(iii) A separate and complete major industrial operation connected with performing this contract.

(2) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the Government-furnished property described in the Schedule or specifications, together with such related data and information as the Contractor may request and as may be reasonably required for the intended use of the property (hereinafter referred to as "Government-furnished property").

(3) The delivery or performance dates for this contract are based upon the expectation that Government-furnished property suitable for use will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.

(4) If Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt, notify the Contracting

Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either effect repairs or modification or return or otherwise dispose of the property. After completing the directed action and upon written request of the Contractor, the Contracting Officer shall make an equitable adjustment as provided in paragraph (h) of this clause.

(5) If Government-furnished property is not delivered to the Contractor by the required time or times, the Contracting Officer shall, upon the Contractor's timely written request, make a determination of the delay, if any, caused the Contractor and shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(b) Changes in Government-furnished property.

(1) The Contracting Officer may, by written notice, (i) decrease the Government-furnished property provided or to be provided under this contract or (ii) substitute other Government-furnished property for the property to be provided by the Government or to be acquired by the Contractor for the Government under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct regarding the removal, shipment, or disposal of the property covered by this notice.

(2) Upon the Contractor's written request, the Contracting Officer shall make an equitable adjustment to the contract in accordance with paragraph (h) of this clause, if the Government has agreed in the Schedule to make such property available for performing this contract and there is any--

(i) Decrease or substitution in this property pursuant to subparagraph (b)(1) above; or

(ii) Withdrawal of authority to use property, if provided under any other contract or lease.

(c) Title.

(1) The Government shall retain title to all Government-furnished property.

(2) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract shall pass to and vest in the Government upon the vendor's delivery of such property.

(3) Title to all other property, the cost of which is reimbursable to the Contractor, shall pass to and vest in the Government upon--

(i) Issuance of the property for use in contract performance;

(ii) Commencement of processing of the property or use in contract performance; or

(iii) Reimbursement of the cost of the property by the Government, whichever occurs first.

(4) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(d) Use of Government property.

The Government property shall be used only for performing this contract, unless otherwise provided in this contract or approved by the Contracting Officer.

(e) Property administration.

(1) The Contractor shall be responsible and accountable for all Government property provided under this contract and shall comply with Federal Acquisition Regulation (FAR) Subpart 45.5 and DOE Acquisition Regulation Subpart 945.5 as in effect on the date of this contract.

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound business practice and the applicable provisions of FAR Subpart 45.5 and DOE Acquisition Regulation Subpart 945.5.

(3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot effect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired,

the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(f) Access.

The Government and all its designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.

(g) Limited risk of loss.

(1) The Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this contract or for expenses incidental to such loss, destruction, or damage, except as provided in subparagraphs (2) and (3) below.

(2) The Contractor shall be responsible for loss or destruction of, or damage to, the Government property provided under this contract (including expenses incidental to such loss, destruction, or damage)--

(i) That results from a risk expressly required to be insured under this contract, but only to the extent of the insurance required to be purchased and maintained or to the extent of insurance actually purchased and maintained, whichever is greater;

(ii) That results from a risk that is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement;

(iii) For which the Contractor is otherwise responsible under the express terms of this contract;

(iv) That results from willful misconduct or lack of good faith on the part of the Contractor's managerial personnel; or

(v) That results from a failure on the part of the Contractor, due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel, to establish and administer a program or system for the control, use, protection, preservation, maintenance, and repair of Government property as required by paragraph (e) of this clause.

(3) (i) If the Contractor fails to act as provided by subdivision (g)(2)(v) above, after being notified (by certified mail addressed to one of the Contractor's managerial personnel)

of the Government's disapproval, withdrawal of approval, or nonacceptance of the system or program, it shall be conclusively presumed that such failure was due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel.

(ii) In such event, any loss or destruction of, or damage to, the Government property shall be presumed to have resulted from such failure unless the Contractor can establish by clear and convincing evidence that such loss, destruction, or damage--

(A) Did not result from the Contractor's failure to maintain an approved program or system; or

(B) Occurred while an approved program or system was maintained by the Contractor.

(4) If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of, or damage to, the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of, or damage to, the property while in the subcontractor's possession or control, except to the extent that the subcontract, with the advance approval of the Contracting Officer, relieves the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for its use in accordance with the provisions of the prime contract.

(5) Upon loss or destruction of, or damage to, Government property provided under this contract, the Contractor shall so notify the Contracting Officer and shall communicate with the loss and salvage organization, if any, designated by the Contracting Officer. With the assistance of any such organization, the Contractor shall take all reasonable action to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the affected Government property in the best possible order, and furnish to the Contracting Officer a statement of--

(i) The lost, destroyed, or damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

(6) The Contractor shall repair, renovate, and take such other action with respect to damaged Government property as the Contracting Officer directs. If the Government property is destroyed or damaged beyond practical repair, or is damaged and so commingled or combined with property of others (including the Contractor's) that separation is impractical, the Contractor may, with the approval of and subject to any conditions imposed by the Contracting Officer, sell such property for the account of the Government. Such sales may be made in order to minimize the loss to the Government, to permit the resumption of business, or to accomplish a similar purpose. The Contractor shall be entitled to an equitable adjustment in the contract price for the expenditures made in performing the obligations under this subparagraph (g)(6) in accordance with paragraph (h) of this clause. However, the Government may directly reimburse the loss and salvage organization for any of their charges. The Contracting Officer shall give due regard to the Contractor's liability under this paragraph (g) when making any such equitable adjustment.

(7) The Contractor shall not be reimbursed for, and shall not include as an item of over head, the cost of insurance or of any reserve covering risk of loss or destruction of, or damage to, Government property, except to the extent that the Government may have expressly required the Contractor to carry such insurance under another provision of this contract.

(8) In the event the Contractor is reimbursed or otherwise compensated for any loss or destruction of, or damage to, Government property, the Contractor shall use the proceeds to repair, renovate, or replace the lost, destroyed, or damaged Government property or shall otherwise credit the proceeds to, or equitably reimburse, the Government, as directed by the Contracting Officer.

(9) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss or destruction of, or damage to, Government property. Upon the request of the Contracting Officer, the Contractor shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from

liability for any loss or destruction of, or damage to, Government property, the Contractor shall enforce for the benefit of the Government the liability of the subcontractor for such loss, destruction, or damage.

(h) Equitable adjustment.

When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the Government. The right to an equitable adjustment shall be the Contractor's exclusive remedy. The Government shall not be liable to suit for breach of contract for--

(1) Any delay in delivery of Government-furnished property;

(2) Delivery of Government-furnished property in a condition not suitable for its intended use;

(3) A decrease in or substitution of Government-furnished property; or

(4) Failure to repair or replace Government property for which the Government is responsible.

(i) Final accounting graph (h) of this clause may properly include restoration or rehabilitation costs.

(k) Communications.

All communications under this clause shall be in writing.

(l) Overseas contracts.

If this contract is to be performed outside the United States of America, its territories, or possessions, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

72. FAR 52.246-5 INSPECTION OF SERVICES - COST-REIMBURSEMENT
(APR 1984)

(a) Definition. "Services" as used in this clause, includes services performed, workmanship, and material furnished or used in performing services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all places and times during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If any of the services performed do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, for no additional fee. When the defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce any fee payable under the contract to reflect the reduced value of the services performed.

(e) If the Contractor fails to promptly perform the services again or take the action necessary to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and reduce any fee payable by an amount that is equitable under the circumstances or (2) terminate the contract for default.

73. FAR 52.246-25 LIMITATION OF LIABILITY-SERVICES (APR 1984)

(a) Except as provided in paragraphs (b) and (c) below, and except to the extent that the Contractor is expressly responsible under this contract for deficiencies in the services required to be performed under it (including any materials furnished in conjunction with those services), the Contractor shall not be liable for loss of or damage to property of the Government that (1) occurs after Government acceptance of services performed under this contract and (2) results from any defects or deficiencies in the services performed or materials furnished.

(b) The limitation of liability under paragraph (a) above shall not apply when a defect or deficiency in, or the Government's acceptance of, services performed or materials furnished results from willful misconduct or lack of good faith on the part of any of the Contractor's managerial personnel. The term "Contractor's managerial personnel," as used in this

clause, means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or equivalent representatives who have supervision or direction of--

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

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

(3) A separate and complete major industrial operation connected with the performance of this contract.

(c) If the Contractor carries insurance, or has established a reserve for self-insurance, covering liability for loss or damage suffered by the Government through the Contractor's performance of services or furnishing of materials under this contract, the Contractor shall be liable to the Government, to the extent of such insurance or reserve, for loss of or damage to property of the Government occurring after Government acceptance of, and resulting from any defects and deficiencies in, services performed or materials furnished under this contract.

(d) The Contractor shall include this clause, including this paragraph (d), supplemented as necessary to reflect the relationship of the contracting parties, in all subcontracts over \$25,000.

74. FAR 52.247-34 F.O.B. DESTINATION (NOV 1991)

(a) The term "f.o.b. destination," as used in this clause means:

(1) Free of expense to the Government, on board the carrier's conveyance, at a specified delivery point where the consignee's facility (plant, warehouse, store, lot, or other location to which shipment can be made) is located; and

(2) Supplies shall be delivered to the destination consignee's wharf (if destination is a port city and supplies are for export), warehouse unloading platform, or receiving dock, at the expense of the Contractor. The Government shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved before the actual delivery (or "constructive placement" as defined in carrier tariffs) or the supplies to the destination, unless such charges are caused by an act or order of the Government acting in its contractual capacity. If rail carrier is used, supplies shall be delivered to the specified unloading platform of the

consignee. If motor carrier (including "piggyback") is used, supplies shall be delivered to truck tailgate at the unloading platform of the consignee, except when the supplies delivered meet the requirements of Item 568 of the Material Motor Freight Classification for "heavy or bulky freight". When supplies meeting the requirements of the referenced Item 568 are delivered, unloading (including movement to the tailgate) shall be performed by the consignee, with assistance from the truck driver, if requested. If the Contractor uses rail carrier or freight forwarder for less than carload shipments, the Contractor shall assure that the carrier will furnish tailgate delivery, when required, if transfer to truck is required to complete delivery to consignee.

(b) The Contractor shall--

(1) (i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements;

(2) Prepare and distribute commercial bills of lading;

(3) Deliver the shipment in good order and condition to the point of delivery specified in the contract;

(4) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;

(5) Furnish a delivery schedule and designate the mode of delivering carrier; and

(6) Pay and bear all charges to the specified point of delivery.

75. FAR 52.249-6 TERMINATION (COST-REIMBURSEMENT) (MAY 1986)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part, if--

(1) The Contracting Officer determines that a termination is in the Government's interest; or

(2) The Contractor defaults in performing this contract and fails to cure the default within 10 days (unless extended by the Contracting Officer) after receiving a notice specifying the default. "Default" includes failure to make progress in the work so as to endanger performance.

(b) The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying whether termination is for default of the Contractor or for convenience of the Government, the extent of termination, and the effective date. If, after termination for default, it is determined that the Contractor was not in default or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor as set forth in the Excusable Delays clause, the rights and obligations of the parties will be the same as if the termination was for the convenience of the Government.

(c) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, the cost of which would be reimbursable in whole or in part, under this contract; approval or ratification will be final for purposes of this clause.

(6) Transfer title (if not already transferred) and, as directed by the Contracting Officer, deliver to the Government (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated, (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be

required to be furnished to the Government, and (iii) the jigs, dies, fixtures, and other special tools and tooling acquired or manufactured for this contract, the cost of which the Contractor has been or will be reimbursed under this contract.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(d) After expiration of the plant clearance period as defined in Subpart 45.6 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept the items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(e) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Code.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(d) After expiration of the plant clearance period as defined in Subpart 45.6 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept the items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(e) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(f) Subject to paragraph (e) above, the Contractor and the Contracting Officer may agree on the whole or any part of the amount to be paid (including an allowance for fee) because of the termination. The contract shall be amended, and the Contractor paid the agreed amount.

(g) If the Contractor and the Contracting Officer fail to agree in whole or in part on the amount of costs and/or fee to be paid because of the termination of work, the Contracting

Officer shall determine, on the basis of information available, the amount, if any, due the Contractor, and shall pay that amount, which shall include the following:

(1) All costs reimbursable under this contract, not previously paid, for the performance of this contract before the effective date of the termination, and part of those costs that may continue for a reasonable time with the approval of or as directed by the Contracting Officer; however, the Contractor shall discontinue those costs as rapidly as practicable.

(2) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (1) above.

(3) The reasonable costs of settlement of the work terminated, including--

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory. If the termination is for default, no amounts for the preparation of the Contractor's termination settlement proposal may be included.

(4) A portion of the fee payable under the contract, determined as follows:

(i) If the contract is terminated for the convenience of the Government, the settlement shall include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination proposals, less previous payments for fee.

(ii) If the contract is terminated for default, the total fee payable shall be such proportionate part of the fee as the total number of articles (or amount of services) delivered to and accepted by the Government is to the total number of articles (or amount of services) of a like kind required by the contract.

(5) If the settlement includes only fee, it will be determined under subparagraph (g)(4) above.

(h) The cost principles and procedures in Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(i) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (e) or (g) above or paragraph (k) below, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (e) and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (e), (g) or (k), the Government shall pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.

(j) In arriving at the amount due the Contractor under this clause, there shall be deducted--

(1) All unliquidated advance or other payments to the Contractor, under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of materials, supplies, or other things acquired by the Contractor or sold under this clause and not recovered by or credited to the Government.

(k) The Contractor and Contracting Officer must agree to any equitable adjustment in fee for the continued portion of the contract when there is a partial termination. The Contracting Officer shall amend the contract to reflect the agreement.

(1) (1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at

the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(m) The provisions of this clause relating to fee are inapplicable if this contract does not include a fee.

76. FAR 52.249-14 EXCUSABLE DELAYS (APR 1984)

(a) Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the work so as to endanger performance.

(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless--

(1) The subcontracted supplies or services were obtainable from other sources;

(2) The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and

(3) The Contractor failed to comply reasonably with this order.

(c) Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of the failure. If the Contracting Officer determines that any failure to perform results from one or more of the causes above, the

delivery schedule shall be revised, subject to the rights of the Government under the termination clause of this contract.

77. DEAR 952.250-70 NUCLEAR HAZARDS INDEMNITY AGREEMENT (NOV 1991)

(a) Authority. This clause is incorporated into this contract pursuant to the authority contained in subsection 170d. of the Atomic Energy Act of 1954, as amended (hereinafter called the Act).

(b) Definitions. The definitions set out in the Act shall apply to this clause.

(c) Financial protection. Except as hereafter permitted or required in writing by DOE, the contractor will not be required to provide or maintain, and will not provide or maintain at Government expense, any form of financial protection to cover public liability, as described in paragraph (d)(2) below. DOE may, however, at any time require in writing that the contractor provide and maintain financial protection of such a type and in such amount as DOE shall determine to be appropriate to cover such public liability, provided that the costs of such financial protection are reimbursed to the contractor by DOE.

(d) Indemnification.

(1) To the extent that the contractor and other persons indemnified are not compensated by any financial protection permitted or required by DOE, DOE will indemnify the contractor and other persons indemnified against (i) claims for public liability as described in subparagraph (d)(2) of this clause; and (ii) such legal costs of the contractor and other persons indemnified as are approved by DOE, provided that DOE's liability, including such legal costs, shall not exceed the amount set forth in section 170e.(1)(B) of the Act in the aggregate for each nuclear incident or precautionary evacuation occurring within the United States or \$100 million in the aggregate for each nuclear incident occurring outside the United States, irrespective of the number of persons indemnified in connection with this contract.

(2) The public liability referred to in subparagraph (d)(1) of this clause is public liability as defined in the Act which (i) arises out of or in connection with the activities under this contract, including transportation; and (ii) arises out of or results from a nuclear incident or precautionary evacuation, as those terms are defined in the Act.

(e) Waiver of Defenses.

(1) In the event of a nuclear incident, as defined in the Act, arising out of nuclear waste activities, as defined in the Act, the contractor, on behalf of itself and other persons indemnified, agrees to waive any issue or defense as to charitable or governmental immunity.

(2) In the event of an extraordinary nuclear occurrence which:

(i) Arises out of, results from, or occurs in the course of the construction, possession, or operation of a production or utilization facility; or

(ii) Arises out of, results from, or occurs in the course of transportation of source material, by-product material, or special nuclear material to or from a production or utilization facility; or

(iii) Arises out of or results from the possession, operation, or use by the contractor or a subcontractor of a device utilizing special nuclear material or by-product material, during the course of the contract activity; or

(iv) Arises out of, results from, or occurs in the course of nuclear waste activities, the contractor, on behalf of itself and other persons indemnified, agrees to waive:

(A) Any issue or defense as to the conduct of the claimant (including the conduct of persons through whom the claimant derives its cause of action) or fault or persons indemnified, including, but not limited to:

1. Negligence;
2. Contributory negligence;
3. Assumption of risk; or
4. Unforeseeable intervening causes; whether involving the conduct of a third person or an act of God;

(B) Any issue or defense as to charitable or governmental immunity; and

(C) Any issue or defense based on any statute of limitations, if suit is instituted within 3 years from the date on which the claimant first knew, or reasonably could have known, of his injury or damage and the cause thereof. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be

deemed jurisdictional or relating to an element in the cause of action. The waiver shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified.

(v) The term extraordinary nuclear occurrence means an event which DOE has determined to be an extraordinary nuclear occurrence as defined in the Act. A determination of whether or not there has been an extraordinary nuclear occurrence will be made in accordance with the procedures in 10 CFR part 840.

(vi) For the purposes of that determination, "offsite" as that term is used in 10 CFR part 840 means away from "the contract location" which phrase means any DOE facility, installation, or site at which contractual activity under this contract is being carried on, and any contractor-owned or controlled facility, installation, or site at which the contractor is engaged in the performance of contractual activity under this contract.

(3) The waivers set forth above:

(i) Shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action;

(ii) Shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified;

(iii) Shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages;

(iv) Shall not apply injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant;

(v) Shall not apply to injury to a claimant who is employed at the site of and in connection with the activity where the extraordinary nuclear occurrence takes place, if benefits therefor are either payable or required to be provided under any workmen's compensation or occupational disease law;

(vi) Shall not apply to any claim resulting from a nuclear incident occurring outside the United States;

(vii) Shall be effective only with respect to those obligations set forth in this clause and in insurance policies, contracts or other proof of financial protection; and

(viii) Shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (A) the limit of liability provisions under subsection 170e. of the Act, and (B) the terms of this agreement and the terms of insurance policies, contracts, or other proof of financial protection.

(f) Notification and litigation of claims. The contractor shall give immediate written notice to DOE of any known action or claim filed or made against the contractor or other person indemnified for public liability as defined in paragraph (d)(2). Except as otherwise directed by DOE, the contractor shall furnish promptly to DOE, copies of all pertinent papers received by the contractor or filed with respect to such actions of claims. DOE shall have the right to, and may collaborate with, the contractor and any other person indemnified in the settlement or defense of any action or claim and shall have the right to (1) require the prior approval of DOE for the payment of any claim that DOE may be required to indemnify hereunder; and (2) appear through the Attorney General on behalf of the contractor or other person indemnified in any action brought upon any claim that DOE may be required to indemnify hereunder, take charge of such action, and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by DOE, the contractor or other person indemnified shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

(g) Continuity of DOE obligations. The obligations of DOE under this clause shall not be affected by any failure on the part of the contractor to fulfill its obligation under this contract and shall be unaffected by the death, disability, or termination of existence of the contractor, or by the completion, termination or expiration of this contract.

(h) Effect of other clauses. The provisions of this clause shall not be limited in any way by, and shall be interpreted without reference to, any other clause of this contract, including the clause entitled Contract Disputes, provided, however, that this clause shall be subject to the clauses entitled Covenant Against Contingent Fees, Officials Not to Benefit, and Examination of Records by the Comptroller General, and any provisions that are later added to this contract as required by applicable Federal law, including statutes, executive orders and regulations, to be included in Nuclear Hazards Indemnity Agreements.

(i) Civil penalties. The contractor and its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to civil penalties, pursuant to 234A of the Act, for violations of applicable DOE nuclear-safety related rules, regulations, or orders.

(j) Criminal penalties. Any individual director, officer, or employee of the contractor or of its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to criminal penalties, pursuant to 223c. of the Act, for knowing and willful violation of the Atomic Energy Act of 1954, as amended, and applicable DOE nuclear safety-related rules, regulations or orders which violation results in, or, if undetected, would have resulted in a nuclear incident.

(k) Inclusion in subcontracts. The contractor shall insert this clause in any subcontract which may involve the risk of public liability, as that term is defined in the Act and further described in paragraph (d)(2) above. However, this clause shall not be included in subcontracts in which the subcontractor is subject to Nuclear Regulatory Commission (NRC) financial protection requirements under section 170b. of the Act or NRC agreements of indemnification under section 170c. or k. of the Act for the activities under the subcontract.

78. FAR 52.251-1 GOVERNMENT SUPPLY SOURCES (APR 1984)

The Contracting Officer may issue the Contractor an authorization to use Government supply sources in the performance of this contract. Title to all property acquired by the Contractor under such an authorization shall vest in the Government unless otherwise specified in the contract. Such property shall not be considered to be "Government-furnished property," as distinguished from "Government property." The provisions of the clause entitled "Government Property," except its paragraphs (a) and (b), shall apply to all property acquired under such authorization.

79. FAR 52.251-2 INTERAGENCY FLEET MANAGEMENT SYSTEM VEHICLES AND RELATED SERVICES (JAN 1991)

The Contracting Officer may issue the Contractor an authorization to obtain interagency fleet management system vehicles and related services for use in the performance of this contract. The use, service, and maintenance of interagency fleet management system vehicles and the use of related services by the Contractor shall be in accordance with 41 CFR 101-39 and 41 CFR 101-38.301-1.

80. DEAR 952.251-70 CONTRACTOR EMPLOYEE TRAVEL DISCOUNTS (APR 1989)

(a) Contracted airlines. Airlines participating in travel discounts are listed in the Federal Travel Directory (FTD), published monthly by the General Services Administration (GSA). Regulations governing the use of contracted airlines are contained in the Federal Property Management Regulation (FPMR), Temporary Regulation A-30. Temporary Regulation A-30 stipulates that cost-reimbursable contractor employees may obtain discount air fares by use of a Government Transportation Request (GTR), Standard Form 1169, cash or personal credit cards. When the GTR is used, contracting officers may issue a blanket GTR for a period of not less than two weeks nor more than one month. In unusual circumstances, such as prolonged or international travel, the contracting officer may extend the period for which a blanket GTR is effective to a maximum of three months. Contractors will ensure that their employees traveling under GTR's provide the GTR number to the contracted airlines for entry on individual tickets and on month-end billings to the contractor.

(b) Hotels/motels. Participating hotels and motels which extend discounts are listed in the FTD, which shows rates, facilities, and identifies by code those which offer reduced rates to cost-reimbursable contractor employees while traveling on official contract business.

(c) Car rentals. The Military Traffic Management Command (MTMC) Department of Defense, negotiates rate agreements with car rental companies for special flat rates and unlimited mileage. Participating car rental companies which offer these terms on to cost-reimbursable contractor employees while traveling on official contract business are listed in the FTD.

(d) Procedures for obtaining service.

(1) Identification and method of payment requirements for participating Federal contracted airlines are listed in the FTR. Travel discount air fares may be ordered by the issuance of a GTR either directly to the contractor, or to a Scheduled Airline Travel Office (SATO) or Federal Travel Management Center (FTMC), provided the letter of identification signed by the cognizant contracting officer accompanies the order. In appropriate instances, such as geographical proximity, contractors may obtain discount air fares through a DOE office or a cooperating local travel agency when neither a SATO or FTMC is available. Some airlines allow the purchase of discounted air fares with cash or credit card.

(2) In the case of hotel and motel accommodations, reservations may be made by the contractor employee directly with the hotel or motel but the employee must display, on arrival, the letter of identification and any other identification required by the hotel or motel proprietorship.

(3) For car rentals, generally the same procedures as in (d)(2) above will be followed in arranging reservations and obtaining discounts.

(e) Standard letter of identification. Contractors shall prepare for the authorizing contracting officer a letter of identification based on the following format:

Format for Government Contractors to Qualify for Travel Discounts (To be typed on agency official letterhead)

To: (Source of ticketing, accommodations or rental)

Subject: Official Travel of Government Contractor

(Full name of traveler), bearer of this letter, is an employee of (company name) which is under contract to this agency under the Government contract (contract number). During the period of the contract (give dates), the employee is eligible and authorized to use available discount rates for contract-related travel in accordance with your contract and/or agreement with the Federal Government.

(Signature, title and telephone number of the contracting officer)

81. FAR 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any Department of Energy Acquisition Regulation (48 CFR Chapter 9) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

82. DEAR 970.5204-2 SAFETY AND HEALTH (GOVERNMENT-OWNED OR LEASED) (APR 1984)

The Contractor shall take all reasonable precautions in the performance of the work under this contract to protect the safety and health of employees and of members of the public and shall comply with all applicable safety and health regulations

and requirements (including reporting requirements) of DOE. The Contracting Officer shall notify the Contractor, in writing, of any noncompliance with the provisions of the clause and the corrective action to be taken. After receipt of such notice, the Contractor shall immediately take corrective action. The Contractor shall submit a management program and implementation plan to the Contracting Officer for review and approval within 30 days after the date of award of this contract. In the event that the Contractor fails to comply with said regulations or requirements of DOE, the Contracting Officer may, without prejudice to any other legal or contractual rights of DOE, issue an order stopping all or any part of the work; thereafter, a start order for resumption of the work may be issued at the discretion of the Contracting Officer. The Contractor shall make no claim for an extension of time or for compensation or damages by reason of, or in connection with, such work stoppage.

83. CLAUSE DOE PR 9-9.110(C) - REPORTING OF ROYALTIES

If this contract is in an amount which exceeds \$25,000 and if any royalty payments are directly involved in the contract or are reflected in the contract price to the Government, the Contractor agrees to report in writing to the Patent Counsel (with notification by Patent Counsel to the Contracting Officer) during the performance of this contract and prior to its completion or final settlement, the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of this contract together with the names and addresses of licensors to who such payments are made and either the patent numbers involved or such other information as will permit the identification of the patents or other basis on which the royalties shall not estop the Government at any time from contesting the enforceability, validity or scope of, or title to, any patent under which a royalty or payments are made.

84. FAR 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION (MAR 1986)

(a) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics (see Federal Acquisition Regulation [FAR] 22.300) shall require or permit any such laborers or mechanics in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set

forth in paragraph (a) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions set forth in paragraph (a) of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

(c) Withholding for unpaid wages and liquidated damages. The Contracting Officer shall upon his or her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

(d) Payrolls and basic records.

(1) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of contract work and shall preserve them for a period of 3 years from the completion of the contract for all laborers and mechanics working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Nothing in this paragraph shall require the duplication of records required to be maintained for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The records to be maintained under paragraph (d)(1) of this clause shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit such representatives to interview employees during work hours on the job.

(e) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the provisions set forth in paragraphs (a) through (e) of this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (e) of this clause.

85. DEAR 970.5204-58 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (AUG 1992)

(a) Program Implementation. The Contractor shall, consistent with 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, incorporated herein by reference with full force and effect, develop, implement and maintain a workplace substance abuse program.

(b) Remedies. In addition to any other remedies available to the Government, the Contractor's failure to comply with the requirements of 10 CFR Part 707 or to perform in a manner consistent with its approved program may render the Contractor subject to: the suspension of contract payments, or where applicable, a reduction in award fee; termination for default; and suspension or debarment.

(c) Subcontracts.

(1) The Contractor agrees to notify the Contracting Officer reasonably in advance of, but not later than 30 days prior to the award of any subcontract the Contractor believes may be subject to the requirements of 10 CFR part 707.

(2) The DOE Prime Contractor shall require all subcontracts subject to the provisions of 10 CFR part 707 to agree to develop and implement a workplace substance abuse program that complies with the requirements of 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, as a condition for award of the subcontract. The DOE Prime Contractor shall review and approve each subcontractor's program and shall periodically monitor each subcontractor's implementation of the program for effectiveness and compliance with 10 CFR part 707.

(3) The Contractor agrees to include, and require the inclusion of, the requirements of this clause in all subcontracts, at any tier, that are subject to the provisions of 10 CFR part 707.

Part III

List of Documents, Exhibits and Other Attachments

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ATTACHMENT A

STATEMENT OF WORK

I. SERVICES TO BE PROVIDED

A. Work Scope

1. The Contractor shall provide personnel to operate the Department of Energy-owned Los Alamos Fire Department to provide fire suppression, emergency medical, fire prevention, and rescue services for the Los Alamos Fire Department Service Area.

B. Fire Suppression Services

1. The Contractor shall provide fire suppression services for the Los Alamos National Laboratory Fire Service Area (LANL-FSA) and the Municipal Development Area-Municipal Fire Services Area, and for brush and forest fires within the Los Alamos Fire Department Service Area. (See Attachment D). The Contractor shall not provide these services to areas outside the above-mentioned areas unless required by mutual-aid agreements to which the County or the DOE is, or becomes a party.
2. The Contractor shall provide these fire suppression services to meet the requirements of this contract, Federal Aviation Administration (FAA) regulations at 14 CFR Part 139 and 1500, as modified in Annex A to the Statement of Work, and NFPA Standards as applicable to emergency response.

3. The Contractor shall develop and submit to the Contracting Officer for approval personnel and equipment response procedures for all areas within the LANL-FSA within 30 calendar days after award of contract. The response procedures shall include a minimum of five (5) SCBA-equipped personnel and designated equipment to incidents within the LANL-FSA, except as otherwise approved by the Contracting Officer. The response procedures should take into account facility programmatic importance and hazards. In developing the response procedures, the Contractor shall take into account available personnel and equipment, overall needs throughout the Fire Department Service Area, and efficient use of personnel and equipment.
4. Response levels to incidents outside the LANL-FSA shall be determined by the Contractor or as set forth in mutual-aid agreements with local, Federal, State, other recognized agencies or communities.

C. Emergency Medical and Rescue Services

1. LANL-FSA Area - The Contractor shall provide emergency medical and rescue services, as set forth herein.

Medical services related to ambulance service shall be under the program direction of the ambulance service Medical Director. These services shall meet all standards required by DOE and as further outlined in New Mexico State General Order No. 35, and State Regulation No. 85-4 (HSED) may be amended from time to time. Statutory authority for these regulations is contained in the Emergency Medical Services Act, Section 24-10B-1 to 10B-11, New Mexico Statutes Annotated, 1978, and Section 9-7-6, New Mexico Statutes Annotated, 1978.

2. All Other Areas - The Contractor shall provide a level of service which at a minimum complies with applicable federal and state laws, and local ordinances.
3. Personnel and Equipment Response - Responses to medical emergencies shall be based on requirements of the ambulance service Medical Director and comply with the requirements of the State of New Mexico license requirements. Responses to the LANL-FSA shall include at least two persons, one possessing qualifications of EMT-B and one EMT-I. Compliance with the EMT-B requirement shall be required upon award of the contract. Compliance with EMT-I

requirement shall be accomplished no later than one year after approval by the Contracting Officer of the implementation plan as described below. The Contractor shall submit a proposed plan for accomplishment of the EMT-I implementation requirement. The plan shall include tasks and milestones for accomplishment thereof. The plan shall be submitted to the Contracting Officer for approval no later than 30 calendar days after award of the contract. The Contractor shall submit a monthly report to the Contracting Officer reporting the status of actions taken to accomplish tasks in the plan.

4. Non-Emergency Services - The Contractor may provide medical transport services between treatment facilities in Los Alamos and nearby communities subject to the following restrictions:
 - a. Services can be provided by standby equipment and off-duty personnel.
 - b. The use of on-line equipment and on-duty personnel is authorized only when requested by medical authorities and the situation is life-threatening.

c. When on-line equipment and personnel are used for medical transport, it will be the responsibility of the Fire Department's senior person on duty to assure that adequate personnel remain on duty or are called to duty to provide the minimum manning levels set forth in the response procedures for fire suppression, emergency medical and rescue services.

5. Emergency Medical and Rescue Services Operating Procedures -

a. The Contractor shall develop and implement written operating procedures for emergency medical and rescue services to be provided by the Fire Department. The procedures shall cover equipment assignment to stations, personnel training; response manning, including personnel qualifications; guidelines for equipment dispatching within and outside the Los Alamos Fire Department Service Area; and billing and collection of ambulance and rescue services revenues. The operating procedures shall be submitted to the Contracting Officer within 90 calendar days after award of the contract and

shall be updated as required or as directed by
the Contracting Officer.

D. Communications and Dispatch

1. The Contractor shall be responsible for the operation of all radio and telephone systems provided by the Government under this contract. In addition, the Contractor shall be responsible for the dispatch of equipment and personnel to emergencies. Written procedures shall be developed and implemented setting forth procedures to be followed by Fire Department personnel for receiving alarms, dispatching of equipment, and tracking and coordinating of the equipment after dispatching. The Contractor shall assure that communications equipment utilized by the Fire Department has the ability to contact other agencies within the Los Alamos Fire Department Service Area, and areas covered by mutual-aid agreements, including the ability to contact off-duty personnel. Communication and dispatch procedures shall be submitted to the Contracting Officer for approval within 120 calendar days after award of the contract.

2. The DOE will allow the Contractor the use of the LANL trunked radio system for responses to emergencies that fall within the scope of the contract.
3. The Contractor shall comply with the requirements of NFPA 1221, Installation, Maintenance and Use of Public Fire Service Communications Systems, and NFPA 72F, Installation, Maintenance and Use of Emergency Voice/Alarm Communications Systems in providing services as required by this contract.
4. The DOE will provide the Contractor with a temporary communications/dispatch facility to be located at Fire Station No. 2 or other mutually agreed location. The Contractor will be responsible for providing trained personnel to operate the facility. The DOE and the Contractor hereby agree to continue negotiations for the development of a plan for a combined Fire Department/Police dispatch center. The negotiations will address the location, staffing, equipment, facility, and funding required for the operation of each facility and the transition of the dispatch function from the temporary to the permanent facility.

II. ORGANIZATION AND MANAGEMENT

- A. The Contractor shall develop and maintain an organization to efficiently and effectively meet the staffing requirements of the contract.
- B. The Contractor shall prepare an organization chart that shows lines of authority and relationships of the Contractor's organizational structure that provide direct and indirect support to the Fire Department. The chart should also include outside organizations such as other fire departments which provide support pursuant to mutual-aid agreements, other DOE contractors such as the University of California, and the Forest Service. Additionally, the Contractor shall prepare an organization chart which depicts the line functions of each position, and lines of authority of all positions assigned to the Fire Department. The organization chart shall be supported by a narrative statement which describes the function, responsibility, and authority of each position assigned to the Fire Department.
- C. Prior to implementing any permanent changes to the Fire Department organization, the Contractor will submit for the Contracting Officer's approval, any proposed revisions to the approved organizational structure, organization chart and narrative and obtain written Contracting Officer approval for the proposed revisions.

D. In order to maintain authorized staffing levels, the Contractor can request approval from the Contracting Officer to exceed the authorized FTE levels at the time recruitment is made to fill vacant positions. The numbers of personnel to be recruited which exceed the authorized FTE levels will be based on projections based on attrition rates or other factors as authorized by the Contracting Officer.

III. BUDGETING AND COST MANAGEMENT

A. BUDGET -

1. Annually the Contractor shall prepare and submit for Contracting Officer approval a budget consistent with the Government's fiscal year, which begins on October 1 and ends on September 30 of the following calendar year. The budget shall be submitted to the Contracting Officer no later than September 30th of each year and shall cover the fiscal year starting on October 1 of the next fiscal year and the two following fiscal years. For example, the submission for FY 1994 will include FY 1995 and FY 1996 and would be submitted by September 30, 1993. The budget shall be prepared in a line-item type of format as approved by the Contracting Officer. Each line-item in the budget shall be supported by a narrative description for each type of cost item that makes up each

individual line of the budget. The budget shall include all work to be performed which will be funded by for operating expense, capital equipment and capital plant type funding. The requirements of Order DOE 5100.3, Planning, Programming and Budgeting, shall be followed in preparing the budget.

2. The budget shall be updated by the Contractor as requested by the Contracting Officer. The updates shall reflect the actual costs incurred by the Contractor for each of the previous periods of the fiscal year and the Contractor's projections for the remainder of the fiscal year.

Increases or decreases of the amounts for any of the line-items shall be supported by reasons causing the variances. Projected overruns or any of the line-items that exceed 10% of the line-item amount or \$50,000, whichever is less, shall be reported to the Contracting Officer in writing immediately upon discovery of the projected overrun. The Contractor shall establish a system that will enable the development of budget projections and tracking of costs for each line-item in the budget on a minimum of a monthly basis or as required to provide budget and cost control of funds.

B. COST MANAGEMENT -

1. The Contractor shall implement a cost management system that will enable each Contractor element or organization to charge costs for expenditure of funds to each applicable line-item of the budget. The system shall be submitted to the Contracting Officer for approval within 180 calendar days after award of this contract.
2. The cost management system shall allow coding by an originator of a fund expenditure request, such as purchase and work orders, contract, etc., and approval of the coding and fund expenditure by a person designated by the Contractor to approve the expenditure. The cost management system shall have a tracking system that can account for all funds expended on a given order. The Contractor shall provide the Contracting Officer a monthly report which shows the fund status on a predetermined cut-off date of each month. The report shall show a description of the expenditure, amount of funds committed, and funds costed or paid out. Costs shall be reported for each line-item and sub-item in the approved budget. The report shall be submitted to the Contracting Officer no later than 30 calendar days following the end of each month.

3. The Contracting Officer will provide the Contractor with budget and cost information on Government-furnished property and services. The type and frequency of information to be provided will be mutually determined by Contracting Officer and the Contractor.

IV. PERSONNEL MANAGEMENT

The Contractor shall develop and implement a plan for personnel management of all Fire Department personnel which, at a minimum, covers the following areas:

1. Organization for personnel management
2. Position classification and job analysis
3. Compensation and benefits
4. Human resource planning
5. Equal employment and affirmative action
6. Recruitment and selection
7. Personnel assignments
8. Performance appraisal
9. Personnel development

In development of the personnel plan, the Contractor shall incorporate applicable requirements of this contract.

Submission of the plan for Contracting Officer approval shall be 60 calendar days after award of the contract.

V. SECURITY PLAN-

The Contractor shall develop a Security Plan to assure that persons not possessing a DOE "Q" clearance are not allowed access to classified matter or special nuclear material. See Contract Clauses entitled DEAR 952-204.2 , Security Requirements and DEAR 952.204-70, Classification. The Security Plan shall set forth the procedures that will be used by the Contractor to comply with the requirements of the referenced clauses. The Plan shall be submitted to the Contracting Officer for approval 30 calendar days after award of the contract.

VI. PROPERTY MANAGEMENT

A. Property Management System - The Contractor shall develop and implement a system to track, inventory, report, and maintain all Government property as defined by the Contract clause entitled "Government Property (Cost Reimbursement, Time-and Materials, or Labor-Hour Contracts)" to be used by the Contractor in performing work as required by the contract. The system shall be in writing and shall as a minimum set forth procedures for:

1. Accountability of property
2. Inventory management
3. Responsibility for protection and safeguarding

4. Utilization/Disposal
5. Identification
6. Maintenance
7. Records/reporting
8. Inspection
9. Loan policy

B. Property Management Program Plan - A Property Management Plan which sets forth the Contractor's property management system shall be submitted to the Contracting Officer for approval within 180 calendar days after award of this contract.

C. Personal Property Controls -

1. Non-capital equipment

- a. Non-capital equipment is defined as those items of nonexpendable personal property with a unit acquisition cost of between \$1,000 and \$4,999 and having a life of one year or more.
- b. Property management information is to be maintained to support interrelated systems and programs such as maintenance, calibration, equipment pools, inventory, loans, storage, and excess reporting.
- c. Acquisition value shall be available to support reporting of the equipment through the disposal process.

- d. Each item of equipment shall be identified as U. S. Government property by a tag or marking and shall be assigned a specific property control number.

2. Sensitive Items

- a. Sensitive items are those items of property, regardless of value, which are considered to be susceptible to being appropriated for personal use or which can be readily converted to cash; for example: firearms, portable photographic equipment, binoculars, portable tape recorders, portable calculators, and portable power tools.
- b. The Contractor shall evaluate items in the \$1,000-\$4,999 range which should be added to the sensitive items list. Examples of these items include personal computer units and associated components, computer software, radios, electronic equipment, etc.
- c. Non-sensitive property management record data similar to that used for non-capital equipment shall be established.
- d. Each item of equipment shall be identified as U.S. Government property by a tag or marking and shall be assigned a specific property control number.

3. Capital Equipment

- a. Capital equipment is defined as those items of nonexpendable property with a unit acquisition cost of \$5,000 or more.**
- b. The Contractor shall include in the property management system procedures to record information, system data, property accountability, policies, etc., to meet the requirements set forth in the AL Property Management Instructions.**
- c. Each item of equipment shall be identified as U.S. Government property by a tag or marking and shall be assigned a specific property control number.**

4. Motor Equipment (Vehicles)

- a. The Contractor shall develop policies and procedures for economical and efficient management and control of Government-owned motor vehicles and motor vehicles rented or leased to the Government, including report-registration, official use, and identification to comply with the applicable requirements of Federal Property Management Regulations, Part 101.38, Sub-chapter G, and Department of Energy Property Management Regulations, Subchapter G, Transportation and Motor Vehicles.**

- b. Each vehicle shall be identified as U.S. Government property by a tag or marking and shall be assigned a specific property control number.

C. Real Property

1. The terms real property and real estate are synonymous and are defined as land and anything permanently affixed to the land such as buildings, fences, and those things attached to buildings such as lighting fixtures, plumbing and heating fixtures, etc.
2. The Contractor shall develop and implement a real property management system to administer, inventory, and report real property provided by DOE to the Contractor, to meet the requirements of Order DOE 4300.1B, Real Property and Site Development Planning.
3. The Contractor shall develop and implement a maintenance management program to meet the requirements of Order DOE 4330.4A, Real Property Maintenance Management and Order DOE AL 4330.4A, Maintenance of Property.

VII. TRAINING AND PROFESSIONAL DEVELOPMENT

A. Training Program

1. The Contractor shall develop, implement, and administer training programs that will include a new hire

training program, an in-service training program, qualification levels, and a certification program for all levels of training.

2. The Contractor shall appoint a full-time Training Officer responsible for overseeing all training and training-related qualifications, certifications, records, and reports required by this contract.
3. The Contractor shall develop the following training programs to maintain the minimum required level of service:
 - a. Management training for supervisory officers in accordance with NFPA 1021.
 - b. Training for firefighters levels 1 and 2 shall meet NFPA 1001, Fire Fighter Professional Qualifications and requirements for Emergency Medical Technician, Basic (EMT-B), as set forth in the State of New Mexico Regulations Governing the Licensing of Emergency Medical Technicians.
 - c. Fire Officer training which complies with the requirements of NFPA 1021, Standards for Fire Officer Professional Qualification, will be required prior to promotion into the officer ranks or before completion of the probationary period of the position.

- d. Company training which includes fire fighting tactics and strategy, hose evolutions, salvage techniques, ladder drills, hazardous materials, live fire drills, mountain rescue, relay operations, aircraft crash fire rescue training, apparatus pump operators training, and familiarization with fire suppression and detection systems. Fire apparatus driver/operator professional qualifications shall in accordance with NFPA 1002. Airport firefighter professional qualifications shall be in accordance with NFPA 1003, and Federal Aviation Administration, regulations at 14 CFR Part 139.
- e. Pre-incident training which provides a comprehensive working knowledge of building protection, including technical indoctrination of nuclear criticality, radiation protection, explosives, large electrical installations, and LANL experimental facilities. Approved pre-fire plans shall augment this training.
- f. Emergency medical services training shall comply with requirements set forth in the State of New Mexico Regulations Governing the Licensing of Emergency Medical Technicians. Training level of Emergency Medical Technician-Basic (EMT-B) and/or

Emergency Medical Technician-Intermediate (EMT-I) as required.

- g. Training on the safe and proper operation of vehicles by all personnel during normal and emergency use. As a major objective, a training program shall be established to minimize the incidence of injuries, vehicle accidents, and abuse of vehicles. Training shall comply with NFPA 1002 requirements.
- h. Training for hazardous-materials response shall be in accordance with NFPA 471 and 472; and OSHA 29 CFR 1910.120. All Fire Department personnel who will respond to emergencies shall receive training to meet the OSHA first responder awareness and first responder operational levels as a minimum. The DOE will provide training, as required, for those responses to the LANL-FSA that involve specific types of hazardous materials that are unique to LANL operations.
- i. Training for administrative and technical support personnel assigned to the Fire Department.

- 4. The Training Program shall be submitted to the Contracting Officer for approval within 60 calendar days after award of contract.

B. Training Records-

The Contractor shall establish and maintain training records and a certification program that will document specific qualifications and proficiency levels maintained for all personnel involved in fire suppression, emergency medical, and rescue operations.

C. Training Exercises-

The Contractor shall conduct exercises to assure competency in all assigned responsibilities, training, and qualification levels. In addition, the Contractor shall participate in exercises conducted by DOE for purposes of evaluating fire suppression, emergency medical, and rescue services response effectiveness. These exercises shall be conducted on at least a yearly basis and should cover all types of emergencies that the Fire Department responds to.

III. EMERGENCY MANAGEMENT

A. Incident Command System (ICS)

1. In connection with providing the services described herein, the Contractor shall implement an ICS. For incidents involving the LANL-FSA, the Contractor's ICS shall follow the basic fundamentals set forth in the LANL Emergency Response Plan which shall be based on and

consistent with the National Interagency Incident Management System. The Department of Energy will provide the necessary basic training and coordination with other DOE contractors at the LANL to allow the Contractor for the development of an ICS that will be consistent with all LANL organizations. The Contractor shall participate in the development and review, and concur with the approval of the LANL Emergency Response Plan.

2. In connection with responding to incidents within the LANL-FSA, if the Fire Department is the first responder on the scene, the Fire Department's ranking officer shall be the Incident Commander. Upon arrival at the scene of a higher ranking officer, Incident Command will be transferred as set forth in the Fire Department's ICS. The Fire Department's Incident Commander will remain in charge of an incident as long as the incident remains a fire, rescue or medical incident. If the incident involves hazards or requires resources other than those possessed by the Fire Department, then the Fire Department shall request that the LANL's Emergency Manager assume Incident Command. The Fire Department's ranking officer at the scene will remain in command of all the Fire Department's elements at the incident scene and will provide fire suppression,

emergency medical and rescue services as requested by the Incident Commander.

3. A written procedure to implement an ICS shall be developed to apply to all Contractor personnel involved in emergency operations. The procedures shall, as a minimum, identify training for emergency situations, safety, chain-of-command, and special hazards. The ICS procedures shall be submitted to the Contracting Officer for approval within 60 calendar days after award of the contract.

B. Occurrence Reporting -

The Contractor shall develop and implement occurrence reporting procedures that comply with the requirements of Order DOE 5000.3A, Occurrence Reporting and Processing of Operations Information. This requirement is applicable to all Fire Department facilities and operations covered by this contract. Submittal of the procedures is required 30 calendar days after award of contract.

IX. CONTINUITY OF OPERATIONS

- A. In addition to complying with the requirements of the contract clauses entitled "Continuity of Services" and "Notice to the Government of Labor Disputes," the

Contractor shall take the actions required herein to assure a continuation of services under this contract. Any threat to the maintenance of required personnel staffing as a result of a potential or threatened work stoppage or other collective personnel actions shall be promptly reported to the Contracting Officer. The Contractor shall take all reasonable steps to minimize potential threats to operational continuity by providing for adequate planning and execution of emergency services.

- B. The Contractor shall prepare a written Contingency Plan within 90 calendar days after award of contract and submit it to the Contracting Officer for approval. The Contingency Plan shall recognize all joint resources available to the parties of this contract, and shall address the Contractor's approach to providing critical services in the event of a work stoppage or labor dispute. In addition, the Contractor shall coordinate resources that could be provided by the DOE's contractors at the Los Alamos National Laboratory in preparation of the Contingency Plan. This Contingency Plan shall be updated periodically as deemed necessary or prudent by the contracting parties, and any changes to the Plan will be subject to the approval of the Contracting Officer.

C. When a strike or work stoppage is threatened or appears likely, the Contractor shall immediately provide the notice required above, and with the approval of the Contracting Officer, commence implementing necessary elements of the approved Contingency Plan.

X. PRE-FIRE PLANNING FOR FIRE SUPPRESSION

- A. LANL-FSA Area. The Contractor shall implement a Pre-Fire Planning Program to develop and maintain pre-fire plans for incidents which the Fire Department responds to. A list of LANL Key facilities, in priority order, shall be provided to the Contractor by the Contracting Officer for development of pre-fire plans within the LANL-FSA. The pre-fire planning shall include development of plans for wild-land fires and support provided by Fire Department to explosive or other LANL test programs.
- B. All Other Areas. The Contractor shall develop pre-fire plans on a scope and frequency to be developed by the Contractor.
- C. Two copies of all approved pre-fire plans and revisions thereto, for the LANL-FSA, shall be provided to the Contracting Officer for DOE use.

- D. Each pre-fire plan within the LANL-FSA developed by the Contractor shall be submitted to the Contracting Officer for review. The Contractor shall protect all pre-fire plans as required by the assigned classification. All pre-fire plans within the LANL-FSA will, as a minimum, be handled as "Official Use Only" or Unclassified Controlled Nuclear Information (UCNI) documents.
- E. A Pre-Fire Planning Program Plan shall be developed by the Contractor and submitted to the Contracting Officer for approval within 30 calendar days after award of the contract. The Contractor shall update the Plan as required to reflect any proposed changes to the Plan or as directed by the Contracting Officer.

XI. MUTUAL-AID AGREEMENTS

- A. DOE is a party to one mutual-aid agreement--Memorandum of Agreement for Mutual Fire Protection, MOU DE-GB32-89AL57296. The Contractor shall be responsible for complying with DOE's commitments of this mutual-aid agreement as they apply to the services provided by the Fire Department.
- B. During the term of this Contract, DOE may enter into additional mutual-aid agreements for which responsibility will be assigned to the Contractor under this contract, or the Contractor may, with DOE's approval, enter into

mutual-aid agreements which will be carried out as part of the contract work. The parties will determine, at the time such agreements are entered into, whether they constitute a change to the contract requiring an adjustment in the estimated price of the Contract.

C. It is contemplated by the parties that the Contractor will enter into mutual-aid agreements with local governments, federal agencies, Indian Pueblos, or other entities whose jurisdictional authority is adjacent to the Los Alamos Fire Department Service Area, when DOE determines that such mutual-aid agreements will enhance the services required under this contract and will not interfere with the performance of services to the LANL-FSA.

D. In connection with any existing or future mutual-aid agreement, which may involve work whose costs are allowable under this contract, the Contractor shall obtain the prior written approval of the Contracting Officer before carrying out any of the following actions:

1. Conducting discussions or negotiating with the objective of entering into an agreement;
2. Executing an agreement; or
3. Providing any services pursuant to an existing, DOE-approved agreement which are not expressly required by the agreement.

XII. NON-EMERGENCY SERVICES

A. Fire Hydrant Flow Testing

- 1. LANL-FSA Area - The Contractor shall provide annual flow testing of all fire hydrants located on DOE property, and those used to protect property which DOE leases within Los Alamos County, in accordance with NFPA 291, latest edition. The reports of these flow tests shall be delivered to the Contracting Officer within 30 calendar days of completion of the tests.**
- 2. All other areas of Los Alamos County - The Contractor shall determine the scope for testing of fire hydrants on Los Alamos County property, and comply with those requirements as necessary.**
- 3. The Contractor shall develop and implement written procedures for fire-hydrant testing to be used by the Fire Department to comply with this requirement and submit to the Contracting Officer for approval within 45 calendar days after award of the contract.**

B. Standby Services

- 1. Los Alamos Airport - The Contractor shall comply with applicable Federal Aviation Administration (FAA), 14 CFR PART 139, Regulations for General Aviation**

Activities and shall comply with applicable FAA, DOE, or Department of Defense (DOD) directives and regulations for specialized support for special cargo flights to suppress any fire or accomplish any rescue from take-off or landing operations.

2. LANL-FSA Area - The Contractor shall provide stand-by personnel and equipment for specific activities as deemed necessary and requested by the Contracting Officer.

3. All Other Areas - The Contractor shall provide standby personnel and equipment for specific activities as deemed necessary by the Contracting Officer.

C. Non-Emergency Alarms - The Contractor shall respond to non-emergency alarms (automatic fire protection system supervisory and trouble alarms), within a reasonable period of time, normally not to exceed fifteen (15) minutes.

D. Fire Evacuation Exercises - The Contractor shall provide personnel and equipment for building evacuation exercises at the LANL-FSA on an on-call basis subject to availability of personnel and equipment when authorized by the Contracting Officer.

E. Fire Prevention Services - The Contractor shall provide fire prevention services for the Municipal Development Area and shall ensure that this service is provided in accordance with applicable federal and state and local ordinances; provided, however, that with respect to local ordinances, it is understood and agreed that DOE will not reimburse the Contractor for the salaries of any personnel whose sole function is that of inspection pursuant to existing local ordinances, but that within the staffing levels agreed to, these personnel may carry out inspection duties to fulfill the requirements of existing local ordinances as adjunct duties to the duties required under this contract.

I. OPERATIONAL PROCEDURES

- A. GENERAL - The Contractor shall develop and implement procedures to be used for the daily operations of the Fire Department. These procedures shall set forth how the Fire Department operations will be managed, organized, and conducted to assure compliance with requirements of this contract.
- B. In the development of these operational procedures, the Contractor shall utilize specific procedures developed by the Contractor in meeting the requirements of this

contract. In addition, applicable requirements of Order DOE 5480.19, Conduct of Operations Requirements for Facilities, shall be used as a guideline to assure that the conduct of operations meets DOE guidelines and that adequate written documentation exists to demonstrate the Contractor's conformance to these requirements.

- C. Procedures developed to meet the requirements of this section shall follow a standard format. The procedures shall be placed in a loose-leaf type binder so that revisions or additions may be made as they occur. Each procedures manual shall be controlled. A procedure shall be established to keep track of manuals and distribution of changes thereto.
- D. Electronic versions of the manual that can be used by MS-DOS personal computers will be developed by the Contractor at the earliest time possible.

IV SELF-ASSESSMENT PROGRAM

- A. The Contractor shall develop and implement a self-assessment program to provide a means for the assessment of the overall performance of the Fire Department and the Contractor's support functions as they apply to the Fire Department.
- B. The Contractor shall establish, document, and implement a self-assessment program which includes a description of

each major fire department function to include managerial and operational functions. For each function, a list of criteria upon which an assessment can be based shall be developed. Criteria are to be objective and contain measurements which can be tracked over time. The Contractor shall develop an annual schedule of periodic evaluations, at least one per quarter, covering each function during the year. The Contractor shall review and modify, as needed, functions and criteria prior to producing the upcoming year's schedule. Each functional area shall contain measurements; however, each individual criteria does not necessarily have to include measurements. The Contractor shall perform and document evaluations in accordance with the annual schedule, including problems not covered by a specific criteria. In carrying out evaluations, the Contractor shall utilize internal personnel not directly responsible for the given function, and shall rate overall performance in each function in accordance with the results. The Contractor shall gather managerial and affected operational representatives together following the evaluation to formulate corrective actions and look for opportunities for continual improvement. The Contractor shall document and perform corrective actions.

C. The proposed upcoming yearly program, and goals and accomplishments from the previous year shall be discussed with the Contracting Officer on a yearly basis.

ANNEX A TO STATEMENT OF WORK

DOE IMPLEMENTATION OF NFPA 1500, FIRE DEPARTMENT OCCUPATIONAL SAFETY AND HEALTH PROGRAM

The following sets forth the DOE requirements to be followed in implementing the requirements of NFPA 1500 to DOE facilities:

Section 2-1.1 The documents required by this Section need not be consolidated into a single document. In particular, Policy, Organization, and functional statements should be available for audit and be up to date. Training documents may consist of manuals, films, and other materials prepared by others and merely referenced in a training plan, or in functional statements.

Section 2-3. Where the fire department, or other fire-fighting organization, is part of a larger organization that provides the requisite "research, development, implementation, and enforcement of an OS&H program," the fire department program needs may be included within the larger program.

Section 2-4. A Safety Officer shall be designated for each organization. Where safety services, monitoring, training, etc., are provided by another on-site organization, or the parent organization, the person designated as the Safety Officer shall be responsible to coordinating the services required by the department.

Responsibility for safety at the first-response level shall be incorporated in the department's emergency procedures manual.

The fire department Safety Officer can be anyone in the organization who can show up on the scene, not necessarily with the first response, but must be someone other than the incident commander as the Safety Officer is intended to be an independent voice, advising the incident commander.

Section 2-5. The OS&H Committee may include representatives from other organizations when the department is part of a larger organization or at a site where safety services are provided by others. The required safety meetings may be joint meetings with others if the department's safety needs are amenable to joint meetings.

Section 2-6. The records required in this Section may be maintained by a parent or service organization as long as they are auditable and are available to the department.

Section 2-6.2. The department shall have a procedure for reflecting possible exposures in the incident files and individual medical records.

Section 3-1.4. The requirement for training and education is considered to require that all firefighters must be trained in the hazards to be encountered at the scene of an incident before they can participate in active operations requiring such training.

Section 3-1.5. The individuals providing the training and education need not be members of the fire department, but they should be knowledgeable in the area of instruction as it relates to the fire service.

Section 3-1.6. Training Officer qualifications may be met by either compliance with the stated NFPA 1041, or by obtaining local or state certification.

Section 3-3.2. All personnel assigned to structural firefighting positions shall receive training adequate to meet the Firefighter I qualification of NFPA 1001.

Section 3-3.3. Training programs for drivers/operators shall be designed to meet the intent of the referenced standard. It is understood that some licensing requirements will vary by states and/or type of equipment.

Section 3-3.4. All specialized training programs, i.e., fire officer, driver/operator, airport firefighter, shall be developed and implemented within each organization. This shall be so accomplished as to meet the intent of the appropriate NFPA Standard.

Section 3-4. Training in fire ground operations shall be based on accredited systems, such as those provided by the International Fire Service Training Association manuals, official state training manuals, etc.

Section 3-5. Because of the specialized operations and hazards peculiar to most DOE sites, these "special hazards" training requirements are of prime importance. Training should include not only the nature of the hazards, but familiarization with the protective systems employed, the monitoring and alarm systems peculiar to the operation, and the support services provided by other parts of the site organization in monitoring or alleviating an emergency situation.

Section 4-2.1. Drivers of fire department vehicles shall receive special training in the operation of the vehicle and must be certified and/or licensed, as appropriate, or as required by the State to operate fire department vehicles.

Section 4-2.4. An exception to the requirement is the rear attendant of an ambulance when actively attending to a patient. This exception shall stand until such time as acceptable safety restraints are available for the rear ambulance attendant.

Section 4-3.1. An exemption may be granted for some site-specific vehicles, such as golf cart-type vehicles used within building to deliver supplies and equipment and automatically restricted in maximum speed. However, any such exemptions must be reviewed and approved by the Safety Officer and documented in the department files.

All present and future acquisitions of used apparatus shall be brought up to the minimum standards for safety seating requirements.

Section 4-5.4. For ladders, see the Interpretation Note on NFPA 1932. (All test conditions are required except that the annual test requirement may be changed to not less than every five years. All other conditions noted as requiring the test are unchanged).

Section 5-1.1. As a clarification, all equipment must be available and donned before the individual participates in any evolutions requiring protective clothing use. It is not necessary for each member of a department or brigade to have a full set of all protective clothing as long as supplies for the anticipated needs can be delivered to the point of use in adequate quantities and sizes for anticipated needs and without incurring undue delay in the emergency response.

All new equipment needed to fulfill the requirements of this Section shall be procured by the end of FY 1990.

Section 5-2.7. The fire resistance of work station uniforms should be considered in applying this Section. Where firefighting is provided by personnel who have other primary jobs, such as in most fire brigades, the provisions of NFPA 1975 need not be applied to their work clothing. However, any exceptions to the requirement should be reviewed by the Safety Officer and exception documented in the department records. Training needs and turnout gear provisions should take into account the clothing normally worn by responders.

Section 5-3.4.2. SCBA cylinders need not be emptied quarterly if not a requirement by the manufacturer/supplier.

Section 5-4.1. Personal Alert Safety Systems (PASS) need be provided only for people involved in interior firefighting or hazardous responses.

Section 5-5.3. Life safety ropes used for rescue shall be previously unused and shall be thoroughly examined upon completion of rescue in accordance with the manufacturer's recommendations. Ropes used for rescue shall remain in the custody of the original purchasing engine company or fire department. Records shall be kept, documenting the use, inspection, and inspector, immediately after each use and prior to any future use. The date and officer in charge will also be indicated on the records. All ropes leaving

the custody of the fire department must be destroyed, or otherwise prevented from being reused in life safety operations. Any indication of wear or shock loading will be justification to destroy said rope. Life safety ropes shall be completely dry and clean prior to restoring for use as life safety lines.

Section 6-1. Some of the requirements pertaining to emergency operations may be covered by a parent organization or be provided by other on-site organizations at DOE facilities. Health physics, for example, may provide the basic personnel required by Section 6-1.7 for radiological emergencies. All of the elements of Chapter 6, however, should be in place in the overall site plan. All emergency plans should clearly identify the incident commander for each type of emergency.

Section 6-2. The minimum response requiring interior firefighting or other operations requiring the entrance of SCBA-equipped people shall be 5 persons. When less personnel are available, interior operations shall not be attempted.

Section 6-3.2. Clarification. The requirement for personnel "standing by" does not mean the required people cannot be performing some other function, but they must be able to suspend what they are doing to provide the immediate rescue efforts.

Section 6-3. The "standing by" requirement for qualified life support personnel may be relaxed if, in the Chief's opinion, "qualified personnel are readily available and are dedicated to the site. (At a small site, it should not be necessary for medical/ambulance personnel to respond on every incident).

CAPITAL EQUIPMENT

NON-CAPITAL EQUIPMENT AND

SENSITIVE ITEMS

(Incorporated here by reference is the "Semi-Annual Summary Report of DOE-Owned Plant and Capital Equipment - DOE Form 4300.3" for the period ending February 28, 1992.)

FACILITIES

REAL PROPERTY

(Incorporated here by reference is the "Semi-Annual Summary Report of DOE-Owned Plant and Capital Equipment - DOE Form 4300.3" for the period ending February 28, 1992.) In addition, attached are DOE/LAAO Fire Station Survey Maps, pages 1 - 7.

PROJECT DOE/LAEO FIRE STATION SURVEY

SHEET	1	OF	7
DATE	3	15	88
JOB NO.	88-022		
BY	MASCHERBAS	APPR.	Z

DESCRIPTION NOTES

BASIS OF BEARINGS

FIRE STATION 1: N12° 23' 47"W AS ESTABLISHED
BY FOUND CONTROL POINTS DIAMOND 1 & DIAMOND 2 N.M.S.P. GRID
BEARING

FIRE STATION 2: BEARING OF N14° 57' 06"E AS ESTABLISHED BY THE
FOUND SOUTHWEST CORNER AND FOUND NORTHWEST ANGLE POINT OF TRACT
DD EASTERN AREA NO.2, SAID PLAT ON FILE AT THE LOS ALAMOS COUNTY
COURTHOUSE.

FIRE STATION #3 PLAT BEARING AS ESTABLISHED BY FOUND CORNERS OF
TRACT J.A. WHITE ROCK NEW MEXICO SAID PLAT BEING ON FILE AT THE
LOS ALAMOS COUNTY COURT HOUSE.

FIRE STATION #4 PLAT BEARING AS ESTABLISHED BY FOUND CORNERS OF
TRACT G, NORTH COMMUNITY NO.2: SAID PLAT BEING ON FILE AT THE LOS
ALAMOS COUNTY COURT HOUSE.

FIRE STATION NO.5: GRID BEARING OF N43° 56' 52"E AS ESTABLISHED
BY FOUND BRASS CAPS 1440 AND 1441 OF THE LOS ALAMOS TECHNICAL
AREAS.

NOTES: WALKS SHOWN ON ENG-C-7108 HAVE BEEN OVERLAID WITH
ASPHALT.

UTILITIES SHOWN ARE BASED ON EXISTING SURFACE FEATURES
AND ARE APPROXIMATE ONLY. ALL UTILITY LOCATIONS MUST
BE FIELD VERIFIED PRIOR TO ANY EXCAVATION OR
CONSTRUCTION.

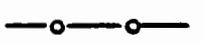
NOTE: UNDERGROUND UTILITIES ARE SHOWN FOR INFORMATION ONLY.
FIELD VERIFY PRIOR TO ANY EXCAVATION OR CONSTRUCTION.

PROJECT DOE/LAOO FIRE STATION SURVEY

SHEET	2	OF	7
DATE	3	/	15 / 88
JOB NO	88-022		
BY	APPR 		

DESCRIPTION LEGEND

LEGEND

	OVERHEAD ELEC.		GAS VALVE
	SEWER		ASPHALT
	PROPERTY		CONCRETE
	VALVE	VCP	VITRIFIED CLAY PIPE
	SET PROP. BOUNDARY		FLAG POLE
	CLEANOUT	EP	ELEC. PANEL
	PROPERTY BOUNDARY	DR	DRAIN
	TEL RISER	C.O.	CLEANOUT
	PINON OR PINE	G.M.	GAS METER
	MANHOLE		ANTENNA MAST
	WATER	R. W.	RETAINING WALL
	UNDERGROUND ELEC.	M.P.	METER PIT
	POWER POLE	STM	STEAM
	GAS	S.D.	STORM DRAIN
	FENCE	T	TELEPHONE LINE
	FIRE HYDRANT		

PROJECT DOE/LAO FIRE STATION SURVEY

SHEET 3 OF 7

DATE 3 / 15 / 88

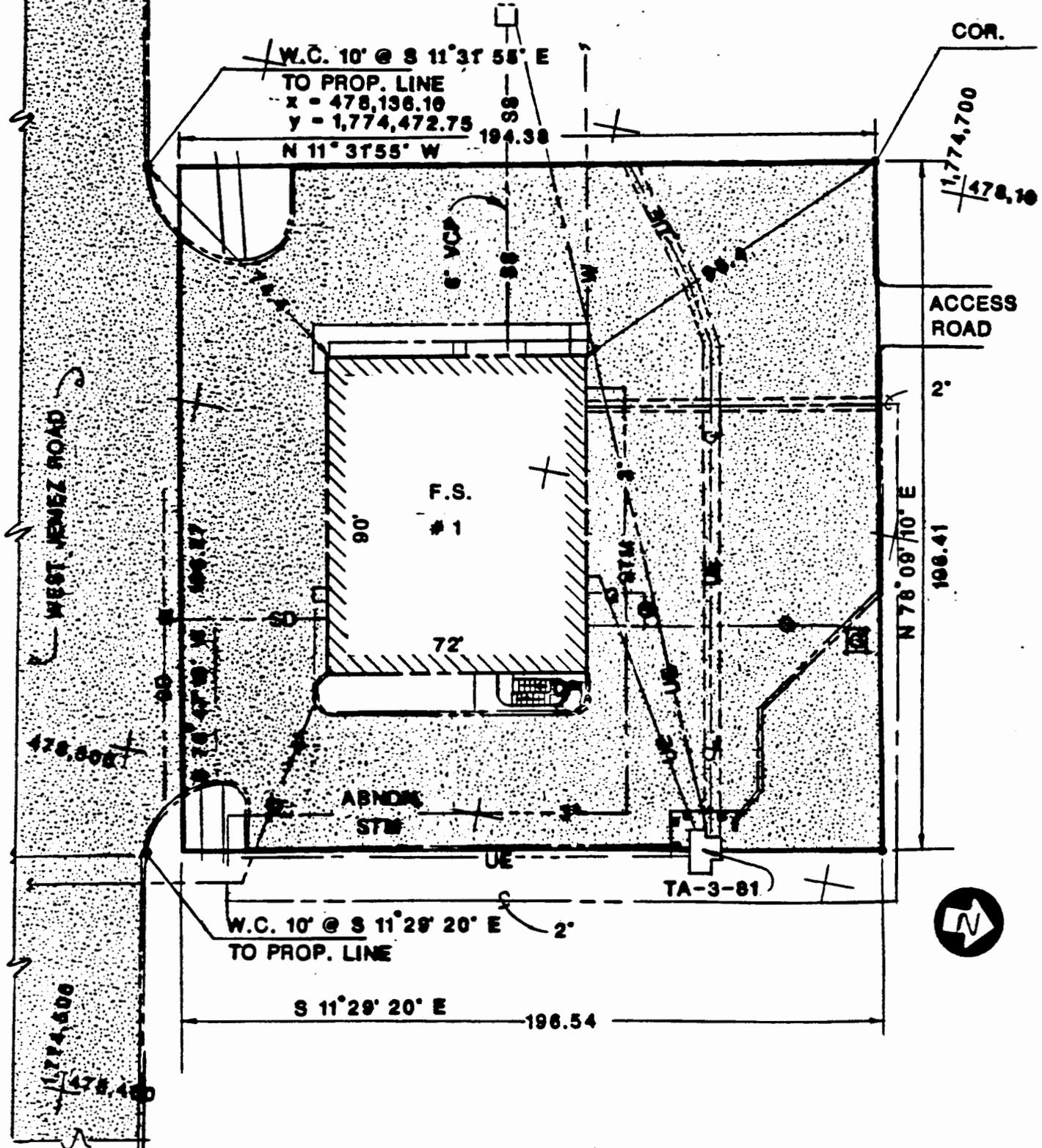
DESCRIPTION FIRE STATION # 1 TA-3

JOB NO. 88-022

BY MASCAREÑAS APPH. CT

SCALE 1"=40'

SET #5 REBAR AND PL CAP LS 8676



PROJECT DOE/LAEO FIRE STATION SURVEY

SHEET 4 OF 7

DESCRIPTION FIRE STATION # 2 DP ROAD

DATE 3 / 15 / 88

JOB NO 88-022

BY *[Signature]* APPR C.T.

SCALE 1" = 50'

- FOUND T. RAIL & SHINER
- ⊙ SET T IP & PL CAP LS 8670

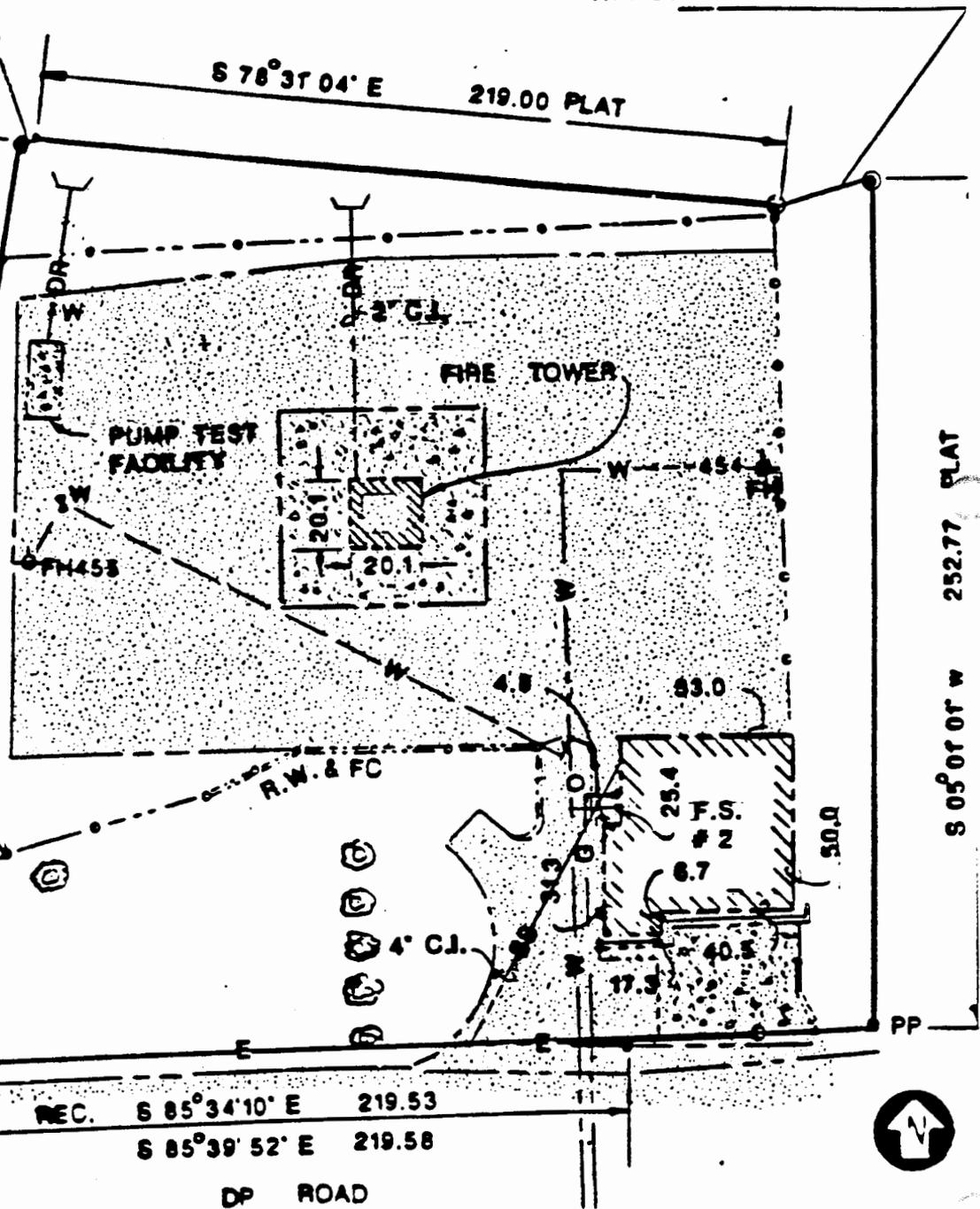
N77 33°24' E 31.15 PLAT

N 82°26' 07" E 3.86 P

S 78°31' 04" E 219.00 PLAT

N 14°12' 47" E 277.07 PLAT
N 14°12' 47" E 277.34 FIELD

102' 0"



S 05°01' 07" W 252.77 PLAT

REC. S 85°34' 10" E 219.53

S 85°39' 52" E 219.58

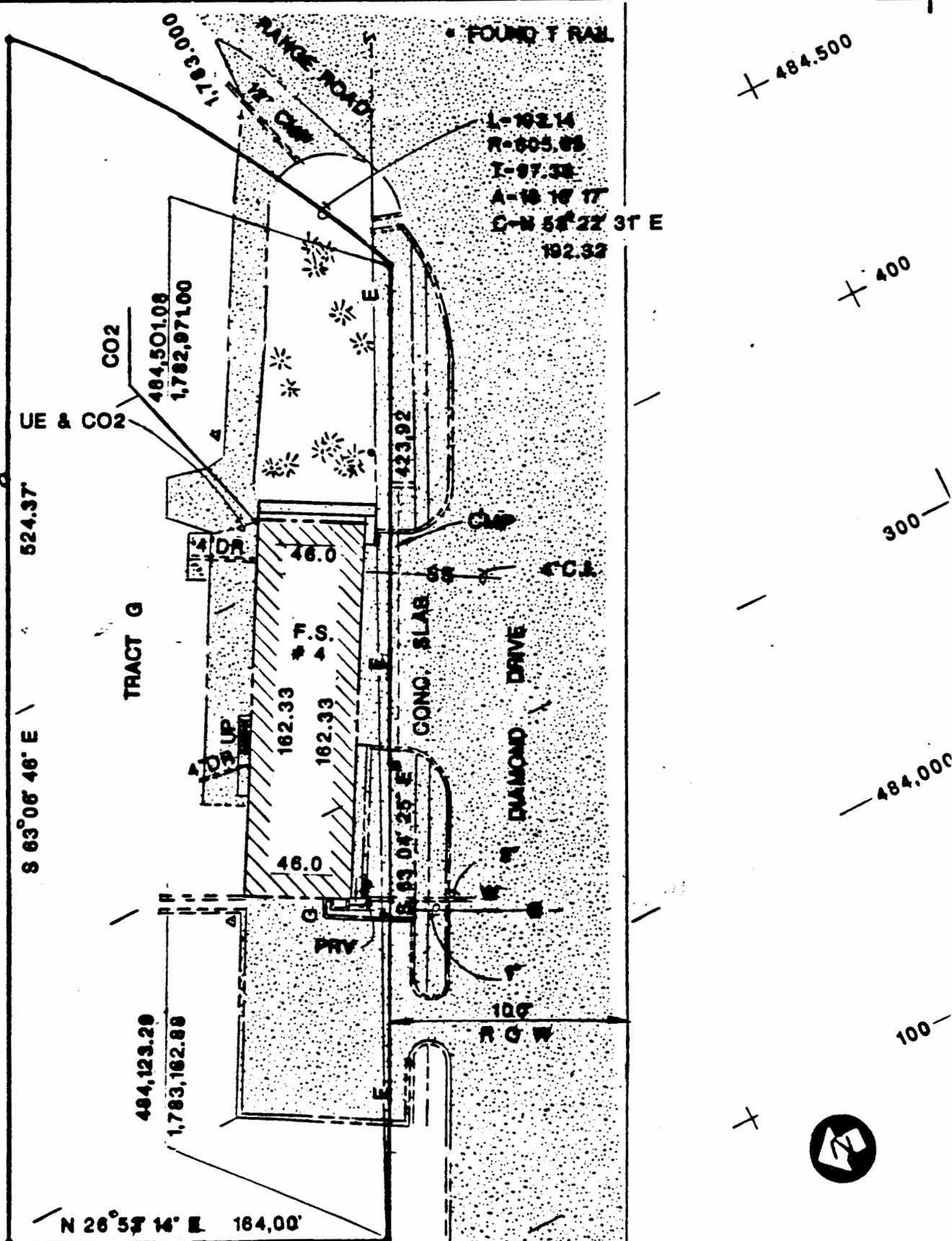
DP ROAD

CURVE DATA
 A- 04 15' 34" LT
 R- 1021.74
 T- 38.00
 e- 75.96

PROJECT DOE/LAOS FIRE STATION SURVEY

SHEET	5	OF	7
DATE	3	/	15 / 88
JOB NO.	88-022		
BY	MCCARRON	APPR.	Z.
SCALE T=60'			

DESCRIPTION FIRE STATION #4 4401 DIAMOND DRIVE



PROJECT DOE/LAEO FIRE STATION SURVEY

SHEET 6 OF 7

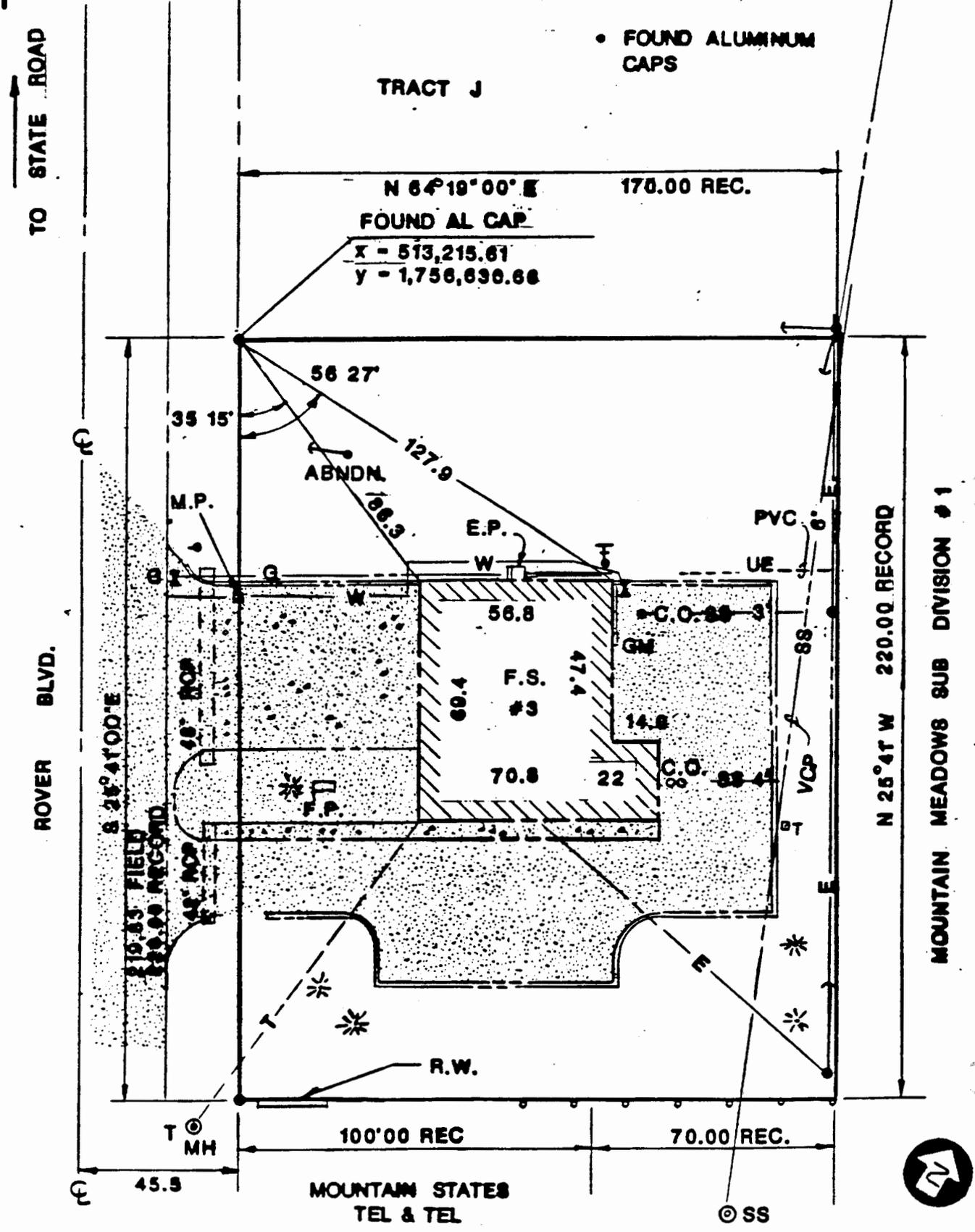
DATE 3 / 15 / 88

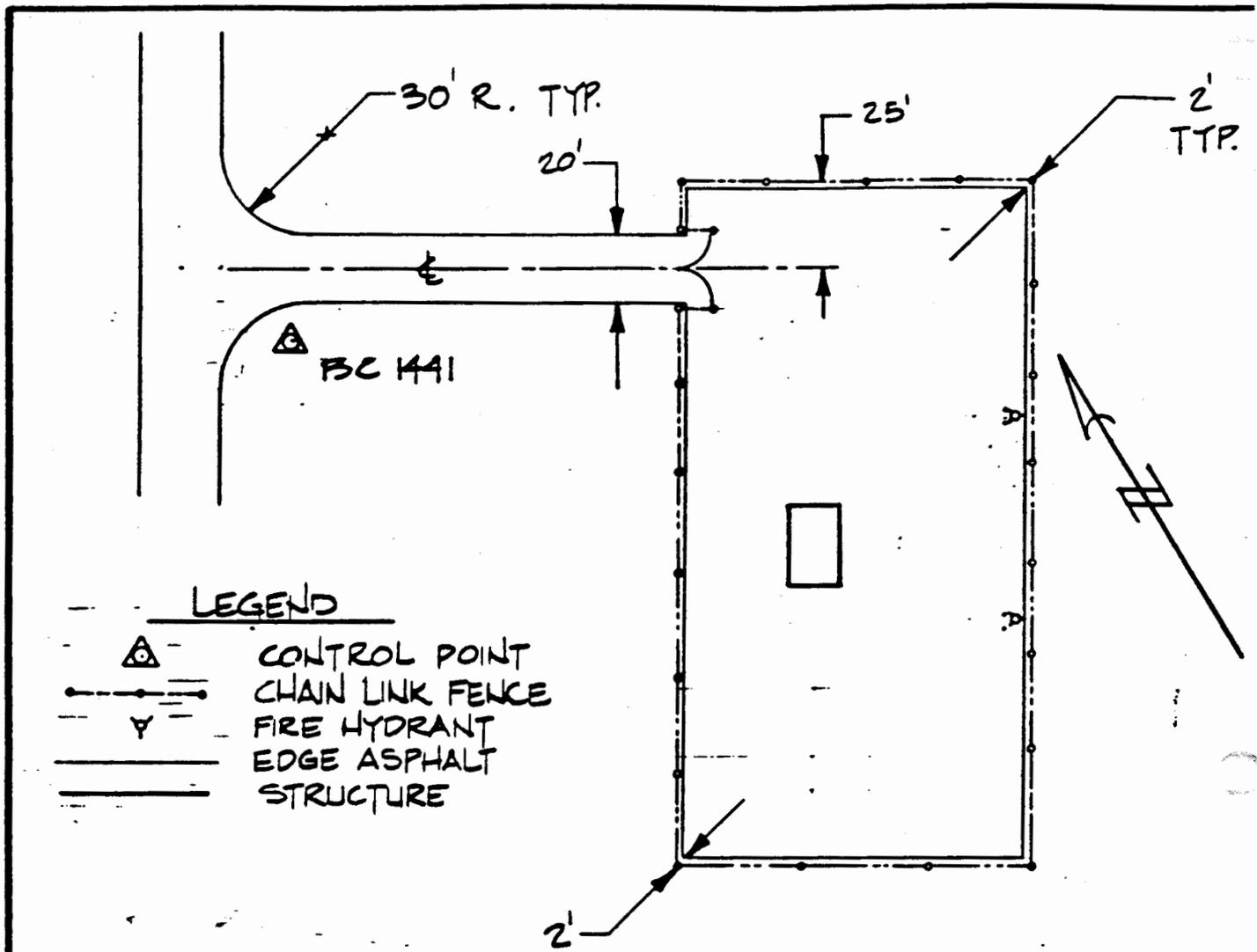
DESCRIPTION FIRE STATION #3 WHITE ROCK

JOB NO. 88-022

BY MASCO RECD APPR. CT

SCALE 1"=40'





LEGEND

- CONTROL POINT
- CHAIN LINK FENCE
- FIRE HYDRANT
- EDGE ASPHALT
- STRUCTURE

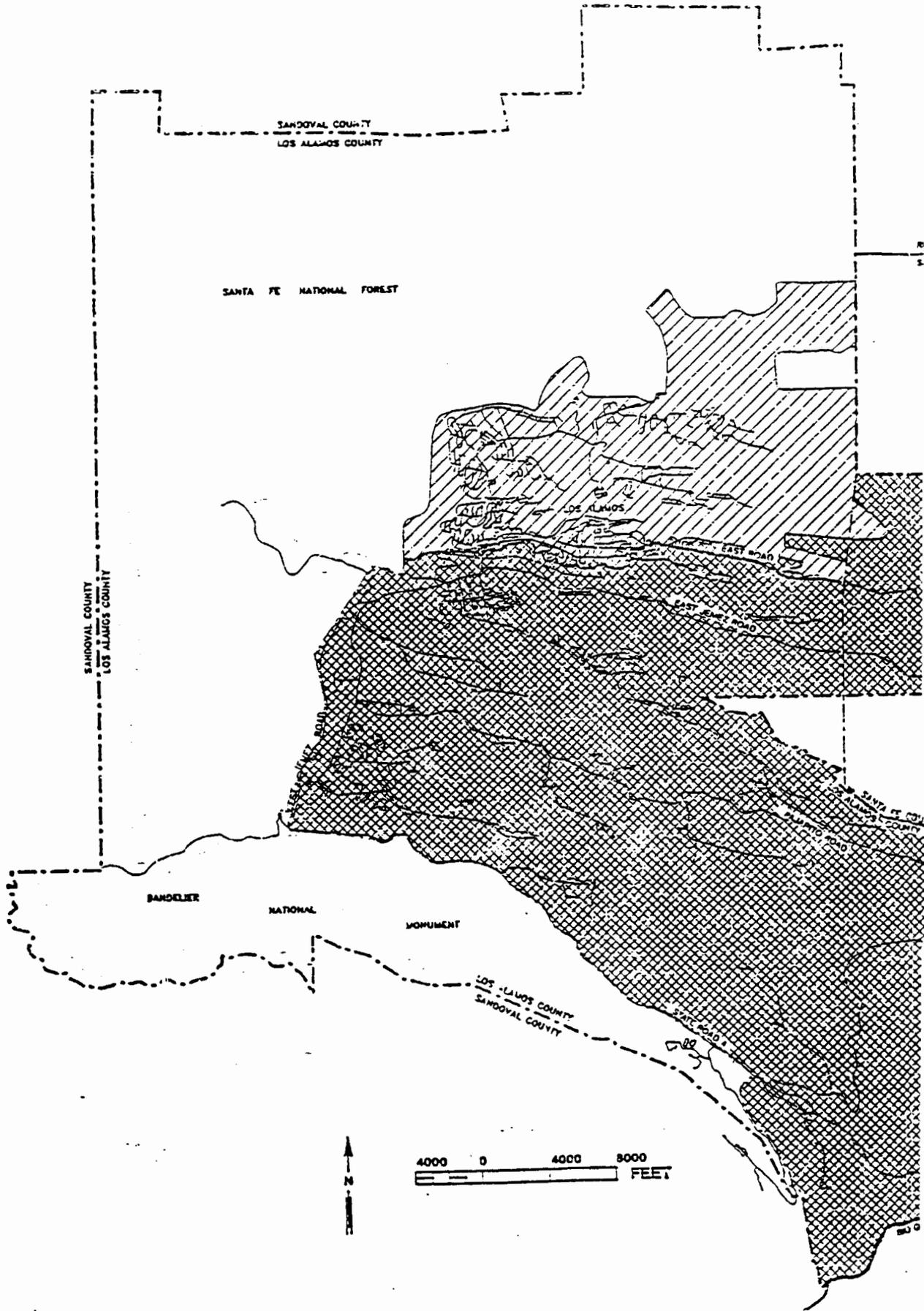
NOTES

- 1) BASIS OF BEARING
N 43° 50' 51.5" E AS ESTABLISHED Δ CONTROL POINT BY FOUND BRASS CAPS 1440 & 1441.
- 2) LOCATION OF BUILDING & FIRE HYDRANTS ESTABLISHED FROM AS BUILT DRAWING SINCE ACCESS TO SITE WAS LIMITED AT TIME OF SURVEY.

PAN-AM SURVEY DEPARTMENT
TA-16
FIRE TRAINING CENTER
W.O. # 7314-99
DRAWN BY: JAMES A. CATA
SCALE: 1" = 50'
SHT 1 OF 1

LOS ALAMOS FIRE DEPARTMENT

FIRE SERVICE AREA



LEGEND



MUNICIPAL DEVELOPMENT AREA - MUNICIPAL FIRE SERVICES

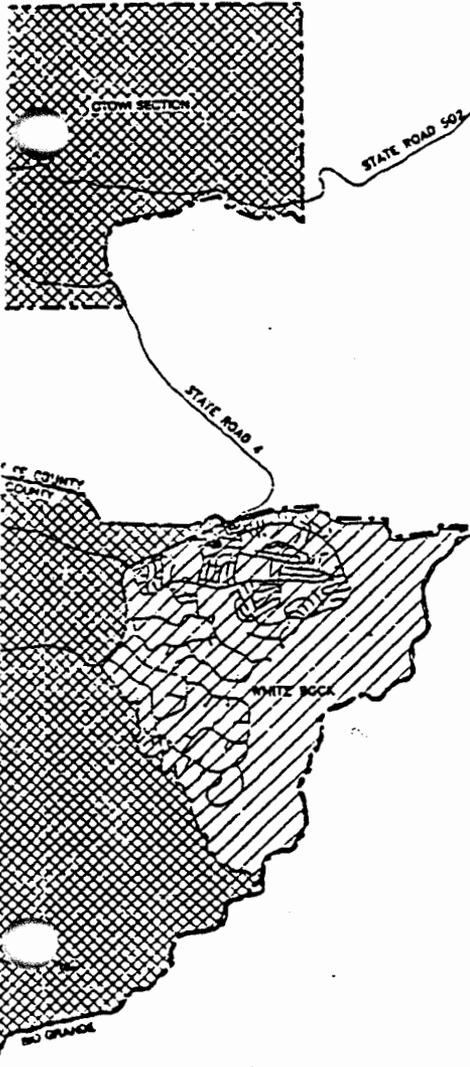


LOS ALAMOS NATIONAL LABORATORY - FIRE SERVICE AREA



LOS ALAMOS FIRE DEPARTMENT, EMERGENCY MEDICAL, AND RESCUE SERVICE AREA

MO ABRA COUNTY
SANTA FE COUNTY



1	3/1/91	REVISE TITLE	-								
NO.	DATE	CLASS. REV.	REVISIONS	APP.	DES.	CHK.	REL.	SUB.	PLC.	APP.	
FACILITIES ENGINEERING DIVISION											
LOS ALAMOS FIRE DEPARTMENT SERVICE AREA								DATE	11/16/90		
SUBMITTED		RECOMMENDED		APPROVED		DRAWN		1/2/91			
DESIGNED		CHECKED		RELEASED		DATE		11/16/90			
Los Alamos								Los Alamos National Laboratory Los Alamos, New Mexico 87545		SHEET	1 OF 1
CLASSIFICATION		REVISIONS		DATE		DRAWING NO.		REV.			
LAE JOB NO.		DRAWING NO.		ENG-R 7161							

LISTING OF DOE OWNED STRUCTURES

LISTING OF DOE LEASED STRUCTURES

The attached is a list of DOE owned structures and leased facilities outside of the main boundary of the Laboratory. This listing is subject to change.

DOE OWNED STRUCTURES

<u>TA</u>	<u>BLDG</u>	<u>NAME</u>	<u>ADDRESS</u>
0	71	Pumphouse, Water	Western Area, Los Alamos
0	1054	Well House #1	Guaje Canyon
0	1055	WellHouse #1	Guaje Canyon
0	1051	Steam Plant	3750 Finch St., Los Alamos
0	1056	Metering Station	1805 Diamond, Los Alamos
0	1058	Well House	Rendija Canyon
0	1061	Transmitter Bldg.	Star Lake
0	1062	Laborers Shack	SE Side TA-3, SM-36
0	1078	Sportsman Club	Rendiji & Gauje Canyon
0	1079	Valve House	1805 Diamond, Los Alamos
0	1080	Pump House	600 48th Street, Los Alamos
0	1082	Maintenance Bldg.	Gas Line, San Juan County
0	1084	Valve Bldg.	Gas Line, Sandoval County
0	1085	Valve Bldg.	Gas Line, Sandoval County
0	1086	Valve Bldg.	Gas Line, Sandoval County
0	1087	Valve Bldg.	Gas Line, Sandoval County
0	1088	Valve Bldg.	Gas Line, San Juan County
0	1089	Gas Valve House	691 East Road, Los Alamos
0	1090	Pumping Station	99 Gancho, Los Alamos
0	1091	Guard Tower	2471 East Rd., Los Alamos
0	1092	Booster Station	Guaje Canyon
0	1093	Booster Station	State Road 4
0	1094	Fire Station #4	White Rock
0	1095	Fire Station #2	132 DP Road, Los Alamos
0	1096	Fire Station #3	4401 Diamond, Los Alamos
0	1099	Booster Station	State Route 4
0	1100	Sand Basin Bldg.	Guaje Canyon
0	1101	Well House	Guaje Canyon
0	1102	Well House	Guaje Canyon
0	1103	Well House	Guaje Canyon
0	1104	Well House	Guaje Canyon
0	1105	Well House	Guaje Canyon
0	1107	Filter Building	4040 Diamond, Los Alamos
0	1108	Pumping Station	4084 Trinity, Los Alamos
0	1109	Booster Station	1801 Diamond, Los Alamos
0	1110	Valve House	601 48th, Los Alamos
0	1111	Pumping Station	600 48th, Los Alamos
0	1112	Booster Station	Guaje Canyon
0	1113	Booster Station	Guaje Canyon
0	1114	Booster Station	Guaje Canyon
0	1115	Metering Station	691 East Road, Los Alamos
0	1116	Drill Tower FS#2	132 DP Road, Los Alamos
0	1117	Well House	Guaje Canyon
0	1118	Well House	Guaje Canyon
0	1119	Well House	Guaje Canyon
0	1120	Well House	Guaje Canyon
0	1121	Well House	Guaje Canyon
0	1122	Valve House	Guaje Canyon
57		All Buildings	Fenton Hill

**SMALL BUSINESS AND SMALL DISADVANTAGED
BUSINESS SUBCONTRACTING PLAN**

SMALL BUSINESS AND SMALL DISADVANTAGED

BUSINESS SUBCONTRACTING PLAN

(Final November 12, 1992)

**Los Alamos Fire Department
Incorporated County of Los Alamos
2300 Trinity Drive
Los Alamos, New Mexico 87544**

Solicitation No. RP 32-91AL64100

The agreement between the Department of Energy (DOE) and the Incorporated County of Los Alamos (contractor or County)) provides for the County to be responsible for fire suppression, emergency medical and rescue services in the Los Alamos Fire Service Area, as defined in the contract, which includes Los Alamos National Laboratory.

The County and the DOE originally entered into a contract on February 9, 1988, to initiate the proposed transfer of the Los Alamos Fire Department from the DOE to the County. Phase II of this agreement, operation of the Fire Department, began September 24, 1989. Phase II, including current extensions, expires December 31, 1991. The DOE's request for proposal, RP 32-91AL64100, contemplates a subsequent five year contract with the County.

In accordance with Section 8(d) of Public Law 95-507, as implemented by OFPP Policy Letter 80-2, there are six mandatory elements that must be in every subcontracting plan. The six elements are:

I. GOALS

Goals for subcontracting with Small Businesses (SB) and with Small Disadvantaged Businesses (SDB) are expressed in both dollars and percentages. The percentage goal is a percentage of the total dollars planned for subcontracting, not the total dollar amount of the contract. The definition of a subcontract is any agreement the County (contractor) enters into for supplies and/or services required for contractor performance that will not be conducted with their own labor forces. (This includes agreements with Large Businesses [LB] as well as SB and SDB concerns.) Indirects and Overhead were not included in the amounts to be subcontracted.

Percentage Goals and Estimated Amounts:

- A. 1. The total estimated cost of the proposed five year contract is \$39,853,077.
2. The total estimated dollar value of all planned subcontracting under this contract is \$3,327,718.
3. The following dollar and percentage goals (expressed in relation to the total planned subcontract dollars in A.2) are applicable to the contract cited above or to the contract awarded as a result of the solicitation cited.
- (a) Small Business concerns: Total dollars planned to be subcontracted to small business concerns: \$1,663,859. Fifty percent (50%) of the total planned subcontracting dollars under this contract goal will go to subcontractors who are SB concerns.
- (b) Small Disadvantaged Business concerns: Total dollars planned to be subcontracted to SDB concerns: \$399,326. This dollar amount is included in the amount shown under A.3(a), above, as a subset. Of the total planned subcontracting goal dollars under this contract, 12% will go to subcontractors who are SDB concerns owned and controlled by socially and economically disadvantaged individuals. This percentage is included in the percentage shown under A.3(a), above, as a subset.

- B. 1. Subcontracting Summary: The following is a summary of subcontracting under this contract, with the distribution among SB, SDB and LB concerns as follows (SBP is the total dollar amount estimated for subcontracting):

Category	100% SBP	50% SB	12% SDB	50% LB
Services	\$1,560,989	780,495	187,319	780,495
Supplies	1,428,945	701,437	168,345	701,407
Capital	<u>363,855</u>	<u>181,927</u>	<u>43,662</u>	<u>181,927</u>
Total	\$3,327,718	\$1,663,859	\$399,326	\$1,663,859

2. Possible Subcontractors: The following is a list of possible SB and SDB subcontractors for the Services, Supplies/Materials and Capital Equipment referenced in B.1. and B.2.:

SB/SDB Sub. Plan
County of Los Alamos
Final 11/12/92

Small Business Concerns:
A-1 Signs
Allied School and Office Products
ALS Medical Products
Armstrong Medical
Artesia Fire Equipment
Becker Fire Equipment
Bill's Computer Shop
Brownell's Hallmark Shop
Business Machines Center
C.J. Enterprises
Camelot World Travel
Camera and Darkroom
Central Motive Power
Clarey's Safety Equipment
Clement, Benner and Fox
Coffelt's Family Footwear
Computer Works (Las Cruces)
Dane Myers
Delta Uniform
Don Taylor's Photo
Dr. Victor Zalma
Finishing Touch
G.C. Video
Glovers Auto Parts
Hunter Lumber Company
Independent Fire Company
J & J Safety
Johnson Southwest Moving (Santa Fe)
Knecht Automotive
Kurts Camera Corral
Los Alamos Parts Company
Los Alamos Stationers
Metzger Stores
Michael W. Baxter, PH.D.
Microsage
Mobile Apparatus
Monarch Fire Equipment
Pajarito Travel Agency
Peak and Plains Outfitters
Precise Graphic Impressions
Rapids Air, Inc.
Red Barn Screen Prints
Simon's Uniforms
Thunderbird Shoe Store
United Fire Equipment

Small Disadvantaged Business Concerns:

Advanced Copy Systems (Santa Fe)
Agua Fria Wrecker Service
Ask Mr. Foster Travel
Capitol City Uniforms
Destinations, Inc.

Healy-Matthews Stationers
Holman's Inc.
Joann's Floral
Lobo Team Sales
Mr. Carpet
N.M. Office Products
N.M. Pest Control
Santa Fe World Travel
Sierra Vista Office Products

II. ADMINISTRATOR

The subcontracting plan is to be administered by the County (contractor) to assure that the provisions of the contract and the plan are implemented and performed.

The following individual will administer the subcontracting plan:

Name: Roger Bagley
Title: Support Services Director
Telephone: 662-8054

This individual's specific duties, as they relate to the County's (contractor's) subcontracting plan, are as follows:

- A. General overall responsibility for the County's Small Business Program, the development, preparation, and execution of individual subcontracting plans and for monitoring performance relative to contractual subcontracting requirements contained in this plan, including but not limited to:
- B. Developing and maintaining bidders lists of small and small disadvantaged business concerns from all possible sources;
- C. Ensuring that procurement packages are structured to permit small and small disadvantaged to participate to the maximum extent possible;
- D. Assuring inclusion of SB and SDB concerns in all solicitations for products or services that they are capable of providing;
- E. Reviewing solicitations to remove statements, clauses, etc. that may tend to restrict or prohibit SB and SDB participation;
- F. Ensuring that the bid proposal review board documents its reasons for not selecting low bids submitted by small and small disadvantaged business concerns;

- G. Ensuring the establishment and maintenance of records of solicitations and subcontract award activity;
- H. Attending or arranging for attendance of company counselors at Business Opportunity Workshops, Minority Business Enterprise Seminars, Trade Fairs, etc.;
- I. Conducting or arranging for motivational training for purchasing personnel pursuant to the intent of P.L. 95-507;
- J. Monitoring attainment of proposed goals;
- K. Preparing and submitting periodic subcontracting reports as required;
- L. Coordinating County activities during the conduct of compliance reviews by Federal agencies; and
- M. Coordinating the conduct of County activities involving its small and small disadvantaged business subcontracting program.

III. OUTREACH EFFORTS

The following efforts will be taken to assure that small and small disadvantaged business concerns will have an equitable opportunity to compete for subcontracts:

- A. Outreach efforts will be made as follows:
 - 1. Contacts with minority and small business trade associations;
 - 2. Contacts with business and development organizations;
 - 3. Attendance at small and minority business procurement conferences and trade fairs; and
 - 4. Sources will be requested from SBA's PASS system.
- B. The following internal efforts will be made to guide and encourage buyers:
 - 1. Workshops, seminars, and training programs will be conducted; and
 - 2. Activities will be monitored to evaluate compliance with this subcontracting plan.

- C. Small and small disadvantaged business concerns source lists, guides and other data identifying small and small disadvantaged business concerns will be maintained and utilized by buyers in soliciting subcontracts.

IV. SUBCONTRACTING PLAN FLOWDOWN

The subcontracting plan must include the County's (contractor's) explicit statement that the two standard subcontracting clauses will be included in all relevant subcontracts. The clauses must be included by title and the County guarantees that a "subcontracting plan" will be required of every subcontractor (except small businesses) meeting the dollar thresholds of \$500,000 or \$1,000,000 for the construction of a public facility as appropriate. The County (the prime contractor) cannot alter this requirement. Any subcontractor issuing subcontracts exceeding the thresholds must acquire a subcontracting plan and flowdown the provisions of their subcontracting plan to their lower-tier subcontractors. The following "standard" language shall be included in the plan with the understanding that the contract administrator will be responsible for assuring that the standard clauses are incorporated into appropriate subcontracts and that the subcontractors are obtaining further subcontracting plans as required:

Flowdown of Provisions

The County (contractor) agrees that the clause entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns" will be included in all subcontracts that offer further subcontracting opportunities, and all subcontractors except small business concerns who receive subcontracts in excess of \$500,000 or \$1,000,000 for construction of a public facility will be required to adopt and comply with a subcontracting plan similar to this one. Such plans will be reviewed by comparing them with the provisions of the clause, "Small Business and Small Disadvantaged Business Subcontracting Plan" (FAR 52.219-9), and assuring that all minimum requirements of an acceptable subcontracting plan have been satisfied. The acceptability of percentage and dollar goals shall be determined on a case-by-case basis depending on the supplies/services involved, the availability of potential small and small disadvantaged subcontractors, and prior experience. Once approved and implemented, plans will be monitored through the submission of periodic reports, and/or, as time and availability of funds permit, periodic visits to subcontractors' facilities to review applicable records and subcontracting program progress.

V. REPORTS AND SURVEYS

The County (contractor) will submit Standard Form 294 on a semi-annual basis and Standard Form 295 on an annual basis and agrees to submit such periodic reports and cooperate in any studies or surveys as may be required by the contracting agency (DOE) or the Small Business Administration in order to determine the extent of compliance by the bidder with the subcontracting plan and with the clause entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns" contained in the contract.

VI. RECORDS AND PROCEDURES

The County (contractor) agrees to maintain at least the following types of records to document compliance with this subcontracting plan:

- A. Small and small disadvantaged business concerns source lists, guides and other data identifying SB/SDB vendors;
- B. Organizations contacted for small and disadvantaged business sources;
- C. On a subcontract-by-subcontract basis, records on all subcontract solicitations over \$100,000, indicating on each solicitation (1) whether small business concerns were solicited, and if not, why not; (2) whether small disadvantaged business concerns were solicited, and if not, why not; and (3) reasons for the failure of solicited small or small disadvantaged business concerns to receive the subcontract award;
- D. Records to support other outreach efforts: contacts with minority and small business trade associates, etc., attendance at small and minority business procurement conferences and trade fairs;
- E. Records to support internal activities to guide and encourage buyers: workshops, seminars, training programs, etc., and monitoring activities to evaluate compliance; and
- F. On a subcontract-by-subcontract basis records to support subcontract award data to include name and address of subcontractor.

SB/SDB Sub. Plan
County of Los Alamos
Final 11/12/92

SUBMITTED BY:

Signed: 

Typed Name: James M. Flint

Title: County Administrator

Date: November 12, 1992

PLAN ACCEPTED BY:


Contracting Officer

Date:

PLAN CONCURRED ON BY:

Small and Disadvantaged Business Utilization Specialist

Date:

- END -

**SPECIAL BANK ACCOUNT AGREEMENT
FOR USE WITH THE CHECKS - PAID METHOD
OF LETTER OF CREDIT FINANCING**

SPECIAL BANK ACCOUNT AGREEMENT FOR USE WITH THE
CHECKS-PAID METHOD OF LETTER OF CREDIT FINANCING

This Agreement entered into this _____ day of _____, 19__, between the United States of America (hereinafter called the Government), represented herein by the Department of Energy (hereinafter called the DOE), and [Name of contractor] (hereinafter called the Contractor), a corporation under the laws of the State of [State] and [Name of Bank] (hereinafter called the Bank), a banking corporation under the laws of the State of [State], located at [City and State].

RECITALS

- (a) On the date of _____ 19__, DOE and the Contractor entered into a Contract No. DE-AC04-89ALXXXXX providing for the making of advances of Government funds to the contractor. A copy of such advance provisions has been furnished to the Bank.
- (b) DOE requires that amounts advanced to the Contractor under said Contract be deposited in a Special Bank Account or accounts with a bank designated by the Treasury Department as a depository and financial agent of the Government (Section 10 of the Act of June 11, 1942, 56 Stat. 356; 12 U.S.C. 265), separate from any of the Contractor's general or other funds; and, the Bank being such a bank, the parties are agreeable to so depositing said amounts with the Bank.
- (c) This Special Bank Account(s) shall be designated "[Name of contractor], Contract DE-AC04-89ALXXXXX, Department of Energy Special Bank Account."

COVENANTS

In consideration of the foregoing, and for other good and valuable consideration, it is agreed that:

- (1) The Government shall have title to the credit balance in said Account(s) to secure the return of all advances made to the Contractor, which title shall be superior to any lien or claim of the Bank or others with respect to such Account(s).
- (2) The Bank will be bound by the provisions of said contract between DOE and the Contractor relating to the deposit and withdrawal of funds in the above Special Bank Account(s), but shall not be responsible for the application of funds properly withdrawn from said Account(s). After receipt by the Bank of written directions from DOE, the Bank shall act thereon and shall be under no liability to any party hereto for any action taken in accordance with the said written directions.
- (3) The Government, or its authorized representatives, shall have access to the books and records maintained by the Bank with respect to such Special Bank Account(s) at all reasonable times and for all reasonable purposes, including, without limitation, the inspection or copying of such books and records and any or all memoranda, checks, correspondence, or documents pertaining thereto. Except as agreed upon by the Government and the Bank, all books and records pertaining to the Special Bank Account(s) in the possession of the Bank relating to the Special Bank Account agreement shall be preserved by the Bank for a period of three (3) years after the final payment under the contract to which the Special Bank Account agreement pertains or otherwise disposed of in such manners as may agreed upon by the Government and the Bank.
- (4) In the event of the services of any writ of attachment, levy of execution, or commencement of garnishment proceedings with respect to the Special Bank Account(s), the Bank will promptly notify DOE's Area Manager at [Address of Area Office].

- (5) DOE will issue a Letter of Credit (irrevocable to the extent obligations have been incurred in good faith thereunder by the Contractor) to the Bank for the benefit of the Special Bank Account(s). The Bank agrees to honor upon presentation for payment all checks issued by the Contractor and to restrict its Letter of Credit withdrawals to an amount sufficient to maintain the account balance as close to zero as administratively possible each day.

The Bank will comply with the provisions contained in the Treasury Department Fiscal Requirements Manual (I TFRM 6-2000) which states that ordinarily, payment vouchers (FS-5401) should not be drawn more frequently than daily or for amounts less than \$5,000, and in no case more than \$5,000,000 unless so stated in the Letter of Credit. A copy of said Manual is in the Bank's possession.

The Bank agrees to service the Special Bank Account(s) in consideration of payment by the Contractor for its actual account activity at the "Per Item Cost" shown on the form entitled "Schedule of Bank Processing Charges" incorporated into this Agreement as Attachment A. The Bank agrees that the "Per Item Cost" will remain constant during the term of this Agreement.

- (6) It is anticipated that the bank balance will be zero (-0-). However, if a balance occurs, the Treasury Tax and Loan rate (TT&L) will be used to compute the amount due as follows:

- (a) Assuming a positive balance:

Positive Average Daily Collected Balance times TT&L will be the amount due and payable to the Contractor/DOE.

- (b) Assuming a negative balance:

Negative Average Daily Balance times TT&L will be the amount due and payable to the Bank.

- (7) This Agreement shall be effective from _____, 19__ through _____, 19__, unless earlier terminated as provided in this Agreement.
- (8) The Government, the Contractor, or the Bank may terminate this Agreement at any time upon submitting written notification to the other parties 90 days prior to the desired termination date.
- (9) The Government and the Contractor may terminate this Agreement at any time upon 30 days' notice to the Bank if the Government and/or the Contractor find that the Bank has failed to substantially perform its obligations under this Agreement.
- (10) Notwithstanding the provisions of paragraphs (8) and (9), in the event the contract (referenced in Recital (a)) between the DOE and the Contractor is not renewed or is terminated, this Agreement between the Government, the Contractor and the Bank will automatically be terminated upon the delivery of written notice to the Bank.
- (11) In the event of termination, the Bank agrees to retain the Contractor's Special Bank Account(s) for a 90-day period to allow for clearance of outstanding checks. During this 90-day period, DOE will place on deposit in the Account(s) sufficient funds to cover all outstanding checks presented for payment. During this 90-day period, it is further understood that all bank service charges will be consistent with the amounts reflected in Attachment A to this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed as of the day and year first above written.

THE UNITED STATES OF AMERICA
BY: U.S. DEPARTMENT OF ENERGY

DATE: _____

BY: _____

[Name of Contractor]

DATE: _____

BY: _____

TITLE: _____

[Name of Bank]

DATE: _____

BY: _____

TITLE: _____

CONTRACTOR CORPORATE CERTIFICATE

I, _____, certify that I am the
_____ of the [Name of contractor] named herein, that
_____, who signed this Agreement on behalf of said
corporation, was then _____ of said corporation;
that this Agreement was duly signed for and in behalf of said corporation by
authority of its governing body and is within the scope of its corporate
powers; and that I have set my hand and the seal of the said corporation
hereto on this ____ day of _____, 19__.

TITLE: _____

(SEAL)

BANK CORPORATE CERTIFICATE

[Name of Bank]

I, _____, certify that I am the
_____ of the _____ Bank named
herein, that _____, who signed this Agreement on behalf of
said corporation, was then _____ of said Bank; that
this Agreement was duly signed for and in behalf of said Bank by authority of
its governing body and is within the scope of its corporate powers; and that I
have set my hand and the seal of the said Bank hereto on this ____ day of
_____, 19__.

TITLE: _____

(SEAL)

ATTACHMENT A TO SPECIAL BANK ACCOUNT AGREEMENT

SCHEDULE OF BANK PROCESSING CHARGES

	<u>Per Item Cost</u>
1. Checks Debited	@ _____
2. Stop Payment Orders	@ _____
3. Account Maintenance (Monthly)	@ _____
4. Deposits:	@ _____
a. Deposit Tickets	@ _____
b. Local Items	@ _____
c. Out-of-Town Items	@ _____
5. Reconciliation Services:	
a. Tapes Supplied	@ _____
b. Check Sorting	@ _____
<p>Reconciliation and statement required monthly. Checks supporting each statement to be sorted in numerical sequence by serial number that is magnetically encoded on each check. Monthly bank analyses showing number and amount of transactions with daily ending balances.</p>	
6. Currency Shipments of \$ _____ weekly to be transported by [contractor].	@ _____

BILLING INSTRUCTIONS

**BILLING INSTRUCTIONS
U. S. DEPARTMENT OF ENERGY
ALBUQUERQUE OPERATIONS OFFICE**

- I. These instructions are provided for the use by the Contractor in its preparation and submission of vouchers or invoices requesting reimbursement for costs incurred on negotiated cost-type contracts. Reimbursement procedures related to negotiated cost-type contracts involve the preparation and submission by the Contractor of adequately prepared vouchers to the Government. The submission of vouchers as prescribed herein will reduce correspondence and other causes for delay to a minimum and will thus assure prompt payments to the contractor.

- II. In requesting reimbursement, contractors shall use the Government voucher SF-1034, Public Voucher for Purchases and Services Other Than Personal, or an acceptable substitute which provides the same necessary information as found in Attachment Nos. 1 and 2 to these instructions.

- III. Each SF-1034 voucher will be prepared in an original and three copies. The voucher will be completed in accordance with the following numerical designations: (See Attachment No. 1.)
 - (1) All spaces numbered (1) should be left blank.
 - (2) Date voucher prepared and voucher number. It is suggested that vouchers be sequentially numbered for each contract.
 - (3) Contractor's name and mailing address and phone number.
 - (4) Contract number and date of contract.
 - (5) Where work assignments or task orders are involved in the billing, the number and date of the applicable order will be shown in this space, otherwise leave blank.
 - (6) Identify the period billing covers (i.e., month of January or January-March, 19__).
 - (7) Contract number cited must be the same as the number in the contract document and in item 4 above.
 - (8) Show the dollar amount of this billing. The amount claimed must agree with amount reflected in the detailed summary statement. The amount should be rounded to the nearest whole dollar.
 - (9) Place an X in the appropriate block for the type of payment for which reimbursement is requested.

- IV. Submit an original SF-1034 and three copies with one copy of support documents for travel, nonexpendable equipment and direct labor by category (see Attachment No. 3 for sample format). If, however, the contract specifies a "Principal Investigator" or "Project Manager" by name(s), their time will be reported by the individual name(s). The Certification on Attachment No. 2 must be signed by an authorized official.
- V. Payment of fixed fee. The fixed fee, if any, shall be paid in installments based on the percentage of completion of work, as determined by the Contracting Officer. Fixed fee will not be paid in less than monthly increments. Each voucher containing fixed fee will include a supporting document justifying the fixed fee amount in terms of the percentage of work completed. For level of effort contracts, the hours expended during the period shall be reported.
- VI. At the option of the contractor, payments in excess of \$25,000 can be made using the Treasury Financial Communications System (TFCS). Otherwise, payments will be made by a check mailed to the contractor. The TFCS provides on-line access to the Federal Reserve Communications System (FRCS), enabling your payment to be made to financial institutions that have access to the FRCS. Your payment can also be made to financial institutions that do not have access to the FRCS through correspondent financial institutions or Federal Reserve Banks. If the contractor opts to use the TFCS method of payment, the Payment Information Data Form (Attachment No. 4) should be completed and returned to the DOE to ensure that the DOE has correct TFCS information for making payments to the contractor's financial institution.
- VII. The original voucher and all copies will be mailed to the following address:

U. S. Department of Energy
Albuquerque Operations Office
ATTN: Office Operations Section/FMD
P. O. Box 5400
Albuquerque, NM 87115

An additional copy of each voucher shall be sent to:
Contracting Officer

U. S. Department of Energy
Los Alamos Area Office
528 35th Street
Los Alamos, NM 87544

4 Attachments

1. Standard Form 1034
2. Detailed Backup for SF 1034
3. Instructions for Support Documents
4. TFCS Payment Information Data Form

Standard Form 1034 Revised January 1980 Department of the Treasury IFORM 4-2000 1034-118		PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL				VOUCHER NO (2)			
U.S. DEPARTMENT, BUREAU, OR ESTABLISHMENT AND LOCATION U. S. Department of Energy Albuquerque Operations Office Attn: Office Operations Section/FMD P. O. Box 5400 Albuquerque NM 87115				DATE VOUCHER PREPARED (2)		SCHEDULE NO.			
				CONTRACT NUMBER AND DATE (4)		PAID BY (1)			
				REQUISITION NUMBER AND DATE (1)					
PAYEE'S NAME AND ADDRESS (3)				DATE INVOICE RECEIVED (1)		DISCOUNT TERMS (1)			
				PAYEE'S ACCOUNT NUMBER (1)		GOVERNMENT B L NUMBER (1)			
				SHIPPED FROM (1)		TO (1)		WEIGHT (1)	
				NUMBER AND DATE OF ORDER (5)		DATE OF DELIVERY OR SERVICE (6)		ARTICLES OR SERVICES <i>(Enter description, item number of contract, of Federal supply schedule, and other information deemed necessary.)</i> (7)	
				UNIT PRICE COST PER (1) (1)		AMOUNT (8)			
				FOR REIMBURSEMENT OF COSTS INCURRED UNDER CONTRACT NO. AS DETAILED IN ATTACHED SUMMARY.					
(Use continuation sheet(s) if necessary)				(Payee must NOT use the space below)		TOTAL (8)			
PAYMENT: <input type="checkbox"/> PROVISIONAL <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL (9) <input type="checkbox"/> PROGRESS <input type="checkbox"/> ADVANCE		APPROVED FOR = \$ (1)		EXCHANGE RATE (1) = \$1.00		DIFFERENCES (1)			
		BY:							
						Amount verified, correct for:			
		TITLE (1)				(Signature or initials) (1)			
Pursuant to authority vested in me, I certify that this voucher is correct and proper for payment.									
(1) <i>(Date)</i>		(1) <i>(Authorized Certifying Officer)²</i>		(1) <i>(Title)</i>					
ACCOUNTING CLASSIFICATION									
(1)									
PAID BY	CHECK NUMBER (1)		ON ACCOUNT OF U.S. TREASURY (1)		CHECK NUMBER (1)		ON (Name of bank) (1)		
	CASH \$ (1)		DATE (1)		PAYEE ³ (1)				
						PER (1)			
						TITLE			

The ABC Company
Anywhere, U. S. A. 01234

Contract No. DE-AC04-88ALXXXXX

Obligations: \$XXX,XXX

Voucher No.
Date

Period of Performance:

<u>Cost Categories</u> <u>(as applicable)</u>	<u>Previous</u> <u>Payments</u>	<u>Current</u> <u>Voucher</u> <u>No.</u>	<u>Cumulative</u> <u>Payments</u>	<u>Current Contract Value:</u>	
Direct Labor				Cost	\$XXX,XXX
Fringe Benefits @ %				Fee	X,XXX
Overhead @ %				Total	<u>\$XXX,XXX</u>
Nonexpendable Items					
Materials & Supplies					
Travel					
Subcontract #1 (Jones)					
Subcontract #2 (Smith)					
Other Direct Costs					
Adjustments (Explain)					
G&A @ %					
Subtotal					

Fee @ %
Fee Withheld

Contractor's Portion
(if applicable)

Government's Share
(if applicable)

NOTE: A separate break-out shall be provided for each task if contract is a task order type.

CERTIFICATION: I certify that this invoice is correct and in accordance with the terms of the contract and that the costs included herein have been incurred, represent the payments made by the Contractor except as otherwise authorized in the payments provisions of the contract, and properly reflect the work performed.

(Signature)

(Title)

(NOTE: Attach one copy of support documents as instructed in Attachment No. 3.)

INSTRUCTIONS FOR SUPPORT DOCUMENTS

The purpose of the Support Documents is to allow the DOE technical representative to relate the progress achieved by the contractor to the cost incurred and enhance his ability to manage the program and to enable the Contracting Officer to approve payment in a timely manner. The Support Documents should be presented in enough detail to meet these objectives.

Travel

- (1) a copy of the detailed travel expense report without copies of receipts, tickets, etc.; or
- (2) a listing reflecting the name of the individual, destination, date of departure and return, purpose of trip, and total travel costs incurred.

Nonexpendable Equipment

- (1) listing of nonexpendable equipment purchased to reflect name of vendor, description of item purchased, date purchased, cost and DOE property tag number; or
- (2) a copy of the invoice received from the vendor with the DOE property tag number reflected.

Direct Labor

- (1) listing by name and hours charged to this contract during the billed period; or
- (2) listing by labor category, i.e., Senior Research Scientist, Chemical Engineer, Technician, Draftsman and hours charged to this contract during the billed period.

Subcontracts

- (1) for fixed priced subcontracts, provide a copy of the paid voucher.
- (2) for cost reimbursement subcontracts, provide detail consistent with the prime contract requirements.

**Payment Information Data Form
Treasury Financial Communications System**

Payments under Department of Energy (DOE) contracts may be made by use of electronic funds transfers. The information requested herein concerning your financial institution will be used for that purpose. The information should be available through your company's Treasurer or financial institution.

If your financial institution has access to the Federal Reserve Communications System, please do not complete items 10-13. If your financial institution does not have access to the Federal Reserve Communications System, please complete all items, except item 7.

1. Name of Contractor Company:
2. Contractor Address:
3. Contractor Contact Person:
4. Contractor Contact Person Telephone Number: Area Code ()
5. Name of Financial Institution:
6. Address of Financial Institution:
7. Financial Institution's nine-digit American Bankers Association (ABA) Identifying Number for Routing Transfer of Funds: _____
(Complete only if your Financial Institution has access to the Federal Reserve Communications System.)
8. Telegraphic Abbreviation of Financial Institution:
9. Account Number at your Financial Institution to be credited with the funds:
10. Name of Correspondent Financial Institution your Financial Institution receives electronic funds transfer messages through, if it does not have access to the Federal Reserve Communications System:
11. Address of Correspondent Financial Institution:
12. Correspondent Financial Institution's nine-digit ABA Identifying Number for Routing Transfer of Funds: _____
13. Telegraphic Abbreviation of Correspondent Financial Institution:
14. Signature and Title of Authorizing Company Official:

Signature Title Date

Comments:

WAGE DETERMINATION
U. S. DEPARTMENT OF LABOR

86-0105 (Revision No. 16)
86-0108 (Revision No. 12)
86-0116 (Revision No. 13)

U.S. DEPARTMENT OF LABOR
 EMPLOYMENT STANDARDS ADMINISTRATION
 WAGE AND HOUR DIVISION
 WASHINGTON, D.C. 20210

REGISTER OF WAGE DETERMINATIONS UNDER
 THE SERVICE CONTRACT ACT
 by direction of the Secretary of Labor

Alan L. Moss

Alan L. Moss Director Division of Wage Determinations

LOCALITY	State: New Mexico
	Area: NM COUNTIES: BERNALILLO, CATRON CIBOLA, COLFAX, DE BACA, GUADALUPE, HARDING LOS ALAMOS, MCKINLEY, MORA, RIO ARRIBA SAN JUAN, SAN MIGUEL, SANDOVAL, SANTA FE SOCORRO, TAOS, TORRANCE, VALENCIA

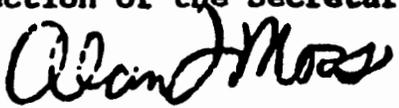
Wage Determination No.: 86-0105 (Rev. 16) Date: 09/18/1991

Class of Service Employees	Minimum Hourly Wage	Fringe Benefit Payments			
		Health & Welfare	Vacation	Holiday	Other

1. Illustrator II	\$ 11.00
2. Illustrator III	\$ 13.76
3. Photographer I	\$ 9.01
4. Photographer II	\$ 11.00
5. Photographer III	\$ 13.76
6. Librarian	\$ 12.78
7. Library Technician	\$ 8.34
8. Technical Information Specialist I	\$ 9.01
9. Technical Information Specialist II	\$ 11.00
10. Technical Information Specialist III	\$ 13.76
11. Laboratory Tester	\$ 9.99
12. Technical Writer	\$ 10.58
13. Drafter I	\$ 6.16
14. Drafter II	\$ 8.10
15. Drafter III	\$ 9.01
16. Drafter IV	\$ 11.00
17. Drafter V	\$ 13.70
18. Technician I 5/	\$ 9.91
19. Technician II 5/	\$ 11.63
20. Technician III 5/	\$ 13.36
21. Instructor	\$ 11.18

U.S. DEPARTMENT OF LABOR
 EMPLOYMENT STANDARDS ADMINISTRATION
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Wage Determination No.: 86-0105 (Rev. 16) Date: 09/18/1991	

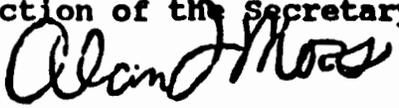
Class of Service Employees	Minimum Hourly Wage	Fringe Benefit Payments			
		Health & Welfare	Vacation	Holiday	Other

Automatic Data Processing Occupations, Information and
 Arts Occupations, Library and Archive Occupations, and
 Technical Occupations:

- | | |
|-------------------------------------|----------|
| 1. Computer Data Librarian | \$ 8.82 |
| 2. Computer Operator I | \$ 7.69 |
| 3. Computer Operator II | \$ 9.86 |
| 4. Computer Operator III | \$ 12.61 |
| 5. Computer Operator IV 1/ | \$ 13.41 |
| 6. Computer Programmer I 1/ | \$ 10.10 |
| 7. Computer Programmer II 1/ | \$ 12.12 |
| 8. Computer Programmer III 1/ | \$ 15.18 |
| 9. Computer Programmer IV 1/ | \$ 18.36 |
| 10. Computer Systems Analyst I 1/ | \$ 13.26 |
| 11. Computer Systems Analyst II 1/ | \$ 15.34 |
| 12. Computer Systems Analyst III 1/ | \$ 18.09 |
| 13. Computer Systems Analyst IV 1/ | \$ 21.69 |
| 14. Key Entry Operator I | \$ 6.08 |
| 15. Key Entry Operator II | \$ 8.03 |
| 16. Peripheral Equipment Operator | \$ 9.27 |
| 17. Exhibits Specialist I | \$ 9.01 |
| 18. Exhibits Specialist II | \$ 11.00 |
| 19. Exhibits Specialist III | \$ 13.76 |
| 20. Illustrator I | \$ 9.01 |

U.S. DEPARTMENT OF LABOR
 EMPLOYMENT STANDARDS ADMINISTRATION
 WAGE AND HOUR DIVISION
 WASHINGTON, D.C. 20210

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LOCALITY	State: New Mexico
	Area: NM COUNTIES: BERNALILLO, CATRON CIBOLA, COLFAX, DE BACA, GUADALUPE, HARDING LOS ALAMOS, MCKINLEY, MORA, RIO ARriba SAN JUAN, SAN MIGUEL, SANDOVAL, SANTA FE SOCORRO, TAOS, TORRANCE, VALENCIA

Wage Determination No.: 86-0105 (Rev. 16) Date: 09/18/1991

Class of Service Employees	Minimum Hourly Wage	Fringe Benefit Payments			
		Health & Welfare	Vacation	Holiday	Other

Fringe benefits applicable to all classes of service employees engaged in contract performance:

2/ 3/ 4/

- 1/ Does not apply to employees employed in a bona fide executive, administrative, or professional capacity as defined and delineated in 29 CFR 541. (See 29 CFR 4.156)
- 2/ HEALTH & WELFARE: \$.74 an hour or \$29.60 a week or \$128.26 a month.
- 3/ VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 10 years; 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present (successor) contractor, wherever employed, and with predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 4.173)
- 4/ HOLIDAYS: 10 paid holidays per year: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.)
- 5/ The Technician classification includes all of the following: Electronics, Electromechanical, Environmental, Instrumentation, Mathematical, Mechanical, and Photo-Optics

NOTE: The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such unlisted classes of employees shall be paid the monetary wages and furnished the fringe benefits as determined. Such conforming procedures shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. A written report of the proposed conforming action, including information regarding the agreement or disagreement of the authorized representative of the employees involved or, where there is no authorized representative, the employees themselves, shall be submitted by the contractor to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work. The contracting officer shall review the proposed action and promptly submit a report of the action, together with the agency's recommendation and all pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6 (b)(2) of Regulations 29 CFR 4)

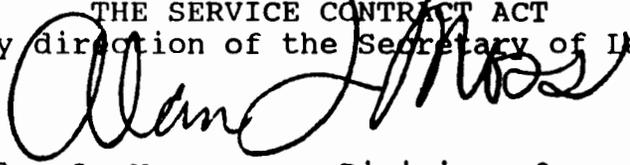
UNIFORM ALLOWANCE: If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.80 a week (or 76 cents a day); and effective April 1, 1991, the rate shall be \$4.25 per week (or \$.85 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

E: The duties of employees under job titles listed are those described in the Service Contract Directory of Occupations, Second Edition, July 1986, unless otherwise indicated. See also 29 Part 4 Section 4.152.

U.S. DEPARTMENT OF LABOR
 EMPLOYMENT STANDARDS ADMINISTRATION
 WAGE AND HOUR DIVISION
 WASHINGTON, D.C. 20210

REGISTER OF WAGE DETERMINATIONS UNDER
 THE SERVICE CONTRACT ACT
 By direction of the Secretary of Labor



Alan L. Moss Division of
 Director Wage Determinations

LOCALITY	State: New Mexico
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Wage Determination No.: 86-0108 (Rev. 12) Date: 09/18/1991

Class of Service Employees	Minimum Hourly Wage	Fringe Benefit Payments			
		Health & Welfare	Vacation	Holiday	Other

Administrative Support and Clerical Occupations:

- | | |
|---|---------|
| 1. Accounting Clerk I | \$ 6.35 |
| 2. Accounting Clerk II | \$ 7.37 |
| 3. Accounting Clerk III | \$ 8.86 |
| 4. Accounting Clerk IV | \$ 9.92 |
| 5. Dispatcher, Motor Vehicle | \$ 6.94 |
| 6. Driver Messenger | \$ 8.52 |
| 7. File Clerk I | \$ 5.49 |
| 8. File Clerk II | \$ 6.25 |
| 9. File Clerk III | \$ 7.50 |
| 10. Audiovisual Services Clerk
(Film/Tape Librarian) | \$ 7.37 |
| 11. Inventory Clerk | \$ 6.94 |
| 12. Mail Clerk | \$ 5.49 |
| 13. Messenger | \$ 5.86 |
| 14. Order Clerk I | \$ 6.96 |
| 15. Order Clerk II | \$ 9.55 |
| 16. Payroll Clerk | \$ 8.48 |
| 17. Production Control Clerk | \$ 9.92 |
| 18. Receptionist | \$ 6.64 |
| 19. Scheduler, Maintenance | \$ 8.20 |
| 20. Secretary I | \$ 8.20 |
| 21. Secretary II | \$ 8.48 |

U.S. DEPARTMENT OF LABOR
 EMPLOYMENT STANDARDS ADMINISTRATION
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Wage Determination No.: 86-0108 (Rev. 12) Date: 09/18/1991

Class of Service Employees	Minimum Hourly Wage	Fringe Benefit Payments			
		Health & Welfare	Vacation	Holiday	Other

22. Secretary III	\$ 10.72
23. Secretary IV	\$ 12.39
24. Secretary V	\$ 12.94
25. Service Order Dispatcher	\$ 6.94
26. Stenographer I	\$ 8.02
27. Stenographer II	\$ 9.24
28. Supply Clerk/Storeworker/ Shelf Stocker/Store Clerk	\$ 6.94
29. Supply Technician	\$ 10.72
30. Switchboard Operator	\$ 6.64
31. Switchboard Operator- Receptionist	\$ 6.64
32. Transcribing-Machine Typist	\$ 8.20
33. Typist I	\$ 6.68
34. Typist II	\$ 7.59
35. Word Processor I	\$ 6.71
36. Word Processor II	\$ 8.36
37. Reservation Agent-in-charge	\$ 12.94
38. Lead Reservation Clerk	\$ 12.39
39. Reservation Clerk	\$ 10.72

NOTE: The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming procedures shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. A written report of the proposed conforming action, including information regarding the agreement or disagreement of the authorized representative of the employees involved or, where there is no authorized representative, the employees themselves, shall be submitted by the contractor to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work. The contracting officer shall review the proposed action and promptly submit a report of the action, together with the agency's recommendation and all pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6 (b)(2) of Regulations 29 CFR 4)

UNIFORM ALLOWANCE: If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.80 a week (or 76 cents a day); and effective April 1, 1991, the rate shall be \$4.25 per week (or \$.85 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

NOTE: The duties of employees under job titles listed are those described in the Service Contract Act Directory of Occupations, Second Edition, July 1986, unless otherwise indicated. See also 29 CFR Part 4 Section 4.152.

***** OCCUPATIONS NOT INCLUDED IN THE SCA DIRECTORY OF OCCUPATIONS *****

RESERVATION AGENT-IN-CHARGE

Develops itineraries for worldwide travel regardless of complexity and, using an airline reservation computer system, arranges reservation and ticketing service to meet business requirements and schedules. Determines authorized and cost effective modes, carriers and routings and arranges rental car service. Is the working supervisor for a travel section consisting of two or more reservation clerks, or may be designated as a site supervisor at a small branch location.

LEAD RESERVATION CLERK

Develops more difficult and unique itineraries for worldwide travel and using an airline reservation computer system, arranges reservation and ticketing service to meet business requirements and schedules. Determines authorized and cost effective modes, carriers and routings and arranges rental car service. Acts as a "trouble shooter" for other reservation clerks and provides guidance and assistance with unusual or difficult routings.

RESERVATION CLERK

Develops relatively routine and less complicated itineraries for worldwide travel and, using an airline reservation computer system, arranges business requirements and schedules. Determines authorized and cost effective modes, carriers and routings and arranges rental car service.

U.S. DEPARTMENT OF LABOR
 EMPLOYMENT STANDARDS ADMINISTRATION
 WAGE AND HOUR DIVISION
 WASHINGTON, D.C. 20210

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 By direction of the Secretary of Labor



Alan L. Moss Division of
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LOCALITY	State: New Mexico
	Area: NM COUNTIES: BERNALILLO, CATRON CIBOLA, COLFAX, DE BACA, GUADALUPE, HARDING LOS ALAMOS, MORA, RIO ARRIBA, SAN JUAN SAN MIGUEL, SANDOVAL, SANTA FE, SOCORRO, TAOS TORRANCE, VALENCIA

Wage Determination No.: 86-0116 (Rev. 13) Date: 09/18/1991

Class of Service Employees	Minimum Hourly Wage	Fringe Benefit Payments			
		Health & Welfare	Vacation	Holiday	Other

Protective Services:

- | | |
|---|---------|
| 1. Court Security Officer | \$ 6.49 |
| 2. Detention Officer/Correction Officer | \$ 6.49 |
| 3. Firefighter | \$ 6.49 |
| 4. Guard I | \$ 5.17 |
| 5. Guard II | \$ 6.49 |
| 6. Police Officer | \$ 6.49 |

Fringe benefits applicable to all classes of service employees engaged in contract performance:

1/ 2/ 3/

1/ HEALTH & WELFARE: Life, accident, and health insurance plans, sick leave, pension plans, civic and personal leave, severance pay, and savings and thrift plans: Employer contributions costing an average of \$2.07 per hour computed on the basis of all hours worked by service employees employed in the contract.

2/ VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 10 years; 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present (successor) contractor, wherever employed, and with predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 4.173)

U.S. DEPARTMENT OF LABOR
 EMPLOYMENT STANDARDS ADMINISTRATION
 WAGE AND HOUR DIVISION
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Wage Determination No.: 86-0116 (Rev. 13) Date: 09/18/1991				
Class of Service Employees	Minimum Hourly Wage	Fringe Benefit Payments		
		Health & Welfare	Vacation	Holiday

3/ HOLIDAYS: 10 paid holidays per year: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.)

OTE: The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such unformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming procedures shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. A written report of the proposed conforming action, including information regarding the agreement or disagreement of the authorized representative of the employees involved or, where there is no authorized representative, the employees themselves, shall be submitted by the contractor to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work. The contracting officer shall review the proposed action and promptly submit a report of the action, together with the agency's recommendation and all pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6 (b)(2) of Regulations 29 CFR 4)

UNIFORM ALLOWANCE: If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.80 a week (or 76 cents a day); and effective April 1, 1991, the rate shall be \$4.25 per week (or \$.85 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

NOTE: The duties of employees under job titles listed are those described in the Service Contract Act Directory of Occupations, Second Edition, July 1986, unless otherwise indicated. See also 29 CFR Part 4 Section 4.152.

CONTRACT NOTIFICATIONS
AND SUBMITTALS

*** CONTRACT NOTIFICATIONS AND SUBMITTALS ***

(FN-NOTSUB.WK1/LOTUS)

DESCRIPTION	REFERENCE	DUE SCHEDULE	NO. OF COPIES
Confidentiality of Information Agreement	Special Contract Requirements (SCR) H.03	Upon request	1 copy
Overtime Approval	SCR H.14	As required, each occurrence	1 copy
Overtime Use Report	SCR H.14	Each occurrence, weekly	1 copy
Cost Voucher, Indirect Costs	SCR H.16.(a) and Contract Clause (CC) 24	Monthly	1 copy
Cost Voucher, Direct Costs	SCR H.16.(d), CC 24	Monthly	1 copy
Fire Department Management Team	SCR, H.18	30 days after award	1 copy
Certificate of Procurement Integrity	CC 7.(b)	Each modification	1 copy
Notification of Intent to Subcontract with Debarred Party	CC 14(c)	Each occurrence	1 copy
Organizational Conflict of Interests	CC 15(b) and SCR, H.21	Each occurrence	1 copy
Release of Information	SCR, H.22	Each occurrence	1 copy
Automatic Data Proc. Eq.	SCR, H.23	Each occurrence	1 copy
Acquisition of Real Property	CC 27	Each occurrence	1 copy
Subcontracting Plan	CC 29	As requested	1 copy
Notice of Labor Disputes	CC 34 and SOW IX.A	Each potential labor dispute	1 copy
Equal Opportunity Pre-award Clearance	CC 37	Each Subcontract over \$1M	1 copy

*** CONTRACT NOTIFICATIONS AND SUBMITTALS ***

(FN-NOTSUB.WK1/LOTUS)

DESCRIPTION	REFERENCE	DUE SCHEDULE	NO. OF COPIES
Employment Report, Vietnam Era Veterans	CC 40	March 31 each year	1 copy Form VETS 100
Paperwork Reduction Act	CC 49(b)	Each occurrence	1 copy
Notice of Patent or Copyright Infringement	CC 53	Each occurrence	1 copy
Insurance-Liability to Third Parties	CC 54	Each occurrence	1 copy
Notice of Suit or Claim That Could be a Cost to Contract	CC 54(g)	Each occurrence	1 copy
Limitation of Funds	CC 59	When costs are expected to exceed 75% of allotted fund in next 60 days	1 copy
Disputes	CC 62	Each occurrence	1 copy
Key Personnel	CC 64	Each change of personnel	1 copy
Continuity of Operations Plan	CC 66	60 days after award of contract	5 copies draft, and final
Notice of Intent to Disallow Costs	CC 67(a)(2)	60 days or less after notice to not allow costs	1 copy
Changes-Cost- Reimbursement	CC 68(c)	30 days after receipt of order	1 copy
Subcontracts	CC 69	Each occurrence, as required	1 copy of all documents
Property Management Program Plan	CC 71 and SOW VI.A	180 days after award of contract	3 copies draft, 1 copy final
Nuclear Hazards Claim	CC 77	Each occurrence	1 copy
Safety and Health	CC 82	30 days after	1 copy draft

*** CONTRACT NOTIFICATIONS AND SUBMITTALS ***

(FN-NOTSUB.WK1/LOTUS)

DESCRIPTION	REFERENCE	DUE SCHEDULE	NO. OF COPIES
Management Program		award of contract	1 copy final
Workplace Substance Abuse Program	CC 85	30 days after award of contract	3 copies draft 1 copy final
Personnel and Equipment Response Procedures	Statement of Work, (SOW) I.B.3	30 days after award of contract	3 copies draft 1 copy final
EMT-I Implementation Plan	SOW I.C.3	30 days after award of contract	3 copies draft 1 copy final
Rescue Services Operating Procedures	SOW, I.C.5	90 days after award of contract.	3 copies draft 1 copy final
Communications and Dispatch Plan	SOW I.D.4	Continuing	3 copies draft 1 copy final
Communications and Dispatch Procedures	SOW I.D.1	120 days after award of contract	3 copies draft 1 copy of final
Contractor's Organization Structure Chart	SOW II.B and C	At award and each change	3 copies draft and final
FTE Levels Overstaffing	SOW II.D	Each occurrence	1 copy
Fire Department Organization Chart/Narrative	SOW II.B	Prior to contract award and as requested by C.O.	3 copies draft and final
Annual Fire Department Budget	SOW III.A	Sept. 30th of each year and updates as requested	1 copy
Budget Overruns	SOW III.A.2	Each occurrence	1 copy
Cost Management System	SOW III.B.1	180 days after award of contract	3 copies draft and final
Monthly Cost Reports	SOW III.B.3	30 calendar days after end of month	1 copy
Personnel Management Plan	SOW IV.	60 days after award of contract	3 copies draft and final
Security Plan	SOW V.	30 days after	3 copies draft

*** CONTRACT NOTIFICATIONS AND SUBMITTALS ***

(FN-NOTSUB.WK1/LOTUS)

DESCRIPTION	REFERENCE	DUE SCHEDULE	NO. OF COPIES
		award of contract	and final
Appointment of Training Officer	SOW VII.A.2	At time of award	1 copy
Fire Department Training Program	SOW VII.A.3.j	60 days after award of contract	3 copies draft 1 copy final
Incident Command System Procedures	SOW VIII.A.3	60 days after award of contract	3 copies draft 1 copy final
Occurrence Reporting Procedures	SOW VIII.B.4	30 days after award of contract	3 copies draft 1 copy final
Occurrence Reports	SOW VIII.B	Each incident within two hours telephone, 24 hr., 10 day and final reports	Telephone and ORPS electror system.
Continuity of Operations Contingency Plan	SOW IX.B	90 days after award of contract	1 copy
Work Stoppage Notice	SOW IX.A	Each occurrence	3 copies draft and final
Pre-Fire Planning Program	SOW X.E	30 days after award of contract	3 copies
Pre-Fire Plans of Facilities	SOW X.D	At time of award and continuing	1 copy
Intent to Enter into Mutual-Aid Agreements	SOW XI.C	Each occurrence	3 copies draft and final
Mutual-Aid Agreements	SOW XI.D	Each occurrence	Copies of data to be provided as requested
Fire Hydrant Flow Testing	SOW XII.A	Reports to be delivered within 30 days of completions of the tests	3 copies draft and final
Procedures for Fire Hydrant Testing	SOW XII.A.3	45 days after award of contract	3 copies draft and final. One copy on PC disk
Operational Procedures	SOW XIII	As completed	



Department of Energy
 Field Office, Albuquerque
 Los Alamos Area Office
 Los Alamos, New Mexico 87544

NOV 30 1992

CONTRACT DISTRIBUTION

Contract No. DE-AC32-93AL64100

	<u>Executed</u>	<u>Conformed</u>
Incorporated County of Los Alamos ATTN: County Administrator P.O. Box 30 Los Alamos, NM 87544	1	
James Gourdoux, LANL, MS-M718		1
Office of the Counsel, LAAO		1
Fire Department Official File	1	
→ Eloy M. Nunez, Fire Dept Contract Mgr., LAAO		1
Alfred Geoffrion, Administrative Branch, LAAO		1
ES&H BRANCH, LAAO		1
AMG/JLB FIRE SUPPRESSION, EMERGENCY MEDICAL AND RESCUE SERVICES, LOS ALAMOS, NEW MEXICO		
Financial Management Division, AL ATTN: Rosemary Herrera	1	

Received _____ Date

Administrative Branch

LA

NOV 26 11: 1

ATTACHMENT 3

**ASSISTANCE AGREEMENT BETWEEN THE DEPARTMENT OF ENERGY
AND THE COUNTY OF LOS ALAMOS
- POLICE DEPARTMENT -**

MEMORANDUM OF UNDERSTANDING

DE-GM32-92AL82509

THE U. S. DEPARTMENT OF ENERGY

AND

THE INCORPORATED COUNTY OF LOS ALAMOS

STATE OF NEW MEXICO

FOR

MUTUAL AID ASSISTANCE

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
UNITED STATES DEPARTMENT OF ENERGY
LOS ALAMOS AREA OFFICE

AND THE

INCORPORATED COUNTY OF LOS ALAMOS, NEW MEXICO

CONCERNING

MUTUAL AID AND EMERGENCY RESPONSE

INTRODUCTION:

THIS MEMORANDUM OF UNDERSTANDING (MOU) is between the United States of America (the Government), Department of Energy (DOE), Los Alamos Area Office (LAAO), and the Incorporated County of Los Alamos, State of New Mexico (County).

WHEREAS, both parties have certain responsibilities for protecting the public; and

WHEREAS, both parties have developed and maintain capabilities to accomplish their respective responsibilities; and

PURPOSE:

WHEREAS, both parties recognize that developing and maintaining a program of mutual assistance will enhance each party's ability to accomplish its responsibilities in a more effective and efficient manner; and

WHEREAS, both parties are willing to enter into this MOU;

AUTHORITY:

WHEREAS, the DOE is authorized to enter into this MOU by Public Law 95-91; and DOE Order 1280.1A, dated November 15, 1991; and

WHEREAS, The County is authorized to enter into this MOU by Article I, Sections 100 and 103 of the Charter for the Incorporated County of Los Alamos, Sections 2.50.020, 2.48.020, 2.16.010 and 2.16.020 of the Los Alamos County Code, the New Mexico Constitution, Art. X, Section 6 and the Community Right to Know Act of 1986 (SARA Title III), Sections 301-303 and Section 12-10-6 NMSA, 1978.

NOW, THEREFORE, it is understood and agreed by the parties that the MOU will be as follows:

MANAGEMENT AND PROGRAM GUIDELINES:

- 1. The DOE will provide assistance to the County, when requested, for the following:**
 - a. Bomb threats, bomb and explosive incidents;**
 - b. Hazardous material emergencies or incidents; and**
 - c. Natural disasters, or "Acts of God," affecting the County.**

The County will provide assistance for emergencies to DOE, when requested, for Los Alamos police assistance, highway maintenance equipment, and use of County buildings and facilities on an as-needed basis.

DOE and County assistance will be rendered to each entity within the incorporated boundary of Los Alamos County and areas outside the County to the extent provided for through other MOUs between the DOE, the County and other jurisdictions.

- 2. Both the DOE and the County reserve the right to determine the extent of the assistance either will render to the other in response to requests for assistance.**
- 3. Mutual Aid Response Procedures will be developed and updated annually, specifying the policies and procedures to be followed in implementing this MOU.**
- 4. The DOE and the County covenant and agree that no claim for compensation will be made against each other for any loss, damage, personal injury, or death occurring in consequence of bomb threat, natural disaster or hazardous material response assistance rendered under this agreement, and all such rights or claims are hereby expressly waived.**
- 5. Notwithstanding any other term, condition or provision of this MOU, nothing contained in this MOU shall in any way alter the County's rights, privileges, immunities or protection under the New Mexico Tort Claims Act, Section 41-4-1, NMSA, 1978.**
- 6. A copy of this MOU will be provided by LAAO to the Los Alamos Police and Fire Departments, the University of California Regents, the DOE Albuquerque Field Office, the Los Alamos Medical Center, the Los Alamos Schools, and the State of New Mexico, after it has been signed by both parties.**

7. This MOU shall not be used to obligate or commit funds or as the basis for the transfer of funds.
8. Subject to the Freedom of Information Act (5 U.S.C. 5520), decisions on disclosure of information to the public regarding this MOU shall be made by DOE following consultation with the County-designated representative.
9. This MOU shall become effective upon the latter date of signature of the parties. It shall remain in effect for a 5-year term from the effective date. It may be terminated by the mutual written agreement of DOE and the County or by either party upon 30-day written notice to the other party.

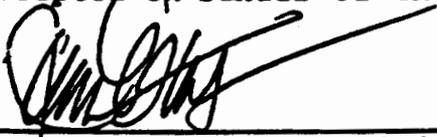
Accepted on Behalf of the DOE by the:



Area Manager, Los Alamos Area Office

Date 1-14-93

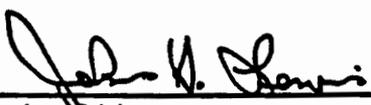
Accepted on Behalf of the County by the:



Los Alamos County Administrator

Date 1-12-93

Approved as to form:



County Attorney
Assistant

Date 1-13-93

ATTACHMENT 4

**AGREEMENTS BETWEEN THE DEPARTMENT OF ENERGY
AND LOCAL MEDICAL CENTERS TO PROVIDE ASSISTANCE**

Agreement No. DE-GM32-86AL37090

PLANNING AGREEMENT
BETWEEN THE LOS ALAMOS AREA OFFICE
U.S. DEPARTMENT OF ENERGY
AND
THE LOS ALAMOS MEDICAL CENTER

This PLANNING AGREEMENT, effective when signed by both parties hereto, is entered into by and between the LOS ALAMOS AREA OFFICE (hereinafter "LAAO") of the UNITED STATES DEPARTMENT OF ENERGY (hereinafter "DOE") and the LOS ALAMOS MEDICAL CENTER (hereinafter "the Hospital"), a nonprofit corporation incorporated in the State of North Dakota.

WITNESSETH THAT:

WHEREAS, LAAO is responsible for establishing and implementing an Emergency Planning, Preparedness, and Response Program for the Los Alamos National Laboratory, which is operated for DOE by the Regents of the University of California (hereinafter "the University"); and

WHEREAS, DOE and the Hospital recognize the need to prepare for radiological emergencies which may affect the employees of DOE, the University, and its subcontractors (hereinafter "Laboratory workers") many of whom are residents of the communities served by the Hospital and that in the event of a

serious radiological or other emergency, DOE may require off-site hospital and medical services to treat injured Laboratory workers; and

WHEREAS, the Hospital is willing to provide hospital and medical services, upon request by DOE, in the event of a radiological or other emergency; and

WHEREAS, the purpose of this Planning Agreement is to establish the framework for cooperation between DOE and the Hospital leading to the provision by the Hospital of hospital and medical facilities in the event of a radiological or other emergency at the Los Alamos National Laboratory; and

WHEREAS, this Planning Agreement is authorized by Public Law 95-91, and other applicable law.

NOW, THEREFORE, the parties hereto agree as follows:

Article I. Statement of Responsibilities

(a) The Hospital agrees to use its best efforts to provide, upon request by DOE, reasonable facilities and such staff physicians, technologists, nurses and related personnel as required for the proper care and treatment of Laboratory workers who are injured in a radiological accident and who may be contaminated with radioactive material. The Hospital also agrees to provide for the care of the dead who may be

contaminated with radioactive material. It is understood that all such facilities and personnel shall be provided subject first to the requirements imposed upon the Hospital by the General Laws of the State of New Mexico for the provision of medical care to the citizenry of the state.

(b) DOE agrees to provide information and training for physicians, technologists, nurses, and related personnel regarding the care and treatment of patients contaminated with radioactive materials. If the Hospital does provide hospital and medical services to DOE as described in this Planning Agreement, DOE shall be responsible for removing from the Hospital for disposal all contaminated and potentially contaminated material.

(c) DOE and the Hospital agree to participate on any working committees that the LAAO Area Manager and the Hospital Administrator determine are necessary for the implementation of this Planning Agreement.

(d) The Hospital is already making available and will continue to make available a space identified as Room 137, the Decontamination Room, pursuant to a separate rental agreement with the University.

Article II. Funding

The details for payment of the services which may be provided by the Hospital will be developed through a specific contract

between DOE and the Hospital and are not covered by this Planning Agreement. DOE and the Hospital agree to cooperate to provide the necessary information to prepare such a contract.

Article III. Management Arrangements

This Planning Agreement envisages direct contact among the LAAO Area Manager; the Hospital Administrator and his designated staff; and the Group Leader, HSE-2, Occupational Medicine Group of the Los Alamos National Laboratory and his designated staff in carrying out the intent of this Planning Agreement. The persons currently occupying the above named positions are set out in Appendix A to this Planning Agreement.

Article IV. Use of Investigational Drugs

(a) One or more drugs designated by the United States Food and Drug Administration (FDA) as investigational may be necessary for the management of patients with internal radiation contamination. Since the Group Leader and the full time physicians on the staff of the Occupational Medicine Group are specifically identified on the applicable Investigational Drug Authorization filed with the FDA to administer these specialized agents, the Laboratory's medical staff shall be accorded the privilege of participating in the care of Laboratory workers admitted to the Hospital in connection with a radiation accident. These privileges apply in particular to the administration of FDA

approved investigational drugs useful in the treatment of internal contamination but are not limited solely to this purpose.

(b) It is understood that drugs designated by FDA as investigational must be administered under conditions of informed consent, and the Hospital agrees to take the necessary steps to develop an acceptable informed consent procedure to avoid unnecessary administrative delay at the time of actual patient care.

Article V. Public Information and Releases

The Hospital shall not discuss with representatives of the news media the details of any radiation accident occurring at the Los Alamos National Laboratory and any such inquiries shall be referred immediately to DOE. DOE shall assume responsibility for notifications required in connection with a radiation accident within the scope of this Planning Agreement.

DOE shall instruct the Hospital on what information can be made public.

Article VI. Security

Nothing in this Planning Agreement authorizes access to or disclosure of classified information required to be protected in accordance with federal law or regulation in the interest of national security. The Hospital agrees to comply with, and to assure that its personnel participating in any training hereunder at the Los Alamos National Laboratory comply with, all applicable

security regulations and requirements of the DOE pertaining to their conduct while on DOE property.

Article VII. Amendment and Termination

This Planning Agreement may be amended by written agreement between LAAO and the Hospital and may be terminated by mutual agreement between LAAO and the Hospital or by either party upon thirty days written notice to the other party.

Articel VIII. Termination

The Planning Agreement shall continue in effect until such time as either LAAO or the Hospital desire its termination.

IN WITNESS WHEREOF, LAAO and the Hospital have executed this Planning Agreement in its several counterparts.

LOS ALAMOS AREA OFFICE

BY:

J. S. Delmon
Area Manager

DATE:

11-29-85

LOS ALAMOS MEDICAL CENTER

BY:

M. J. [Signature]
Administrator

DATE:

11/27/85

Agreement No. DE-GM32-86AL37090

APPENDIX A

Los Alamos Medical Center
Administrator

Glen Bryant

Los Alamos Area Office
Area Manager

Harold E. Valencia

Los Alamos National Laboratory
Group Leader - HSE-2

Dr. Samuel R. Ziegler

PLANNING AGREEMENT
BETWEEN THE LOS ALAMOS AREA OFFICE
U.S. DEPARTMENT OF ENERGY
AND
ST. VINCENT HOSPITAL

This PLANNING AGREEMENT, effective when signed by both parties hereto, is entered into by and between the LOS ALAMOS AREA OFFICE (hereinafter "LAAO") of the UNITED STATES DEPARTMENT OF ENERGY (hereinafter "DOE") and ST. VINCENT HOSPITAL (hereinafter "the Hospital"), a nonprofit corporation incorporated in the State of New Mexico.

WITNESSETH THAT:

WHEREAS, LAAO is responsible for establishing and implementing an Emergency Planning, Preparedness, and Response Program for the Los Alamos National Laboratory, which is operated for DOE by the Regents of the University of California (hereinafter "the University"); and

WHEREAS, DOE and the Hospital recognize the need to prepare for radiological emergencies which may affect the employees of DOE, the University, and its subcontractors (hereinafter "Laboratory workers") many of whom are residents of the communities served by the Hospital and that in the event of a

serious radiological or other emergency, DOE may require off-site hospital and medical services to treat injured Laboratory workers; and

WHEREAS, the Hospital is willing to plan to provide hospital and medical services, upon request by DOE, in the event of a radiological or other emergency; and

WHEREAS, the purpose of this Planning Agreement is to establish the framework for cooperation between DOE and the Hospital leading to the provision by the Hospital of hospital and medical facilities in the event of a radiological or other emergency at the Los Alamos National Laboratory; and

WHEREAS, this Planning Agreement is authorized by Public Law 95-91, and other applicable law.

NOW, THEREFORE, the parties hereto agree as follows:

Article I. Statement of Responsibilities

(a) The Hospital agrees to use its best efforts to plan to provide reasonable facilities and such Hospital staff as required for the proper care and treatment of Laboratory workers who are injured in a radiological accident and who may be contaminated with radioactive material. The Hospital also agrees to plan to provide for the care of the dead who may be

contaminated with radioactive material. It is understood that all such facilities and personnel shall be provided subject first to the requirements imposed upon the Hospital by the General Laws of the State of New Mexico for the provision of medical care to the citizenry of the state.

(b) DOE agrees to provide information and training for physicians, technologists, nurses, and related personnel regarding the care and treatment of patients contaminated with radioactive materials. If the Hospital does provide hospital and medical services to DOE as planned as a result of this Planning Agreement, DOE shall be responsible for removing from the Hospital for disposal all contaminated and potentially contaminated material.

(c) DOE and the Hospital agree to participate on any working committees that the LAO Area Manager and the Hospital President may mutually determine are necessary for the implementation of this Planning Agreement.

Article II. Funding

The details for payment for the services which may be provided by the Hospital will be developed through a specific contract between DOE and the Hospital and are not covered by this Planning Agreement. DOE and the Hospital agree to cooperate to provide the necessary information to prepare such a contract.

Article III. Management Arrangements

This Planning Agreement envisages direct contact among the LAAO Area Manager; the Hospital President or his designee and his designated staff; and the Group Leader, HSE-2, Occupational Medicine Group of the Los Alamos National Laboratory and his designated staff in carrying out the intent of this Planning Agreement. The persons currently occupying the above-named positions are set out in Appendix A to this Planning Agreement.

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(a) One or more drugs designated by the United States Food and Drug Administration (FDA) as investigational may be necessary for the management of patients with internal radiation contamination. Since the Group Leader and the full time physicians on the staff of the Occupational Medicine Group are specifically identified on the applicable Investigational Drug Authorization filed with the FDA to administer these specialized agents, the Laboratory's medical staff shall apply for such medical staff privileges as they may require for participating in the care of Laboratory workers admitted to the Hospital in connection with a radiation accident. Those applied for privileges will apply in particular to the administration of FDA approved investigational drugs useful in the treatment of internal contamination but are not limited solely to this purpose.

(b) It is understood that drugs designated by FDA as investigational must be administered under conditions of informed

consent, and the DOE and the Hospital agree to take the necessary steps to develop an acceptable informed consent procedure to avoid unnecessary administrative delay at the time of actual patient care.

Article V. Public Information and Releases

The Hospital shall not discuss with representatives of the news media the details of any radiation accident occurring at the Los Alamos National Laboratory. DOE shall assume responsibility for notifications required in connection with a radiation accident within the scope of this Planning Agreement.

Article VI. Security

Nothing in this Planning Agreement authorizes access to or disclosure of classified information required to be protected in accordance with federal law or regulation in the interest of national security. The Hospital agrees to comply with, and to assure that its personnel participating in any training hereunder at the Los Alamos National Laboratory comply with, all applicable security regulations and requirements of the DOE pertaining to their conduct while on DOE property; and DOE agrees to expressly inform Hospital and Hospital Personnel of all applicable security regulations and requirements of the DOE pertaining to conduct while on DOE property.

Article VII. Amendment and Termination

This Planning Agreement may be amended by written agreement between LAAO and the Hospital and may be terminated by mutual agreement between LAAO and the Hospital or by either party upon thirty days written notice to the other party.

Article VIII. Termination

The Planning Agreement shall continue in effect until such time as either LAAO or the Hospital desire its termination.

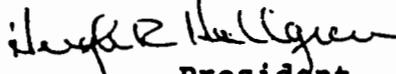
IN WITNESS WHEREOF, LAAO and the Hospital have executed this Planning Agreement in its several counterparts.

LOS ALAMOS AREA OFFICE

BY: 
Area Manager

DATE: June 23, 1986

ST. VINCENT HOSPITAL

BY: 
President

DATE: March 5, 1986

Agreement No. DE-GM32-86AL37093

APPENDIX A

St. Vincent Hospital
President

Hugh Hallgren

Los Alamos Area Office
Area Manager

Harold E. Valencia

Los Alamos National Laboratory
Group Leader - HSE-2

Dr. Samuel R. Ziegler