

SOLICITATION / CONTRACT / ORDER FOR COMMERCIAL ITEMS
OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30

1. REQUISITION NUMBER
 PAGE 1 OF 36

2. CONTRACT NO.
 DTMA2C08012

3. AWARD/EFFECTIVE DATE
 09/25/2008

4. ORDER NUMBER

5. SOLICITATION NUMBER
 DTMA2R080040001

6. SOLICITATION ISSUE DATE
 08/11/2008

7. FOR SOLICITATION INFORMATION CALL:

a. NAME
 Glen Spears

b. TELEPHONE NUMBER (No collect calls)
 (757) 441-3245 ext.

8. OFFER DUE DATE/ 08/19/2008
 LOCAL TIME 2:30 pm

9. ISSUED BY
 DOT/Maritime Administration, SAR Acquisition
 Office of Acquisition, MRG-7200
 7737 Hampton Boulevard, Building 4D, Room 211
 Norfolk, VA 23505
 TEL: (757) 441-3245 ext
 FAX: (757) 441-6080 ext.

CODE 00092

10. THIS ACQUISITION IS
 UNRESTRICTED OR. SET ASIDE: 0.00% FOR.
 SMALL BUSINESS EMERGING SMALL BUSINESS
 HUBZONE SMALL BUSINESS 8(A)
 SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS
 NAICS: 336611
 SIZE STANDARD: Over 1,000

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED
 SEE SCHEDULE

12. DISCOUNT TERMS

13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)

13b. RATING
 14. METHOD OF SOLICITATION
 RFQ IFB RFP

15. DELIVER TO
 DOT/Maritime Administration, South Atlantic Region
 STATE OF MAINE, Maine Maritime Academy
 Castine, ME 04420
 Attn: Joe Poltrack

CODE 7126

16. ADMINISTERED BY
 DOT/Maritime Administration, SAR Acquisition
 Office of Acquisition, MRG-7200, 7737 Hampton Boulevard, Building 4D, Room 211
 Norfolk, VA 23505

CODE 00092

17a. CONTRACTOR/OFFEROR
 CUSTOM SHIP INTERIORS, INC.
 14538 SOLOMONS ISLAND RD
 SOLOMONS, MD 20688-0000
 TELEPHONE NO. (410) 326-9122 ext.

CODE *

FACILITY CODE

18a. PAYMENT WILL BE MADE BY
 DOT/ Enterprise Services Center (ESC) OFO/FAA, Oklahoma City
 MARAD A/P SAR Invoices Branch, AMZ-160 PO Box 25710,
 Oklahoma City, OK 73125

CODE

17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER

18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED
 SEE ADDENDUM

18. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
(Use Reverse and/or Attach Additional Sheets as Necessary)					

25. ACCOUNTING AND APPROPRIATION DATA
 2008 - X1750 - 120 - SM - 6107 - 0 - 0000 - 710000 - - - - 25711 - 6100 - 6600 -

26. TOTAL AWARD AMOUNT (For Govt Use Only)
 \$ 347,756.00

27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA ARE ARE NOT ATTACHED

27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA ARE ARE NOT ATTACHED

28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 1 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.

29. AWARD OF CONTRACT REF. your proposal OFFER DATED 08/14/2008. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:

30a. SIGNATURE OF OFFEROR/CONTRACTOR
Darrell L. Price

31a. UNITED STATES OF AMERICA SIGNATURE OF CONTRACTING OFFICER
Eileen M. Williams

30b. NAME AND TITLE OF SIGNER (Type or print)
 Darrell L. Price, PRESIDENT 9-25-08

31b. NAME OF CONTRACTING OFFICER (Type or print)
 Eileen M. Williams 09/25/2008

SOLICITATION / CONTRACT / ORDER FOR COMMERCIAL ITEMS
OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30

1. REQUISITION NUMBER
 PAGE 1 OF 36

2. CONTRACT NO. DTMA2C08012
 3. AWARD/EFFECTIVE DATE 09/25/2008
 4. ORDER NUMBER
 5. SOLICITATION NUMBER DTMA2R08004/0001
 6. SOLICITATION ISSUE DATE 08/11/2008

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 a. NAME Glen Spears
 b. TELEPHONE NUMBER (No collect calls) (757) 441-3245 ext.
 8. OFFER DUE DATE/ LOCAL TIME 08/19/2008 2:30 pm

9. ISSUED BY DOT/Maritime Administration, SAR Acquisition
 Office of Acquisition, MRG-7200
 7737 Hampton Boulevard, Building 4D, Room 211
 Norfolk, VA 23505
 TEL: (757) 441-3245 ext.
 FAX: (757) 441-6080 ext.
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 HUBZONE SMALL BUSINESS 8(A)
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 STATE OF MAINE, Maine Maritime Academy
 Castine, ME 04420
 Attn: Joe Poltrack
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 TELEPHONE NO.(410) 326-9122 ext.
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 FACILITY CODE
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 MARAD A/P SAR Invoices Branch, AMZ-150 PO Box 25710,
 Oklahoma City, OK 73125
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17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER
 18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED SEE ADDENDUM

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(Use Reverse and/or Attach Additional Sheets as Necessary)					

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 26. TOTAL AWARD AMOUNT (For Govt. Use Only) \$ 347,756.00

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 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA ARE ARE NOT ATTACHED

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 29. AWARD OF CONTRACT: REF. your proposal OFFER
 DATED 08/14/2008. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:

30a. SIGNATURE OF OFFEROR/CONTRACTOR
 31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)

30b. NAME AND TITLE OF SIGNER (Type or print)
 30c. DATE SIGNED
 31b. NAME OF CONTRACTING OFFICER (Type or print) Eileen M. Williams
 31c. DATE SIGNED 09/25/2008

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT

32a. QUANTITY IN COLUMN 21 HAS BEEN

RECEIVED INSPECTED ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE
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32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
	32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE

33. SHIP NUMBER	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT	37. CHECK NUMBER
<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL			<input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	

38. S/R ACCOUNT NUMBER	39. S/R VOUCHER NUMBER	40. PAID BY
------------------------	------------------------	-------------

41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT	42a. RECEIVED BY <i>(Print)</i>
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE
	42b. RECEIVED AT <i>(Location)</i>
	42c. DATE REC'D <i>(YY/MM/DD)</i>
	42d. TOTAL CONTAINERS

Line Item Summary	Document Number DTMA2C08012	Title SOM Stateroom Upgrades	Page 3 of 36
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Total Funding: \$347,756.00

FYs	Fund	Budget Org	Sub	Object Class	Sub	Program	Cost Org	Sub	Proj/Job No.	Sub	Reporting Category
2008	X1750	120	SM	B107	0	0000	710000				
Division	Closed FYs		Cancelled Fund								
25711	6100	6600									

Line Item Number	Description	Delivery Date (Start Date to End Date)	Quantity	Unit of Issue	Unit Price	Total Cost (Includes Discounts)
0001	FURNITURE	(09/29/2008 to 12/28/2008)	1.00	JOB	\$181,627.000	\$ 181,627.00
	See attached Performance Work Statement					
0002	REMOVAL/INSTALLATION - 16 STATEROOMS	(09/29/2008 to 12/28/2008)	1.00	JOB	\$138,129.000	\$ 138,129.00
	See attached Performance Work Statement					
0003	SUPPLEMENTAL GROWTH REQUIREMENTS	(09/29/2008 to 12/28/2008)	0.00	NSP	\$.000	\$ 0.00
	The Government may have supplemental requirements due to emergent or additional work. The Government reserves the right to order any quantity cited in individually priced supplemental work Items. In the event that less than the total quantity of supplement work item is ordered, the Government will decrease the contract amount for the quantity not ordered at the award supplemental item unit price. The COTR will issue a Delivery Order for all growth Items.					
0003AA	SUPPLEMENTAL LABOR	(09/29/2008 to 12/28/2008)	400.00	MH	\$45.000	\$ 18,000.00
	The labor rate offered shall be a yardwide composite labor rate and shall include all management, supervision, overhead, G&A, handling charges, freight and profit. The yardwide composite rate offered by the Contractor shall be binding during the entire period of this Contract for all supplemental work which cannot be accurately described at this time and is not included in other CLIN specifications. The Government may order up to 50 percent more hours than are currently estimated in the CLIN at the same labor rate provided therein.					
0003AB	SUPPLEMENTAL MATERIAL/SUBCONTRACTS	(09/29/2008 to 12/28/2008)	1.00	NTE	\$10,000.000	\$ 10,000.00

Line Item Summary	Document Number DTMA2C08012	Title SOM Stateroom Upgrades	Page 4 of 36
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Total Funding: \$347,756.00

FYs	Fund	Budget Org	Sub	Object Class	Sub	Program	Cost Org	Sub	Proj/Job No.	Sub	Reporting Category
Division	Closed FYs	Cancelled Fund									

Line Item Number	Description	(Start Date to End Date)	Quantity	Unit of Issue	Unit Price	Total Cost (Includes Discounts)
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Total Cost: \$347,756.00

**Contract Level
Funding Summary**

Document Number

DTMA2C08012

Title

SOM Stateroom Upgrades

Page

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2008 - - X1750 - 120 - SM - B107 - 0 - 0000 - 710000 - - - - 25711 - 6100 - 6600 -

\$347,756.00

Total Funding: \$347,756.00

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COMMERCIAL CLAUSES

1 PERFORMANCE WORK STATEMENT

PERFORMANCE WORK STATEMENT STATE OF MAINE STATEROOM CONVERSION AND UPGRADE

Background

It is the Government's intent to upgrade 16 Cadet Staterooms in the ship's aft deck house. In staterooms in which the Contractor is authorized to perform upgrade work, the Contractor shall provide/furnish labor, material, equipment necessary to remove all the existing furniture and provide and install new furniture to accommodate three persons in each stateroom. Each stateroom currently accommodates two persons.

Applicable Performance Standards

1. MARAD Coating Guideline.
2. T.S. STATE OF MAINE, Hot Work Permit Procedure.
3. ABS Rules for Building and Classing Steel Vessels 2005.
4. Stateroom Layout Sketch "A" and "B" with JAMS Sketches.

Work Performance Location

All work shall be accomplished onboard T.S STATE OF MAINE docked at One Water Street, Castine, Maine 04420.

CLIN 0001 FURNITURE - 16 STATEROOMS

NOTE: All required new material/furniture listed is described in terms of Jamestown Metal Marine Sales, Inc. (JMMS), Product or Sketch Number. Contractor shall provide the same or equal product in design, size and material specification.

Upon receipt of contract award, the Contractor shall purchase and deliver, as the Contracting Officer shall require, new furniture and material appropriate for installation in the Staterooms listed in CLIN 0002 as described below:

- 1.) 16 sets, Berth, Triple, 27-3/4 inch x 79-1/2 inch, Style B, Steel, w/lockable Lockers/Drawers and 2 additional individual lee strap for overhead ceiling mounts, w/o EEBD unit, back panel, top/overhead panel on the third bunk. New berth modular shall be JMMS Sketch 346-7 or equal without back and overhead panel on the third bunk, and shall be bulkhead mounted.

Berth Modules shall be provided with following equipment/parts:

48 each, Mattress, Innerspring

48 each, Light, Berth, GB2 5U108, w/Receptacle and switch 48 each 48 each, Shelf, Berth

48 set, Curtain, Berth, Side and End, with track and hardware

- 2.) 48 each, Locker, Clothing, 15"x18"x76", Steel, JMMS Sketch-323-4N MOD.
- 3.) 48 each, Chair, Side, JMMS Sketch- 509-160C.
- 4.) 16 each, Chiffonier, Single, Steel. w/Locks, Top to match Item 6, JMMS Sketch 14-14C.
- 5.) 48 each, Bookrack, Double, 30"w x 11-1/2"d x 20-3/4"h, Steel, JMMS Sketch 30-13-1 C.
- 6.) 12 each, Worktop w/Pencil Drawers, 24"d x 10'0"1, HPPL finish, Bulkhead Mount, and 4 each, Worktop w/Pencil Drawers, 24"d x 87"1, HPPL finish, Bulkhead mount, and 16 each receptacle strips.
- 7.) 48 set, Deck Pad and Tie Down Assy.
- 8.) 16 each, Trash Receptacle, Steel, Round, 6.5 gal, #4028T2.

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9.) 96 each, Hook, Coat and Hat, Bass/Chrome, # 1465A26.

10.) 16 sets, Curtain, Window, 30" x 30" (2 piece curtain, 15"w x 30"h), with Track and Hardware. All window curtains shall be provided with "black-out" lining.

CLIN 0002 REMOVAL/INSTALLATION - 16 STATEROOMS

General. Contractor shall furnish labor, material, services, and equipment to upgrade 16 cadet staterooms in the aft deck house, 01 deck from the current 2-person per stateroom configuration to a new 3-person per stateroom configuration.

The subject staterooms are: 01-111-5, 01-111-6, 01-117-1, 01-117-2, 01-124-1, 01-124-2, 01-128-1, 01-128-2, 01-133-1, 01-133-2, 01-137-1, 01-137-2, 01-141-1, 01-141-2, 01-145-1, and 01-145-2.

Use the attached "SKETCH A" as guidance for the new furniture lay-out for rooms 01-124-1, 01-124-2, 01-128-1, 01-128-2, 01-133-1, 01-133-2, 01-137-1, 01-137-2, 01-141-1, 01-141-2, 01-145-1, and 01-145-2. Upon completion of this contract, these rooms shall look like rooms 01-128-2 and 01-124-2 which have already been upgraded. The Contractor shall be aware that there may be slight variations in the dimensions of these rooms resulting in minor adjustments and/or modifications to the placement of the new furniture. If the placement of the new furniture for these rooms cannot be made identical to rooms 01-128-2 and 01-124-2, the COTR shall be consulted to determine where the new furniture will be placed.

SKETCH A and B nomenclature: 001 – Berthing Module. 002 – Clothing Locker. 004 - Side Chair. 005 – Chiffonier. 006 – Book Rack Double. 007 – Work Table.

Use the attach Sketch "B" as guidance for the new furniture lay-out in Staterooms No. 01-111-5, 01-111-6, 01-117-1 and 01-117-2.

All the other attached JMMS Sketches are for guidance only to purchase the new furniture.

Removal. Beginning two weeks before the new furniture is actually delivered onboard and with specific authorization from the COTR, contractor shall remove all the existing furniture from the group of staterooms specified in this Contract Line Item Number (CLIN). The removal shall include but not be limited to the following inside each stateroom:

1. One set, Double bunk/berth included with mattress, lights and all fittings. Approximately size: 43" x 44" x 83".
2. One each, Desk. Approximately size: 46" x 30" x 31".
3. One each, Chiffonier. Approximately size: 22" x 36" x 40".
4. One each, Clothing Locker. Approximately size: 81" x 24" x 36".
5. Two each, Bunk Lights.
6. One each, Bookrack.
7. One each, Mirror. (Relocate to other location inside the same room).
8. One each, Mirror Light. (Relocate to other location inside the same room).

All the removed furniture shall be inspected by the COTR prior to removal. When it is inspected, all the unwanted excess furniture shall be removed from ship and disposed by the Contractor.

Repair damaged Joiner Panel Bulkheads using sheet metal patching on large areas and repair the small holes and indentations with "Bondo" or equal material faired smooth to match surroundings. Apply new coating on all the repaired areas to match the surrounding surfaces.

Remove the existing deck tiles and borders, install new deck pad and tie down assemblies for the new furniture. Remove all the loose and damaged underlayment material. Clean the exposed steel deck surface, apply new primer coat and install new underlayment over the cleaned steel surface. Provide and install new deck tiles over the prepared / repaired underlayment surfaces. Color and pattern of the new deck tiles shall be selected and approved by COTR. There are approximately 160 sq. ft. of deck tiles and 52 liner ft. of border in each room.

Installation. Once the staterooms are prepared and approved by the COTR for installation of new furniture, Contractor shall unpack the new furniture on dock and rig it to the staterooms for installation. Install the new furniture with contractor furnished new stainless steel fasteners and hardware in accordance to the manufacturer's recommended specification and as per attached "layout sketches."

For each stateroom the Contractor shall provide and install new furniture as follows:

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One set, Triple Berth, JMMS Sketch 346-7 with Mattress, Berth Lights, Receptacle, Switch, Receptacles strip, Berth Shelf, Berth Curtains.
 Three sets, Clothing Locker, JMMS Sketch 323-4N MOD
 Three each, Side Chair, JMMS Sketch 509-160C
 One each, Single Chiffonier, JMMS Sketch 14-14C
 Three each, Double Bookrack, JMMS Sketch 30-13-1C
 One set, Worktop w/Pencil Drawers, 24"D x 10'0"L, HPPL Finish, Bulkhead Mount. Three sets, Deck Pad and Tie Down Assembly
 One each, Trash Receptacle
 Six each, Coat/Head Hook
 One set, Window Curtain.
 One each, Door Hold Back Hook.

Reinstall removed mirror and mirror light. NOTE: If the existing mirror or mirror light is damaged during removal, Contractor shall provide and replace the mirror or mirror light with same size and type of new mirror or mirror light.

Tests. COTR or his designee shall make in-process and final visual inspections, measure for dimensional tolerance and inspect installed lights, electrical outlets and for form, fit and function.

Performance Standard. All work shall be done to the standards of ABS and USCG "Passenger Ship" accommodation stateroom requirements.

All necessary hot work involving welding or burning and other work having certain drilling and grinding operations, electrical work and use of non-intrinsically safe equipment which might produce an incendive sparks in location were hazardous atmosphere might be encountered shall be in accordance with Sub-Section 2.2, "T.S. STATE OF MAINE, Hot Work Permit Procedure."

CLIN 0003 SUPPLEMENTAL GROWTH REQUIREMENTS

The Government may have supplemental requirements due to emergent or additional work. The Government reserves the right to order any quantity cited in individually priced supplemental work Items. In the event that less than the total quantity of supplement work item is ordered, the Government will decrease the contract amount for the quantity not ordered at the award supplemental item unit price. The COTR will issue a Delivery Order for all growth Items.

CLIN 0003AA SUPPLEMENTAL LABOR

The supplemental Labor Rate offered shall be a yardwide composite labor rate and include all management, supervision, overhead, G & A, handling charges, freight, profit, contractor and sub-contractor burden, overtime, quality assurance, delay and disruption, bonding, insurance, etc. The yardwide composite rate offered by the Contractor shall be binding during the entire period of this contract for all supplemental work which can not be accurately described at this time and is not included in other CLIN specification.

CLIN 0003AB SUPPLEMENTAL MATERIAL/SUBCONTRACTS

The allowance for supplemental material is for direct costs only. Any allowance for handling, equipment, profit and overhead is to be included in the associated supplemental labor rate. Supplemental material will be payable to the contractor only to the extent authorized as part of supplemental growth work. Offerors shall use an allowance of \$10,000.00 for this item.

2 INVOICE SUBMISSION INSTRUCTIONS

INVOICE SUBMISSION - MARAD

The Contractor may submit invoices in either electronic or paper format. Electronic submission is preferred.

(1) Electronic invoices shall be addressed to MARADInvoices@faa.gov, with copy to MARADSARInvoices@dot.gov

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Electronic invoices shall conform to the following criteria, or be subject to rejection:

- a. Invoice and supporting documentation shall be in Adobe Acrobat (pdf) format.
- b. The e-mail subject shall include the contract/purchase order number and invoice number.
- c. The transmitting e-mail shall include the following information: Name of the Contractor; Invoice date and number; Invoice amount; Contract number and, if applicable, the order or modification number; Terms of any discount for prompt payment offered; Payment instructions (i.e., financial institution, ABA routing #, account #)

(2) Paper invoices shall be submitted to one of the following addresses. Multiple copies are not required.

MARAD A/P SAR Invoices Branch
AMZ-150
PO Box 25710
Oklahoma City, OK 73125

If a street address is required for delivery (i.e., Federal Express), the following address may be used in lieu of the post office box:
MARAD A/P SAR Invoices Branch
AMZ-150
6500 S MacArthur Blvd.
Oklahoma City, OK 73169

3 PRE-PERFORMANCE CONFERENCE

A CONFERENCE HAS BEEN SCHEDULED FOR 10:00 AM, 31JULY 2008, ONBOARD THE STATE OF MAINE TRAINING SHIP, ONE WATER STREET, CATINE, MAINE, 04420. Contractors are encouraged to attend to review the work site; questions arising from the conference are to be submitted within 48 hours to the Contracting Officer, and answers will be provided in writing in the form of an amendment to the RFP. **POINT OF CONTACT IS MR. Matt O'Donnell for the site visit/preproposal conference. Mr. O'Donnell can be reached via email at Matthew.O'Donnell@dot.gov or via phone at 757-287-2849.**

4 PROPOSAL SUBMISSION INSTRUCTIONS

Proposals shall be submitted in accordance with FAR 52.212-01, "Instructions to Offerors - Commercial Items," inclusive of the following:

1. PRICE

- a. Individual prices for all items listed in the schedule, summed to establish a Total Price.
- b. Proposed delivery schedule in accordance with FAR 52.211-08, "Time of Delivery."

2. PAST PERFORMANCE

- a. Offerors shall provide a list of all contracts, commercial and/or government performed **within the last 3 years** for work similar to the instant procurement, including a brief description, original contract dollar value, completed dollar value, original contract period of performance, completed period of performance, and customer point of contact (address, telephone number and e-mail).
- b. For each contract listed, if applicable, attach a narrative (not to exceed one typewritten page per contract) describing any significant problems experienced during contract performance and corrective action taken, and explaining any significant differences in original versus completed dollar value/period of performance.

3. TECHNICAL / MANAGEMENT PROPOSAL

The following information is required from the offerors:

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a. A narrative explaining the technical approach to completing the work with specific emphasis on how the contractor will comply with the brand name or equal provisions of the solicitation. If the proposal is based on furnishing/installing other than the specific JMMS components described, the contractor must present a basis for establishing that the proposed furnishings are equivalent in terms of color, finish, durability, strength and reliability, and that they can be installed within the available space configuration limitations.

b. A preliminary schedule showing all the major work features.

All presentations and certifications required elsewhere in this solicitation shall be included with the proposal.

5 52.211-08 TIME OF DELIVERY JUNE 1997

(a) The Government requires delivery to be made according to the following schedule:

REQUIRED DELIVERY SCHEDULE

CLINs 0001-0004: Award is expected to be made not later than 10 Sep 2008. While the contractor will be permitted to order furniture for delivery within 30 days immediately upon award, 5 days will be allowed following award for the contract to obtain approval of required insurance certificate, after which work may begin immediately on removals. Installation of all furniture is to be completed within 90 days following award of the contract.

(b) Attention is directed to the Contract Award provision of the solicitation that provides that a written award or acceptance of offer mailed, or otherwise furnished to the successful offeror, results in a binding contract. The Government will mail or otherwise furnish to the offeror an award or notice of award not later than the day award is dated. Therefore, the offeror should compute the time available for performance beginning with the actual date of award, rather than the date the written notice of award is received from the Contracting Officer through the ordinary mails. However, the Government will evaluate an offer that proposes delivery based on the Contractor's date of receipt of the contract or notice of award by adding (1) five calendar days for delivery of the award through the ordinary mails, or (2) one working day if the solicitation states that the contract or notice of award will be transmitted electronically. (The term "working day" excludes weekends and U.S. Federal holidays.) If, as so computed, the offered delivery date is later than the required delivery date, the offer will be considered nonresponsive and rejected.

6 52.211-11 LIQUIDATED DAMAGES--SUPPLIES, SERVICES, OR RESEARCH SEPTEMBER 2000
AND DEVELOPMENT

(a) If the Contractor fails to deliver the supplies or perform the services within the time specified in this contract, the Contractor shall, in place of actual damages, pay to the Government liquidated damages of \$15,000 per calendar day of delay.

(b) If the Government terminates this contract in whole or in part under the Default-Fixed-Price Supply and Service clause, the Contractor is liable for liquidated damages accruing until the Government reasonably obtains delivery or performance of similar supplies or services. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

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

(End of clause)

7 52.212-01 INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS JUNE 2008

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Reserved.

8 52.212-03 OFFEROR REPRESENTATIONS AND CERTIFICATIONS - FEBRUAR
ALT III COMMERCIAL ITEMS - ALTERNATE III Y 2002

Reserved.

9 52.212-04 CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS FEBRUAR
Y 2007

(a) Inspection/Acceptance. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights—

- (1) within a reasonable time after the defect was discovered or should have been discovered; and
- (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) Assignment. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) Disputes. This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-01, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) Definitions. The clause at FAR 52.202-01, Definitions, is incorporated herein by reference.

(f) Excusable delays. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement or any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) Invoice. (1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include-

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, contract line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;

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(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer-Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer-Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) Patent indemnity. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) Payment.-(1) Items accepted. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) Prompt payment. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(3) Electronic Funds Transfer (EFT). If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) Discount. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(j) Risk of loss. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

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

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

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

(l) Termination for the Government's convenience. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) Termination for cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to

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the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) Title. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) Warranty. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) Limitation of liability. Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) Other compliances. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) Compliance with laws unique to Government contracts. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 3701, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity

(s) Order of precedence. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order: (1) the schedule of supplies/services; (2) the Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause; (3) the clause at 52.212-05; (4) addenda to this solicitation or contract, including any license agreements for computer software; (5) solicitation provisions if this is a solicitation; (6) other paragraphs of this clause; (7) the Standard Form 1449; (8) other documents, exhibits, and attachments; and (9) the specification.

(t) Central Contractor Registration (CCR). (1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

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

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

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

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**IMPLEMENT STATUTES OR EXECUTIVE ORDERS--
COMMERCIAL ITEMS.**

**CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS-
COMMERCIAL ITEMS (JUNE 2008)**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(2) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78)

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

X__ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

__ (2) 52.219-3, Notice of Total HUBZone Set-Aside (Jan 1999) (15 U.S.C. 657a).

X__ (3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JULY 2005) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

__ (4) [Reserved]

__ (5)(i) 52.219-6, Notice of Total Small Business Set-Aside (June 2003) (15 U.S.C. 644).

__ (ii) Alternate I (Oct 1995) of 52.219-6.

__ (iii) Alternate II (Mar 2004) of 52.219-6.

__ (6)(i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).

__ (ii) Alternate I (Oct 1995) of 52.219-7.

__ (iii) Alternate II (Mar 2004) of 52.219-7.

X__ (7) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)).

__ (8)(i) 52.219-9, Small Business Subcontracting Plan (Apr 2008) (15 U.S.C. 637(d)(4)).

__ (ii) Alternate I (Oct 2001) of 52.219-9.

__ (iii) Alternate II (Oct 2001) of 52.219-9.

__ (9) 52.219-14, Limitations on Subcontracting (Dec 1996) (15 U.S.C. 637(a)(14)).

__ (10) 52.219-16, Liquidated Damages-Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).

__ (11)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (SEPT 2005) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

__ (ii) Alternate I (June 2003) of 52.219-23.

__ (12) 52.219-25, Small Disadvantaged Business Participation Program-Disadvantaged Status and Reporting (Apr 2008) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

__ (13) 52.219-26, Small Disadvantaged Business Participation Program-Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

__ (14) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004) (15 U.S.C. 657 f).

__ (15) 52.219-28, Post Award Small Business Program Rerepresentation (June 2007) (15 U.S.C. 632(a)(2)).

X__ (16) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

X__ (17) 52.222-19, Child Labor-Cooperation with Authorities and Remedies (Feb 2008) (E.O. 13126).

X__ (18) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

X__ (19) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

X__ (20) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) (38 U.S.C. 4212).

X__ (21) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).

X__ (22) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) (38 U.S.C. 4212).

X__ (23) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201).

__ (24)(i) 52.222-50, Combating Trafficking in Persons (Aug 2007) (Applies to all contracts).

__ (ii) Alternate I (Aug 2007) of 52.222-50.

__ (25)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)).

__ (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).

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__ (26) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007) (42 U.S.C. 8259b).

__ (27)(i) 52.223-16, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (DEC 2007) (E.O. 13423).

__ (ii) Alternate I (DEC 2007) of 52.223-16.

__ (28) 52.225-1, Buy American Act-Supplies (June 2003) (41 U.S.C. 10a-10d).

__ (29)(i) 52.225-3, Buy American Act-Free Trade Agreements-Israeli Trade Act (Aug 2007) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, Pub. L 108-77, 108-78, 108-286, 109-53 and 109-169).

__ (ii) Alternate I (Jan 2004) of 52.225-3.

__ (iii) Alternate II (Jan 2004) of 52.225-3.

__ (30) 52.225-5, Trade Agreements (NOV 2007) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

__ (31) 52.225-13, Restrictions on Certain Foreign Purchases (June 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

__ (32) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

__ (33) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

__ (34) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

__ (35) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

X__ (36) 52.232-33, Payment by Electronic Funds Transfer-Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).

__ (37) 52.232-34, Payment by Electronic Funds Transfer-Other than Central Contractor Registration (May 1999) (31 U.S.C. 3332).

__ (38) 52.232-36, Payment by Third Party (May 1999) (31 U.S.C. 3332).

__ (39) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

X__ (40)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

__ (ii) Alternate I (Apr 2003) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

X__ (1) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

__ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

__ (3) 52.222-43, Fair Labor Standards Act and Service Contract Act-Price Adjustment (Multiple Year and Option Contracts) (Nov 2006) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

__ (4) 52.222-44, Fair Labor Standards Act and Service Contract Act-Price Adjustment (Feb 2002) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

__ (5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (Nov 2007) (41 U.S.C. 351, et seq.).

__ (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements (Nov 2007) (41 U.S.C. 351, et seq.).

__ (7) 52.237-11, Accepting and Dispensing of \$1 Coin (Aug 2007) (31 U.S.C. 5112(p)(1)).

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records-Negotiation.

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

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. 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. 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 finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in paragraphs (i) through (vii) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(i) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

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- (ii) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).
 - (iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) (38 U.S.C. 4212).
 - (iv) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793).
 - (v) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201).
 - (vi) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).
 - (vii) 52.222-50, Combating Trafficking in Persons (Aug 2007) (22 U.S.C. 7104(g)). Flow down required in accordance with paragraph (f) of FAR clause 52.222-50.
 - (viii) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (Nov 2007) (41 U.S.C. 351, et seq.).
 - (ix) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements (Nov 2007) (41 U.S.C. 351, et seq.).
 - (x) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.
- (2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

11 1252.217- SUBCONTRACTS
74

OCTOBER
1994

- (a) Nothing contained in the contract shall be construed as creating any contractual relationship between any subcontractor and the Government. The divisions or sections of the specifications are not intended to control the Contractor in dividing the work among subcontractors or to limit the work performed by any trade.
- (b) The Contractor shall be responsible to the Government for acts and omissions of its own employees, and of subcontractors and their employees. The Contractor shall also be responsible for the coordination of the work of the trades, subcontractors, and material men.
- (c) The Contractor shall, without additional expense to the Government, employ specialty subcontractors where required by the specifications.
- (d) The Government or its representatives will not undertake to settle any differences between the Contractor and its subcontractors, or between subcontractors.

12 52.245-01 PROPERTY RECORDS

JUNE 2007

- (a) Definitions. As used in this clause—
 - “Acquisition cost” means the cost to acquire a tangible capital asset including the purchase price of the asset and costs necessary to prepare the asset for use. Costs necessary to prepare the asset for use include the cost of placing the asset in location and bringing the asset to a condition necessary for normal or expected use.
 - “Cannibalize” means to remove serviceable parts from one item of equipment in order to install them on another item of equipment.
 - “Contractor-acquired property” means property acquired, fabricated, or otherwise provided by the Contractor for performing a contract, and to which the Government has title.
 - “Contractor inventory” means—
 - (1) Any property acquired by and in the possession of a Contractor or subcontractor under a contract for which title is vested in the Government and which exceeds the amounts needed to complete full performance under the entire contract;
 - (2) Any property that the Government is obligated or has the option to take over under any type of contract, e.g., as a result either of any changes in the specifications or plans thereunder or of the termination of the contract (or subcontract thereunder), before completion of the work, for the convenience or at the option of the Government; and
 - (3) Government-furnished property that exceeds the amounts needed to complete full performance under the entire contract.

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(4) “Contractor’s managerial personnel” means the Contractor’s directors, officers, 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 operation at any one plant or separate location; or
- (3) A separate and complete major industrial operation.

“Demilitarization” means rendering a product unusable for, and not restorable to, the purpose for which it was designed or is customarily used.

“Discrepancies incident to shipment” means any differences (e.g., count or condition) between the items documented to have been shipped and items actually received.

“Equipment” means a tangible asset that is functionally complete for its intended purpose, durable, nonexpendable, and needed for the performance of a contract. Equipment is not intended for sale, and does not ordinarily lose its identity or become a component part of another article when put into use.

“Government-furnished property” means property in the possession of, or directly acquired by, the Government and subsequently furnished to the Contractor for performance of a contract.

“Government property” means all property owned or leased by the Government. Government property includes both Government-furnished and Contractor-acquired property.

“Material” means property that may be consumed or expended during the performance of a contract, component parts of a higher assembly, or items that lose their individual identity through incorporation into an end-item. Material does not include equipment, special tooling and special test equipment.

“Nonseverable” means property that cannot be removed after construction or installation without substantial loss of value or damage to the installed property or to the premises where installed.

“Plant equipment” as used in this part, means personal property of a capital nature (including equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items) for use in manufacturing supplies, in performing services, or for any administrative or general plant purpose. It does not include special tooling or special test equipment.

“Precious metals” means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.

“Property” means all tangible property, both real and personal.

“Property Administrator” means an authorized representative of the Contracting Officer appointed in accordance with agency procedures, responsible for administering the contract requirements and obligations relating to Government property in the possession of a Contractor.

“Provide” means to furnish, as in Government-furnished property, or to acquire, as in contractor-acquired property.

“Real property” means land and rights in land, ground improvements, utility distribution systems, and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or plant equipment.

“Sensitive property” means property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that shall be subject to exceptional physical security, protection, control, and accountability. Examples include weapons, ammunition, explosives, controlled substances, radioactive materials, hazardous materials or wastes, or precious metals.

“Surplus property” means excess personal property not required by any Federal agency as determined by the Administrator of the General Services Administration (GSA).

(b) Property management. (1) The Contractor shall have a system to manage (control, use, preserve, protect, repair and maintain) Government property in its possession. The system shall be adequate to satisfy the requirements of this clause. In doing so, the Contractor shall initiate and maintain the processes, systems, procedures, records, and methodologies necessary for effective control of Government property, consistent with voluntary consensus standards and/or industry-leading practices and standards for Government property management except where inconsistent with law or regulation. During the period of performance, the Contractor shall disclose any significant changes to their property management system to the Property Administrator prior to implementation.

(2) The Contractor’s responsibility extends from the initial acquisition and receipt of property, through stewardship, custody, and use until formally relieved of responsibility by authorized means, including delivery, consumption, expending, disposition, or via a completed investigation, evaluation, and final determination for lost, damaged, destroyed, or stolen property. This requirement applies to all Government property under the Contractor’s accountability, stewardship, possession or control, including its vendors or subcontractors (see paragraph (f)(1)(v) of this clause).

(3) The Contractor shall include the requirements of this clause in all subcontracts under which Government property is acquired or furnished for subcontract performance.

(c) Use of Government property. The Contractor shall use Government property, either furnished or acquired under this contract, only for performing this contract, unless otherwise provided for in this contract or approved by the Contracting Officer. The Contractor shall not modify, cannibalize, or make alterations to Government property unless this contract specifically identifies the modifications, alterations or improvements as work to be performed.

(d) Government-furnished property. (1) The Government shall deliver to the Contractor the Government-furnished property described in this contract. The Government shall furnish related data and information needed for the intended use of the property. The warranties of suitability of use and timely delivery of Government-furnished property do not apply to property acquired or fabricated by the Contractor as contractor- acquired property and subsequently transferred to another contract with this Contractor.

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- (2) The delivery and/or performance dates specified in this contract are based upon the expectation that the Government-furnished property will be suitable for contract performance and will be delivered to the Contractor by the dates stated in the contract.
- (i) If the property is not delivered to the Contractor by the dates stated in the contract, the Contracting Officer shall, upon the Contractor's timely written request, consider an equitable adjustment to the contract.
- (ii) In the event property is received by the Contractor, or for Government-furnished property after receipt and installation, in a condition not suitable for its intended use, the Contracting Officer shall, upon the Contractor's timely written request, advise the Contractor on a course of action to remedy the problem. Such action may include repairing, replacing, modifying, returning, or otherwise disposing of the property at the Government's expense. Upon completion of the required action(s), the Contracting Officer shall consider an equitable adjustment to the contract (see also paragraph (f)(1)(ii)(A) of this clause).
- (iii) The Government may, at its option, furnish property in an "as-is" condition. The Contractor will be given the opportunity to inspect such property prior to the property being provided. In such cases, the Government makes no warranty with respect to the serviceability and/or suitability of the property for contract performance. Any repairs, replacement, and/or refurbishment shall be at the Contractor's expense.
- (3) (i) The Contracting Officer may by written notice, at any time—
- (A) Increase or decrease the amount of Government-furnished property under this contract;
- (B) Substitute other Government-furnished property for the property previously furnished, to be furnished, or to be acquired by the Contractor for the Government under this contract; or
- (C) Withdraw authority to use property.
- (ii) Upon completion of any action(s) under paragraph (d)(3)(i) of this clause, and the Contractor's timely written request, the Contracting Officer shall consider an equitable adjustment to the contract.
- (e) Title to Government property. (1) The Government shall retain title to all Government-furnished property. 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.
- (2) Fixed-price contracts. (i) 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.
- (ii) Title to each item of equipment, special test equipment and special tooling acquired by the Contractor for the Government under this contract shall pass to and vest in the Government when its use in performing this contract commences or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.
- (iii) If this contract contains a provision directing the Contractor to purchase material for which the Government will reimburse the Contractor as a direct item of cost under this contract—
- (A) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and
- (B) Title to all other material shall pass to and vest in the Government upon—
- (1) Issuance of the material for use in contract performance;
- (2) Commencement of processing of the material or its use in contract performance; or
- (3) Reimbursement of the cost of the material by the Government, whichever occurs first.
- (3) Title under Cost-Reimbursement or Time-and-Material Contracts or Cost-Reimbursable contract line items under Fixed-Price contracts.
- (i) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract shall pass to and vest in the Government upon the vendor's delivery of such property.
- (ii) Title to all other property, the cost of which is reimbursable to the Contractor, shall pass to and vest in the Government upon—
- (A) Issuance of the property for use in contract performance;
- (B) Commencement of processing of the property for use in contract performance; or
- (C) Reimbursement of the cost of the property by the Government, whichever occurs first.
- (iii) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (e)(3)(iii) (collectively referred to as "Government property"), are subject to the provisions of this clause.
- (f) Contractor plans and systems. (1) Contractors shall establish and implement property management plans, systems, and procedures at the contract, program, site or entity level to enable the following outcomes:
- (i) Acquisition of Property. The Contractor shall document that all property was acquired consistent with its engineering, production planning, and material control operations.
- (ii) Receipt of Government Property. The Contractor shall receive Government property (document the receipt), record the information necessary to meet the record requirements of paragraph (f)(1)(iii)(A)(1) through (5) of this clause, identify as Government owned in a manner appropriate to the type of property (e.g., stamp, tag, mark, or other identification), and manage any discrepancies incident to shipment.
- (A) Government-furnished property. The Contractor shall furnish a written statement to the Property Administrator containing all relevant facts, such as cause or condition and a recommended course(s) of action, if overages, shortages, or damages and/or other discrepancies are discovered upon receipt of Government-furnished property.

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(B) Contractor-acquired property. The Contractor shall take all actions necessary to adjust for overages, shortages, damage and/or other discrepancies discovered upon receipt, in shipment of Contractor-acquired property from a vendor or supplier, so as to ensure the proper allocability and allowability of associated costs.

(iii) Records of Government property. The Contractor shall create and maintain records of all Government property accountable to the contract, including Governmentfurnished and Contractor-acquired property.

(A) Property records shall enable a complete, current, auditable record of all transactions and shall, unless otherwise approved by the Property Administrator, contain the following:

- (1) The name, part number and description, manufacturer, model number, and National Stock Number (if needed for additional item identification tracking and/or disposition).
- (2) Quantity received (or fabricated), issued, and balance-on-hand.
- (3) Unit acquisition cost.
- (4) Unique-item identifier or equivalent (if available and necessary for individual item tracking).
- (5) Unit of measure.
- (6) Accountable contract number or equivalent code designation.
- (7) Location.
- (8) Disposition.
- (9) Posting reference and date of transaction.
- (10) Date placed in service.

(B) Use of a Receipt and Issue System for Government Material. When approved by the Property Administrator, the Contractor may maintain, in lieu of formal property records, a file of appropriately cross-referenced documents evidencing receipt, issue, and use of material that is issued for immediate consumption.

(iv) Physical inventory. The Contractor shall periodically perform, record, and disclose physical inventory results. A final physical inventory shall be performed upon contract completion or termination. The Property Administrator may waive this final inventory requirement, depending on the circumstances (e.g., overall reliability of the Contractor's system or the property is to be transferred to a follow-on contract).

(v) Subcontractor control.

(A) The Contractor shall award subcontracts that clearly identify assets to be provided and shall ensure appropriate flow down of contract terms and conditions (e.g., extent of liability for loss, damage, destruction or theft of Government property).

(B) The Contractor shall assure its subcontracts are properly administered and reviews are periodically performed to determine the adequacy of the subcontractor's property management system.

(vi) Reports. The Contractor shall have a process to create and provide reports of discrepancies; loss, damage, destruction, or theft; physical inventory results; audits and self-assessments; corrective actions; and other property related reports as directed by the Contracting Officer.

(A) Loss, damage, destruction, or theft. Unless otherwise directed by the Property Administrator, the Contractor shall investigate and promptly furnish a written narrative of all incidents of loss, damage, destruction, or theft to the property administrator as soon as the facts become known or when requested by the Government.

(B) Such reports shall, at a minimum, contain the following information:

- (1) Date of incident (if known).
- (2) The name, commercial description, manufacturer, model number, and National Stock Number (if applicable).
- (3) Quantity.
- (4) Unique Item Identifier (if available).
- (5) Accountable Contract number.
- (6) A statement indicating current or future need.
- (7) Acquisition cost, or if applicable, estimated scrap proceeds, estimated repair or replacement costs.
- (8) All known interests in commingled property of which the Government property is a part.
- (9) Cause and corrective action taken or to be taken to prevent recurrence.
- (10) A statement that the Government will receive any reimbursement covering the loss, damage, destruction, or theft, in the event the Contractor was or will be reimbursed or compensated.
- (11) Copies of all supporting documentation.
- (12) Last known location.
- (13) A statement that the property did or did not contain sensitive or hazardous material, and if so, that the appropriate agencies were notified.

(vii) Relief of stewardship responsibility. Unless the contract provides otherwise, the Contractor shall be relieved of stewardship responsibility for Government property when such property is—

(A) Consumed or expended, reasonably and properly, or otherwise accounted for, in the performance of the contract, including reasonable inventory adjustments of material as determined by the Property Administrator; or a Property Administrator granted relief of responsibility for loss, damage, destruction or theft of Government property;

(B) Delivered or shipped from the Contractor's plant, under Government instructions, except when shipment is to a subcontractor or other location of the Contractor; or

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(C) Disposed of in accordance with paragraphs (j) and (k) of this clause.

(viii) Utilizing Government property. (A) The Contractor shall utilize, consume, move, and store Government Property only as authorized under this contract. The Contractor shall promptly disclose and report Government property in its possession that is excess to contract performance.

(B) Unless otherwise authorized in this contract or by the Property Administrator the Contractor shall not commingle Government property with property not owned by the Government.

(ix) Maintenance. The Contractor shall properly maintain Government property. The Contractor's maintenance program shall enable the identification, disclosure, and performance of normal and routine preventative maintenance and repair. The Contractor shall disclose and report to the Property Administrator the need for replacement and/or capital rehabilitation.

(x) Property closeout. The Contractor shall promptly perform and report to the Property Administrator contract property closeout, to include reporting, investigating and securing closure of all loss, damage, destruction, or theft cases; physically inventorying all property upon termination or completion of this contract; and disposing of items at the time they are determined to be excess to contractual needs.

(2) The Contractor shall establish and maintain Government accounting source data, as may be required by this contract, particularly in the areas of recognition of acquisitions and dispositions of material and equipment.

(3) The Contractor shall establish and maintain procedures necessary to assess its property management system effectiveness, and shall perform periodic internal reviews and audits. Significant findings and/or results of such reviews and audits pertaining to Government property shall be made available to the Property Administrator.

(g) Systems analysis. (1) The Government shall have access to the contractor's premises and all Government property, at reasonable times, for the purposes of reviewing, inspecting and evaluating the Contractor's property management plan, systems, procedures, records, and supporting documentation that pertains to Government property.

(2) Records of Government property shall be readily available to authorized Government personnel and shall be safeguarded from tampering or destruction.

(3) Should it be determined by the Government that the Contractor's property management practices are inadequate or not acceptable for the effective management and/or control of Government property under this contract, and/or present an undue risk to the Government, the Contractor shall immediately take all necessary corrective actions as directed by the Property Administrator.

(4) The Contractor shall ensure Government access to subcontractor premises, and all Government property located at subcontractor premises, for the purposes of reviewing, inspecting and evaluating the subcontractor's property management plan, systems, procedures, records, and supporting documentation that pertains to Government property.

(h) Contractor Liability for Government Property.

(1) Unless otherwise provided for in the contract, the Contractor shall not be liable for loss, damage, destruction, or theft to the Government property furnished or acquired under this contract, except when any one of the following applies—

(i) The risk is covered by insurance or the Contractor is otherwise reimbursed (to the extent of such insurance or reimbursement). The allowability of insurance costs shall be determined in accordance with 31.205-19.

(ii) The loss, damage, destruction, or theft is the result of willful misconduct or lack of good faith on the part of the Contractor's managerial personnel. Contractor's managerial personnel, in this clause, means the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of the Contractor's business; all or substantially all of the Contractor's operation at any one plant or separate location; or a separate and complete major industrial operation.

(iii) The Contracting Officer has, in writing, revoked the Government's assumption of risk for loss, damage, destruction, or theft, due to a determination under paragraph

(g) of this clause that the Contractor's property management practices are inadequate, and/or present an undue risk to the Government, and the Contractor failed to take timely corrective action. If the Contractor can establish by clear and convincing evidence that the loss, damage, destruction, or theft of Government property occurred while the Contractor had adequate property management practices or the loss, damage, destruction, or theft of Government property did not result from the Contractor's failure to maintain adequate property management practices, the Contractor shall not be held liable.

(2) The Contractor shall take all reasonable actions necessary to protect the Government property from further loss, damage, destruction, or theft. The Contractor shall separate the damaged and undamaged Government property, place all the affected Government property in the best possible order, and take such other action as the Property Administrator directs.

(3) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss, damage, destruction, or theft of Government property.

(4) 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.

(i) Equitable adjustment. Equitable adjustments under this clause shall be made in accordance with the procedures of the Changes clause. The right to an equitable adjustment shall be the Contractor's exclusive remedy and the Government shall not be liable to suit for breach of contract for the following:

(1) Any delay in delivery of Government-furnished property.

(2) Delivery of Government-furnished property in a condition not suitable for its intended use.

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- (3) An increase, decrease, or substitution of Government-furnished property.
- (4) Failure to repair or replace Government property for which the Government is responsible.
- (j) Contractor inventory disposal. Except as otherwise provided for in this contract, the Contractor shall not dispose of Contractor inventory until authorized to do so by the Plant Clearance Officer.
- (1) Scrap to which the Government has obtained title under paragraph (e) of this clause. (i) Contractor with an approved scrap procedure.
- (A) The Contractor may dispose of scrap resulting from production or testing under this contract without Government approval. However, if the scrap requires demilitarization or is sensitive property, the Contractor shall submit the scrap on an inventory disposal schedule.
- (B) For scrap from other than production or testing the Contractor may prepare scrap lists in lieu of inventory disposal schedules (provided such lists are consistent with the approved scrap procedures), except that inventory disposal schedules shall be submitted for scrap aircraft or aircraft parts and scrap that—
- (1) Requires demilitarization;
- (2) Is a classified item;
- (3) Is generated from classified items;
- (4) Contains hazardous materials or hazardous wastes;
- (5) Contains precious metals; or
- (6) Is dangerous to the public health, safety, or welfare.
- (ii) Contractor without an approved scrap procedure. The Contractor shall submit an inventory disposal schedule for all scrap. The Contractor may not dispose of scrap resulting from production or testing under this contract without Government approval.
- (2) Predisposal requirements. (i) Once the Contractor determines that Contractor-acquired property is no longer needed for contract performance, the Contractor in the following order of priority—
- (A) May contact the Contracting Officer if use of the property in the performance of other Government contracts is practical;
- (B) May purchase the property at the acquisition cost; or
- (C) Shall make reasonable efforts to return unused property to the appropriate supplier at fair market value (less, if applicable, a reasonable restocking fee that is consistent with the supplier's customary practices).
- (ii) The Contractor shall list, on Standard Form 1428, Inventory Disposal Schedule, property that was not used in the performance of other Government contracts under paragraph (j)(2)(i)(A) of this clause, property that was not purchased under paragraph (j)(2)(i)(B) of this clause, and property that could not be returned to a supplier under paragraph (j)(2)(i)(C) of this clause.
- (3) Inventory disposal schedules. (i) The Contractor shall use Standard Form 1428, Inventory Disposal Schedule, to identify—
- (A) Government-furnished property that is no longer required for performance of this contract, provided the terms of another Government contract do not require the Government to furnish that property for performance of this contract;
- (B) Contractor-acquired property, to which the Government has obtained title under paragraph (e) of this clause, which is no longer required for performance of that contract; and
- (C) Termination inventory.
- (ii) The Contractor may annotate inventory disposal schedules to identify property the Contractor wishes to purchase from the Government.
- (iii) Unless the Plant Clearance Officer has agreed otherwise, or the contract requires electronic submission of inventory disposal schedules, the Contractor shall prepare separate inventory disposal schedules for—
- (A) Special test equipment with commercial components;
- (B) Special test equipment without commercial components;
- (C) Printing equipment;
- (D) Information technology (e.g., computers, computer components, peripheral equipment, and related equipment);
- (E) Precious metals;
- (F) Nonnuclear hazardous materials or hazardous wastes; or
- (G) Nuclear materials or nuclear wastes.
- (iv) The Contractor shall describe the property in sufficient detail to permit an understanding of its intended use. Property with the same description, condition code, and reporting location may be grouped in a single line item.
- (4) Submission requirements. The Contractor shall submit inventory disposal schedules to the Plant Clearance Officer no later than—
- (i) 30-days following the Contractor's determination that a Government property item is no longer required for performance of this contract;
- (ii) 60 days, or such longer period as may be approved by the Plant Clearance Officer, following completion of contract deliveries or performance; or
- (iii) 120 days, or such longer period as may be approved by the Termination Contracting Officer following contract termination in whole or in part.
- (5) Corrections. The Plant Clearance Officer may— (i) Reject a schedule for cause (e.g., contains errors, determined to be inaccurate); and (ii) Require the Contractor to correct an inventory disposal schedule.

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- (6) Postsubmission adjustments. The Contractor shall notify the Plant Clearance Officer at least 10 working days in advance of its intent to remove an item from an approved inventory disposal schedule. Upon approval of the Plant Clearance Officer, or upon expiration of the notice period, the Contractor may make the necessary adjustments to the inventory schedule.
- (7) Storage. (i) The Contractor shall store the property identified on an inventory disposal schedule pending receipt of disposal instructions. The Government's failure to furnish disposal instructions within 120 days following acceptance of an inventory disposal schedule may entitle the Contractor to an equitable adjustment for costs incurred to store such property on or after the 121st day. (ii) The Contractor shall obtain the Plant Clearance Officer's approval to remove Government property from the premises where the property is currently located prior to receipt of final disposition instructions. If approval is granted, any costs incurred by the Contractor to transport or store the property shall not increase the price or fee of any Government contract. The storage facility shall be appropriate for assuring the property's physical safety and suitability for use. Approval does not relieve the Contractor of any liability for such property under this contract.
- (8) Disposition instructions. (i) If the Government does not furnish disposition instructions to the Contractor within 45 days following acceptance of a scrap list, the Contractor may dispose of the listed scrap in accordance with the Contractor's approved scrap procedures. (ii) The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of Contractor inventory as directed by the Plant Clearance Officer. If not returned to the Government, the Contractor shall remove and destroy any markings identifying the property as U.S. Government-owned property prior to its disposal. (iii) The Contracting Officer may require the Contractor to demilitarize the property prior to shipment or disposal. In such cases, the Contractor may be entitled to an equitable adjustment under paragraph (i) of this clause.
- (9) Disposal proceeds. As directed by the Contracting Officer, the Contractor shall credit the net proceeds from the disposal of Contractor inventory to the contract, or to the Treasury of the United States as miscellaneous receipts.
- (10) Subcontractor inventory disposal schedules. The Contractor shall require its Subcontractors to submit inventory disposal schedules to the Contractor in accordance with the requirements of paragraph (j)(4) of this clause.
- (k) Abandonment of Government property. (1) The Government shall not abandon sensitive Government property or termination inventory without the Contractor's written consent. (2) The Government, upon notice to the Contractor, may abandon any nonsensitive Government property in place, at which time all obligations of the Government regarding such property shall cease. (3) The Government has no obligation to restore or rehabilitate the Contractor's premises under any circumstances; however, if Government-furnished property is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (i) of this clause may properly include restoration or rehabilitation costs.
- (l) Communication. All communications under this clause shall be in writing.
- (m) Contracts outside the United States. If this contract is to be performed outside of the United States and its outlying areas, the words "Government" and "Government-furnished"(wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

(End of clause)

13 52.245-04 GOVERNMENT-FURNISHED PROPERTY (SHORT FORM) JUNE 2007

[Reserved]

14 1252.217- TITLE OCTOBER
77 1994

- (a) Unless otherwise provided, title to all materials and equipment to be incorporated in a vessel in the performance of this contract shall vest in the Government upon delivery at the location specified for the performance of the work.
- (b) Upon completion of the contract, or with the approval of the Contracting Officer during performance of the contract, all Contractor-furnished materials and equipment not incorporated in, or placed on, any vessel, shall become the property of the Contractor, unless the Government has reimbursed the Contractor for the cost of the materials and equipments.
- (c) The vessel, its equipment, movable stores, cargo, or other ship's materials shall not be considered Government-furnished property.

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15 MCL.H-3 INDEMNITY AND INSURANCE

AUGUST
2005

The Contractor shall indemnify and save and keep harmless the Government against any or all loss, cost, damage, claim, expense or liability whatsoever because of accident or injury to persons or property of others occurring in connection with the operations under this contract. The Contractor shall secure, pay the premiums for and keep in force until the expiration of this contract, and any renewal thereof, adequate insurance. Such insurance to specifically include liability assumed by the Contractor under this contract.

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

A certificate of each policy of insurance shall be furnished to the Contracting Officer prior to Notice to Proceed certifying, among other things, that the policy contains the aforesaid endorsement. The insurance companies providing the above insurance shall be satisfactory to the Government. Notices of policy changes shall be furnished to the Contracting Officer.

The contractor shall provide at the Contractor's expense, within five days of request from the MARAD contracting officer, a copy of all original insurance policies. These may be sent by mail or facsimile machine.

The contractor's policy shall include the language "Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will mail 30 days written notice to the certificate holder named to the left." In addition the following shall be included: "The United States of America is named as an additional insured as respects the SRLL/CGL and Pollution coverages. The policies contain a no recourse clause against the United States for premium payment."

16 MCL.H-4 INDEMNITY AND INSURANCE (ADDITIONAL)

AUGUST
2005

(a) INDEMNITY

(1) The Contractor shall exercise reasonable care and use its best efforts to prevent accidents, injury or damage to all employees, persons and property in and about the work, and to the vessel or portion thereof upon which work is done.

(2) Except as provided elsewhere in this contract, including any guarantee clause, the MARAD assumes the risk of physical loss or damage to any part of the vessel, its machinery, equipment, stores, and other property including cargo if owned by the Government except to the extent that such loss or damage is caused by the negligence, fault, error, act or omission of the Contractor, its subcontractors, agents, or employees. The burden of proving freedom from fault shall be borne by the Contractor. Unless the loss or damage was caused by the willful misconduct of the Contractor, its executive officers, or superintendents the Contractor's liability under this Contract shall not exceed total damage to the ship or ships including total loss up to \$5,000,000 per accident or occurrence per vessel, and shall not exceed in the aggregate per accident or occurrence the sum of total damage to the ship or ships including total loss up to \$5,000,000 multiplied by the number of MARAD's vessels in the care, custody or control of the Contractor at the location and at the time of the accident or occurrence giving to the loss or damage.

(3) As to third parties, including, but not limited to, agents, employees or servants of the Contractor, or any subcontractor, the Contractor will defend, indemnify and hold harmless the Government, the vessel, its owners and charterers, from all claims, actions, suits, costs, demands and expense of all descriptions arising out of disease, illness, personal injury, death or property damage to any third party in any way related to or arising out of the performance of work under this contract except to the extent caused by the fault, error, act or omission, or negligence of the Government, its agencies or employees. The burden of proving fault of the Government, its agencies or employees shall be borne by the Contractor.

(4) As to loss and damage which are the responsibility of the Government, the Government shall be subrogated to any claim, demand, or course of action against third parties which exists in favor of the Contractor, and the Contractor shall, if required, execute a formal assignment or transfer of such claim, demand, or course of action, and shall aid in securing information, evidence, obtaining of witnesses, and cooperate with MARAD in all matters MARAD may deem necessary in defense of any claim, or suit or appeal from

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any judgment or in effecting indemnity, provided, further, that nothing contained in this paragraph shall create or give rise to any right, privilege or power in any person except the Contractor, nor shall any person (except the Contractor) be or become entitled thereby to proceed directly against the Government, its agencies or instrumentalities, or to join the Government, its agencies or instrumentalities, as a codefendant in any action against the Contractor brought to determine the Contractor's liability or for any other purpose.

(b) **TYPES OF INSURANCE AND MINIMUM COVERAGE.** The Contractor shall at its own expense, provide and maintain the following insurances during the entire performance of this contract.

(1) Workmen's Compensation, including Longshoremen & Harbor Worker's Act coverage - Covering all agents, servants, borrowed servants, statutory employees of Contractor for all compensation and other benefits required by applicable state and federal law or by governmental authority on account of injury, death, sickness or disease - Statutory - no minimum.

(2) Employers Liability - to cover both injury and death resulting from accident, sickness or disease - \$5 million bodily injury by accident, each accident - \$5 million bodily injury by disease each accident - \$5 million bodily injury by disease in the aggregate.

(3) Maritime Employers Liability (Jones Act) to cover both injury and death resulting from accident, sickness or disease - \$5 million for each person per occurrence and \$5 million in the aggregate.

(4) Comprehensive General Liability to include coverage for (but not limited to) products and completed operations liability, property damage liability and contractual liability - \$5 million combined single per occurrence limit for bodily injury and property damage and \$5 million in the aggregate.

(5) Ship Repairers Legal Liability - coverage to be provided under the standard London or American Institute forms or their equivalent \$5 million per vessel, per occurrence or such other amount as may be requested.

(6) Pollution - sudden and accidental liability - \$5 Million per occurrence.

(c) All such insurance shall be subject to the approval of the Division of Marine Insurance and will contain thirty (30) calendar days advance notice of cancellation or of any non-renewal which is the option of the insurer, said notice to be provided to the U.S. Maritime Administration, Division of Marine Insurance MAR-710, 1200 New Jersey Ave. SE, Washington, DC 20590.

(d) **FORM OF CONFIRMATION**

(1) The pollution insurance may be a separate policy or part of the Comprehensive General Liability policy, but the coverage must be specifically shown on the required confirmation of insurance. Excess liability and umbrella liability policies may be used in the excess of primary policies to meet the minimum limit requirements. The United States of America shall be an additional assured in the Ship Repairs Legal Liability policy, Comprehensive General Liability Policy and Pollution Policy. Such policies shall contain a clause statement that there is no recourse against the United States of America for payment of premium. All such insurance shall be subject to the approval of the Division of Marine Insurance and must contain thirty (30) calendar days advance notice of cancellation (without disclaimer) or of any non-renewal which is the option of the insurer, said notice to be provided to the U.S. Maritime Administration, Division of Marine Insurance MAR-710, 1200 New Jersey Ave. SE, Washington, DC 20590

(2) The Contractor shall have its insurance broker provide a detailed certificate of insurance, cover note or policy confirming the above required coverage. The confirmation shall name the Contractor and United States of America as assureds and confirm the types of coverage, policy forms, policy periods, deductibles (if any) and underwriters with their percentage of participation. The N.Y. Suable Clause or Service of Suit USA Clause must be confirmed for any Foreign underwriter placements. The policy amounts, terms and conditions, deductibles and underwriters shall at all times be satisfactory to the Maritime Administration.

(e) The contractor shall insert the substance of this clause in subcontracts under this contract that require work on a Government installation.

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(a) The Contractor shall perform work in accordance with the contract, any drawings and specifications made a part of the job order, and any change or modification issued under the Changes clause.

(b)(1) Except as provided in paragraph (b)(2) of this clause, and unless otherwise specifically provided in the contract, all operational practices of the Contractor and all workmanship, material, equipment, and articles used in the performance of work under this contract shall be in accordance with the best commercial marine practices and the rules and requirements of all appropriate regulatory bodies including, but not limited to the American Bureau of Shipping, the U.S. Coast Guard, and the Institute of Electrical and Electronic Engineers, in effect at the time of Contractor's submission of offer, and shall be intended and approved for marine use.

(2) When Navy specifications are specified in the contract, the Contractor shall follow Navy standards of material and workmanship. The solicitation shall prescribe the Navy standard whenever applicable.

(c) The Government may inspect and test all material and workmanship at any time during the Contractor's performance of the work.

(1) If, prior to delivery, the Government finds any material or workmanship is defective or not in accordance with the contract, in addition to its rights under the Guarantee clause, the Government may reject the defective or nonconforming material or workmanship and require the Contractor to correct or replace it at the Contractor's expense.

(2) If the Contractor fails to proceed promptly with the replacement or correction of the material or workmanship, the Government may replace or correct the defective or nonconforming material or workmanship and charge the Contractor the excess costs incurred.

(3) As specified in the contract, the Contractor shall provide and maintain an inspection system acceptable to the Government.

(4) The Contractor shall maintain complete records of all inspection work and shall make them available to the Government during performance of the contract and for 90 days after the completion of all work required.

(d) The Contractor shall not permit any welder to work on a vessel unless the welder is, at the time of the work, qualified to the standards established by the U.S. Coast Guard, American Bureau of Shipping, or Department of the Navy for the type of welding being performed. Qualifications of a welder shall be as specified in the contract.

(e) The Contractor shall--

(1) Exercise reasonable care to protect the vessel from fire;

(2) Maintain a reasonable system of inspection over activities taking place in the vicinity of the vessel's magazines, fuel oil tanks, or storerooms containing flammable materials.

(3) Maintain a reasonable number of hose lines ready for immediate use on the vessel at all times while the vessel is berthed alongside the Contractor's pier or in dry dock or on a marine railway;

(4) Unless otherwise provided in the contract, provide sufficient security patrols to reasonably maintain a fire watch for protection of the vessel when it is in the Contractor's custody;

(5) To the extent necessary, clean, wash, and steam out or otherwise make safe, all tanks under alteration or repair.

(6) Furnish the Contracting Officer a "gas-free" or "safe-for-hotwork" certificate before any hot work is done on a tank;

(7) Treat the contents of any tank as Government property in accordance with the Government Property (Fixed-Price Contracts) clause; and

(8) Dispose of the contents of any tank only at the direction, or with the concurrence, of the Contracting Officer.

(9) Be responsible for the proper closing of all openings to the vessel's underwater structure upon which work has been performed. The contractor additionally must advise the Government of the status of all valve closures and openings for which the contractor's workers were responsible.

(f) Except as otherwise provided in the contract, when the vessel is in the custody of the Contractor or in dry dock or on a marine railway and the temperature is expected to go as low as 35 Fahrenheit, the Contractor shall take all necessary steps to--

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- (1) Keep all hose pipe lines, fixtures, traps, tanks, and other receptacles on the vessel from freezing; and
- (2) Protect the stern tube and propeller hubs from frost damage.
- (g) The Contractor shall, whenever practicable--
 - (1) Perform the required work in a manner that will not interfere with the berthing and messing of Government personnel attached to the vessel; and
 - (2) Provide Government personnel attached to the vessel access to the vessel at all times.
- (h) Government personnel attached to the vessel shall not interfere with the Contractor's work or workers.
 - (i)(1) The Government does not guarantee the correctness of the dimensions, sizes, and shapes set forth in any contract, sketches, drawings, plans, or specifications prepared or furnished by the Government, unless the contract requires that the Contractor perform the work prior to any opportunity to inspect.
 - (2) Except as stated in paragraph (i)(1) of this clause, and other than those parts furnished by the Government, and the Contractor shall be responsible for the correctness of the dimensions, sizes, and shapes of parts furnished under this agreement.
- (j) The Contractor shall at all times keep the site of the work on the vessel free from accumulation of waste material or rubbish caused by its employees or the work. At the completion of the work, unless the contract specifies otherwise, the Contractor shall remove all rubbish from the site of the work and leave the immediate vicinity of the work area "broom clean."

18 52.219-19 SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM

Award is pursuant to FAR Part 19.10, Small Business Competitiveness Demonstration Program.

19 52.219-19 SMALL BUSINESS CONCERN REPRESENTATION FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM OCTOBER 2000

(a) Definition. "Emerging small business" as used in this solicitation, means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the North American Industry Classification System (NAICS) code assigned to a contracting opportunity.

(b) [Complete only if the Offeror has represented itself under the provision at 52.219-1 as a small business concern under the size standards of this solicitation.] The Offeror [] is, [] is not an emerging small business.

(c) [Complete only if the Offeror is a small business or an emerging small business, indicating its size range.]

Offeror's number of employees for the past 12 months [check this column if size standard stated in solicitation is expressed in terms of number of employees] or Offeror's average annual gross revenue for the last 3 fiscal years [check this column if size standard stated in solicitation is expressed in terms of annual receipts]. [Check one of the following.]

No. of Employees Avg. Annual Gross Revenues

___ 50 or fewer ___ \$1 million or less

___ 51 - 100 ___ \$1,000,001 - \$2 million

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- ___ 101 - 250 ___ \$2,000,001 - \$3.5 million
- ___ 251 - 500 ___ \$3,500,001 - \$5 million
- ___ 501 - 750 ___ \$5,000,001 - \$10 million
- ___ 751 - 1,000 ___ \$10,000,001 - \$17 million
- ___ Over 1,000 ___ Over \$17 million

20 1252.223- ACCIDENT AND FIRE REPORTING
71

MAY 2005

(a) The Contractor shall report to the Contracting Officer any accident or fire occurring at the site of the work which causes:

- (1) A fatality or as much as one lost workday on the part of any employee of the Contractor or subcontractor at any tier;
- (2) Damage of \$1,000 or more to Government-owned or leased property, either real or personal;
- (3) Damage of \$1,000 or more to Contractor or subcontractor owned or leased motor vehicles or mobile equipment; or
- (4) Damage for which a contract time extension may be requested.

(b) Accident and fire reports required by paragraph (a) above shall be accomplished by the following means:

- (1) Accidents or fires resulting in a death, hospitalization of five or more persons, or destruction of Government-owned or leased property (either real or personal), the total value of which is estimated at \$100,000 or more, shall be reported immediately by telephone to the Contracting Officer or his/her authorized representative and shall be confirmed by telegram or facsimile transmission within 24 hours to the Contracting Officer. Such telegram or facsimile transmission shall state all known facts as to extent of injury and damage and as to cause of the accident or fire.
- (2) Other accident and fire reports required by paragraph (a) above may be reported by the Contractor using a state, private insurance carrier, or Contractor accident report form which provides for the statement of:
 - (i) The extent of injury; and
 - (ii) The damage and cause of the accident or fire.

Such report shall be mailed or otherwise delivered to the Contracting Officer within 48 hours of the occurrence of the accident or fire.

(c) The Contractor shall assure compliance by subcontractors at all tiers with the requirements of this clause.

(End of clause)

21 MCL.H-7 ENVIRONMENTAL CONCERNS/ASBESTOS
RELATED/HAZARDOUS MATERIALS/ PETROLEUM AND
PETROLEUM PRODUCTS: ENVIRONMENTAL COMPLIANCE

AUGUST
2005

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The Contractor must recognize that MARAD vessels often contain hazardous substances, hazardous materials, petroleum and petroleum products, the handling, removal, storage, transportation and disposal of which is required in the performance of work. Such hazardous substances, hazardous materials, petroleum products include but are not limited to: Asbestos, used in heat and electrical insulation, brake linings, deck covering, boiler refractors, joiner work and other areas; mercury; petroleum products; hydraulic oils; liquid cargo products; lead in marine compounds, products and other areas; chromium; tin in anti-foulants and other areas; zinc; polychlorinated biphenyls (PCBs), found in some electrical cable, rubber gaskets, felt gaskets, thermal insulation material (fiberglass, felt, foam and cork), transformers, capacitors or voltage regulators, switches, reclosers, bushings, electromagnets, adhesives, tapes, oil (leaks, spills as well as electrical equipment, motor, anchor windlasses and hydraulic system containing oil), surface contamination of machinery and other solid surfaces, oil based paint, caulking, rubber isolation mounts, foundation mounts, pipe hangers, light ballasts and plasticizers, and other hazardous substances used aboard ship while in operation and/or in Phase IV maintenance.

In performance of the work by the Contractor, the most recent edition of any applicable statute, regulation, standard, or code shall be in effect. Where a conflict among requirements or specifications exist, the most stringent requirements shall be utilized.

HAZARDOUS SUBSTANCE/HAZARDOUS MATERIALS

The term hazardous substance has the meaning ascribed to it by 42 U.S.C. §9601(14). The term hazardous materials has the meaning ascribed to it by 49 CFR 171.8. The term hazardous material, is as defined for hazardous chemicals in 29 CFR 1910.1200.

Specific Requirement Standards: ASBESTOS

(a) All of the handling, removal, storage, transportation and disposal work shall be done in strict compliance with all applicable Federal, State and local statutes, regulations, standards, and codes governing asbestos, asbestos abatement, asbestos disposal and any other trade work done in conjunction with asbestos abatement including, but not limited to:

(1) Occupational Safety and Health Administration (OSHA):

Title 29, CFR, Section 1910, Occupational Safety and Health Standards

Title 29, CFR, Part 1915, Occupational Safety and Health Standards for Shipyards Employment

Title 29, CFR, Part 1926, Safety and Health Regulations for Construction

Title 29, CFR, Section 1910.1200 Hazard Communication

C Federal Register, dated June 20 and October 17, 1986, Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite; Final Rule. (29 CFR Parts 1910 and 1926)

(2) Environmental Protection Agency (EPA)

Title 40 CFR Part 61, Subparts A and M (revised Subpart B) National Emission Standard for Hazardous Air Pollutants (Asbestos) and Part 763 Asbestos.

Title 40 CFR Part 63, National Emission Standard for Hazardous Air Pollutants Subpart II National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)

(3) Maritime Administration (MARAD)

Action Plan for the Control of Asbestos Exposures and Uses in MARAD Programs.

NOTE: This action plan is available upon written request to:

Maritime Administration,

Office of Management Services, MAR-310

400 Seventh Street, SW., Room 7225

Washington, D.C. 20590

ATTN.: Safety Officer.

OTHER HAZARDOUS MATERIALS AND HAZARDOUS, REGULATED AND SPECIAL WASTES

Safe, proper and lawful handling of hazardous substances, hazardous materials and petroleum products is the Contractor's responsibility whether or not it is identified as such in this contract or any attachment herein. The Contractor must determine for itself whether work specified in this contract requires the handling, removal, storage, transportation or disposal of hazardous substances, hazardous materials, petroleum products, and/or hazardous regulated or special wastes and price the bid or proposal accordingly. If available, MARAD will provide to the Contractor information regarding the existence and amount of any such material. No additional charges required for handling, removal, storage, transportation, or disposal of any hazardous substances, hazardous materials, petroleum products and/or hazardous, regulated or special wastes in the specified work will be allowed after award is made. Except to extent such additional changes result from the existence of hazardous substances, hazardous materials, petroleum products

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and/or hazardous, regulated or special wastes that could not have been reasonably anticipated. In the event of the discovery of such material, a condition report shall be issued. The cost of such additional work will be fixed at the unit price provided in the bid. The work can proceed only upon written approval by the Contracting Officer. Any modification to the contract that increases the requirement for the handling, removal, storage, transportation and disposal of asbestos or other hazardous substances, hazardous materials, petroleum products, and/or hazardous, regulated or special wastes will be included in the agreed cost of the modification of the contract.

All of the handling, removal, storage, transportation and disposal work is to be done in strict compliance with all applicable Federal, State and local regulations, standards, and codes governing environmental compliance, including, but not limited to the following:

1. ENVIRONMENTAL PROTECTION AGENCY (EPA) TITLE 40,
 - Part 50, National Primary and Secondary Ambient Air Quality Standards
 - Part 63 National Emission Standards for Hazardous Air Pollutants Subpart II National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)
 - Part 82, Protection of Stratospheric Ozone
 - Part 110, Discharge of Oil
 - Part 112, Oil Pollution Prevention
 - Part 117, Determination of Reportable Quantities for Hazardous Substances
 - Part 122, EPA Administered Permit Programs: The National Pollutant Discharge Elimination System
 - Part 125, Criteria and Standards for the National Pollutant Discharge Elimination System
 - Part 261, Identification and Listing of Hazardous Waste
 - Part 262, Standards Applicable to Generators of Hazardous Waste
 - Part 279, Standards for the Management of Used Oil
 - Part 300, National Oil and Hazardous Substance Pollution Contingency Plan
 - Part 302, Designation, Reportable Quantities, and Notification
 - Part 355, Emergency Planning and Notification
 - Part 370, Hazardous Chemical Reporting: Community Right-to-Know
 - Part 372, Toxic Chemical Release: Community Right-to-Know
 - Part 761, Polychlorinated Biphenyls Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions
 - Part 763, Asbestos

2. COAST GUARD (USCG) TITLE 33 CFR,
 - Part 153, Control of Pollution by Oil and Hazardous Substances, Discharge Removal
 - Part 154, Facilities Transferring Oil or Hazardous Material in Bulk
 - Part 156, Oil and Hazardous Material Transfer Operations

3. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) Title 29 CFR,
 - Part 1910, Occupational Safety and Health Standards
 - Part 1915, Occupational Safety And Health Standards for Shipyard employment
 - Part 1926, Occupational Safety and Health Regulations for Construction

4. RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION (RSPA) TITLE 49 CFR,
 - Subchapter C, Hazardous Materials Regulations

The Contractor shall be required to demonstrate a through knowledge of and satisfactory record of compliance with all applicable Federal, State and local environmental statutes, regulations, standards, codes and guidelines governing environmental compliance as part of the pre-award survey.

The Contractor shall be responsible as the generator of all hazardous, solid, regulated and special waste that results from activities of the Contractor under this agreement. The Contractor is required to arrange for transportation and disposal of regulated waste generated during the ship's operational period if required by this contract. The Contractor shall be responsible for all permitting, reporting, transporting, documenting and /or disposing of said wastes and for obtaining all appropriate Environmental Protection Agency Identification Numbers and permits and/or state or local equivalent. In addition, the contractor shall be responsible for:

- (a) conducting required laboratory testing;
- (b) maintaining any and all required records;
- (c) filing any and all reports required by Federal, State or local statute, regulation, standard or guidelines to be filed by the Generator of such waste or the holder of such permits, or numbers; and,
- (d) complying with all applicable Federal, State and local statutes, regulations standards, codes, or guidelines.

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The Contractor shall provide all documentation to the COTR pertaining to the sampling, analysis, storage, transportation and disposal of all wastes generated during the contract.

22 52.233-02 SERVICE OF PROTEST

SEPTEMBER
2006

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer, Milton G. Spears, by obtaining written and dated acknowledgment of receipt from U.S Department of Transportation, Maritime Administration, Bldg. 4D, Room 211, Norfolk, VA 23505.

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

23 MCL.L-2 AGENCY PROTESTS

AUGUST
2005

(a) Prior to submission of an agency protest, all parties shall use their best efforts to resolve concerns raised by an interested party at the Contracting Officer level through open and frank discussions. At any time the Contracting Officer and Protestor are encouraged to employ the use of alternative dispute resolution techniques to resolve the protest. When this cannot be accomplished interested parties may submit an agency protest to the Contracting Officer set forth in the Service of Protest provision of this solicitation.

(b) Protests based on alleged apparent improprieties in a solicitation shall be filed before bid opening or the closing date for receipt of proposals. In all other cases, protests shall be filed no later than 10 days after the basis of protest is known or should have been known, whichever is earlier.

(c) Protests shall include the following information. Failure to substantially include any of the following may be grounds for dismissal of the protest.

- (i) Name, address, and fax and telephone numbers of the protester.
- (ii) Solicitation or contract number.
- (iii) Detailed statement of the legal and factual grounds for the protest, to include a description of resulting prejudice to the protester.
- (iv) Copies of relevant documents.
- (v) Request for a ruling by the agency.
- (vi) Statement as to the form of relief requested.
- (vii) All information establishing that the protester is an interested party for the purpose of filing a protest.
- (viii) All information establishing the timeliness of the protest.

(d) Upon receipt and review of the protest to determine that adequate information is contained therein, the Contracting Officer will acknowledge receipt of the protest and inform the protester of the expected decision date. The Contracting Officer shall render a decision on the protest within 30 calendar days or notify the protestor of an extended decision date.

(e) Upon receipt of the Contracting Officer's decision, the protestor may appeal the decision within 15 calendar days of decision receipt. The appeal will result in an independent review of the protest by the Head of the Contracting Activity, the Associate Administrator for Administration. The Head of the Contracting Activity will impartially review the protest as presented, taking into consideration all of the available information, and render a decision. To the extent permitted by law and regulation, the Head of the Contracting Activity shall request relevant information from both parties. The Head of the Contracting Activity will render a decision on the appeal within 15 calendar days of receipt. Agency appellate review of the Contracting Officer's decision on the protest will not extend GAO's timeliness requirements. Therefore, any subsequent protest to the GAO must be filed within 10 days of knowledge of initial adverse agency action (4 CFR 21.2(a)(3)).

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debts, obligations, or charges upon the credit of the vessel or against the United States of America or its agents, servants, or employees.

(e) Although it is not intended that the Contractor shall have the power to incur such liens, the Contractor shall immediately discharge or cause to be discharged any lien or right in remedy of any kind, whether incurred by the Contractor or its subcontractors, other than in favor of the Maritime Administration, which at any time exists or arises in connection with the work done or materials furnished under this contract.

(f) If any lien or right in remedy is not immediately discharged, MARAD may discharge or cause to be discharged such lien or right in remedy at the expense of the Contractor. MARAD shall have the right to recoup or setoff such funds from any monies owing to the Contractor from any other MARAD contract or any other Government contract. Should a question exist whether there is a valid lien or right in remedy, among other rights, MARAD shall have the right to retain such funds as security without interest.

(g) From the start of work under this contract the Contractor shall cause a notice, reading as follows (or containing such other information as may be approved by MARAD), in plain type and of such size that the reading matter shall cover a space of at least 2 feet wide by 2 feet high in weather resistant paint to be placed and maintained by the gangway and shall read as follows:

"NOTICE TO SUBCONTRACTORS, MATERIALMEN, AND LABORERS

This vessel is owned by the United States of America, acting by and through the Maritime Administration.

The Contractor, and all persons acting by, (prime contractor), at the direction of, or on behalf of the Contractor (including, without limitation, any subcontractors) have no right, power, or authority whatsoever to create, incur, or permit to be placed or imposed any lien or right in remedy of any kind upon any vessel upon which work is being performed under this Agreement. The Contractor, its agents, servants, and employees, have no authority, either express or implied, to pledge the credit of said vessel."

(h) At the option of MARAD, the Contracting Officer may require that as a condition either for entry upon a vessel of the MARAD by any subcontractor or in order for any subcontractor to provide necessities to a vessel of the MARAD, that such subcontractor shall on behalf of itself, its agents, subcontractors, servants, and employees, and all persons acting by, at the direction of, or on behalf of such subcontractor waive its right to any maritime lien as well as any right in remedy of any kind based upon a maritime lien theory, upon or against any vessel upon which work has been, is being, or will be performed under this contract or against the United States of America or its agents, servants, and employees, known or unknown. The foregoing clause shall not prevent such subcontractor's right, if any, to proceed under the Contract Disputes Act.

(i) The foregoing clause shall not deprive MARAD of any of the rights or remedies which it has under the common law.

27 MCL.H-13 SUPERVISION

AUGUST
2005

The Contractor shall provide at all times the quantity and quality of supervision necessary for the effective and efficient management of the operation. All supervisors shall have an intimate knowledge of the various tasks, equipment, and materials so as to be able to properly train and direct the workers in their individual tasks and to maintain and control an effective operation.

28 1252.217- GUARANTEE
70

MAY 2005

(a) In the event any work performed or materials furnished by the contractor prove defective or deficient within 60 days from the date of redelivery of the vessel(s), the Contractor, as directed by the Contracting Officer and at its own expense, shall correct and repair the deficiency to the satisfaction of the Contracting Officer.

(b) If the Contractor or any subcontractor has a guarantee for work performed or materials furnished that exceeds the 60 day period, the Government shall be entitled to rely upon the longer guarantee until its expiration.

(c) With respect to any individual work item identified as incomplete at the time of redelivery of the vessel(s), the guarantee period shall run from the date the item is completed.

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(d) If practicable, the Government shall give the Contractor an opportunity to correct the deficiency.

(1) If the Contracting Officer determines it is not practicable or is otherwise not advisable to return the vessel(s) to the Contractor, or the Contractor fails to proceed with the repairs promptly, the Contracting Officer may direct that the repairs be performed elsewhere, at the Contractor's expense.

(2) If correction and repairs are performed by other than the Contractor, the Contracting Officer may discharge the Contractor's liability by making an equitable deduction in the price of the contract.

(e) The Contractor's liability shall extend for an additional 90 day guarantee period on those defects or deficiencies that the Contractor corrected.

(f) At the option of the Contracting Officer, defects and deficiencies may be left uncorrected. In that event, the Contractor and Contracting Officer shall negotiate an equitable reduction in the contract price. Failure to agree upon an equitable reduction shall constitute a dispute under the Disputes clause of this contract.

(End of clause)

29 MCL.H-2 SUPPLEMENTAL WORK REQUESTS

AUGUST
2005

(a.) In the complex world of ship repairs, supplemental work often emerges as a result of test, inspection, or discovery of unknown or otherwise differing conditions. The extent and nature of such supplemental work can neither be identified in bid or proposal specifications, and both parties recognize the possibility that such work may arise. Notwithstanding the possibility of the identification of such work, MARAD does not guarantee the award of any supplemental work during contract performance.

(b.) Although MARAD shall be under no obligation to award supplemental work during contract performance, MARAD has provided an estimate for labor (in labor hours) and material (in dollars) for such work in the Schedule B, the applicable supplemental work contract line item. The offeror shall specify an hourly composite billing rate in its proposal for supplemental work labor. The composite labor-billing rate shall be the rate applicable to labor for all supplemental work that MARAD orders under the resulting contract. Any supplies or subcontracts required to complete supplemental work will be charged as a direct cost reimbursable under the applicable supplemental work CLIN; **ADDITIONAL INDIRECT CHARGES FOR MATERIALS AND SUBCONTRACTS WILL NOT BE ALLOWED.**

(c.) During the performance of the contract, when conditions indicate a need for supplemental work, the Contracting Officer's Technical Representative (COTR) is empowered to provide technical direction, negotiate the amount of labor and material, and authorize the contractor to perform supplemental work through the issuance of a written authorization. The COTR will issue authorizations for supplemental work in accordance with the following:

(1.) When conditions make supplemental work appropriate, the COTR shall submit to the contractor a supplemental work request that identifies the work to be accomplished.

(2.) The Contractor shall promptly review each supplemental work request upon receipt and shall, within seventy-two (72) hours of issuance, or sooner, as specified by the COTR, provide the COTR with a proposed price for the supplemental work. Price proposals for all supplemental work must be broken down by labor hours, materials, and subcontracts and allocated to the applicable supplemental work CLIN as appropriate. The contractor shall price the supplemental work to be performed in accordance with the composite labor rate bid or proposed under the supplemental work CLIN in the contract. If necessary, the Contractor shall submit prices for subcontractors, which will be negotiated and treated as direct materials. Once the COTR and contractor agree on the technical direction and price to accomplish the supplemental work, the contractor and COTR shall sign the authorization for supplemental work, which shall be final and binding on the contractor and MARAD. Subject to paragraphs (c.) (3.) through (c.) (6.), if urgent circumstances do not permit waiting for a written authorization, the parties may orally agree and follow up with written confirmation.

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(3.) Notwithstanding the preceding, the COTR shall not authorize and the contractor shall not accept individual supplemental work authorizations from the COTR in excess of the price ceiling established by the Contracting Officer pursuant to paragraph (d.)(10.). In addition, the COTR shall not authorize and the contractor shall not accept a supplemental work authorization from the COTR that, when combined with all previously authorized supplemental work under the contract, exceeds the amount of labor hours and materials specified in the applicable supplemental work CLINs.

(4.) If the contractor requests an adjustment to the contract completion date in its proposal for the supplemental work, the COTR must refer the issue to the Contracting Officer for resolution, which could include modifying the performance period of the contract. All supplemental work must be accomplished within the contract performance period. The COTR shall not authorize and the contractor shall not accept supplemental work authorizations from the COTR that cannot be completed within the contract performance period.

(5.) If the COTR and contractor cannot agree upon the price, the time required, or any other term of a supplemental work request, the matter shall be referred to the Contracting Officer who may resolve the issue in accordance with the procedures contained in the Changes clause incorporated in the contract. Specifically, the Contracting Officer shall have the option of (i) directing that the Contractor perform the work at a price and within a time period determined by the Contracting Officer to be reasonable, or (ii) withdrawing said supplemental work request. The Contractor's refusal to perform the work as directed by the Contracting Officer shall constitute an event of default under the default clauses of the contract. Disputed issues resulting from supplemental work unilaterally directed by the Contracting Officer may be handled under the disputes clause of the contract.

(6.) If the Contracting Officer directs the Contractor to perform the work at a price and within a time period determined by the Contracting Officer to be reasonable, the Contractor shall maintain and submit to MARAD on a daily basis, report sheets itemizing materials used, the costs and man hours of all labor (direct, indirect, and impact), production schedule activities affected by and/or related thereto, and charges for equipment, whether furnished by the Contractor, subcontractors or others. Material charges shall be substantiated by valid copies of materials and/or suppliers invoices. Such invoices shall be submitted with the daily report sheets or, if not available, as soon as reasonably practicable thereafter. Said daily reports shall also include an indication as to which specific schedule activity(ies) are affected by the order which are the subject of the daily report sheets. To the extent the contractor fails or refuses to submit the aforementioned daily report sheets on a daily basis, such failure or refusal shall constitute a basis for the Contracting Officer to suspend payment for work completed under the supplemental work until appropriate documentation required by the contract is provided.

(d.) The following rules apply to supplemental work authorizations:

(1.) The COTR shall authorize supplemental-work only during the period of performance of the contract.

(2.) All authorizations for supplemental work are subject to the terms and conditions of the contract and must be within the scope of the contract.

(3.) If mailed, an authorization is considered "issued" when MARAD deposits the order in the mail. Authorizations may also be issued orally, or by written communications, that is hand-delivered or sent by facsimile or electronic transmission. Oral orders must be followed up by written confirmation as soon as practicable thereafter.

(4.) Unless otherwise explicitly noted in the authorization for supplemental work, all authorizations for supplemental work are firm fixed price. The agreed upon price shall cover all costs including, but not limited to, direct and indirect labor and material, overhead, delay, acceleration, and disruption caused by the supplemental work. Where the parties are unable to agree that an order establishes mutually agreeable terms, the parties shall note the specific differences that are not agreed upon in the text of the proposed work authorization and refer the matter to the Contracting Officer for resolution pursuant to paragraph (c.)(5.).

(5.) Unless the contractor otherwise explicitly notes in the supplemental work authorization, in consideration of the price of the order, the Contractor remises, releases, and forever discharges MARAD, its officers, agents, employees, and sureties from any and all civil claims and requests for equitable adjustment whatsoever, relating to, arising out of, or connected with said supplemental work authorization. Such release is full and final settlement of all claims and requests for equitable adjustment relating to, arising out of, or connected with the work authorization, as modified, including, but not limited to, all impact claims such as delay, acceleration, disruption, and cumulative effects of the instant and all previously issued supplemental work authorizations. The executed work authorization constitutes a complete and final adjustment of the price and the delivery schedule.

(6.) When MARAD requires supplies or services covered by the contract in an amount less than the total value of the contract, MARAD is not obligated to award supplemental work for the balance of the price bid or proposed for supplemental work. The Contractor is not obligated to honor additional supplemental work in excess of the estimated labor hours identified in the Schedule. This subparagraph does not affect or change the Contracting Officer's authority under the changes clause of the contract.

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(7.) Except for limitations of labor hours estimated in the Schedule, there is no limit to the number of supplemental work authorizations that may be issued. MARAD may issue supplemental work authorizations requiring delivery or performance in multiple locations, if the contract contemplates multiple locations.

(8.) In the event a supplemental work authorization covers a series of related procedures, the Contracting Officer may request the Contractor to furnish separate prices for each item of the work.

(9.) If not otherwise provided, the Contracting Officer may request at any time during performance of supplemental work a list of subcontractors performing work covered by the supplemental work, the dollar value of the respective subcontracts, and a description of the subcontracted work, and the contractor shall promptly provide the requested information.

(10.) The COTR shall not issue and the contractor shall not accept supplemental work authorizations from the COTR that exceeds \$5,000.