

<b>SOLICITATION, OFFER AND AWARD</b>		<b>1. This Contract Is A Rated Order Under DPAS (15 CFR 700)</b>	<b>Rating</b> DOA6	<b>Page</b> 1 of 57
<b>2. Contract No.</b>	<b>3. Solicitation No.</b> W52P1J-04-R-0128	<b>4. Type of Solicitation</b> Negotiated (RFP)	<b>5. Date Issued</b> 2004MAY04	<b>6. Requisition/Purchase No.</b> SEE SCHEDULE
<b>7. Issued By</b> HQ AFSC AMSF5-CCA-LB ROCK ISLAND, IL 61299-6000  BLDG 350 & 390		<b>Code</b> W52P1J	<b>8. Address Offer To (If Other Than Item 7)</b>	

**SOLICITATION** NOTE: In sealed bid solicitations 'offer' and 'offeror' mean 'bid' and 'bidder'.

**9. Sealed offers in original and 1 signed copies for furnishing the supplies or services in the Schedule will be received at the place specified in item 8, or if handcarried, in the depository located in \_\_\_\_\_ until 03:00pm (hour) local time 2004JUN04 (Date).**

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

<b>10. For Information Call:</b>	<b>Name</b> CHRIS THOMPSON <b>E-mail address:</b> THOMPSONC2@OSC.ARMY.MIL	<b>Telephone No. (Include Area Code) (NO Collect Calls)</b> (309) 782-4345
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**OFFER (Must be fully completed by offeror)**

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

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

**13. Discount For Prompt Payment**   
(See Section I, Clause No. 52.232-8)

<b>14. Acknowledgment of Amendments (The offeror acknowledges receipt of amendments to the Solicitation for offerors and related documents numbered and dated:</b>	<b>Amendment Number</b>	<b>Date</b>	<b>Amendment Number</b>	<b>Date</b>

<b>15A. Contractor/Offeror/Quoter</b>	<b>Code</b>	<b>Facility</b>	<b>16. Name and Title of Person Authorized to Sign Offer (Type or Print)</b>
<b>15B. Telephone Number (Include Area Code)</b>	<b>15C. Check if Remittance Address is</b> <input type="checkbox"/> Different From Blk 15A- Furnish Such Address In Offer		<b>17. Signature</b>
			<b>18. Offer Date</b>

**AWARD (To be completed by Government)**

<b>19. Accepted As To Items Numbered</b>	<b>20. Amount</b>	<b>21. Accounting And Appropriation</b>	
<b>22. Authority For Using Other Than Full And Open Competition:</b> <input type="checkbox"/> 10 U.S.C. 2304(c)( ) <input type="checkbox"/> 41 U.S.C. 253(c)( )		<b>23. Submit Invoices To Address Shown In</b> (4 copies unless otherwise specified) 	<b>Item</b>
<b>24. Administered By (If other than Item 7)</b>	<b>Code</b>	<b>25. Payment Will Be Made By</b>	<b>Code</b>
SCD PAS ADP PT			
<b>26. Name of Contracting Officer (Type or Print)</b>		<b>27. United States Of America</b>  _____ /SIGNED/ (Signature of Contracting Officer)	<b>28. Award Date</b>

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

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MOD/AMD

**Name of Offeror or Contractor:**

## SECTION A - SUPPLEMENTAL INFORMATION

For Local Clauses See: <http://www.osc.army.mil/ac/aais/ioc/clauses/index.htm>

	<u>Regulatory Cite</u>	<u>Title</u>	<u>Date</u>
A-1	52.215-4501 LOCAL	ARSENALS AS SUBCONTRACTORS	JUN/2000
A-2	AMC	AMC-LEVEL PROTEST PROGRAM	DEC/2000

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(End of clause)

(AM7010)

A-3	52.252-4500 LOCAL	FULL TEXT CLAUSES	SEP/1997
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1. This contract incorporates one or more clauses and provisions by reference, with the same force and effect as if they were set forth in full text. Upon request the Contracting Officer will make their full text available.

2. The entire body of full text regulatory and command unique clauses and provisions will no longer be included in solicitations or contracts. These clauses and provisions have the same force and effect as if the entire full text was included in the solicitation/contract. Where text has been incorporated by reference three astericks are put in its place (\*\*\*).

3. You can view or obtain a copy of the clauses and provisions on the internet at: [www.osc.army.mil/ac/aais/ioc/clauses/index.htm](http://www.osc.army.mil/ac/aais/ioc/clauses/index.htm). Click on command unique first to locate the clause. If it is not located under command unique click on regulatory to find.

4. All full text clauses have a 6 or 7 as the third digit of the clause number (i.e. AS7000).

(End of clause)

(AS7001)

ITEMS: M29 Fin, M28 Fin, M24 Fin

1. This acquisition is to compete the M29, M28 and M24 Fin requirements under the following terms and conditions:

a. Small Business Set Aside

b. The basic requirement will cover FY04 with three year options to cover (FY04 Residual Plus-Ups and FY05-FY07 Requirements/Plus Up.

c. The following Best Value Criteria will be used to evaluate the proposals:

(1) Technical Factor

(2) Past Performance Factor

(3) Management Factor

(4) Price/Cost Factor

(Note: For evaluation purposes Technical Factor is the most important factor. Past Performance Factor is significantly less important than Technical Factor. The Management Factor is somewhat less important than the Past Performance. Price/Cost is somewhat less important than the Management Factor. Technical Factor, Past Performance Factor and Management Factor when combined, are significantly more important than Price/Cost Factor.)

d. The offeror shall fabricate and deliver fins using the mandatory documents listed in the Statement of Work.

e. F.O.B. Destination to: SR W0K4 USA OSC Pine Bluff Arsenal  
Bldg 23330 Consol Prop Office  
Dexter Gate

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**Name of Offeror or Contractor:**

Pine Bluff, AR 71602-9500

f. First Article Test is required

g. It is the Government's intent to award without discussions.

2. See attached "Schedule B" sheet for all information regarding Item, Quantities, Delivery Terms. Please insert your unit price in the appropriate blocks.

3. Disclosure of Unit Prices - Unless the offeror notifies the contracting officer, prior to submission of its initial proposal, of an objection to disclosure of its unit price, it is the Government's intent to publicly release (which would include, but is not limited to, a public award synopsis, contractor debrief, procurement history web posting, or Freedom of Information Act (FOIA) request) the unit price(s) stated in the contract awarded under this solicitation. Any objection must be submitted in writing, providing a detailed explanation of how release of the awarded unit price would result in a substantial competitive harm to the contractor. Objections will be reviewed to determine whether harm has been substantiated. Failure to timely notify the contracting officer waives any objection to disclosure of the unit price. A "unit price" is defined as the specified amount to be paid by the government for the goods or services stated per unit, contract line item or separately identified contract deliverable. The term "unit price" does not include any information on how the unit price was determined. This constitutes notification pursuant to Execute Order 12600.

\*\*\* END OF NARRATIVE A 001 \*\*\*

CONTINUATION SHEET

Reference No. of Document Being Continued  
PIIN/SIIN W52PlJ-04-R-0128 MOD/AMD

Name of Offeror or Contractor:

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS  M29 FIN  SECURITY CLASS: Unclassified  SEE ATTACHED SHEET FOR SCHEDULE B INFORMATION  (End of narrative B001)			\$ _____	\$ _____

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**Name of Offeror or Contractor:**

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SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

SECTION C

See attached STATEMENT OF WORK DATED 8 April 2004 listed in SECTION "J".

\*\*\* END OF NARRATIVE C 001 \*\*\*

**Name of Offeror or Contractor:**

SECTION D - PACKAGING AND MARKING  
PACKAGING AND MARKING

## D.1 DETAILED PRESERVATION, PACKAGING, PACKING, AND MARKING

D.1.1 Item nomenclatures for the fins are: Fin Assy, M24 (11726889)  
Fin, Mortar, Ctg 81mm M28 (9327831)  
Fin, Mortar, Ctg 81mm M29 (9381586)

## D.1.2 Detailed Preservation, Packaging, and Packing Requirements

The contractor shall prepare all items for shipment as detailed in the following documents:

Fin, Mortar Ctg, 81mm, M28 and M29 in accordance with ASTM D3951

Fin, Mortar Ctg, 81mm, M24 in accordance with Dwg 9268007

## D.2 DETAILED UNITIZATION REQUIREMENTS

The contractor is to unitize as detailed in the following documents:

Fin, Mortar Ctg, 81mm, M28 and M29 in accordance with ASTM D3951

Fin, Mortar Ctg, 81mm M24: Shipments of identical items going to the same destination shall be palletized if they have a total cubic displacement of 50 cubic feet or more unless skids or other forklift handling features are included on the containers. Pallet loads must be stable, and to the greatest extent possible, provide a level top for ease of stacking. A palletized load shall be of a size to allow for placement of two loads high and wide in a conveyance. The weight capacity of the pallet must be adequate for the load. The preferred commercial expendable pallet is a 40 x 48 inch, 4-way entry pallet although variations may be permitted as dictated by the characteristics of the items being unitized. The load shall be contained in a manner that will permit safe handling during shipment and storage.

## D.3 DETAILED MARKING REQUIREMENTS

The contractor shall mark shipments as detailed in the following documents:

Fin, Mortar Ctg, 81mm, M28 and M29 in accordance with ASTM D3951

Fin, Mortar Ctg, 81mm, M24 in accordance with Dwg 9268007

In addition, each box shall be marked to identify the contract number and item number. Marking location shall be such that it does not impair legibility of any other required marking, and that it is visible on a least 1 side when boxes are in the palletized configuration.

\*\*\* END OF NARRATIVE D 001 \*\*\*

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SECTION E - INSPECTION AND ACCEPTANCE

Government acceptance will be at the contractor's plant. Government procurement Quality Assurance actions will be accomplished by the Government's authorized Quality Assurance Representative (QAR) at the contractor's plant.

\*\*\* END OF NARRATIVE E 003 \*\*\*

For Local Clauses See: <http://www.osc.army.mil/ac/aais/ioc/clauses/index.htm>

The following Federal Acquisition Regulation (FAR), DoD FAR Supplement clauses and provisions, the full text of which will be made available upon request, are incorporated herein by reference with the same force and effect as if set forth in full text.

The text of the clauses incorporated by reference herein are available from the contract specialist indicated in block 7 of the Standard Form 33 or (as applicable) the contracting officer and will be furnished upon request. Other documents are available as indicated in the schedule.

Any company/individual wishing to purchase a copy of the Federal Acquisition Regulation (FAR), the Army FAR Supplement or the DOD FAR Supplement, may do so from the Superintendent of Documents, US Government Printing Office, Washington DC 20402

(EA7001)

	<u>Regulatory Cite</u>	<u>Title</u>	<u>Date</u>
E-1	52.246-2	INSPECTION OF SUPPLIES - FIXED-PRICE	AUG/1996
E-2	52.246-16	RESPONSIBILITY FOR SUPPLIES	APR/1984
E-3	52.209-4511 LOCAL	FIRST ARTICLE TEST (GOVERNMENT TESTING)	MAY/1994

a. The first article shall consist of: M24 Fins in accordance with Mil-F-48425A, M28 and M29 Fins in accordance Mil-F-70546; which shall be examined and tested in accordance with contract requirements, the item specification (s), the Quality Assurance Provisions (QAPS) and drawings listed in the Technical Data Package.

b. The first article shall be delivered to: Contractor's Facility; Mark for AMSRD-AAR-QEP-B. The first article shall be delivered by the Contractor Free on Board (FOB) destination except when transportation protective service or transportation security is required by other provision of this contract. If such is the case, the first article shall be delivered FOB origin and shipped on Government Bill of Lading.

c. The first article shall be representative of items to be manufactured using the same processes and procedures as contract production. All parts and materials, including packaging and packing, shall be obtained from the same source of supply as will be used during regular production. All components, subassemblies, and assemblies in the first article sample shall have been produced by the Contractor (including subcontractors) using the technical data package provided by the Government.

d. Prior to delivery, each of the first article assemblies, subassemblies, and components shall be inspected by the Contractor for all contract, drawing, QAP and specification requirements except for any environmental or destructive tests indicated below: None. The Contractor shall provide to the Contracting Officer at least 15 calendar days advance notice of the schedule date for final inspection of the first article. Those inspections which are of a destructive nature shall be performed upon additional sample parts selected from the same lot(s) or batch(es) from which the first article was selected. Results of contractor inspections (including supplier's and Vendor's inspection records when applicable) shall be verified by the Government Quality Assurance Representative (QAR). The QAR shall attach to the contractor's inspection report a completed DD Form 1222. One copy of the contractor's inspection report with the DD Form 1222 shall be forwarded with the first article; two copies shall be provided to the Contracting Officer. Upon delivery to the Government, the first article may be subjected to inspection for all contract, drawing, specification, and QAP requirements.

e. Notwithstanding the provisions for waiver of first article, an additional first article sample or portion thereof, may be ordered by the Contracting Officer in writing when (i) a major change is made to the technical data, (ii) whenever there is a lapse in production for a period in excess of 90 days, or (iii) whenever a change occurs in the place of performance, manufacturing process, material used, drawing, specification or source supply. When conditions (i), (ii), or (iii) above occurs, the Contractor shall notify the Contracting Officer so that a determination can be made concerning the need for an additional first article sample or portion thereof, and instructions provided concerning the submission, inspection and notification of results. Costs of the first article testing resulting from production process change, change in the place of performance, or material substitution shall be borne by the Contractor.

f. Rejected first articles or portions thereof not destroyed during inspection and testing will be held at the government first

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article test site for a period of 30 days following the date of notification of rejection, pending receipt of instructions from the Contractor for the disposition of the rejected material. The Contractor agrees that failure to furnish such instructions within said 30 day period shall constitute abandonment of said material by the Contractor and shall confer upon the Government the right to destroy or otherwise dispose of the rejected items at the discretion of the Government without liability to the Contractor by reason of such destruction or disposition.

(End of clause)

(ES6033)

E-4 52.245-4545 MIL-STD-1916  
LOCAL

OCT/2000

The Department of Defense (DoD) Preferred Methods for this Acceptance of Product, MIL-STD-1916, shall be used for this procurement action. All references to MIL-STD-105, MIL-STD-414, MIL-STD-1235, and ANSI Z1.4 appearing in the Technical Data Package (TDP) are replaced by MIL-STD-1916. Verification Levels (VL) shall replace AQLs and shall be VL IV for major characteristics and VL II for minor characteristics.

(End of clause)

(ES7650)

E-5 52.246-4528 REWORK AND REPAIR OF NONCONFORMING MATERIAL  
LOCAL

MAY/1994

a. Rework and Repair are defined as follows:

(1) Rework - The reprocessing of nonconforming material to make it conform completely to the drawings, specifications or contract requirements.

(2) Repair - The reprocessing of nonconforming material in accordance with approved written procedures and operations to reduce, but not completely eliminate, the nonconformance. The purpose of repair is to bring nonconforming material into a usable condition. Repair is distinguished from rework in that the item after repair still does not completely conform to all of the applicable drawings, specifications or contract requirements.

b. Rework procedures along with the associated inspection procedures shall be documented by the Contractor and submitted to the Government Quality Assurance Representative (QAR) for review prior to implementation. Rework procedures are subject to the QAR's disapproval.

c. Repair procedures shall be documented by the Contractor and submitted on a Request for Deviation/Waiver, DD Form 1694, to the Contracting Officer for review and written approval prior to implementation.

d. Whenever the Contractor submits a repair or rework procedure for Government review, the submission shall also include a description of the cause for the nonconformances and a description of the action taken or to be taken to prevent recurrence.

e. The rework or repair procedure shall also contain a provision for reinspection which will take precedence over the Technical Data Package requirements and shall, in addition, provide the Government assurance that the reworked or repaired items have met reprocessing requirements.

(End of clause)

(ES7012)

E-6 52.246-4532 DESTRUCTIVE TESTING  
LOCAL

MAY/1994

a. All costs for destructive testing by the Contractor and items destroyed by the Government are considered as being included in the contract unit price.

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b. Where destructive testing of items or components thereof is required by contract or specification, the number of items or components required to be destructively tested, whether destructively tested or not, shall be in addition to the quantity to the delivered to the Government as set forth in the Contract Schedule.

c. All pieces of the complete First Article shall be considered as destructively tested items unless specifically exempted by other provisions of this contract.

d. The Contractor shall not reuse any components from items used in a destructive test during First Article, lot acceptance or inprocess testing, unless specifically authorized by the Contracting Officer.

e. The Government reserves the right to take title to all or any items or components described above. The Government may take title to all or any items or components upon notice to the Contractor. The items or components of items to which the Government takes title shall be shipped in accordance with the Contracting Officer's instructions. Those items and components to which the Government does not obtain title shall be rendered inoperable and disposed of as scrap by the Contractor.

(End of clause)

(ES7011)

ALTERNATIVES TO LOT ACCEPTANCE SAMPLING  
(Including SPC)

(a) Offerors are encouraged to propose a defect prevention strategy in lieu of lot acceptance inspection and testing requirements cited in the technical data package. The Government recognizes that industry has developed numerous prevention based strategies which result in reduced process variation and promote continuous process improvement initiatives. Use of alternatives to lot acceptance sampling can provide offerors the latitude of implementing prevention based programs that are suitable to their particular mode of operation. Offerors are encouraged to submit their alternative proposals prior to award. Although the Government will entertain post award requests, there is no guarantee such requests will be accepted.

(b) Requests to use alternatives to lot acceptance sampling shall be provided to the Contracting Officer for review and approval or disapproval. Such requests shall include:

(1) Identification of the specific inspections and tests to be reduced or eliminated.

(2) A description of your prevention based program. This should include such topics as a training program and the performance of audits.

(3) A description of the tools used to monitor and control the specific processes being evaluated. This should include such topics as criteria for determining out of control conditions and procedures to be used when an out of control condition is detected.

(4) The results of a process performance study, and if available, the results of a process capability study.

(5) For SPC data to be used as an alternative to lot acceptance sampling, the following conditions shall be met:

(i) The process is in a state of statistical control using SPC control chart methods.

(ii) Variable data: for Critical characteristics a CPK  $\geq$  2.00 (or equivalent capability) is achieved; for Major characteristics a CPK  $\geq$  1.33 (or equivalent capability) is achieved.

(iii) Attribute data: for Critical Characteristics a process average of 100% of the product conforming to the specification; for Major Characteristics a process average of 99.9937% of the product conforming to the specification.

(c) Proposals offered after award. The Contracting Officer is responsible for accepting or rejecting the alternate lot acceptance procedure submitted by the contractor. The contractor may submit an alternate lot acceptance procedure at any time during the performance of this contract. The Contracting Officer is responsible for accepting or rejecting the alternate procedure within 30 days of receipt. If the Government needs more time to evaluate the alternate procedure, the Contracting Officer shall notify the contractor in writing, giving the reasons and the anticipated decision date. The contractor may withdraw its proposal at anytime prior to its incorporation by contract modification. Because offerors may withdraw their proposal at anytime, the Contracting Officer's failure to timely accept or reject the proposal shall not constitute grounds for claim against the Government. Any proposed and accepted procedure must be incorporated by contract modification. If the alternate procedure is not accepted, the Contracting Officer shall provide the contractor with written notification, explaining the reasons for rejection.

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(d) Any equitable adjustment resulting from approval of an alternate lot acceptance procedure described in paragraph (c) above will be handled in accordance with the Changes clause of this contract.

(e) Until notification is received, the contractor is required to perform under this contract in accordance with the requirements herein, including lot acceptance inspection and testing.

\*\*\* END OF NARRATIVE E 001 \*\*\*

ACCEPTANCE INSPECTION EQUIPMENT (AIE) CLAUSE

- a. The contractor shall use a calibration system, with traceability to a national or international standard, for the AIE used on this contract.
- b. The contractor shall provide all AIE (except for any AIE listed as available in Section H or Appendix I) and inspection procedures necessary to assure conformance of material to the contract requirements.
- c. AIE shall be available for use on the First Article (FA) submission, if FA is required, or prior to use for acceptance of production material on this contract.
- d. Contractor furnished AIE shall be made (i) to the AIE designs specified in Section C, or (ii) to any other design provided the contractor's proposed AIE design is approved by the Government. AIE designed for inspection of characteristics listed as "Critical,

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Speci  
al or Major" shall be submitted to the Government for review and approval as directed on the Contract Data Requirements List, DD Form 1423. Government approval of AIE design documentation shall not be considered to modify the contract requirements.

e. When the contractor submits proposed AIE on commercial off the shelf equipment, the contractor shall include the manufacturer's name and model number and sufficient information to show capability of the proposed AIE to perform the inspection required. When the contractor submits proposed AIE designs on commercial computer controlled test and measuring equipment, the contractor shall include information on (1) test program listing (2) flowcharts showing accept and reject limits and computer generated test stimuli (3) calibration program listing (4) sample of the printout of an actual test and calibration (5) test plan to verify accuracy of inspection and correctness of accept or reject decision (6) identification of the equipment by model name and number.

f. Resubmission of the contractor's proposed AIE design for approval on a follow on Government contract, by the same contracting activity, is not required provided the inspection characteristic parameters specified in the technical data package and the previously Government approved AIE designs have not changed. In this situation, the contractor shall provide written correspondence in place of the AIE designs that indicates the prior Government approval and states that no changes have occurred.

g. The Government reserves the right to disapprove, at any time during the performance of this contract, any AIE that is not accomplishing its intended use in verifying an inspection or test characteristic.

h. If the contractor changes the design after the initial approval, the modified design must be submitted for approval prior to use.

\*\*\* END OF NARRATIVE E 002 \*\*\*

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**Name of Offeror or Contractor:**

SECTION F - DELIVERIES OR PERFORMANCE

For Local Clauses See: <http://www.osc.army.mil/ac/aais/ioc/clauses/index.htm>

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The text of the clauses incorporated by reference herein are available from the contract specialist indicated in block 7 of the Standard Form 33 or (as applicable) the contracting officer and will be furnished upon request. Other documents are available as indicated in the schedule.

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(FA7001)

	<u>Regulatory Cite</u>	<u>Title</u>	<u>Date</u>
F-1	52.211-17	DELIVERY OF EXCESS QUANTITIES	SEP/1989
F-2	52.242-15	STOP-WORK ORDER	AUG/1989
F-3	52.242-17	GOVERNMENT DELAY OF WORK	APR/1984
F-4	52.247-34	F.O.B. DESTINATION	NOV/1991
F-5	52.247-48	F.O.B. DESTINATION - EVIDENCE OF SHIPMENT	FEB/1999
F-6	52.247-4531 LOCAL	COGNIZANT TRANSPORTATION OFFICER	MAY/1993

(a) The contract administration office designated at the time of contract award, or the office servicing the point of shipment if subsequently designated by the original office, will be the contact point to which the contractor will:

(1) Submit, as necessary, DD Form 1659, Application for U.S. Government Bill(s) of Lading/Export Traffic Release, in triplicate at least ten days prior to date supplies will be available for shipment;

(2) Obtain shipping instructions as necessary for F.O.B. Destination delivery, and

(3) Furnish necessary information for MILSTRIP/MILSTAMP or other shipment documentation and movement control, including air and water terminal clearances.

(4) For FMS, at least ten days in advance of actual shipping date the contractor should request verification of "Ship to" and "Notification" address from the appropriate DCMAO.

(b) The contract administration office will provide to the contractor data necessary for shipment marking and freight routing.

(c) The contractor shall not ship directly to a military air or water port terminal without authorization by the designated point of contact.

(End of clause)

(FS7240)

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**Name of Offeror or Contractor:**

## SECTION H - SPECIAL CONTRACT REQUIREMENTS

For Local Clauses See: <http://www.osc.army.mil/ac/aais/ioc/clauses/index.htm>

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(HA7001)

	<u>Regulatory Cite</u>	<u>Title</u>	<u>Date</u>
H-1	245.7310-1 DFARS	DEMILITARIZATION	JUL/1996

(a) DEMILITARIZATION. Item(s) -1- require demilitarization by the Purchaser in the manner and to the degree set forth below:

(1) For property located in the United States insert item number(s) and specific demilitarization requirements for item(s) shown in Attachment 1, Part 2 of Defense, Demilitarization Manual;

(2) For property located outside the United States, insert item number(s) and specific demilitarization requirements for item(s) shown in Attachment 1, Part 3 of DoD 4160.21-M-1, Defense Demilitarization Manual.

(b) DEMILITARIZATION ON GOVERNMENT PREMISES. Property requiring demilitarization shall not be removed, and title shall not pass to the Purchaser, until demilitarization has been completed and approved by an authorized Contractor and Government representative. Demilitarization will be accomplished as specified in the contract. Components parts vital to the military or lethal purpose of the property shall be rendered unusable. The Purchaser agrees to assume all cost incident to the demilitarization and to restore the working area to its present condition after removing the demilitarized property.

(c) DEMILITARIZATION ON NON-GOVERNMENT PREMISES. Property requiring demilitarization shall be demilitarized by the Purchaser under supervision of qualified Department of Defense personnel. Title shall not pass to the Purchaser until demilitarization has been completed by the Purchaser and approved by an authorized Contractor and Government representative. Demilitarization will be accomplished as specified in the contract. Component parts vital to the military or lethal purpose of the property shall be rendered unusable. The Purchaser agrees to assume all costs incident to the demilitarization.

(d) FAILURE TO DEMILITARIZE. If the Purchaser fails to demilitarize the property as specified in the contract, the Contractor may, upon giving ten days written notice from date of mailing to the Purchaser --

(1) Repossess, demilitarize, and return the property to the Purchaser. The Purchaser hereby agrees to pay to the Contract, prior to the return of the property, all costs incurred by the Contractor in repossessing, demilitarizing, and returning the property to the Purchaser.

(2) Repossess, demilitarize, and resell the property, and charge the defaulting Purchaser with all excess costs incurred by the Contractor. The Contractor shall deduct these costs from the purchase price and refund the balance of the purchase price, if any, to the Purchaser. In the event the excess costs exceed the purchase price, the defaulting Purchaser hereby agrees to pay these excess costs to the Contractor.

(3) Repossess and resell the property under similar terms and conditions. In the event this option is exercised, the Contractor shall charge the defaulting Purchaser with all excess costs incurred by the Contractor. The Contractor shall deduct these excess costs from the original purchase price and refund the balance of the purchase price, if any, to the defaulting Purchaser. Should the excess costs to the Contract exceed the purchase price, the defaulting Purchaser hereby agrees to pay these excess costs to the Contractor.

(End of clause)

(HA6800)

<b>CONTINUATION SHEET</b>	<b>Reference No. of Document Being Continued</b>	<b>Page 14 of 57</b>
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**Name of Offeror or Contractor:**

H-2            52.242-4506            PROGRESS PAYMENT LIMITATION            MAR/1988  
 OSC

Prior to first article approval, only costs incurred for the first article are allowable for progress payments; however, such payments shall not exceed ten percent (10%) of the initial award value of the contract.

(End of Clause)

(HS6002)

H-3            246.671 LOCAL            MATERIAL INSPECTION AND RECEIVING REPORTS (DD FORM 250)            JAN/1995

Material Inspection and Receiving Report (DD Form 250), required to be prepared and furnished to the Government under the clause of this contract entitled 'Material Inspection and Receiving Report', will be distributed by the Contractor in accordance with DOD FAR Supplement Appendix F, Part 4.

Send copies to:

1. Purchasing Office    HQ JMC Command  
                                  1 Rock Island Arsenal  
                                  ATTN: AMSFS-CCA-L (Chris Thompson)            christine.l.thompson@us.army.mil  
                                  Rock Island, IL 61299-6000

2. Production Management            NA

3. Send additional copies to:

Commander  
 US Army PM CAS, Bldg 162s  
 ATTN: SFAE-AMO-CAS (Rhonda Chuchwa)            rchuchwa@pica.army.mil  
 Picatinny Arsenal, NJ 07805-5000

Commander  
 US Army PM CAS, Bldg 162s  
 ATTN: SFAE-AMO-CAS (M. Stewart)            mstewart@pica.army.mil

FOR SECTION B MARINE CORP DESIGNATED LINE ITEMS ONLY  
 HQ JMC Command  
 1 Rock Island Arsenal  
 ATTN: MCLNO-LMA (Marine Corps Liaison Office    randolph.h.murdock@us.army.mil

FOR SECTION B MARINE CORP DESIGNATED LINE ITEMS ONLY  
 Commanding General  
 MARCORSYSCOM  
 ATTN: 204 PM-AMMO  
 Quantico, VA 22134-6050

(End of clause)

(HA6025)

H-4            252.247-7023            TRANSPORTATION OF SUPPLIES BY SEA            MAY/2002  
 DFARS

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**CONTINUATION SHEET**

**Reference No. of Document Being Continued**

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**Name of Offeror or Contractor:**

(f)(4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

ITEM DESCRIPTION	CONTRACT LINE ITEMS	QUANTITY
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TOTAL

(End of Clause)

(HA7502)

H-5	252.247-7024 DFARS	NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA	NOV/1995
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(End of clause)

(HA7503)

H-6	52.247-4545 OSC	PLACE OF CONTRACT SHIPPING POINT, RAIL INFORMATION	MAY/1993
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The bidder/offeror is to fill in the 'Shipped From' address, if different from 'Place of Performance' indicated elsewhere in this section.

Shipped From:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

For contracts involving F.O.B. Origin shipments furnish the following rail information:

Does Shipping Point have a private railroad siding////  YES  NO

If YES, give name of rail carrier serving it: \_\_\_\_\_

If NO, give name and address of nearest rail freight station and carrier serving it:

Rail Freight Station Name and Address: \_\_\_\_\_

Serving Carrier: \_\_\_\_\_

(End of Clause)

(HS7600)

**CHANGE IN PLACE OF PERFORMANCE**

If a contract results from this offer, the contractor agrees not to change any place of performance previously cited without the approval of the Contracting Officer.

## CONTINUATION SHEET

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## Name of Offeror or Contractor:

## SECTION I - CONTRACT CLAUSES

For Local Clauses See: <http://www.osc.army.mil/ac/aais/ioc/clauses/index.htm>

	<u>Regulatory Cite</u>	<u>Title</u>	<u>Date</u>
I-1	52.202-1	DEFINITIONS	DEC/2001
I-2	52.203-3	GRATUITIES	APR/1984
I-3	52.203-5	COVENANT AGAINST CONTINGENT FEES	APR/1984
I-4	52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT	JUL/1995
I-5	52.203-7	ANTI-KICKBACK PROCEDURES	JUL/1995
I-6	52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	JAN/1997
I-7	52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	JAN/1997
I-8	52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	JUN/2003
I-9	52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER	AUG/2000
I-10	52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT	JUL/1995
I-11	52.211-5	MATERIAL REQUIREMENTS	AUG/2000
I-12	52.211-15	DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS	SEP/1990
I-13	52.215-8	ORDER OF PRECEDENCE-UNIFORM CONTRACT FORMAT	OCT/1997
I-14	52.215-14	INTEGRITY OF UNIT PRICES (OCT 97) - ALTERNATE I	OCT/1997
I-15	52.219-6	NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE	JUN/2003
I-16	52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS	OCT/2000
I-17	52.219-14	LIMITATIONS ON SUBCONTRACTING	DEC/1996
I-18	52.222-19	CHILD LABOR-COOPERATION WITH AUTHORITIES AND REMEDIES	JAN/2004
I-19	52.222-20	WALSH-HEALEY PUBLIC CONTRACTS ACT	DEC/1996
I-20	52.222-26	EQUAL OPPORTUNITY	APR/2002
I-21	52.222-35	EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS	DEC/2001
I-22	52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES	JUN/1998
I-23	52.222-37	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS	DEC/2001
I-24	52.222-38	COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS	DEC/2001
I-25	52.223-6	DRUG-FREE WORKPLACE	MAY/2001
I-26	52.226-1	UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES	JUN/2000
I-27	52.227-1	AUTHORIZATION AND CONSENT	JUL/1995
I-28	52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT	AUG/1996
I-29	52.229-3	FEDERAL, STATE, AND LOCAL TAXES	APR/2003
I-30	52.232-1	PAYMENTS	APR/1984
I-31	52.232-8	DISCOUNTS FOR PROMPT PAYMENT	FEB/2002
I-32	52.232-11	EXTRAS	APR/1984
I-33	52.232-16	PROGRESS PAYMENTS	APR/2003
I-34	52.232-16	PROGRESS PAYMENTS (APR 2003) - ALTERNATE I	MAR/2000
I-35	52.232-17	INTEREST	JUN/1996
I-36	52.232-23	ASSIGNMENT OF CLAIMS	JAN/1986
I-37	52.232-25	PROMPT PAYMENT	OCT/2003
I-38	52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION	OCT/2003
I-39	52.233-1	DISPUTES	JUL/2002
I-40	52.233-3	PROTEST AFTER AWARD	AUG/1996
I-41	52.242-2	PRODUCTION PROGRESS REPORTS	APR/1991
I-42	52.242-13	BANKRUPTCY	JUL/1995
I-43	52.243-1	CHANGES - FIXED PRICE	AUG/1987
I-44	52.243-7	NOTIFICATION OF CHANGES	APR/1984
I-45	52.247-63	PREFERENCE FOR U.S. - FLAG AIR CARRIERS	JUN/2003
I-46	52.249-2	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE)	SEP/1996
I-47	52.249-8	DEFAULT (FIXED-PRICE SUPPLY AND SERVICE)	APR/1984
I-48	52.253-1	COMPUTER GENERATED FORMS	JAN/1991
I-49	252.203-7001	PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES	MAR/1999
I-50	252.204-7003 DFARS	CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT	APR/1992
I-51	252.204-7004	REQUIRED CENTRAL CONTRACTOR REGISTRATION	NOV/2003

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**Name of Offeror or Contractor:**

	<u>Regulatory Cite</u>	<u>Title</u>	<u>Date</u>
I-52	DFARS 252.209-7000	ACQUISITION FROM SUBCONTRACTORS SUBJECT TO ON-SITE INSPECTION UNDER	NOV/1995
	DFARS	THE INTERMEDIATE-RANGE NUCLEAR FORCES (INF) TREATY	
I-53	252.209-7004	SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE	MAR/1998
	DFARS	GOVERNMENT OF A TERRORIST COUNTRY	
I-54	252.225-7002	QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS	APR/2003
	DFARS		
I-55	252.226-7001	UTILIZATION OF INDIAN ORGANIZATIONS, INDIAN-OWNED ECONOMIC	OCT/2003
		ENTERPRISES, AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS	
I-56	252.227-7013	RIGHTS IN TECHNICAL DATA-NONCOMMERCIAL ITEMS	NOV/1995
	DFARS		
I-57	252.227-7014	RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER	JUN/1995
	DFARS	SOFTWARE DOCUMENTATION	
I-58	252.227-7015	TECHNICAL DATA-COMMERCIAL ITEMS	NOV/1995
	DFARS		
I-59	252.227-7019	VALIDATION OF ASSERTED RESTRICTIONS-COMPUTER SOFTWARE	JUN/1995
	DFARS		
I-60	252.227-7025	LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT-FURNISHED	JUN/1995
	DFARS	INFORMATION MARKED WITH RESTRICTIVE LEGENDS	
I-61	252.227-7030	TECHNICAL DATA--WITHHOLDING OF PAYMENT	MAR/2000
	DFARS		
I-62	252.227-7036	DECLARATION OF TECHNICAL DATA CONFORMITY	JAN/1997
	DFARS		
I-63	252.227-7037	VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA	SEP/1999
	DFARS		
I-64	252.231-7000	SUPPLEMENTAL COST PRINCIPLES	DEC/1991
	DFARS		
I-65	252.232-7004	DOD PROGRESS PAYMENT RATES	OCT/2001
	DFARS		
I-66	252.242-7000	POSTAWARD CONFERENCE	DEC/1991
	DFARS		
I-67	252.243-7001	PRICING OF CONTRACT MODIFICATIONS	DEC/1991
	DFARS		
I-68	252.246-7000	MATERIAL INSPECTION AND RECEIVING REPORT	MAR/2003
	DFARS		
I-69	52.217-6	EVALUATED OPTION FOR INCREASED QUANTITY	MAR/1989

The Government may require the delivery of the numbered Line Items, or Line Items and Sub Line Items, as identified in attached Schedule B. The Contracting Officer may exercise option(s) by written notice to the contractor. The Government also reserves the right to exercise any option on one or more occasions. Should the Government exercise the Options on multiple occasions, the sum total exercised for a particular option shall not exceed the highest quantity for that particular option.

The production quantities for the Options are as reflected in attached Schedule B. Delivery of options are specified in attached Schedule B.

Exercising the Options: The Government reserves the right to exercise the options during the periods of time noted below for each specific option:

Window of time in which Option I can be exercised by the Government: 1 August 2004 through 30 September 2006.

Window of time in which Option II can be exercised by the Government: 1 October 2005 through 30 September 2007.

Window of time in which Option III can be exercised by the Government: 1 October 2006 through 30 September 2008.

I-70 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES APR/1984

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of '(DEVIATION)' after the date of the clause.

(b) The use in this solicitation or contract of any DOD FAR SUPPLEMENT (48 CFR Chapter 2) clause with an authorized deviation is indicated by the addition of '(DEVIATION)' after the name of the regulation.

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(End of clause)

(IF7016)

I-71            252.211-7005            SUBSTITUTIONS FOR MILITARY OR FEDERAL SPECIFICATIONS AND STANDARDS            MAR/1999  
                   DFARS

(a) Definition. "SPI process," as used in this clause, means a management or manufacturing process that has been accepted previously by the Department of Defense under the Single Process Initiative (SPI) for use in lieu of a specific military or Federal specification or standard at specific facilities. Under SPI, these processes are reviewed and accepted by a Management Council, which includes representatives from the Defense Contract Management Command, the Defense Contract Audit Agency, and the military departments.

(b) Offerors are encouraged to propose SPI processes in lieu of military or Federal specifications and standards cited in the solicitation. A listing of SPI processes accepted at specific facilities is available via the Internet in Excel format at <http://www.dcm.mil/onebook/7.0/7.2/7.2.6/reports/modified.xls>.

(c) An offeror proposing to use an SPI Process in lieu of military or Federal specifications or standards cited in the solicitation shall--

(1) Identify the specific military or Federal specification or standard for which the SPI process has been accepted,

(2) Identify each facility at which the offeror proposes to use the specific SPI process in lieu of military or Federal specifications or standards cited in the solicitation;

(3) Identify the contract line items, subline items, components, or elements affected by the SPI process; and

(4) If the proposed SPI process has been accepted at the facility at which it is proposed for use \, but is not yet listed at the Internet site specified in paragraph (b) of this clause, submit documentation of Department of Defense acceptance of the SPI process.

(d) Absent a determination that an SPI process is not acceptable for this procurement, the Contractor shall use the following SPI processes in lieu of military or Federal specifications and standards:

(Offeror insert information for each SPI process)

SPI Process: \_\_\_\_\_

Facility: \_\_\_\_\_

Military or Federal  
 Specification or Standard: \_\_\_\_\_

Affected Contract Line Item Number, Subline Item Number, Component, or Element:  
 \_\_\_\_\_

(e) If a prospective offeror wishes to obtain, prior to the time specified for receipt of offers, verification that an SPI process is an acceptable replacement for military or Federal specifications or standards required by the solicitation, the prospective offeror--

(1) May submit the information required by paragraph (d) of this clause to the Contracting Officer prior to submission of an offer; but

(2) Must submit the information to the contracting Officer at least 10 working days prior to the date specified for receipt of offers.

(End of clause)

(IA7015)

I-72            252.243-7002            REQUESTS FOR EQUITABLE ADJUSTMENT            MAR/1998  
                   DFARS

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**Name of Offeror or Contractor:**

specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

Future unit cost reduction, as used in this clause, means the instant unit cost reduction adjusted as the Contracting Officer considers necessary for projected learning or changes in quantity during the sharing period. It is calculated at the time the VECP is accepted and applies either --

(1) Throughout the sharing period, unless the Contracting Officer decides that recalculation is necessary because conditions are significantly different from those previously anticipated; or

(2) To the calculation of a lump-sum payment, which cannot later be revised.

Government costs, as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistics support. The term does not include the normal administrative costs of processing the VECP or any increase in this contracts cost or price resulting from negative instant contract savings.

Instant contract, as used in this clause, means this contract, under which the VECP is submitted. It does not include increases in quantities after acceptance of the VECP that are due to contract modifications, exercise of options, or additional orders. If this is a multiyear contract, the term does not include quantities funded after VECP acceptance. If this contract is a fixed-price contract with prospective price redetermination, the term refers to the period for which firm prices have been established.

Instant unit cost reduction means the amount of the decrease in unit cost of performance (without deducting any Contractors development or implementation costs) resulting from using the VECP on this, the instant contract. If this is a service contract, the instant unit cost reduction is normally equal to the number of hours per line-item task saved by using the VECP on this contract, multiplied by the appropriate contract labor rate.

Negative instant contract savings means the increase in the cost or price of this contract when the acceptance of a VECP results in an excess of the Contractors allowable development and implementation costs over the product of the instant unit cost reduction multiplied by the number of instant contract units affected.

Net acquisition savings means total acquisition savings, including instant, concurrent, and future contract savings, less Government costs.

Sharing base, as used in this clause, means the number of affected end items on contracts of the contracting office accepting the VECP.

Sharing period, as used in this clause, means the period beginning with acceptance of the first unit incorporating the VECP and ending at a calendar date or event determined by the contracting officer for each VECP.

Unit, as used in this clause, means the item or task to which the Contracting Officer and the Contractor agree the VECP applies.

Value engineering change proposal (VECP) means a proposal that --

(1) Requires a change to this, the instant contract, to implement; and

(2) Results in reducing the overall projected cost to the agency without impairing essential functions or characteristics; provided, that it does not involve a change --

(i) In deliverable end item quantities only;

(ii) In research and development (R&D) end items or R&D test quantities that is due solely to results of previous testing under this contract; or

(iii) To the contract type only.

(c) VECP preparation. As a minimum, the Contractor shall include in each VECP the information described in subparagraphs (c)(1) through (8) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

(1) A description of the difference between the existing contract requirement and the proposed requirement, the comparative advantages and disadvantages of each, a justification when an items function or characteristics are being altered, the effect of the change on the end items performance, and any pertinent objective test data.

(2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) Identification of the unit to which the VECP applies.

(4) A separate, detailed cost estimate for

(i) the affected portions of the existing contract requirement and

(ii) the VECP.

The cost reduction associated with the VECP shall take into account the Contractors allowable development and implementation costs, including any amount attributable to subcontracts under the Subcontracts paragraph of this clause, below.

(5) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(6) A prediction of any effects the proposed change would have on collateral costs to the agency.

(7) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.

(8) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.

(d) Submission. The Contractor shall submit VECPS to the Contracting Officer, unless this contract states otherwise. If this contract is administered by other than the contracting office, the Contractor shall submit a copy of the VECP simultaneously to the Contracting Officer and to the Administrative Contracting Officer.

(e) Government action.

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(1) The Contracting Officer will notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer will notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECPs expeditiously; however, it will not be liable for any delay in acting upon a VECP.

(2) If the VECP is not accepted, the Contracting Officer will notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officers award of a modification to this contract citing this clause and made either before or within a reasonable time after contract performance is completed. Until such a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.

(f) Sharing rates. If a VECP is accepted, the Contractor shall share in net acquisition savings according to the percentages shown in the table below. The percentage paid the Contractor depends upon --

(1) This contracts type (fixed-price, incentive, or cost-reimbursement);

(2) The sharing arrangement specified in paragraph (a) above (incentive, program requirement, or a combination as delineated in the Schedule); and

(3) The source of the savings (the instant contract, or concurrent and future contracts), as follows:

CONTRACTOR'S SHARE OF NET ACQUISITION SAVINGS

(Figures in percent)

Contract Type	Incentive (Voluntary)	Program Requirement (Mandatory)	Instant Contract Rate	Concurrent and Future Contract Rate	Instant Contract Rate	Concurrent and Future Contract Rate
contracts)* 50*	50*	25	25	Incentive (fixed-price or cost) (other than award fee)(**)* 50(**)	25	Cost-reimbursement (includes cost-plus-award-fee; excludes other cost-type incentive Contracts)*** 25*** 25

15\* The Contracting Officer may increase the Contractors sharing rate to as high as 75 percent for each VECP.

\*\* Same sharing arrangement as the contracts profit or fee adjustment formula.

\*\*\* The Contracting Officer may increase the Contractors sharing rate to as high as 50 percent for each VECP.

(g) Calculating net acquisition savings.

(1) Acquisition savings are realized when

(i) the cost or price is reduced on the instant contract,

(ii) reductions are negotiated in concurrent contracts,

(iii) future contracts are awarded, or

(iv) agreement is reached on a lump-sum payment for future contract savings (see subparagraph (i)(4) below).

Net acquisition savings are first realized, and the Contractor shall be paid a share, when Government costs and any negative instant contract savings have been fully offset against acquisition savings.

(2) Except in incentive contracts, Government costs and any price or cost increases resulting from negative instant contract savings shall be offset against acquisition savings each time such savings are realized until they are fully offset. Then, the Contractors share is calculated by multiplying net acquisition savings by the appropriate Contractors percentage sharing rate (see paragraph (f) above). Additional Contractor shares of net acquisition savings shall be paid to the Contractor at the time realized.

(3) If this is an incentive contract, recovery of Government costs on the instant contract shall be deferred and offset against concurrent and future contract savings. The Contractor shall share through the contract incentive structure in savings on the instant contract items affected. Any negative instant contract savings shall be added to the target cost or to the target price and ceiling price, and the amount shall be offset against concurrent and future contract savings.

(4) If the Government does not receive and accept all items on which it paid the Contractors share, the Contractor shall reimburse the Government for the proportionate share of these payments.

(h) Contract adjustment. The modification accepting the VECP (or a subsequent modification issued as soon as possible after any negotiations are completed) shall --

(1) Reduce the contract price or estimated cost by the amount of instant contract savings, unless this is an incentive contract;

(2) When the amount of instant contract savings is negative, increase the contract price, target price and ceiling price, target cost, or estimated cost by that amount;

(3) Specify the Contractors dollar share per unit on future contracts, or provide the lump-sum payment;

(4) Specify the amount of any Government costs or negative instant contract savings to be offset in determining net acquisition savings realized from concurrent or future contract savings; and

(5) Provide the Contractors share of any net acquisition savings under the instant contract in accordance with the following:

(i) Fixed-price contracts -- add to contract price.

(ii) Cost-reimbursement contracts -- add to contract fee.

(i) Concurrent and future contract savings.

(1) Payments of the Contractors share of concurrent and future contract savings shall be made by a modification to the instant contract in accordance with subparagraph (h)(5) above. For incentive contracts, shares shall be added as a separate firm-fixed-price line item on the instant contract. The Contractor shall maintain records adequate to identify the first delivered unit for 3 years after final payment under this contract.

(2) The Contracting Officer shall calculate the Contractors share of concurrent contract savings by --

(i) Subtracting from the reduction in price negotiated on the concurrent contract any Government costs or negative instant contract savings not yet offset; and

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(ii) Multiplying the result by the Contractors sharing rate.

(3) The Contracting Officer shall calculate the Contractors share of future contract savings by --

(i) Multiplying the future unit cost reduction by the number of future contract units scheduled for delivery during the sharing period;

(ii) Subtracting any Government costs or negative instant contract savings not yet offset; and

(iii) Multiplying the result by the Contractors sharing rate.

(4) When the Government wishes and the Contractor agrees, the Contractors share of future contract savings may be paid in a single lump sum rather than in a series of payments over time as future contracts are awarded. Under this alternate procedure, the future contract savings may be calculated when the VECP is accepted, on the basis of the Contracting Officers forecast of the number of units that will be delivered during the sharing period. The Contractors share shall be included in a modification to this contract (see subparagraph (h)(3) above) and shall not be subject to subsequent adjustment.

(5) Alternate no-cost settlement method. When, in accordance with subsection 48.104-4 of the Federal Acquisition Regulation, the Government and the Contractor mutually agree to use the no-cost settlement method, the following applies:

(i) The Contractor will keep all the savings on the instant contract and on its concurrent contracts only.

(ii) The Government will keep all the savings resulting from concurrent contracts placed on other sources, savings from all future contracts, and all collateral savings.

(j) Collateral savings. If a VECP is accepted, the Contracting Officer will increase the instant contract amount as specified in paragraph (h)(5) of this clause, by a rate from 20 to 100 percent, as determined by the Contracting Officer, of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractors share of collateral savings will not exceed the contracts firm-fixed-price, target price, target cost, or estimated cost, at the time the VECP is accepted, or \$100,000, whichever is greater. The Contracting Officer will be the sole determiner of the amount of collateral savings.

(k) Relationship to other incentives. Only those benefits of an accepted VECP not rewardable under performance, design-to-cost (production unit cost, operating and support costs, reliability and maintainability), or similar incentives shall be rewarded under this clause. However, the targets of such incentives affected by the VECP shall not be adjusted because of VECP acceptance. If this contract specifies targets but provides no incentive to surpass them, the value engineering sharing shall apply only to the amount of achievement better than target.

(l) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of \$100,000 or more and may include one in subcontracts of lesser value. In calculating any adjustment in this contracts price for instant contract savings (or negative instant contract savings), the Contractors allowable development and implementation costs shall include any subcontractors allowable development and implementation costs, and any value engineering incentive payments to a subcontractor, clearly resulting from a VECP accepted by the Government under this contract. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that the payments shall not reduce the Governments share of concurrent or future contract savings or collateral savings.

(m) Data. The Contractor may restrict the Governments right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

These data, furnished under the Value Engineering clause of contract \_\_\_\_\_, shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Governments right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations.

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms unlimited rights and limited rights are defined in Part 27 of the Federal Acquisition Regulation.)

(End of Clause)

\*\*\* END OF NARRATIVE I 001 \*\*\*

52.209-4 -- First Article Approval -- Government Testing.

As prescribed in 9.308-2(a) and (b), insert the following clause:

First Article Approval -- Government Testing (Sep 1989)

(a) The Contractor shall deliver M24 Fins IAW MIL-F-48425A, M28 and M29 Fins IAW MIL-F-70546 within seven months from the date of this contract to the Government at Contractors Facility Mark for AMSRD-AAR-QEP-B for first article tests. The shipping documentation shall contain this contract number and the Lot/Item identification. The characteristics that the first article must meet and the testing requirements are specified elsewhere in this contract.

(b) Within \_\_\_\_ calendar days after the Government receives the first article, the Contracting Officer shall notify the Contractor, in writing, of the conditional approval, approval, or disapproval of the first article. The notice of conditional approval or approval shall not relieve the Contractor from complying with all requirements of the specifications and all other terms and conditions of this contract. A notice of conditional approval shall state any further action required of the Contractor. A notice of disapproval shall cite reasons for the disapproval.

(c) If the first article is disapproved, the Contractor, upon Government request, shall submit an additional first article for testing. After each request, the Contractor shall make any necessary changes, modifications, or repairs to the first article or select another first article for testing. All costs related to these tests are to be borne by the Contractor, including any and all costs for additional tests following a disapproval. The Contractor shall furnish any additional first article to the Government under the terms

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and conditions and within the time specified by the Government. The Government shall act on this first article within the time limit specified in paragraph (b) of this clause. The Government reserves the right to require an equitable adjustment of the contract price for any extension of the delivery schedule or for any additional costs to the Government related to these tests.

(d) If the Contractor fails to deliver any first article on time, or the Contracting Officer disapproves any first article, the Contractor shall be deemed to have failed to make delivery within the meaning of the Default clause of this contract.

(e) Unless otherwise provided in the contract, the Contractor --

(1) May deliver the approved first article as a part of the contract quantity, provided it meets all contract requirements for acceptance and was not consumed or destroyed in testing; and

(2) Shall remove and dispose of any first article from the Government test facility at the Contractors expense.

(f) If the Government does not act within the time specified in paragraph (b) or (c) of this clause, the Contracting Officer shall, upon timely written request from the Contractor, equitably adjust under the Changes clause of this contract the delivery or performance dates and/or the contract price, and any other contractual term affected by the delay.

(g) The Contractor is responsible for providing operating and maintenance instructions, spare parts support, and repair of the first article during any first article test.

(h) Before first article approval, the acquisition of materials or components for, or the commencement of production of, the balance of the contract quantity is at the sole risk of the Contractor. Before first article approval, the costs thereof shall not be allocable to this contract for

(1) progress payments, or

(2) termination settlements if the contract is terminated for the convenience of the Government.

(i) The Government may waive the requirement for first article approval test where supplies identical or similar to those called for in the schedule have been previously furnished by the Offeror/Contractor and have been accepted by the Government. The Offeror/Contractor may request a waiver.

(End of Clause)

Alternate I (Jan 1997). As prescribed in 9.308-2(a)(2) and (b)(2), add the following paragraph (j) to the basic clause:

(j) The Contractor shall produce both the first article and the production quantity at the same facility.

Alternate II (Sep 1989). As prescribed in 9.308-2(a)(3) and (b)(3), substitute the following paragraph (h) for paragraph (h) of the basic clause:

(h) Before first article approval, the Contracting Officer may, by written authorization, authorize the Contractor to acquire specific materials or components or to commence production to the extent essential to meet the delivery schedules. Until first article approval is granted, only costs for the first article and costs incurred under this authorization are allocable to this contract for

(1) progress payments, or

(2) termination settlements if the contract is terminated for the convenience of the Government.

If first article tests reveal deviations from contract requirements, the Contractor shall, at the location designated by the Government, make the required changes or replace all items produced under this contract at no change in the contract price.

\*\*\* END OF NARRATIVE I 002 \*\*\*

52.244-6 -- Subcontracts for Commercial Items.

Subcontracts for Commercial Items (Apr 2003)

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

Commercial item has the meaning contained in the clause at 52.202-1, Definitions.

Subcontract includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c)

(1) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.219-8, Utilization of Small Business Concerns (Oct 200) (15 U.S.C. 637(d)(2)(3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceed \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (Apr 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212(a));

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

(v) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003) (46 U.S.C. Appx 1241 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 flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

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\*\*\* END OF NARRATIVE I 003 \*\*\*

252.227-7013 Rights in Technical Data--Noncommercial Items.

As prescribed in 227.7103-6(a), use the following clause:

## RIGHTS IN TECHNICAL DATA--NONCOMMERCIAL ITEMS (NOV 1995)

## (a) Definitions. As used in this clause:

- (1) "Computer data base" means a collection of data recorded in a form capable of being processed by a computer. The term does not include computer software.
- (2) "Computer program" means a set of instructions, rules, or routines recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.
- (3) "Computer software" means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer data bases or computer software documentation.
- (4) "Computer software documentation" means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.
- (5) "Detailed manufacturing or process data" means technical data that describe the steps, sequences, and conditions of manufacturing, processing or assembly used by the manufacturer to produce an item or component or to perform a process.
- (6) "Developed" means that an item, component, or process exists and is workable. Thus, the item or component must have been constructed or the process practiced. Workability is generally established when the item, component, or process has been analyzed or tested sufficiently to demonstrate to reasonable people skilled in the applicable art that there is a high probability that it will operate as intended. Whether, how much, and what type of analysis or testing is required to establish workability depends on the nature of the item, component, or process, and the state of the art. To be considered "developed," the item, component, or process need not be at the stage where it could be offered for sale or sold on the commercial market, nor must the item, component, or process be actually reduced to practice within the meaning of Title 35 of the United States Code.
- (7) "Developed exclusively at private expense" means development was accomplished entirely with costs charged to indirect cost pools, costs not allocated to a government contract, or any combination thereof.
  - (i) Private expense determinations should be made at the lowest practicable level.
  - (ii) Under fixed-price contracts, when total costs are greater than the firm-fixed-price or ceiling price of the contract, the additional development costs necessary to complete development shall not be considered when determining whether development was at government, private, or mixed expense.
- (8) "Developed exclusively with government funds" means development was not accomplished exclusively or partially at private expense.
- (9) "Developed with mixed funding" means development was accomplished partially with costs charged to indirect cost pools and/or costs not allocated to a government contract, and partially with costs charged directly to a government contract.
- (10) "Form, fit, and function data" means technical data that describes the required overall physical, functional, and performance characteristics (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items.
- (11) "Government purpose" means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose technical data for commercial purposes or authorize others to do so.
- (12) "Government purpose rights" means the rights to-
  - (i) Use, modify, reproduce, release, perform, display, or disclose technical data within the Government without restriction; and
  - (ii) Release or disclose technical data outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for United States government purposes.
- (13) "Limited rights" means the rights to use, modify, reproduce, release, perform, display, or disclose technical data, in whole or in part, within the Government. The Government may not, without the written permission of the party asserting limited rights, release or disclose the technical data outside the Government, use the technical data for manufacture, or authorize the technical data to be used by another party, except that the Government may reproduce, release or disclose such data or authorize the use or reproduction of the data by persons outside the Government if reproduction, release, disclosure, or use is-
  - (i) Necessary for emergency repair and overhaul; or
  - (ii) A release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interest of the Government and is required for evaluational or informational purposes;
  - (iii) Subject to a prohibition on the further reproduction, release, disclosure, or use of the technical data; and
  - (iv) The contractor or subcontractor asserting the restriction is notified of such reproduction, release, disclosure, or use.
- (14) "Technical data" means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data

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incidental to contract administration, such as financial and/or management information.

(15) "Unlimited rights" means rights to use, modify, reproduce, perform, display, release, or disclose technical data in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.

(b) Rights in technical data. The Contractor grants or shall obtain for the Government the following royalty free, world-wide, nonexclusive, irrevocable license rights in technical data other than computer software documentation (see the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause of this contract for rights in computer software documentation):

(1) Unlimited rights. The Government shall have unlimited rights in technical data that are-

(i) Data pertaining to an item, component, or process which has been or will be developed exclusively with Government funds;

(ii) Studies, analyses, test data, or similar data produced for this contract, when the study, analysis, test, or similar work was specified as an element of performance;

(iii) Created exclusively with Government funds in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes;

(iv) Form, fit, and function data;

(v) Necessary for installation, operation, maintenance, or training purposes (other than detailed manufacturing or process data);

(vi) Corrections or changes to technical data furnished to the Contractor by the Government;

(vii) Otherwise publicly available or have been released or disclosed by the Contractor or subcontractor without restrictions on further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the technical data to another party or the sale or transfer of some or all of a business entity or its assets to another party;

(viii) Data in which the Government has obtained unlimited rights under another Government contract or as a result of negotiations; or

(ix) Data furnished to the Government, under this or any other Government contract or subcontract thereunder, with-

(A) Government purpose license rights or limited rights and the restrictive condition(s) has/have expired; or

(B) Government purpose rights and the Contractor's exclusive right to use such data for commercial purposes has expired.

(2) Government purpose rights.

(i) The Government shall have government purpose rights for a five-year period, or such other period as may be negotiated, in technical data-

(A) That pertain to items, components, or processes developed with mixed funding except when the Government is entitled to unlimited rights in such data as provided in paragraphs (b)(ii) and (b)(iv) through (b)(ix) of this clause; or

(B) Created with mixed funding in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes.

(ii) The five-year period, or such other period as may have been negotiated, shall commence upon execution of the contract, subcontract, letter contract (or similar contractual instrument), contract modification, or option exercise that required development of the items, components, or processes or creation of the data described in paragraph (b)(2)(i)(B) of this clause. Upon expiration of the five-year or other negotiated period, the Government shall have unlimited rights in the technical data.

(iii) The Government shall not release or disclose technical data in which it has government purpose rights unless-

(A) Prior to release or disclosure, the intended recipient is subject to the non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement (DFARS); or

(B) The recipient is a Government contractor receiving access to the data for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

(iv) The Contractor has the exclusive right, including the right to license others, to use technical data in which the Government has obtained government purpose rights under this contract for any commercial purpose during the time period specified in the government purpose rights legend prescribed in paragraph (f)(2) of this clause.

(3) Limited rights.

(i) Except as provided in paragraphs (b)(1)(ii) and (b)(1)(iv) through (b)(1)(ix) of this clause, the Government shall have limited rights in technical data-

(A) Pertaining to items, components, or processes developed exclusively at private expense and marked with the limited rights legend prescribed in paragraph (f) of this clause; or

(B) Created exclusively at private expense in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes.

(ii) The Government shall require a recipient of limited rights data for emergency repair or overhaul to destroy the data and all copies in its possession promptly following completion of the emergency repair/overhaul and to notify the Contractor that the data have been destroyed.

(iii) The Contractor, its subcontractors, and suppliers are not required to provide the Government additional

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rights to use, modify, reproduce, release, perform, display, or disclose technical data furnished to the Government with limited rights. However, if the Government desires to obtain additional rights in technical data in which it has limited rights, the Contractor agrees to promptly enter into negotiations with the Contracting Officer to determine whether there are acceptable terms for transferring such rights. All technical data in which the Contractor has granted the Government additional rights shall be listed or described in a license agreement made part of the contract. The license shall enumerate the additional rights granted the Government in such data.

(4) Specifically negotiated license rights. The standard license rights granted to the Government under paragraphs (b)(1) through (b)(3) of this clause, including the period during which the Government shall have government purpose rights in technical data, may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights than are enumerated in paragraph (a)(13) of this clause. Any rights so negotiated shall be identified in a license agreement made part of this contract.

(5) Prior government rights. Technical data that will be delivered, furnished, or otherwise provided to the Government under this contract, in which the Government has previously obtained rights shall be delivered, furnished, or provided with the pre-existing rights, unless-

(i) The parties have agreed otherwise; or

(ii) Any restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose the data have expired or no longer apply.

(6) Release from liability. The Contractor agrees to release the Government from liability for any release or disclosure of technical data made in accordance with paragraph (a)(13) or (b)(2)(iii) of this clause, in accordance with the terms of a license negotiated under paragraph (b)(4) of this clause, or by others to whom the recipient has released or disclosed the data and to seek relief solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor data marked with restrictive legends.

(c) Contractor rights in technical data. All rights not granted to the Government are retained by the Contractor.

(d) Third party copyrighted data. The Contractor shall not, without the written approval of the Contracting Officer, incorporate any copyrighted data in the technical data to be delivered under this contract unless the Contractor is the copyright owner or has obtained for the Government the license rights necessary to perfect a license or licenses in the deliverable data of the appropriate scope set forth in paragraph (b) of this clause, and has affixed a statement of the license or licenses obtained on behalf of the Government and other persons to the data transmittal document.

(e) Identification and delivery of data to be furnished with restrictions on use, release, or disclosure.

(1) This paragraph does not apply to restrictions based solely on copyright.

(2) Except as provided in paragraph (e)(3) of this clause, technical data that the Contractor asserts should be furnished to the Government with restrictions on use, release, or disclosure are identified in an attachment to this contract (the Attachment). The Contractor shall not deliver any data with restrictive markings unless the data are listed on the Attachment.

(3) In addition to the assertions made in the Attachment, other assertions may be identified after award when based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision. Such identification and assertion shall be submitted to the Contracting Officer as soon as practicable prior to the scheduled date for delivery of the data, in the following format, and signed by an official authorized to contractually obligate the Contractor:

Identification and Assertion of Restrictions on the Government's Use, Release,  
or Disclosure of Technical Data.

The Contractor asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following technical data should be restricted-

Technical DataName of Person to be FurnishedBasis for Asserted RightsAsserting With

Restrictions\*Assertion\*\*Category\*\*\*Restrictions\*\*\*\*(LIST)(LIST)(LIST)(LIST)\*If the assertion is applicable to items, components, or processes developed at private expense, identify both the data and each such item, component, or process.

\*\*Generally, the development of an item, component, or process at private expense, either exclusively or partially, is the only basis for asserting restrictions on the Government's rights to use, release, or disclose technical data pertaining to such items, components, or processes. Indicate whether development was exclusively or partially at private expense. If development was not at private expense, enter the specific reason for asserting that the Government's rights should be restricted.

\*\*\*Enter asserted rights category (e.g., government purpose license rights from a prior contract, rights in SBIR data generated under another contract, limited or government purpose rights under this or a prior contract, or specifically negotiated licenses).

\*\*\*\*Corporation, individual, or other person, as appropriate.

Date \_\_\_\_\_ Printed Name and

Title \_\_\_\_\_ Signature \_\_\_\_\_ (End of identification

and assertion)

(4) When requested by the Contracting Officer, the Contractor shall provide sufficient information to enable the Contracting Officer to evaluate the Contractor's assertions. The Contracting Officer reserves the right to add the Contractor's assertions to the Attachment and validate any listed assertion, at a later date, in accordance with the procedures of the Validation of Restrictive Markings on Technical Data clause of this contract.

(f) Marking requirements. The Contractor, and its subcontractors or suppliers, may only assert restrictions on the Government's

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rights to use, modify, reproduce, release, perform, display, or disclose technical data to be delivered under this contract by marking the deliverable data subject to restriction. Except as provided in paragraph (f)(5) of this clause, only the following legends are authorized under this contract: the government purpose rights legend at paragraph (f)(2) of this clause; the limited rights legend at paragraph (f)(3) of this clause; or the special license rights legend at paragraph (f)(4) of this clause; and/or a notice of copyright as prescribed under 17 U.S.C. 401 or 402.

(1) General marking instructions. The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate legend on all technical data that qualify for such markings. The authorized legends shall be placed on the transmittal document or storage container and, for printed material, each page of the printed material containing technical data for which restrictions are asserted. When only portions of a page of printed material are subject to the asserted restrictions, such portions shall be identified by circling, underscoring, with a note, or other appropriate identifier. Technical data transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. Reproductions of technical data or any portions thereof subject to asserted restrictions shall also reproduce the asserted restrictions.

(2) Government purpose rights markings. Data delivered or otherwise furnished to the Government with government purpose rights shall be marked as follows:

## GOVERNMENT PURPOSE RIGHTS

Contract No. Contractor Name Contractor Address Expiration Date The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (b)(2) of the Rights in Technical Data-Noncommercial Items clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(3) Limited rights markings. Data delivered or otherwise furnished to the Government with limited rights shall be marked with the following legend:

## LIMITED RIGHTS

Contract No. Contractor Name Contractor Address The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (b)(3) of the Rights in Technical Data--Noncommercial Items clause contained in the above identified contract. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such data must promptly notify the above named Contractor.

(End of legend)

(4) Special license rights markings.

(i) Data in which the Government's rights stem from a specifically negotiated license shall be marked with the following legend:

## SPECIAL LICENSE RIGHTS

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these data are restricted by Contract No. \_\_\_\_ (Insert contract number) \_\_\_\_, License No. \_\_\_\_ (Insert license identifier) \_\_\_\_. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings. (End of legend)

(ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (b)(5) of this clause).

(5) Pre-existing data markings. If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data deliverable under this contract, and those restrictions are still applicable, the Contractor may mark such data with the appropriate restrictive legend for which the data qualified under the prior contract or license. The marking procedures in paragraph (f)(1) of this clause shall be followed.

(g) Contractor procedures and records. Throughout performance of this contract, the Contractor and its subcontractors or suppliers that will deliver technical data with other than unlimited rights, shall-

(1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of this clause; and

(2) Maintain records sufficient to justify the validity of any restrictive markings on technical data delivered under this contract.

(h) Removal of unjustified and nonconforming markings.

(1) Unjustified technical data markings. The rights and obligations of the parties regarding the validation of restrictive markings on technical data furnished or to be furnished under this contract are contained in the Validation of Restrictive Markings on Technical Data clause of this contract. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may ignore or, at the Contractor's expense, correct or strike a marking if, in accordance with the procedures in the Validation of Restrictive Markings on Technical Data clause of this contract, a restrictive marking is determined to be unjustified.

(2) Nonconforming technical data markings. A nonconforming marking is a marking placed on technical data delivered or otherwise furnished to the Government under this contract that is not in the format authorized by this contract. Correction of nonconforming markings is not subject to the Validation of Restrictive Markings on Technical Data clause of this contract. If the Contracting Officer notifies the Contractor of a nonconforming marking and the Contractor fails to remove or correct such marking within sixty (60) days, the Government may ignore or, at the Contractor's expense, remove or correct any nonconforming marking.

(i) Relation to patents. Nothing contained in this clause shall imply a license to the Government under any patent or be

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construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(j) Limitation on charges for rights in technical data.

(1) The Contractor shall not charge to this contract any cost, including, but not limited to, license fees, royalties, or similar charges, for rights in technical data to be delivered under this contract when-

(i) The Government has acquired, by any means, the same or greater rights in the data; or

(ii) The data are available to the public without restrictions.

(2) The limitation in paragraph (j)(1) of this clause-

(i) Includes costs charged by a subcontractor or supplier, at any tier, or costs incurred by the Contractor to acquire rights in subcontractor or supplier technical data, if the subcontractor or supplier has been paid for such rights under any other Government contract or under a license conveying the rights to the Government; and

(ii) Does not include the reasonable costs of reproducing, handling, or mailing the documents or other media in which the technical data will be delivered.

(k) Applicability to subcontractors or suppliers.

(1) The Contractor shall ensure that the rights afforded its subcontractors and suppliers under 10 U.S.C. 2320, 10 U.S.C. 2321, and the identification, assertion, and delivery processes of paragraph (e) of this clause are recognized and protected.

(2) Whenever any technical data for noncommercial items is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher-tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data.

(3) Technical data required to be delivered by a subcontractor or supplier shall normally be delivered to the next higher-tier contractor, subcontractor, or supplier. However, when there is a requirement in the prime contract for data which may be submitted with other than unlimited rights by a subcontractor or supplier, then said subcontractor or supplier may fulfill its requirement by submitting such data directly to the Government, rather than through a higher-tier contractor, subcontractor, or supplier.

(4) The Contractor and higher-tier subcontractors or suppliers shall not use their power to award contracts as economic leverage to obtain rights in technical data from their subcontractors or suppliers.

(5) In no event shall the Contractor use its obligation to recognize and protect subcontractor or supplier rights in technical data as an excuse for failing to satisfy its contractual obligation to the Government.

\*\*\* END OF NARRATIVE I 004 \*\*\*

252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation.

As prescribed in 227.7203-6(a)(1), use the following clause:

RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION (JUN 1995)

(a) Definitions. As used in this clause:

(1) "Commercial computer software" means software developed or regularly used for non-governmental purposes which-

(i) Has been sold, leased, or licensed to the public;

(ii) Has been offered for sale, lease, or license to the public;

(iii) Has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this contract; or

(iv) Satisfies a criterion expressed in paragraph (a)(1)(i), (ii), or (iii) of this clause and would require only minor modification to meet the requirements of this contract.

(2) "Computer database" means a collection of recorded data in a form capable of being processed by a computer. The term does not include computer software.

(3) "Computer program" means a set of instructions, rules, or routines, recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.

(4) "Computer software" means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer databases or computer software documentation.

(5) "Computer software documentation" means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

(6) "Developed" means that-

(i) A computer program has been successfully operated in a computer and tested to the extent sufficient to demonstrate to reasonable persons skilled in the art that the program can reasonably be expected to perform its intended purpose;

(ii) Computer software, other than computer programs, has been tested or analyzed to the extent sufficient to demonstrate to reasonable persons skilled in the art that the software can reasonably be expected to perform its intended purpose; or

(iii) Computer software documentation required to be delivered under a contract has been written, in any medium, in sufficient detail to comply with requirements under that contract.

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(7) "Developed exclusively at private expense" means development was accomplished entirely with costs charged to indirect cost pools, costs not allocated to a government contract, or any combination thereof.

(i) Private expense determinations should be made at the lowest practicable level.

(ii) Under fixed-price contracts, when total costs are greater than the firm-fixed-price or ceiling price of the contract, the additional development costs necessary to complete development shall not be considered when determining whether development was at government, private, or mixed expense.

(8) "Developed exclusively with government funds" means development was not accomplished exclusively or partially at private expense.

(9) "Developed with mixed funding" means development was accomplished partially with costs charged to indirect cost pools and/or costs not allocated to a government contract, and partially with costs charged directly to a government contract.

(10) "Government purpose" means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation for commercial purposes or authorize others to do so.

(11) "Government purpose rights" means the rights to-

(i) Use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation within the Government without restriction; and

(ii) Release or disclose computer software or computer software documentation outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose the software or documentation for United States government purposes.

(12) "Minor modification" means a modification that does not significantly alter the nongovernmental function or purpose of the software or is of the type customarily provided in the commercial marketplace.

(13) "Noncommercial computer software" means software that does not qualify as commercial computer software under paragraph (a)(1) of this clause.

(14) "Restricted rights" apply only to noncommercial computer software and mean the Government's rights to-

(i) Use a computer program with one computer at one time. The program may not be accessed by more than one terminal or central processing unit or time shared unless otherwise permitted by this contract;

(ii) Transfer a computer program to another Government agency without the further permission of the Contractor if the transferor destroys all copies of the program and related computer software documentation in its possession and notifies the licensor of the transfer. Transferred programs remain subject to the provisions of this clause;

(iii) Make the minimum number of copies of the computer software required for safekeeping (archive), backup, or modification purposes;

(iv) Modify computer software provided that the Government may-

(A) Use the modified software only as provided in paragraphs (a)(14)(i) and (iii) of this clause; and

(B) Not release or disclose the modified software except as provided in paragraphs (a)(14)(ii), (v) and (vi) of this clause;

(v) Permit contractors or subcontractors performing service contracts (see 37.101 of the Federal Acquisition Regulation) in support of this or a related contract to use computer software to diagnose and correct deficiencies in a computer program, to modify computer software to enable a computer program to be combined with, adapted to, or merged with other computer programs or when necessary to respond to urgent tactical situations, provided that-

(A) The Government notifies the party which has granted restricted rights that a release or disclosure to particular contractors or subcontractors was made;

(B) Such contractors or subcontractors are subject to the use and non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement (DFARS) or are Government contractors receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends;

(C) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(14)(iv) of this clause, for any other purpose; and

(D) Such use is subject to the limitation in paragraph (a)(14)(i) of this clause; and

(vi) Permit contractors or subcontractors performing emergency repairs or overhaul of items or components of items procured under this or a related contract to use the computer software when necessary to perform the repairs or overhaul, or to modify the computer software to reflect the repairs or overhaul made, provided that-

(A) The intended recipient is subject to the use and non-disclosure agreement at DFARS 227.7103-7 or is a Government contractor receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends; and

(B) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(14)(iv) of this clause, for any other purpose.

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(15) "Unlimited rights" means rights to use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation in whole or in part, in any manner and for any purpose whatsoever, and to have or authorize others to do so.

(b) Rights in computer software or computer software documentation. The Contractor grants or shall obtain for the Government the following royalty free, world-wide, nonexclusive, irrevocable license rights in noncommercial computer software or computer software documentation. All rights not granted to the Government are retained by the Contractor.

(1) Unlimited rights. The Government shall have unlimited rights in-

(i) Computer software developed exclusively with Government funds;

(ii) Computer software documentation required to be delivered under this contract;

(iii) Corrections or changes to computer software or computer software documentation furnished to the Contractor by the Government;

(iv) Computer software or computer software documentation that is otherwise publicly available or has been released or disclosed by the Contractor or subcontractor without restriction on further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the software to another party or the sale or transfer of some or all of a business entity or its assets to another party;

(v) Computer software or computer software documentation obtained with unlimited rights under another Government contract or as a result of negotiations; or

(vi) Computer software or computer software documentation furnished to the Government, under this or any other Government contract or subcontract thereunder with-

(A) Restricted rights in computer software, limited rights in technical data, or government purpose license rights and the restrictive conditions have expired; or

(B) Government purpose rights and the Contractor's exclusive right to use such software or documentation for commercial purposes has expired.

(2) Government purpose rights.

(i) Except as provided in paragraph (b)(1) of this clause, the Government shall have government purpose rights in computer software developed with mixed funding.

(ii) Government purpose rights shall remain in effect for a period of five years unless a different period has been negotiated. Upon expiration of the five-year or other negotiated period, the Government shall have unlimited rights in the computer software or computer software documentation. The government purpose rights period shall commence upon execution of the contract, subcontract, letter contract (or similar contractual instrument), contract modification, or option exercise that required development of the computer software.

(iii) The Government shall not release or disclose computer software in which it has government purpose rights to any other person unless-

(A) Prior to release or disclosure, the intended recipient is subject to the use and non-disclosure agreement at DFARS 227.7103-7; or

(B) The recipient is a Government contractor receiving access to the software or documentation for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government Furnished Information Marked with Restrictive Legends.

(3) Restricted rights.

(i) The Government shall have restricted rights in noncommercial computer software required to be delivered or otherwise provided to the Government under this contract that were developed exclusively at private expense.

(ii) The Contractor, its subcontractors, or suppliers are not required to provide the Government additional rights in noncommercial computer software delivered or otherwise provided to the Government with restricted rights.

However, if the Government desires to obtain additional rights in such software, the Contractor agrees to promptly enter into negotiations with the Contracting Officer to determine whether there are acceptable terms for transferring such rights. All noncommercial computer software in which the Contractor has granted the Government additional rights shall be listed or described in a license agreement made part of the contract (see paragraph (b)(4) of this clause). The license shall enumerate the additional rights granted the Government.

(4) Specifically negotiated license rights.

(i) The standard license rights granted to the Government under paragraphs (b)(1) through (b)(3) of this clause, including the period during which the Government shall have government purpose rights in computer software, may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights in computer software than are enumerated in paragraph (a)(14) of this clause or lesser rights in computer software documentation than are enumerated in paragraph (a)(13) of the Rights in Technical Data-Noncommercial Items clause of this contract.

(ii) Any rights so negotiated shall be identified in a license agreement made part of this contract.

(5) Prior government rights. Computer software or computer software documentation that will be delivered, furnished, or otherwise provided to the Government under this contract, in which the Government has previously obtained rights shall be delivered, furnished, or provided with the pre-existing rights, unless-

(i) The parties have agreed otherwise; or

(ii) Any restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose the data have expired or no longer apply.

(6) Release from liability. The Contractor agrees to release the Government from liability for any release or disclosure of computer software made in accordance with paragraph (a)(14) or (b)(2)(iii) of this clause, in accordance

**Name of Offeror or Contractor:**

with the terms of a license negotiated under paragraph (b)(4) of this clause, or by others to whom the recipient has released or disclosed the software, and to seek relief solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor software marked with restrictive legends.

(c) Rights in derivative computer software or computer software documentation. The Government shall retain its rights in the unchanged portions of any computer software or computer software documentation delivered under this contract that the Contractor uses to prepare, or includes in, derivative computer software or computer software documentation.

(d) Third party copyrighted computer software or computer software documentation. The Contractor shall not, without the written approval of the Contracting Officer, incorporate any copyrighted computer software or computer software documentation in the software or documentation to be delivered under this contract unless the Contractor is the copyright owner or has obtained for the Government the license rights necessary to perfect a license or licenses in the deliverable software or documentation of the appropriate scope set forth in paragraph (b) of this clause, and prior to delivery of such-

(1) Computer software, has provided a statement of the license rights obtained in a form acceptable to the Contracting Officer; or

(2) Computer software documentation, has affixed to the transmittal document a statement of the license rights obtained.

(e) Identification and delivery of computer software and computer software documentation to be furnished with restrictions on use, release, or disclosure.

(1) This paragraph does not apply to restrictions based solely on copyright.

(2) Except as provided in paragraph (e)(3) of this clause, computer software that the Contractor asserts should be furnished to the Government with restrictions on use, release, or disclosure is identified in an attachment to this contract (the Attachment). The Contractor shall not deliver any software with restrictive markings unless the software is listed on the Attachment.

(3) In addition to the assertions made in the Attachment, other assertions may be identified after award when based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision. Such identification and assertion shall be submitted to the Contracting Officer as soon as practicable prior to the scheduled date for delivery of the software, in the following format, and signed by an official authorized to contractually obligate the Contractor:

Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Computer Software.

The Contractor asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following computer software should be restricted:

Computer SoftwareName of Person to be FurnishedBasis for Asserted RightsAssertingWith

Restrictions\*Assertion\*\*Category\*\*\*Restrictions\*\*\*\*(LIST)(LIST)(LIST)(LIST)\*Generally, development at private expense, either exclusively or partially, is the only basis for asserting restrictions on the Government's rights to use, release, or disclose computer software.

\*\*Indicate whether development was exclusively or partially at private expense. If development was not at private expense, enter the specific reason for asserting that the Government's rights should be restricted.

\*\*\*Enter asserted rights category (e.g., restricted or government purpose rights in computer software, government purpose license rights from a prior contract, rights in SBIR software generated under another contract, or specifically negotiated licenses).

\*\*\*\*Corporation, individual, or other person, as appropriate.

Date \_\_\_\_\_ Printed Name and

Title \_\_\_\_\_ Signature \_\_\_\_\_ (End of identification and  
assertion)

(4) When requested by the Contracting Officer, the Contractor shall provide sufficient information to enable the Contracting Officer to evaluate the Contractor's assertions. The Contracting Officer reserves the right to add the Contractor's assertions to the Attachment and validate any listed assertion, at a later date, in accordance with the procedures of the Validation of Asserted Restrictions-Computer Software clause of this contract.

(f) Marking requirements. The Contractor, and its subcontractors or suppliers, may only assert restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose computer software by marking the deliverable software or documentation subject to restriction. Except as provided in paragraph (f)(5) of this clause, only the following legends are authorized under this contract: the government purpose rights legend at paragraph (f)(2) of this clause; the restricted rights legend at paragraph (f)(3) of this clause; or the special license rights legend at paragraph (f)(4) of this clause; and/or a notice of copyright as prescribed under 17 U.S.C. 401 or 402.

(1) General marking instructions. The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate legend on all computer software that qualify for such markings. The authorized legends shall be placed on the transmittal document or software storage container and each page, or portions thereof, of printed material containing computer software for which restrictions are asserted. Computer software transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. However, instructions that interfere with or delay the operation of computer software in order to display a restrictive rights legend or other license statement at any time prior to or during use of the computer software, or otherwise cause such interference or delay, shall not be inserted in software that will or might be used in combat or situations that simulate combat conditions, unless the Contracting Officer's written permission to deliver such software has been obtained prior to delivery. Reproductions of computer software or any portions thereof subject to asserted restrictions, shall also reproduce the asserted restrictions.

(2) Government purpose rights markings. Computer software delivered or otherwise furnished to the Government with government purpose rights shall be marked as follows:

GOVERNMENT PURPOSE RIGHTS

**Name of Offeror or Contractor:**

Contract No. Contractor Name Contractor Address Expiration Date The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (b)(2) of the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of the software or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(3) Restricted rights markings. Software delivered or otherwise furnished to the Government with restricted rights shall be marked with the following legend:

## RESTRICTED RIGHTS

Contract No. Contractor Name Contractor Address The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (b)(3) of the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause contained in the above identified contract. Any reproduction of computer software or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such software must promptly notify the above named Contractor.

(End of legend)

(4) Special license rights markings.

(i) Computer software or computer software documentation in which the Government's rights stem from a specifically negotiated license shall be marked with the following legend:

## SPECIAL LICENSE RIGHTS

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these data are restricted by Contract No. \_\_\_\_ (Insert contract number) \_\_\_\_, License No. \_\_\_\_ (Insert license identifier) \_\_\_\_. Any reproduction of computer software, computer software documentation, or portions thereof marked with this legend must also reproduce the markings. (End of legend)

(ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (b)(5) of this clause).

(5) Pre-existing markings. If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, release, perform, display, or disclose computer software or computer software documentation and those restrictions are still applicable, the Contractor may mark such software or documentation with the appropriate restrictive legend for which the software qualified under the prior contract or license. The marking procedures in paragraph (f)(1) of this clause shall be followed.

(g) Contractor procedures and records. Throughout performance of this contract, the Contractor and its subcontractors or suppliers that will deliver computer software or computer software documentation with other than unlimited rights, shall-

- (1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of this clause; and
- (2) Maintain records sufficient to justify the validity of any restrictive markings on computer software or computer software documentation delivered under this contract.

(h) Removal of unjustified and nonconforming markings.

(1) Unjustified computer software or computer software documentation markings. The rights and obligations of the parties regarding the validation of restrictive markings on computer software or computer software documentation furnished or to be furnished under this contract are contained in the Validation of Asserted Restrictions--Computer Software and the Validation of Restrictive Markings on Technical Data clauses of this contract, respectively. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may ignore or, at the Contractor's expense, correct or strike a marking if, in accordance with the procedures of those clauses, a restrictive marking is determined to be unjustified.

(2) Nonconforming computer software or computer software documentation markings. A nonconforming marking is a marking placed on computer software or computer software documentation delivered or otherwise furnished to the Government under this contract that is not in the format authorized by this contract. Correction of nonconforming markings is not subject to the Validation of Asserted Restrictions--Computer Software or the Validation of Restrictive Markings on Technical Data clause of this contract. If the Contracting Officer notifies the Contractor of a nonconforming marking or markings and the Contractor fails to remove or correct such markings within sixty (60) days, the Government may ignore or, at the Contractor's expense, remove or correct any nonconforming markings.

(i) Relation to patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(j) Limitation on charges for rights in computer software or computer software documentation.

(1) The Contractor shall not charge to this contract any cost, including but not limited to license fees, royalties, or similar charges, for rights in computer software or computer software documentation to be delivered under this contract when-

- (i) The Government has acquired, by any means, the same or greater rights in the software or documentation; or
- (ii) The software or documentation are available to the public without restrictions.

(2) The limitation in paragraph (j)(1) of this clause-

- (i) Includes costs charged by a subcontractor or supplier, at any tier, or costs incurred by the Contractor to acquire rights in subcontractor or supplier computer software or computer software documentation, if the subcontractor or supplier has been paid for such rights under any other Government contract or under a license conveying the rights to the Government; and
- (ii) Does not include the reasonable costs of reproducing, handling, or mailing the documents or other media in

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which the software or documentation will be delivered.

(k) Applicability to subcontractors or suppliers.

(1) Whenever any noncommercial computer software or computer software documentation is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in its subcontracts or other contractual instruments, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher tier subcontractor's or supplier's rights in a subcontractor's or supplier's computer software or computer software documentation.

(2) The Contractor and higher tier subcontractors or suppliers shall not use their power to award contracts as economic leverage to obtain rights in computer software or computer software documentation from their subcontractors or suppliers.

(3) The Contractor shall ensure that subcontractor or supplier rights are recognized and protected in the identification, assertion, and delivery processes required by paragraph (e) of this clause.

(4) In no event shall the Contractor use its obligation to recognize and protect subcontractor or supplier rights in computer software or computer software documentation as an excuse for failing to satisfy its contractual obligation to the Government.

\*\*\* END OF NARRATIVE I 005 \*\*\*

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## SECTION J - LIST OF ATTACHMENTS

<u>List of Addenda</u>	<u>Title</u>	<u>Date</u>	<u>Number of Pages</u>	<u>Transmitted By</u>
Exhibit A	FORM DD 1423-2 - CONTRACT DATA REQUIREMENTS LIST	27-FEB-04	005	
Attachment 001	DOCUMENT SUMMARY LIST		001	
Attachment 002	DISCLOSURE OF LOBBYING ACTIVITIES		001	
Attachment 003	DEFENSE PRIORITIES AND ALLOCATION SYSTEM		001	
Attachment 004	STATEMENT WORK/FINS FOR 81MM MORTAR	08-APR-04	004	
Attachment 005	GUIDANCE ON DD FORM 1423			
Attachment 006	81MM M24 FIN CD ROM			
Attachment 007	81MM M28 FIN CD ROM			
Attachment 008	81MM M29 FIN CD ROM			
Attachment 009	SCHEDULE B		001	
Attachment 010	DRAWING 9381566		001	
Attachment 011	DRAWING 9327833		001	
Attachment 012	DRAWING 9381092		001	
Attachment 013	ECP R2Q2022	15-MAY-02	002	
Attachment 014	ECP R1Q2000	06-JUL-01	007	

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SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS

For Local Clauses See: <http://www.osc.army.mil/ac/aais/ioc/clauses/index.htm>

The following Federal Acquisition Regulation (FAR), DoD FAR Supplement clauses and provisions, the full text of which will be made available upon request, are incorporated herein by reference with the same force and effect as if set forth in full text.

The text of the clauses incorporated by reference herein are available from the contract specialist indicated in block 7 of the Standard Form 33 or (as applicable) the contracting officer and will be furnished upon request. Other documents are available as indicated in the schedule.

Any company/individual wishing to purchase a copy of the Federal Acquisition Regulation (FAR), the Army FAR Supplement or the DOD FAR Supplement, may do so from the Superintendent of Documents, US Government Printing Office, Washington DC 20402.

(KA7001)

	<u>Regulatory Cite</u>	<u>Title</u>	<u>Date</u>
K-1	52.203-11	CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	APR/1991
K-2	52.203-2	CERTIFICATE OF INDEPENDENT PRICE DETERMINATION	APR/1985

(a) The offeror certifies that-

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to-

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory-

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; or

(2)(i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision \_\_\_\_\_ [insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision.

(c) If the offeror deletes or modifies paragraph (a)(2) of this provision, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

(End of provision)

(KF6065)

K-3	52.204-3	TAXPAYER IDENTIFICATION	OCT/1998
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(a) Definitions.

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"Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

"Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) Taxpayer Identification Number (TIN).

o TIN: \_\_\_\_\_.

o TIN has been applied for.

o TIN is not required because:

o Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

o Offeror is an agency or instrumentality of a foreign government;

o Offeror is an agency or instrumentality of the Federal Government.

(e) Type of organization.

o Sole proprietorship;

o Partnership;

o Corporate entity (not tax-exempt);

o Corporate entity (tax-exempt);

o Government entity (Federal, State, or local);

o Foreign government;

o International organization per 26 CFR 1.6049-4;

o Other \_\_\_\_\_.

(f) Common parent.

o Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

o Name and TIN of common parent:

Name \_\_\_\_\_

TIN \_\_\_\_\_

(End of provision)

(KF6043)

(a) Offerors are invited to state an opinion on whether the quantity(ies) of supplies on which bids, proposals or quotes are requested in this solicitation is (are) economically advantageous to the Government.

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(b) Each offeror who believes that acquisitions in different quantities would be more advantageous is invited to recommend an economic purchase quantity. If different quantities are recommended, a total and a unit price must be quoted for applicable items. An economic purchase quantity is that quantity at which a significant price break occurs. If there are significant price breaks at different quantity points, this information is desired as well.

## OFFEROR RECOMMENDATIONS

<u>ITEM</u>	<u>QUANTITY</u>	<u>PRICE QUOTATION</u>	<u>TOTAL</u>
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(c) The information requested in this provision is being solicited to avoid acquisitions in disadvantageous quantities and to assist the Government in developing a data base for future acquisitions of these items. However, the Government reserves the right to amend or cancel the solicitation and resolicit with respect to any individual item in the event quotations received and the Government's requirements indicate that different quantities should be acquired.

(End of provision)

(KF6063)

K-5            52.209-5            CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT,            DEC/2001  
AND OTHER RESPONSIBILITY MATTERS

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that-

(i) The Offeror and/or any of its Principals-

(A) Are or are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have or have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

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

(ii) The Offeror has or has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

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**Name of Offeror or Contractor:**

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(End of provision)

(KF6033)

K-6 52.215-6 PLACE OF PERFORMANCE OCT/1997

(a) The offeror or respondent, in the performance of any contract resulting from this solicitation, o intends, o does not intend [check applicable block] to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.

(b) If the offeror or respondent checks "intends" in paragraph (a) of this provision, it shall insert in the following spaces the required information:

PLACE OF PERFORMANCE (STREET ADDRESS, CITY STATE, COUNTY, ZIP-CODE)	NAME AND ADDRESS OF OWNER AND OPERATOR OF THE PLANT OR FACILITY IF OTHER THAN OFFEROR OR RESPONDENT
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(End of provision)

(KF6035)

K-7 52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS APR/2002

(a)(1) The North American Industry Classification System (NAICs) code for this acquisition is 332993.

(2) The small business size standard is 1500.

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) Representations.

(1) The offeror represents as part of its offer that it \_\_\_is, \_\_\_is not a small business concern.

(2) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents, for general statistical purposes, that it \_\_\_is, \_\_\_is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) (Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents as part of its offer that it \_\_\_is, \_\_\_is not a women-owned small business concern.

(4) (Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents as part of its offer that it is, is not a veteran-owned small business concern.

(5) (Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents as part of its offer that it is, is not a service-disabled veteran-owned small business concern.

(6) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, as part of its offer, that-

(i) It ( ) is, ( ) is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

(ii) It ( ) is, ( ) is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: .] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(c) Definitions. As used in this provision-

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



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**Name of Offeror or Contractor:**

K-9 52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS

FEB/1999

The offeror represents that -

(a) It ( ) has, ( ) has not participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation;

(b) It ( ) has, ( ) has not, filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by subcontractors, will be obtained before subcontract awards.

(End of provision)

(KF6019)

K-10 52.222-25 AFFIRMATIVE ACTION COMPLIANCE

APR/1984

The offeror represents that (a) it

( ) has developed and has on file,  
( ) has not developed and does not have on file,

at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or

(b) it

( ) has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(End of provision)

(KF6020)

K-11 252-247.7022 REPRESENTATION OF EXTENT OF TRANSPORTATION BY SEA  
DFARS

AUG/1992

(a) The Offeror shall indicate by checking the appropriate blank in paragraph (b) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term supplies is defined in the Transportation of Supplies by Sea clause of this solicitation.

(b) Representation. The Offeror represents that it

\_\_\_\_\_ Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

\_\_\_\_\_ Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(c) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense FAR Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

(End of provision)

(KA6500)

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**Name of Offeror or Contractor:**

SECTION L - INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS

For Local Clauses See: <http://www.osc.army.mil/ac/aaais/ioc/clauses/index.htm>

The following Federal Acquisition Regulation (FAR), DoD FAR Supplement clauses and provisions, the full text of which will be made available upon request, are incorporated herein by reference with the same force and effect as if set forth in full text.

The text of the clauses incorporated by reference herein are available from the contract specialist indicated in block 7 of the Standard Form 33 or (as applicable) the contracting officer and will be furnished upon request. Other documents are available as indicated in the schedule.

Any company/individual wishing to purchase a copy of the Federal Acquisition Regulation (FAR), the Army FAR Supplement or the DOD FAR Supplement, may do so from the Superintendent of Documents, US Government Printing Office, Washington DC 20402.

(LA7001)

	<u>Regulatory Cite</u>	<u>Title</u>	<u>Date</u>
L-1	52.204-6	DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER	OCT/2003
L-2	52.211-2	AVAILABILITY OF SPECIFICATIONS LISTED IN THE DOD INDEX OF SPECIFICATIONS AND STANDARDS (DODISS) AND DESCRIPTIONS LISTED IN THE ACQUISITION MANAGEMENT SYSTEMS AND DATA REQUIREMENTS CONTROL LIST, DOD 5010.12-L	DEC/2003
L-3	52.215-1	INSTRUCTIONS TO OFFERORS-COMPETITIVE ACQUISITIONS	JAN/2004
L-4	52.232-13	NOTICE OF PROGRESS PAYMENTS	APR/1984
L-5	52.211-14	NOTICE OF PRIORITY RATING FOR NATIONAL DEFENSE USE	SEP/1990

Any contract awarded as a result of this solicitation will be a DO rated order certified for national defense use under the Defense Priorities and Allocations System (DPAS)(15 CFR 700), and the Contractor will be required to follow all of the requirements of this regulation.

(End of Provision)

(LF6019)

L-6	52.216-1	TYPE OF CONTRACT	APR/1984
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The Government contemplates award of a firm fixed price contract resulting from this solicitation.

(End of Provision)

(LF6008)

L-7	52.233-2	SERVICE OF PROTEST	AUG/1996
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(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from HQ JMC, ATTN: AMSFCS-CCA-L (Mr. Gene Harrison), 1 Rock Island Arsenal, Rock Island, IL 61299-6000.

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

(End of Provision)

(LF6021)

L-8	52.211-4510 AMC	PARTNERING	AUG/2001
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\*\*\*The principal government representatives for this effort will be Mr. Gene Harrison, AMSFCS-CCA-L, Procuring Contracting Officer.

(LM6100)

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L-9 52.252-5 AUTHORIZED DEVIATIONS IN PROVISIONS APR/1984

(a) The use in this solicitation of any Federal Acquisition Regulation (48 CFR Chapter 1) provision with an authorized deviation is indicated by the addition of '(DEVIATION)' after the date of the clause.

(b) The use in this solicitation of any DOD FAR SUPPLEMENT (48 CFR Chapter 2) provision with an authorized deviation is indicated by the addition of '(DEVIATION)' after the name of the regulation.

(End of provision)

(LF7015)

L-10 47.304-1(B) F.O.B. POINT (RFPS) SEP/1995

Offers are requested to be submitted on an F.O.B. basis as set forth in Section B and/or F.

(End of Provision)

(LF7007)

L-11 9.306(C) WAIVER OF FIRST ARTICLE APPROVAL SEP/1995

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In the event that an offeror cannot furnish the required information, his offer Without First Article Approval will (may, in negotiated procurements) not be considered for award.

IDENTICAL OR SIMILAR ITEMS FURNISHED ON:

Contract Nos. \_\_\_\_\_

DATES \_\_\_\_\_

(End of Provision)

(LF7009)

L-12 15.403-5(A) COST DATA BREAKDOWN OCT/1997

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(End of Provision)

(LF7012)

L-13 52.212-4501 ELECTRONIC AWARD NOTICE APR/2001  
OSC

1. Any contract awarded as a result of this solicitation will be posted to the Electronic Document Access (EDA) system website, <http://eda.ogden.disa.mil/>, and paper copies will not be distributed. This is a material condition of the solicitation and by submission of a bid or proposal, the vendor agrees to accept an electronic award transmitted in the manner described above. In order to obtain an electronic copy of the award, you must be registered in the EDA system. Guidance/instructions for registration can be obtained at the above website.

2. Notice of award to the contractor receiving the award will be issued only via electronic mail. Vendors who wish to be notified if they receive an award as a result of this solicitation must provide their electronic mail address in the space provided below. If the vendor fails to provide an electronic mail address, then a separate notice of award will not be provided and it shall be the sole responsibility of the vendor to periodically check the Federal Business Opportunities (FedBizOpps) - FBO Synopsis/Award Search website <http://www.fedbizopps.gov/> or the Army Single Face to industry (ASFI)/Procurement Notifications website <http://acquisition.army.mil> to determine if he/she has received an award. In this event, the vendor's failure to check FEDBIZOPPS or the ASFI in a timely manner shall not be an excuse for failure to perform or grounds for a delivery schedule extension.

3. Notice of award to unsuccessful offerors shall be issued only via electronic mail from the Contracting Office or via the FedBizOpps/Vendor Notification feature. Vendors who wish to receive an electronic mail notice if they are unsuccessful must provide an electronic mail address in the space provided below. If the vendor fails to provide an electronic mail address, then a separate notice will not be provided, and it shall be the sole responsibility of the vendor to periodically check the ASFI/Procurement Notifications or

**Name of Offeror or Contractor:**

the FedBizOpps/Award Notification to determine if an award has been made. In this event, the vendor's failure to check these sites to determine if an award has been made shall not constitute grounds for an extension of any protest period allowed by regulation.

VENDOR'S ELECTRONIC MAIL (EMAIL) ADDRESS:

-1-

(End of provision)

(LS7100)

L-14 52.214-7 LOCAL HAND-DELIVERED BIDS, QUOTES, OR PROPOSALS

MAR/2004

Should you elect to hand-deliver your bid, quote, or proposal, you must first obtain a security badge/registration. Normally you obtain(ed) this security pass at the Visitor Control Center (Building 23) whose hours of operation are from 6:00 a.m. until 2:30 p.m. CT and which is/was accessible via the Moline entrance gate only. Beginning on April 5, 2004, major reconfiguration of the Arsenal entrance at the Moline side of the island will commence, reducing access. The Visitor Center, currently in Building 23, will move on that date (05 April 2004) into temporary accommodations on the north side of the Clock Tower building in the Clock Tower parking lot. You now can ONLY access this Visitor Control Center from the Davenport gate. Their hours will remain the same, that is, from 6:00 a.m. until 2:30 p.m. CT. You must inform the Visitor Control Center attendant to call the POC identified in Block 10 of the SF33. If the POC is not reached, then the Visitor Control Center attendant should call local number 782-6895 to reach an alternate POC. If you use a delivery service, it is your responsibility to ensure that you provide these instructions to that service.

If you have a delivery later than 2:30 p.m. CT, advise the carrier to have the Police Officer at the Davenport entrance gate call the aforementioned POC identified in Block 10 of the SF33 so a visitor decal can be issued to enter the Arsenal. This POC can then meet the carrier outside his or her building. If the carrier needs to enter the building, he or she is to come to Police headquarters, Building 225, to be issued a badge as a badge cannot be issued out at the gate after 2:30 p.m. CT.

In the event this solicitation is an Invitation for Bids, reference FAR 52.214-7, "Late Submissions, Modifications, and Withdrawal of Bids" (Nov 1999). Conversely, if this solicitation is either a Request for Quotations or Request for Proposals, reference FAR 52.215-1, "Instructions to Offerors - Competitive Acquisitions."

(End of provision)

(LS7003)

L-15 15.503 LOCAL DISCLOSURE OF UNIT PRICES

FEB/2004

Unless the offeror notifies the contracting officer, prior to submission of its initial proposal, of an objection to disclosure of its unit price, it is the Government's intent to publicly release (which would include, but is not limited to, a public award synopsis, contractor debrief, procurement history web posting, or Freedom of Information Act (FOIA) request) the unit price(s) stated in the contract awarded under this solicitation. Any objection must be submitted in writing, providing a detailed explanation of how release of the awarded unit price would result in a substantial competitive harm to the contractor. Objections will be reviewed to determine whether harm has been substantiated. Failure to timely notify the contracting officer waives any objection to disclosure of the unit price. A "unit price" is defined as the specified amount to be paid by the Government for the goods or services stated per unit, contract line item, or separately identified contract deliverable. The term "unit price" does not include any information on how the unit price was determined. This constitutes notification pursuant to Executive Order 12600.

(End of provision)

(LS7001)

**SUBMISSION OF PROPOSALS**

a. Introduction. This section contains general submission instructions as well as specific requirements for offerors to submit a quantified/qualified proposal in response to RFP W52P1J-04-R-0128.

b. General. The proposal shall be presented in sufficient detail to allow government evaluation of response to the requirements of the Request for Proposal (RFP). The government will not assume the offeror possesses any capability, understanding or commitment not specified in the proposal.

**PROPOSAL INSTRUCTIONS**

The proposal shall consist of the following:

**Name of Offeror or Contractor:**

a. Two signed and completed copies of the attached Standard Form 33 (SF33) and continuation sheets signed by a person authorized to enter into the proposed contract on behalf of the offeror. Continuation sheets must be filled in as directed (i.e., proposed price in Section B, any fill-in required, such as Contract Data Requirements List (DD Forms 1423 with Blocks 17 and 18 completed) and the Certifications and Representations in Section K, Contractor must also provide evidence that their Quality Assurance System is in compliance with the required ISO 9000 series (see Section E, Higher Level Contract Quality Requirements) prior to or at time of contract award. In addition, the offeror must also include, in his/her proposal, the computation for use of government-owned production and research property, if applicable (See Section M).

b. Original and seven paper complete copies of Technical, Past Performance, Management, and Price/Cost Volumes as outlined below.

c. Three copies of the Technical, Past Performance, Management, and Price/Cost Volumes compiled using the Microsoft Office for Windows suite of applications, submitted on 3-1/2 inch, high-density, double-sided diskettes or on CD-ROM, formatted for and IBM PC compatible computer. Costs breakdown shall include MS Excel spreadsheets with formulas intact. Files may also be provided in PDF format. Large files that are sent on a 3.5 inch floppy diskette must be compressed using the utility called WINZIP (<http://www.winzip.com>).

The proposal shall be submitted to the following address:

<p>Original plus one copy: Commander US Army Field Support Command  ATTN: AMSFS-CCA-L (Chris Thompson) 1 Rock Island Arsenal Rock Island, IL 61299-60000</p>	<p>Remaining copies to: Command Office of the Project Manager Command Ammunition Systems ATTN: SFAE-AMO-CAS (Rhonda Chuchwa) Bldg 1625) Picatinny Arsenal, NJ 07806-5000</p>
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Format for Proposal

a. The offeror's proposal shall be submitted in four volumes as set forth in the table below. Information provided shall be specific to each part.

Volume	Title by Factor/Subfactor	Pages (Max.)
I	Technical Factor:	
	Subfactor A/Manufacturing Plan & Process	70
	Subfactor B/Quality, Test & Evaluation	45
	Subfactor C/Manufacturing Equipment, Facilities, and Production Rate	35
II	Past Performance Factor	N/A
III	Management Factor:	
	Subfactor A/Program Management	35
	Subfactor B/Program Integrated Product Team Structure	20
IV	Price/Cost	N/A

Separately - Executed Section K - Representations, Certifications, and Other Statements of Offerors or Quoters

b. Length. Each factor/subfactor shall be as brief as possible, consistent with complete submission and shall not exceed the maximum of pages listed above. Pages should not exceed 8-1/2 inches in width by 11 inches in length; foldout pages depicting such items as sketches, factory floor layouts, etc. may be used, with each fold counted as one page. The font used shall not be less than 10 pitch.

c. Deviation from Requested Format: The offeror shall provide an explanation in a clearly relatable format, such as a matrix, of any difference between the format in which the proposal was requested and the manner in which it is actually submitted.

d. The offeror is responsible for including sufficient details to permit a complete and accurate evaluation of the proposal. Offeror shall provide a proposal that, at a minimum, addresses those evaluation factors required in Section M. Each proposal

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shall address the requirements of the general Statement of Work (Section C).

Specific Instructions by Volume

Offerors are responsible for including sufficient details to permit a complete and accurate evaluation of the Technical, Past Performance, Management, and Price/Cost Factors.

As the intent is to award without discussions, the offeror is responsible for including sufficient details to permit a complete and accurate evaluation of the proposal. The index of the proposal shall contain the appropriate volumes/titles/numbers at the beginning of the discussion text. The narrative discussions shall be related to the appropriate number at the beginning of the discussion text. All information specific to each factor must be confined to that subfactor. The offeror must demonstrate knowledge and capability in the factors listed below. For evaluation purposes, technical is the most important factor. Past Performance Factor is significantly less important than technical factor. The Management Factor is somewhat less important than the Past Performance Factor. Price/Cost is somewhat less important than the Management Factor. Technical, Past Performance, and Management Factor when combined, are significantly more important than Price/Cost.

Within the Technical Factor, Subfactor A - Manufacturing Plan and Process is the most important factor. Subfactor B - Quality, Test & Evaluation is somewhat less important than Subfactor A. Subfactor C - Manufacturing Equipment, Facilities & Production Rates is slightly less important than Subfactor B.

Within the Management Factor. Subfactor A/Program Management is slightly more important than Subfactor B/Program Product Team (IPT) Structure.

Specific Instructions by Factor/Subfactor

The offeror's proposal must be submitted in separate volumes based on the factors/subfactors given as set forth below, and all information specific to each factor must be confined to each subfactor. Subcontractor information, if proprietary, may be issued directly to the Government.

VOLUME I - TECHNICAL FACTOR

SUBFACTOR A-Manufacturing Plan and Process

The offeror shall present a detailed manufacturing plan including an operational flow chart and a description of each operation that details how each of the 81mm Fins will be produced (process prints may also be submitted if they assist in clarifying the proposed manufacturing processes). The offeror shall present the extruder's and plater's manufacturing plans, including operational flow charts and descriptions of each operation that details how the extrusions will be produced and plated.

The offeror shall also submit a narrative that discusses what they consider to be the critical parameters and potential problem areas for each of the operations shown in the proposal and how they propose to control them. The offeror shall also submit a narrative that discusses what the aluminum extruder and plater consider to be the critical parameters and potential problem factors for each of the operations shown in the proposal and how they propose to control them.

The offeror shall address the qualifications and experience level of all key (prime and subcontractor) manufacturing personnel (engineering and production groups), with emphasis on their experience with high volume production of like or similar items & processes that will comprise the work force that will support the required production for the 81mm Fins.

SUBFACTOR B-Quality, Test & Evaluation

The offeror shall completely describe his quality system and discuss in detail specifically how it will be applied to perform the requirements contained in this solicitation. The offeror shall also describe extruder's and plater's quality systems, and discuss specifically how they will ensure that the end product will consistently meet RFP requirements.

The offeror/subcontractor shall address the training, duties experience and qualifications of all key quality assurance personnel that will be available at time of contract performance.

The offeror/subcontractor shall provide a detailed quality plan for the 81mm Fin incoming, in-process, and final inspections that fully identifies the inspections to be performed and their frequency. Identify any plans for process control including inspection equipment,

**Name of Offeror or Contractor:**

methods, inspection points and frequency of inspections.

Offeror shall provide a plan that details how he/she can identify, prevent or recover from an occurrence of a critical defect during production.

Offeror shall provide his plan for management of the occurrence of nonconforming material during production.

The offeror shall provide an Acceptance Inspection Equipment (AIE) Program Plan for major inspection equipment, equipment designs, and test/inspection procedures. Provide history of use and government approval status if applicable. The offeror's calibration and maintenance schedules for all inspection equipment shall also be addressed. A complete description of all relevant inspection equipment shall be included in this factor.

## SUBFACTOR C-Manufacturing Equipment, Facilities and Production Rate

The offeror shall provide detailed information concerning the in-house manufacturing equipment to be used in the performance of this contract. A facility layout that shows the location of the equipment that will be used for this contract shall also be provided. The equipment shall be identified by: type, capacity, power and manufacturer. The number and type of machines to be used for each step in the manufacturing process for each fin shall be detailed. The offeror must include the floor-to-floor cycle times, the expected downtime, changeover times for each fin manufacturing operation, and history of use. The offeror shall also discuss expected scrap rates that will be incurred in producing the 81mm Mortar Cartridge Fins.

## VOLUME II - PAST PERFORMANCE FACTOR

The offeror shall submit the following past performance information:

(1) All prior past performance (within the last 3 years) manufacturing and delivering 81mm Mortar Cartridge Fins or items of the same or similar complexity to the fins required in this solicitation.

(2) The description requested above shall include the following information, presented in the following format:

- a. The offeror's Cage or Dunns number
- b. Government contracting activity, address and telephone number
- c. Procuring Contracting Officer's name and telephone number
- d. Government contracting activity technical representative/COR and telephone number
- e. Government Contractor Administration activity, and the name and telephone number of the Administrative Contracting Officer (ACO)
- f. Contract number & type (FFP, CPFF, CPIF etc.)
- g. Award price/cost
- h. Final, or projected final, price/cost
- i. Original delivery schedule
- j. Final, or projected final, delivery schedule
- k. Percentage of Contract Value that was Subcontracted & Place(s) of Performance

(3) The offeror shall present a narrative assessment of performance of each contract identified above. The assessment shall include the following:

- a. Explain actions taken to identify problems that impact cost, schedule and performance
- b. Explain action taken to minimize impacts to cost, schedule and performance once problems occurred. Explain the root cause of the problem, corrective actions identified and their results.
- c. Any action taken by the USG or Competent Authority that granted or revoked ISO 9000 status (include dates).
- d. Cure or Show Cause Letters issued by the PCO.
- e. Copies of QDRs issued on past contracts, such as:
  1. Continuous improvement efforts
  2. Customer Satisfaction Awards
  3. National or Industry Quality Awards
- g. Identify any Request for Waivers/Deviations.
- h. Identify any First Article Test/Lot Acceptance Test Failures
- i. Identify any excessive scrap rates.

(4) The offeror shall also provide the above required information for any and all contracts that they have had terminated in whole or in part, for any reason during the past three (3) years, to include those currently in the process of such termination as well as those

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which are not similar to the proposed effort.

(5) New corporate entities may submit data on prior contracts involving its officers and employees. However, in addition to the other requirements in this section, the offeror shall discuss in detail the role performed by such persons in the prior contracts.

(6) Information required in the above paragraphs shall be provided for each proposed subcontractor who will perform a significant portion of the effort. Significant is defined for these purposes in terms of percentage of the overall bid price that will be subcontracted (e.g. 25% or more) and/or in terms of criticality of the subcontracted work to the whole. With regard to prime contract assignments that will be performed by the offeror and not a proposed subcontractor, the offeror shall indicate:

- a. What internal corporate bodies/divisions will accomplish which portions of the effort.
- b. Whether or not those divisions were responsible for the performance under the previous contracts cited for the instant proposal, and
- c. If those divisions have relocated since accomplishing previous cited contract efforts, a description of any changes arising from the relocation in terms of key personnel, facilities, and equipment.

7. The offeror shall include in the proposal, the written consent of the proposed significant subcontractors to allow the Government to discuss the subcontractor's past performance evaluation with the offeror during negotiations.

Note: The offerors are reminded that both independent data and data provided by the offeror in their proposals may be used to evaluate the offeror's and/or subcontractor's past performance. Since the Government may not necessarily interview all of the sources provided by the offeror, it is incumbent upon the offeror to explain the relevance of the data provided. The Government does not assume the duty to search for data to cure problems it finds in proposals. The burden of providing thorough and complete past performance information remains with the offeror. Proposals that do not contain the required information risk rejection or receipt of a high performance risk assessment by the Government.

**VOLUME III - MANAGEMENT FACTOR**

**SUBFACTOR A/Program Management Plan**

The offeror shall submit a detailed program plan that clearly illustrates and describes the tasks, durations, dependencies and sequencing of all actions and/or events the offeror will have to undertake to comply with RFP requirements. The plan shall begin at contract award, and continue through the final scheduled delivery of all options. The plan shall identify and discuss all significant program risks, and include appropriate risk mitigation efforts/contingency plans. The offeror shall provide evidence that shows the appropriate resources to complete each task will be available when required. Subcontracted work must be described in the same level of detail as in-house production. Offeror shall identify and describe the critical path.

**SUBFACTOR B/Program Integrated Product (IPT) Team Structure**

The offeror shall provide a description of the planned program management and workforce organizational structure along with individual roles and responsibilities that will support the performance of a contract resulting from the RFP.

The offeror shall provide a description of all its business entities that will be utilized in execution of any contract resulting from the RFP. Individual roles and responsibilities for each business entity shall be described in detail.

The offeror shall identify all subcontractor business arrangements that will support program management plan and structure. Explain status of subcontractor participation.

**VOLUME IV - PRICE/COST FACTOR**

(1) Offerors are responsible for submitting a price by completing the schedule in Section B of the solicitation for both Basic and Option quantities. First Article Testing must be priced separately. The government reserves the right to request additional pricing information, if necessary.

(2) Cost Inconsistencies: A proposal is presumed to represent an offeror's best efforts to respond to the solicitation. Any inconsistency, whether real or apparent, between promised performance and price, shall be explained in the proposal. Any significant inconsistencies, if unexplained, raise a fundamental issue of the offeror's understanding of the nature and scope of the work required and their financial ability to perform the contract, and may be grounds for rejection of the proposal.

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**Name of Offeror or Contractor:**

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\*\*\* END OF NARRATIVE L 001 \*\*\*

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**Name of Offeror or Contractor:**

SECTION M - EVALUATION FACTORS FOR AWARD

For Local Clauses See: <http://www.osc.army.mil/ac/aais/ioc/clauses/index.htm>

The following Federal Acquisition Regulation (FAR), DoD FAR Supplement clauses and provisions, the full text of which will be made available upon request, are incorporated herein by reference with the same force and effect as if set forth in full text.

The text of the clauses incorporated by reference herein are available from the contract specialist indicated in block 7 of the Standard Form 33 or (as applicable) the contracting officer and will be furnished upon request. Other documents are available as indicated in the schedule.

Any company/individual wishing to purchase a copy of the Federal Acquisition Regulation (FAR), the Army FAR Supplement or the DOD FAR Supplement, may do so from the Superintendent of Documents, US Government Printing Office, Washington DC 20402.

MA7001

	<u>Regulatory Cite</u>	<u>Title</u>	<u>Date</u>
M-1	52.217-5	EVALUATION OF OPTIONS	JUL/1990
M-2	15.304(C)	EVALUATION FACTORS AND SIGNIFICANT SUBFACTORS FOR AWARD	OCT/1997

(a) The Government expects to award a contract to that offeror whose proposal is determined to represent the "best value" to the Government. Best value is determined by an integrated assessment of the evaluation factors. Award will be based upon the following evaluation factors:

FACTOR: TECHNICAL FACTOR

SUBFACTORS: Manufacturing Plan and Process  
Quality, Test and Evaluation  
Manufacturing Equipment, Facilities and Production Rate

FACTOR: MANAGEMENT FACTOR

SUBFACTORS: Program Management Plan  
Program Integrated product Team (IPT) Structure

FACTOR: PAST PERFORMANCE FACTOR

FACTOR: PRICE FACTOR

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(End of Provision)

(MP6025)

M-3	9.306(I)	COST OF FIRST ARTICLE TESTING (GOVERNMENT TESTING)	SEP/1995
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a. Evaluation of bids or offers where first article tests are waived for eligible bidders or offerors will be made by deleting the CLIN calling for First Article Testing and by subtracting the price bid if any, for such CLIN from the total amount bid for all CLIN's.

b. Earlier delivery, if required in case of waiver of first article testing, shall not be a factor in evaluation for award.

c. The Government is responsible for first article testing and the cost to the Government for such testing shall be a factor in the evaluation of bids for award, to the extent that such cost can be realistically estimated. Such estimated cost is \$ -1-

(End of Provision)

(MP6010)

M-4	9.306(C)	FIRST ARTICLE APPROVAL	SEP/1995
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a. Evaluation of bids or offers where first article test are waived for eligible bidders or offerors will be made by deleting the CLIN calling for First Article Testing.



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**Name of Offeror or Contractor:**

Q: Quantity of items to be procured.

S: Pro rata share, if applicable.

C: Evaluation factor to be added to unit price.

(h) This evaluation procedure shall not be applicable to any item or items of Government property held by the offeror under a valid lease or rental arrangement with the Government wherein the offeror is granted right of usage of such property and must pay a rental thereon for the entire leasehold/rental period irrespective of actual usage.

(i) If Government production and research property is being used on other work under one or more existing contracts for which use has been authorized, the evaluation factor shall be determined by prorating the rent between the proposed contract and such other work. The pro-rata share applicable to a proposed contract shall be determined by multiplying the full rental charge for use of Government production and research property for the period for which rent-free use is requested by a fraction, the numerator of which is the amount of use of such property requested by the contractor under this proposed contract and the denominator of which is the sum of the previous authorized use of the property by the contractor for the period and the use requested under the proposed contract. The Contractor must indicate in it's bid offer if a pro-rata share is applicable for this procurement.

(j) Special considerations relating to use of Government-owned facilities and special tooling by subcontractors.

(1) Evaluation factors applied to prime contractor's offers will be the same for both proposed prime contractor's and subcontractor's use of Government-owned property, including evaluation rates and production period.

(2) In the event that any prospective subcontractor desiring use of Government property pursuant to this provision refuses to quote a price to any prospective prime contractor or refuses to quote on an equal basis to all prospective prime contractors, the Government reserves the right to:

(i) Refuse to authorize the subcontractors use of such property, or;

(ii) Evaluate 100% of the acquisition cost (including cost of transportation, and installation, and enhancement paid by the Government) of such property against the offer of the prime contractor proposing to use such subcontractor.

(End of provision)

(MS7005)

**EVALUATION SUBFACTOR AND THEIR RELATIVE ORDER IMPORTANCE:**

The Technical and Management factor will be rated in two ways: A proposal color rating and a narrative proposal risk assessment. Past Performance will be rated by using a performance risk assessment. An explanation of ratings is as follows:

COLOR CODES. A color rating will be assigned which will depict how well each offeror's proposal meets the evaluation standards for the Technical and Management Factors. The following ratings shall be used:

<u>COLOR</u>	<u>RATING</u>	<u>DESCRIPTION</u>
Blue	Exceptional	Proposal demonstrates excellent understanding of requirements and the proposal approach that significantly exceeds performance or capability standards. Have exceptional strengths that will significantly benefit the Government and possess no significant weaknesses.
Green	Acceptable	Proposal demonstrates good understanding of the requirements and the proposed approach that meets performance or capability standards. Has some strengths that will benefit the Government and any weaknesses are readily correctable.
Yellow	Marginal	Proposal does not demonstrate a sufficient understanding of requirements and the proposed approach only marginally meets performance or capability standard necessary for minimal but acceptable contract performance; however significant weaknesses are correctable.
Red	Unacceptable	Proposal fails to demonstrate an understanding of requirements and the proposed approach does not meet performance or capability standards. Requirements can only be met with major changes to the proposal.

If an offeror's proposal is evaluated as unacceptable at any level of the evaluation criteria, this fact must be included in the rating and narrative assessment at that level and each higher evaluation criteria level. Therefore, a "red" or unacceptable rating at any level must be carried to the highest rated level.

**Name of Offeror or Contractor:**

PROPOSAL RISK ASSESSMENT. Proposal risk assesses the risks associated with the offeror's proposed effort as it relates to accomplishing the requirements of this solicitation. Evaluators will make an independent judgement of the probability of success; the impact of failure and the offeror's proposed risk mitigation solutions when assessing proposal risk in the following adjectival rating, for the Technical and Management factor:

RATING DEFINITION

Low	Little potential to cause disruption of schedule increase cost, or performance. Normal contractor effort and normal government monitoring will probably be able to overcome difficulties.
Moderate	Can potentially cause some disruption of schedule, increase price/cost, or degradation of performance. However, special contractor effort and close Government monitoring will probably be able to overcome difficulties.
High	Likely to cause serious disruption of schedule, increase cost, or degradation of performance, even with special contractor emphasis and close Government monitoring.

PERFORMANCE RISK ASSESSMENT. A Performance Risk Assessment evaluates the risk associated with each offeror's likelihood of success in performing the requirements stated in RFP based on the offeror's past performance on same or similar efforts. If award will be made without conducting discussions, offerors may be given an opportunity to clarify certain aspects of proposal (e.g. the relevance of an offeror's past performance information to which the offeror has not previously had an opportunity to respond) or to resolve minor or clerical errors. Offerors will receive an adjectival rating of low, moderate, high or unknown as follows:

Low Risk - Offeror's Past Performance record provides little doubt that the offeror will successfully perform the required effort.

Moderate Risk - Offeror's Past Performance record provides some doubt that the offeror will successfully perform the required effort.

High Risk - Offeror's Past Performance record provides substantial doubt that the offeror will successfully perform the required effort.

Unknown Performance Risk - If no relevant past performance record is identifiable upon which to base a meaningful performance risk, the offeror will receive an unknown performance risk rating. This is neither a negative or positive assessment.

PRICE/COST. Prices proposed in Section B of the 81mm Fin RFP will be evaluated for reasonableness of price per FAR 15.404-1(b).

EVALUATION STANDARDS. A standard establishes a baseline to measure how well an offeror's technical, management, past performance or similar proposal, satisfies the evaluation criteria. A standard may be either qualitative or quantitative, depending on the criteria it addresses. Standards must be approved before beginning the evaluation of proposals, and shall not be changed once any offeror's proposal is opened. The standards will be established at the lowest level of evaluation. Evaluation standards shall not be released to any potential offeror or to anyone who is not directly involved in the source selection evaluation effort. It is not necessary for an offer to meet every listed standard to qualify for an articular color code. Evaluators shall rate each proposal to determine its worth in relation to the approved standard. The results of the evaluation against the standards shall be summarized at the lowest level evaluated. Summaries will then be documented at the subfactor level including the appropriate color code/adjectival rating and risk rating and will highlight the significant strengths, weakness and deficiencies of each proposal. Unless the decision is made to award without discussions based upon the initial evaluation results, the proposals may be rated twice: (1) upon completion of the evaluation of initial proposal submission and, if determined necessary,, (2) after Final Proposal Revision Offeror's are received.

**EVALUATION CRITERIA**

Each offeror's proposal will be evaluated by applying the criteria identified in Section M of the 81mm Mortar Cartridge Fin Request For Proposal against the evaluation standards (except for price). The Technical Team may make visits to offeror's facilities to verify the claims made by the offeror concerning their capability.

The Government will evaluate each offeror's proposal as follows:

Technical Factor  
Past Performance Factor  
Management Factor  
Price/Cost Factor

For evaluation purposes, technical is the most important factor. Past Performance factor is significantly less important than technical factor. The Management Factor is somewhat less important than the Past Performance Factor. Price/Cost is somewhat less important than the Management Factor. Technical, Past Performance, and Management Factor when combined, are significantly more important than Price/Cost. Award will be based on the evaluation of each offeror's proposal in the following factors:

**Name of Offeror or Contractor:**

## TECHNICAL FACTOR:

There are three subfactors in the Technical Factor as listed below:

- Subfactor A - Manufacturing Plan and Process
- Subfactor B - Quality, Test & Evaluation
- Subfactor C - Manufacturing Equipment, Facilities & Production Rate

Within the Technical Factor, Subfactor A - Manufacturing Plan and Process is the most important factor. Subfactor B - Quality, Test & Evaluation is somewhat less important than Subfactor A. Subfactor C - Manufacturing Equipment, Facilities & Production Rate is slightly less important than Subfactor B.

## SUBFACTOR A - Manufacturing Plan and Process

The Government will evaluate the offeror's/subcontractor's proposed manufacturing processes for each fin with respect to: the ability of the overall process the offeror proposes to product components which meet RFP requirements and the appropriateness of the individual steps in the process to both the parts being produced and to the overall production requirement defined by this solicitation.

The Government will evaluate the offeror's/subcontractor's understanding of the processes and associated risks described including their ability to communicate the key parameters of the process and potential problem factors.

The Government will also evaluate the education, skill level and experience of the manufacturing and production workforce that the offeror/subcontractors will be utilizing to execute this project.

## SUBFACTOR B - Quality, Test &amp; Evaluation

The Government will evaluate the offerors'/subcontractors' quality program plan(s) against the following:

- a) Quality system meets Request For Proposal requirements.
- b) The Government will also evaluate the qualifications and experience of the quality assurance personnel that the offerors/subcontractors will be utilizing to execute this project.
- c) Adequacy of selected in-coming inspections, in-process inspections and controls, and final inspections.
- d) Adequacy of plan to prevent or manage the occurrence of critical defects.
- e) The adequacy of the quality plan to identify, manage, segregate, and dispose of non-conforming materials. The adequacy of the proposed actions to occur when a nonconformance occurs will be evaluated.
- f) The adequacy of the Acceptance Inspection Equipment (AIE) design, test procedures, calibration procedures, and inspection procedures using the proposed AIE..

## SUBFACTOR C - Manufacturing Equipment, Facilities &amp; Production Rate

The Government will assess adequacy of the equipment and facilities the offer/subcontractor proposes to accomplish manufacture and delivery of the 81mm Mortar Cartridge Fins.

The Government will evaluate if the equipment described by the offeror is appropriate for and has the capability to perform the operation for which it is specified. The throughputs/expected production rates of each piece of equipment will be assessed.

## MANAGEMENT FACTOR: There are two parts in the Management Factor:

- Subfactor A - Program Management Plan
- Subfactor B - Program Integrated Product Team (IPT) Structure

Within the Management Factor, Subfactor A/Program Management is slightly more important than Subfactor B/Program Integrated Product Team (IIPT) Structure.

## SUBFACTOR A - Program Management

The Government will evaluate the offeror's overall program plan with emphasis on the program schedule and understanding of required program events required to meet the Request For Proposal requirements. The Government will evaluate the offeror's proper identification of the program's critical path.

**Name of Offeror or Contractor:**

PART B - Program Integrated Product Team (IPT) Structure

The Government will evaluate the adequacy of the offeror's program IPT structure.

**PAST PERFORMANCE AREA:**

a. Based on the offeror's previous and current performance which are of the same or similar complexity as the effort required by this solicitation for similar/related efforts (maximum of 3 years), the Government will conduct an assessment based upon the quality of the offeror's past performance as well as that of its proposed subcontractors, as it relates to the probability of successful accomplishment

of the required effort. When assessing performance risk, the government will focus its inquiry on the past performance of the offeror and its proposed subcontractors as it relates to all solicitation requirements, such as cost, schedule, and performance. This includes the offeror's record of conforming to specifications and to standards of good workmanship; the offeror's record of actively identifying potential problems as well as its ability to resolve actual problems with minimal impact to contract performance; the offeror's adherence to contract schedules, including the administrative aspects of performance; the offeror's history for reasonable and cooperative behavior and commitment to customer satisfaction; the offeror's history of receiving awards or commendations for their efforts and achievements and their commitment to customer satisfaction.

b. A significant achievement, problem or lack of relevant data in any element of effort can become an important consideration in the source selection process. A negative finding under any element may result in an overall high performance risk rating. Therefore, offerors are reminded to include all relevant past effort including demonstrated corrective actions in their proposal.

Note: Offerors are cautioned that in conducting the performance risk assessment, the Government may use data provided by the offeror in its proposal and any obtained from other sources. Since the Government may not necessarily interview all of the sources provided by the offerors, it is incumbent upon the offeror to explain the relevance of the data provided. The Government does not assume the duty to search for data to cure problems it finds in proposals. The burden of providing thorough and complete past experience information remains with the offeror.

**PRICE FACTOR:**

Each offeror's proposal price plus any additional subfactors such as the first article testing, evaluation of options, advantage from the Offeror's possessing government owned production property, etc. will be evaluated. The evaluation will include price or cost analysis, whichever is appropriate considering the number of offers received and the adequacy of the competition. The Government reserves the right to request additional pricing information, if necessary.

The Contracting Officer, in making the integrated assessment of the results of the evaluation of the factors given herein will give due consideration to the relative order of importance of the evaluation subfactors. The government will weigh any increase in technical rating against any additional price to determine if the parity of the relationships warrants the paying of additional price for the higher rating. However, price may become more significant in the event ratings of competing proposals are closely grouped.

Cost Inconsistencies: A proposal is presumed to represent an offeror's best effort to respond to the solicitation. Any inconsistency, whether real or apparent, between promised performance and price, should be explained in the proposal. Any significant inconsistencies, if unexplained, raise a fundamental issue of the offeror's understanding of the nature and scope of work required and his financial ability to perform the contract, and may be grounds for rejection of the proposal.

**EVALUATION OF USE OF GOVERNMENT OWNED PRODUCTION AND RESEARCH PROPERTY:**

If government production and research property is proposed for use in performance of any contract resulting from this solicitation, each offer will be adjusted to include a rental equivalent evaluation subfactor for each item of such property calculated in accordance with FAR clause 52.245.9. This adjustment will apply for the use of government property by the offeror as well as any subcontractor thereto.

**EVALUATION OF OFFER/QUOTES-FIRST ARTICLE APPROVAL-CONTRACTOR TESTING:**

(a) If the government decides to exercise its right to waive either the First Article Test in accordance with paragraph (h), FAR 52.209-3, the price submitted in Section B of the Request For Proposal for Line Items covering the First Article test will not be included in the contract.

(b) Earlier delivery resulting from a waiver of the First Article Sample will not be a subfactor in evaluation for award.

**EVALUATION OF OPTIONS:**

In this procurement the Government will evaluate offers for award by adding the total price for the basic contract line item(s) (Production Quantity and First Article) to the total of all extended evaluated option line item prices listed on the attachment Pricing

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**Name of Offeror or Contractor:**

Matrix. An evaluated option line item price will be calculated for each Line Item as follows:

Option Evaluated Price = First Article + extended price for highest quantity in the range plus GFE adjustments if any.

## BASIC YEAR

First Article Test + Production Quantity (10,555 + 379 x unit price) = Amount

## PLUS

## OPTION I

M28 Fin First Article Test + Production Quantity (20,000 x unit price) = Amount\_

M29 Fin First Article Test + Production Quantity (40,000 x unit price) = Amount

+ Production Quantity (77,000 x unit price) = Amount

## PLUS

## OPTION II

M24 Fin First Article Test + Production Quantity (100,000 x unit price) = Amount

+ Production Quantity (180,000 x unit price) = Amount

M28 Fin First Article Test + Production Quantity (50,000 x unit price) = Amount

+ Production Quantity (95,000 x unit price) = Amount

+ Production Quantity (140,000 x unit price) = Amount

M29 Fin First Article Test + Production Quantity (30,000 x unit price) = Amount

+ Production Quantity (57,000 x unit price) = Amount

## PLUS

## OPTION III

M24 Fin First Article Test + Production Quantity (100,000 x unit price) = Amount

+ Production Quantity (180,000 x unit price) = Amount

M28 Fin First Article Test + Production Quantity (50,000 x unit price) = Amount

+ Production Quantity (95,000 x unit price) = Amount

+ Production Quantity (140,000 x unit price) = Amount

M29 Fin First Article Test + Production Quantity (30,000 x unit price) = Amount

+ Production Quantity (57,000 x unit price) = Amount

## EQUALS

TOTAL EXTENDED PRICE \$\_\_\_\_\_

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

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\*\*\* END OF NARRATIVE M 001 \*\*\*

**BASIS FOR AWARD**

- a. The basis for award of a contract as a result of this RFP will be an integrated assessment by the Contracting Officer of there results of the evaluation of the factors and subfactors set forth above.
- b. Award of a contract resulting from this solicitation will be made to the responsible offeror whose proposal represents the best value to the Government based on an integrated assessment of the offeror's Technical, Past Performance, Management and Price/Cost Factors.
- c. The Government reserves the right to made an award to other than the lowest priced offeror if the Contracting Officer determines that to do so would result in the best value to the Government.
- d. Options will be included in the offerors evaluation for purposes of award; however, the Government is not obligated to exercise the options.

\*\*\* END OF NARRATIVE M 002 \*\*\*

**DETERMINATION OF RESPONSIBILITY:**

- a. Offerors are urged to ensure that their proposals are submitted on the most favorable terms in order to reflect their best possible potential since the Government intends to make award without discussions based on initial proposals received. Proposals that are unrealistic in terms of technical or schedule commitments, or unrealistically low in cost and price, will be considered indicative of a lack of understanding of the complexity and risk in the contract requirements.
- b. If deemed necessary, the Government reserves the right to conduct site visits at the offeror's facility.
- c. Pre-awards surveys may be conducted.

\*\*\* END OF NARRATIVE M 003 \*\*\*

**DISCUSSIONS:**

- a. Each initial offer should contain the offerors' best terms for award of a contract under this solicitation. The Government intends to award a contract without discussions (except for clarifications as describe in FAR 15.306(a) and FAR 52.215-1.) However, the Government reserves the right to conduct discussions and to permit offerors to revise their proposal.
- b. If discussions are to be conducted, the Government will establish a competitive range comprised of the most highly rated proposals. The competitive range shall be determined on the basis of an analysis of each offeror's Technical, Past Performance, Management, and Price/Cost Factors. The Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. All offerors in the competitive range will be advised of any clarifications, minor omissions/irregularities, significant weakness, or deficiencies in their proposal. They will be offered a reasonable opportunity to correct or resolve them and to submit such price or cost, technical or other revisions to their proposal that may result from the discussions. At the conclusion of discussions, a final common cutoff date that allows a reasonable opportunity for submission of written "Final Proposal Revisions" will be established and all offerors in the competitive range will be so notified. The initial evaluation of the proposals with the competitive range may be revised in light of any additional information/data provided during the discussion phase and/or furnished with the "Final Proposal Revisions". The Contracting Officer may further limit the

**Name of Offeror or Contractor:**

competitive range by eliminating proposals during discussions (if held).

\*\*\* END OF NARRATIVE M 004 \*\*\*

**MINIMUM ACCEPTABILITY**

The Government intends to award based on initial proposals as provided in FAR 25.215-1. If an offeror takes exception to any of the terms and conditions of the RFP, the offer will not be considered unless the Contracting Officer determines that it is necessary to conduct discussions. Offerors are urged to ensure that their initial proposals are submitted with the most favorable terms in order to reflect their best possible potential.

\*\*\* END OF NARRATIVE M 005 \*\*\*

**PROPOSAL EVALUATION FACTORS**

Each of the factors and subfactors identified above (except Price/Cost and Past Performance) will be rated in two ways: a proposal color rating and a narrative proposal risk assessment. The proposal color rating depicts how well the offeror's proposal meets the evaluation standards and the solicitation requirements. Proposal risk assesses the risk associated with the offeror's proposed approach as it relates to accomplishing the requirements of this solicitation. Past Performance will be rated by using a performance risk assessment.

\*\*\* END OF NARRATIVE M 006 \*\*\*