SOLICITATION, OFFER AND AWARD

1. This contract is a rated order under DPAS (15 CFR 700) RATING:

2. CONTRACT NO.	3. SOLICITATION NO.
	53-M-APHIS-01

4. TYPE OF SOLICITATION

[ ] SEALED BID (IFB) [X] NEGOTIATED (RFP)

5. DATE ISSUED	6. REQUISITION/PURCHASE NO.
03/12/01	

7. ISSUED BY CODE: 126395	8. ADDRESS OFFER TO (If other than Item 7)
USDA,APHIS,MRP-Business Services- Butler Square, Fifth Floor 100 North Sixth Street Minneapolis, MN 55403	

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

SOLICITATION

9. Sealed offers in original and 2 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 11:00 A.M. local time on MARCH 28, 2001.

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

10. FOR INFORMATION CALL:	A. NAME: Robert J. Crowther	B. TELEPHONE NO. (Include Area Code) (NO COLLECT CALLS) (612) 370-2115
C. E-MAIL ADDRESS bob.j.crowther@usda.gov		

EXCEPTION TO STANDARD FORM 33 (REV.9-97) Prescribed by GSA FAR (48 CFR 53.214(c)

SOLICITATION, OFFER AND AWARD

11. TABLE OF CONTENTS

X	SEC	DESCRIPTION	PAGE(S)
		PART I - THE SCHEDULE	
	A	SOLICITATION/CONTRACT FORM	
	B	SUPPLIES OR SERVICES AND PRICES/COSTS	
	C	DESCRIPTION/SPECIFICATIONS/WORK STATEMENT	
	D	PACKAGING AND MARKING	
	E	INSPECTION AND ACCEPTANCE	
	F	DELIVERIES OR PERFORMANCE	
	G	CONTRACT ADMINISTRATION DATA	
	H	SPECIAL CONTRACT REQUIREMENTS	
		PART II - CONTRACT CLAUSES	
	I	CONTRACT CLAUSES	
		PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS	
	J	LIST OF ATTACHMENTS	
		PART IV - REPRESENTATIONS AND INSTRUCTIONS	
	K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
	L	INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS	
	M	EVALUATION FACTORS FOR AWARD	

OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provision 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)

10 CALENDAR DAYS	20 CALENDAR DAYS	30 CALENDAR DAYS	___ CALENDAR DAYS
_____%	_____%	_____%	_____%

14. ACKNOWLEDGEMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated:

AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

EXCEPTION TO STANDARD FORM 33 (REV. 9-97)

SOLICITATION, OFFER AND AWARD

15A. NAME AND ADDRESS OF OFFEROR	CODE _____ FACILITY _____	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN (Type or Print)
15B. TELEPHONE NO. (Include Area Code)		17. SIGNATURE
15C. [ ] CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE		18. OFFER DATE

AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT	21. ACCOUNTING AND APPROPRIATION

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

[ ] 10 U.S.C. 2304(c)( ) [ ] 41 U.S.C. 253(c)()

23. SUBMIT INVOICES TO ADDRESS SHOWN IN --> (4 Copies unless otherwise specified)	ITEM 25

24. ADMINISTERED BY CODE _____ (If other than Item 7) (Same As Issuing Office) Attn: Margie Thorson Contract Administrator	25. PAYMENT WILL BE MADE BY CODE _____ USDA,APHIS,MRP-Business Butler Square, Fifth Floor 100 North Sixth Street Minneapolis, MN 55403

26. NAME OF CONTRACTING OFFICER (Type or Print)	27. UNITED STATE OF AMERICA Signature of Contracting Officer	28. AWARD DATE

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

EXCEPTION TO STANDARD FORM 33

TABLE OF CONTENTS PAGE

SOLICITATION, OFFER AND AWARD 1

PART I - THE SCHEDULE 4

SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS 4
B.1 BID/PRICING SHEET 4
B.2 WORK ORDER - MAUGET TRUNK INJECTION TREATMENT PROGRAM 5

SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT 6

SECTION D - PACKAGING AND MARKING 18

SECTION E - INSPECTION AND ACCEPTANCE 19
E.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998) 19
E.2 52.246-4 INSPECTION OF SERVICES--FIXED-PRICE 19
(AUG 1996)

SECTION F - DELIVERIES OR PERFORMANCE 21
F.1 52.242-15 STOP-WORK ORDER (AUG 1989) 21
F.2 52.242-17 GOVERNMENT DELAY OF WORK (APR 1984) 22
F.3 AGAR 452.211-74 PERIOD OF PERFORMANCE (FEB 1988) . . . 22

SECTION G - CONTRACT ADMINISTRATION DATA 23
G.1 CONTRACTING OFFICER'S REPRESENTATIVE (COR) 23
G.2 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR) 23

SECTION H - SPECIAL CONTRACT REQUIREMENTS 25
H.1 AGAR 452.236-73 ARCHEOLOGICAL OR HISTORIC SITES . . . 25
(FEB 1988)
H.2 AGAR 452.236-74 CONTROL OF EROSION, SEDIMENTATION, . . 25
AND POLLUTION (NOV 1996)
H.3 AGAR 452.237-74 KEY PERSONNEL (FEB 1988) 25

PART II - CONTRACT CLAUSES 27

SECTION I - CONTRACT CLAUSES 27
I.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998) 27
I.2 52.216-18 ORDERING (OCT 1995) 28
I.3 52.216-19 ORDER LIMITATIONS (OCT 1995) 29
I.4 52.216-21 REQUIREMENTS (OCT 1995) 29
I.5 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999) 30
I.6 52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE 30
FOR HUBZONE SMALL BUSINESS CONCERNS (JAN 1999)
I.7 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2000) 32
Alternate II (OCT 2000)
I.8 52.219-16 LIQUIDATED DAMAGES--SUBCONTRACTING PLAN . . 39
(JAN 1999)
I.9 52.219-23 NOTICE OF PRICE EVALUATION ADJUSTMENT FOR . 40
SMALL DISADVANTAGED BUSINESS CONCERNS (MAR 2001)
I.10 52.222-37 EMPLOYMENT REPORTS ON DISABLED 42
VETERANS AND VETERANS OF THE VIETNAM ERA
(JAN 1999)
I.11 52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED . 43

TABLE OF CONTENTS PAGE

(MAY 1989)
I.12 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND 52
MATERIAL SAFETY DATA (JAN 1997) ALTERNATE I
(JUL 1995)
I.13 52.232-34 PAYMENT BY ELECTRONIC FUNDS TRANSFER-- . . . 54
OTHER THAN CENTRAL CONTRACTOR REGISTRATION (MAY 1999)
I.14 52.236-7 PERMITS AND RESPONSIBILITIES 58
(NOV 1991)
I.15 INSURANCE REQUIREMENTS 58
I.16 MATERIAL SAFETY DATA SHEETS 59

PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS . . . 60

SECTION J - LIST OF ATTACHMENTS 60
J.1 AGAR 452.252-70 LIST OF ATTACHMENTS (FEB 1988) 60

PART IV - REPRESENTATIONS AND INSTRUCTIONS 62

SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND 62
OTHER STATEMENTS OF OFFERORS
K.1 52.203-2 CERTIFICATE OF INDEPENDENT PRICE 62
DETERMINATION (APR 1985)
K.2 52.203-11 CERTIFICATION AND DISCLOSURE REGARDING . . . 63
PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS
DEVIATION (APR 1991)
K.3 SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES 64
K.4 52.204-5 WOMEN-OWNED BUSINESS (OTHER THAN 64
SMALL BUSINESS) (MAY 1999)
K.5 52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, 64
PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS
(MAR 1996)
K.6 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS-- 66
COMMERCIAL ITEMS (MAR 2001) Alternate III (OCT 2000)
K.7 52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS . . . 77
(MAR 2001) Alternate I (OCT 2000)
K.8 52.219-22 SMALL DISADVANTAGED BUSINESS STATUS 80
(OCT 1999)
K.9 52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS . 81
(FEB 1999)
K.10 52.222-25 AFFIRMATIVE ACTION COMPLIANCE (APR 1984) . . 81
K.11 AGAR 452.222-70 COMPLIANCE WITH VETERANS EMPLOYMENT . 82
REPORTING REQUIREMENTS (JAN 1999) (DEVIATION)(USDA)

SECTION L - INSTRUCTIONS, CONDITIONS, AND 83
NOTICES TO OFFERORS
L.1 52.204-6 DUNS UNIVERSAL NUMBERING SYSTEM 83
(DUNS) NUMBER (JUNE 1999)
L.2 52.215-1 INSTRUCTIONS TO OFFERORS--COMPETITIVE 83
ACQUISITION (MAR 2001)
L.3 52.216-1 TYPE OF CONTRACT (APR 1984) 89
L.4 52.233-2 SERVICE OF PROTEST (AUG 1996) 89
L.5 AGAR 452.204-70 INQUIRIES (FEB 1988) 89
L.6 AGAR 452.215-72 AMENDMENTS TO PROPOSALS (FEB 1988) . . 89
L.7 AGAR 452.219-70 SIZE STANDARD AND NAICS CODE 89

TABLE OF CONTENTS PAGE

INFORMATION (NOV 1996) (AGAR DEVIATION)

SECTION M - EVALUATION FACTORS FOR AWARD 91
M.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED 91
BY REFERENCE (FEB 1998)
M.2 AGAR 452.216-72 EVALUATION QUANTITIES -- 91
INDEFINITE DELIVERY CONTRACT (FEB 1988)
M.3 EVALUATION CRITERIA 91

PART I - THE SCHEDULE

SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 BID/PRICING SHEET

ITEM NO.	DESCRIPTION OF SERVICES	ESTIMATED TOTAL D.B.H.	UNIT OF ISSUE	UNIT PRICE	ESTIMATED TOTAL AMOUNT
1.	Mauget Trunk Injection - Long Island, New York.	51,076	dbh	$_____	$_____
2.	Mauget Trunk Injection - New York City.	157,212	dbh	$_____	$_____

dbh = diameter at breast height.

B.2 WORK ORDER - MAUGET TRUNK INJECTION TREATMENT PROGRAM

WORK ORDER NO. _____

Date of Work Order: _____

Location of Control Site:

Choose Type of Treatment:

Soil Injection [ ] Mauget Trunk Injection [ ]

Estimated Number of Host Trees: _____

Estimated Total d.b.h.: _____; Average d.b.h.: _____
(Note: Estimated total d.b.h. may vary plus or minus 20%)

Start Date: _____. Estimated Start Time: _____.

Number of Days to Complete Work Order: _____.

Description of treatment site:

_____ _____

Signature Contractor's Project Manager/Date Signed

Signature APHIS Contracting Officers Representative (COR)/Date Signed

NOTE: A COPY OF EACH WORK ORDER WITH TREATMENT DATA SHEETS AND SITE MAPS SHALL BE FAXED TO THE CONTRACTING OFFICER AT 612/370-2106 WITHIN 24 HOURS OF ISSUANCE.

SECTION C - DESCRIPTION /SPECIFICATIONS/WORK STATEMENT

PERFORMANCE WORK STATEMENT
(Control Treatments for Control of Asian Longhorned Beetle)

I. BACKGROUND

The United States Department of Agriculture (USDA), Animal and Plant Health Inspection service (APHIS), in conjunction with State of New York officials, is planning a program to apply a systemic insecticide (Imidacloprid), for the control of the Asian longhorned beetle (ALB), *Anoplphora glabripennnis* (Motschulsky). The program is intended to reduce the potential for damage from this major pest of trees.

The ALB bores into and kills a variety of tree species including species of maple, elm, ash, horsechestnut, birch, poplar, and willow. This nonnative pest has the potential to spread to other areas of the United States and cause extensive losses to ornamental and commercial tree species. As a consequence, the Secretary of Agriculture has declared an emergency and is committing resources to eliminate ALB and restore the urban forest.

II. SCOPE OF WORK

APHIS intends to award a firm, fixed-price, requirements contract as required by the APHIS Contracting Officer's Representative (COR) for ALB control treatments within the New York City area and Long Island in the State of New York. Treatments shall be trunk injection using Imicide 4 ml. Mauget injectors. The effective period of the contract will be April 1, 2001, or date of award, whichever is later, though September 30, 2001. Consideration for award is limited to preapproved companies on the APHIS Qualified Bidder's List (QBL). A copy of the application for consideration for addition to the QBL is attached. Applications (including required supporting documentation) must be received and approved by the Contracting Officer prior to receipt of offers. Companies already on the QBL must ensure their applications are up-to-date and include a sufficient number of approved applicators to ensure performance at the minimum performance levels required of this contract.

III. CONTRACTOR PERFORMANCE REQUIREMENTS

The Contractor shall provide all personnel, labor, supervision, supplies, facilitating equipment, and materials required to apply pesticides for the control of ALB, in accordance with this "performance work statement (PWS)". The contract price shall include all costs associated with the performance of all work orders issued against this contract for the control of ALB in the New York City area and Long Island in the State of New York, including but not limited to, furnishing and transporting personnel and equipment, materials (including insecticides/pesticides) necessary to chemically treat trees on public and private property, insurance, licenses, permits, fees, tolls,

general and administrative, and other such costs normally required to perform the services specified herein.

The Contractor shall require each employee (including subcontractor employees) to visually display a photo identification badge. The badge shall identify the company name and association with the Cooperative Asian Longhorned Beetle Control Treatment Project. Badge markings shall include similar information as required for vehicles used on the project.. (Refer to Section XII - Marking of Vehicles - for additional information).

Individual "work orders" will be issued in writing by the COR for each treatment zone and include site specific information (i.e. treatment data sheets, maps, etc.). The COR will meet regularly with the Contractor's Project Manager to prioritize and schedule treatment zones. The Contractor is responsible for documenting treatments completed each day and providing this documentation to the COR, or designated APHIS representative, at the end of each treatment day. The following information is required for each treated tree: address, tree species, date and time of treatment (beginning and ending), type of treatment, tree d.b.h., number of Mauget units applied per tree.

IV. WORK HOURS/TIMING AND SEQUENCE OF APPLICATIONS

Generally, all treatments will be scheduled for Mondays through Saturdays between dawn and 6:00 P.M., depending on site conditions and method of treatment, except for Federal or State Holidays. Due to the emergency nature of the ALB treatment program, and potential for infestation of ALB, APHIS may require the Contractor to work beyond 6:00 P.M. or on Sunday, or Federal or State Holidays. It is anticipated that treatments will be applied from approximately early April to mid-June, prior to adult emergence and flight which begins in late spring and early summer. Additional applications may be requested throughout the summer and fall on an as needed basis. Depending upon the results of residual activity monitoring, treatments may be repeated in the same areas at annual or greater intervals. APHIS requires Mauget trunk injection treatment of a minimum of 50 trees per day per pesticide applicator. There may be periods when APHIS will require treatment of two zones simultaneously. Offerors are encourage to review their applications for the QBL to ensure it is (1) up to date (2) and there are a sufficient number of preapproved pesticide applicators and observers to treat up to 500 trees a day.

V. PROJECTED SPRING 2001 MAUGET TREATMENT SUMMARY

This spring, APHIS, anticipates applying control measures on an estimated 4 treatment zones in Long Island (Massapequa Park, Islip, Lindenhurst East and Lindenhurst West) with an estimated number of 4,000 (+ or - 20%) trees, and 6 treatment zones in the New York City area (Manhattan - Rupert Park, Lower East Side, Brooklyn/Queens East River, Flushing Meadows Corona Park, Flushing, and Bayside) with an estimated number of 9,000 (+ or - 20%) trees. The total number

of trees for New York is estimated at 13,000 (+ or - 20%) and the total estimated *diameter at breast height* (d.b.h.) is 157,212 with an average d.b.h. of 12 inches per tree.

Long Island Treatment Zones

Zone	# Trees Treated	DBH Treated	# Capsules Needed	Estimated # Days to Complete
Massapequa Park				
43	177	2,930	1,465	
44	186	2,740	1,370	
45	433	5,082	2,541	
48	474	5,860	2,930	
49	128	1,224	612	
Subtotal	**1,398**	**17,836**	**8,918**	**3 - 4 days**
Islip				
201	122	2,004	1,002	
208	176	2,024	1,012	
209	446	3,956	1,978	
Subtotal	**744**	**7,984**	**3,992**	**2 - 3 days**
Lindenhurst East				
140	314	3,622	1,811	
142	158	2,064	1,032	
143	305	3,938	1,969	
144	371	4,914	2,457	
Subtotal	**1,148**	**14,538**	**7,269**	**2 - 3 days**
Lindenhurst West				
128	371	5,786	2,893	
129	161	2,248	1,124	
133	248	2,684	1,342	
Subtotal	**780**	**10,718**	**5,359**	**2 - 3 days**
Total Long Island	**4,070**	**51,076**	**25,538**	**9 - 13 days**

New York City Treatment Zones

Zone	# Trees Treated	DBH Treated	# Capsules Needed	Estimated # Days to Complete
Manhattan Rupert Park				
47	236	1,302	651	
Subtotal	**236**	**1,302**	**651**	**1 - 2 days**
Manhattan Lower East Side				
5	667	7,062	3,531	
6	5	12	6	
10	118	572	286	
11	34	110	55	
12	106	1,788	894	
13	330	2,244	1,122	
14	662	6,482	3,241	
Subtotal	**1,922**	**18,270**	**9,135**	**8 - 9 days**
Corona Flushing Meadows Park				
105	423	3,976	1,988	
272	43	416	208	
Subtotal	**466**	**4,392**	**2,196**	**1 - 2 days**
Flushing				
327	46	924	462	
328	275	6,000	3,000	
329	38	694	347	
330	218	3,620	1,810	
331	388	6,134	3,067	
332	22	298	149	
334	390	5,528	2,764	
336	128	1,868	934	
Subtotal	**1,505**	**25,066**	**12,533**	**3 - 4 days**
Bayside				
370	260	2,876	1,438	
371	342	5,288	2,644	
373	229	4,838	2,419	

374	299	3,676	1,838	
375	146	1,700	850	
386	1,016	8,274	4,137	
Subtotal	**2,292**	**26,652**	**13,326**	**4 - 5 days**
Brooklyn/Queens East River				
84	211	2,496	1,248	
86	103	1,176	588	
90	61	538	269	
94	30	334	167	
115	82	580	290	
139	4	54	27	
140	35	340	170	
208	32	220	110	
209	22	122	61	
215	34	272	136	
218	65	422	211	
219	77	622	311	
222	251	2,664	1,332	
264	123	1,158	579	
Ft. Greene Park 431	196	3,856	1,928	
Expansion Area*	1,300	15,600	7,800	
Subtotal	**2,626**	**30,454**	**15,227**	**6 - 7 days**
Total NYC	**9,047**	**106,136**	**53,068**	**23 - 29 days**
TOTAL NY	**13,117**	**157,212**	**78,606**	**32 - 42 DAYS**

***The Brooklyn/Queens East River Treatment Zone will be expanded to add approximately an additional 1,300 trees. The figures listed here are approximate. More detailed information will be provided at a later date.**

VI. PREPARATION

The COR will prioritize sites to be treated. APHIS Project Managers will then notify residents and businesses in treatment areas at least 48 hours prior to the time treatment will occur. Each resident or business will be provided with information concerning the ALB, the treatment that will be used, and a number to call for additional information. All properties with host trees

within the control zone will be identified. Hosts will be identified as to genus (species) and measured for d.b.h. A marker will be placed on each tree identifying it for treatment. Treatment sites include, but are not limited to, street trees, private property trees, median trees, alley trees, park district trees, and public school trees.

VII. MAUGET TRUNK INJECTION

The Contractor shall apply a systemic insecticide, Imidacloprid, to control ALB, using Mauget trunk injections to deliver the pesticide. There are numerous biological and entomological factors that determine the time and sequence of treatments. Start of Mauget trunk injection treatments must be after bud break and soil temperatures are above 40 degrees Fahrenheit. The Mauget treatment program must be completed at least 2 weeks prior to adult emergence. The anticipated dates of treatments to cover April 1, 2001 through June 18, 2001. The entire Mauget trunk injection treatment program must be completed by June 18, 2001. Therefore, if there are excusable delays, such as delays due to weather conditions, the Contractor may be required to make up the time by adding additional resources in order to complete the treatment program by the June 18, 2001 target date.

The Contractor shall use Imicide capsules with the Mauget trunk micro-injection system to treat urban and rural trees as needed. The 4 ml capsules will contain a 10% formulation of imidacloprid and will be applied at the rate of one capsule per two inches of d.b.h. The number of Mauget's to use per tree is determined by dividing the d.b.h. of the tree by two. A tree with a d.b.h. of 20 inches would require 10 Mauget dispensers. Trees measuring an odd number d.b.h. shall be rounded up to the next even number.

Once the tree d.b.h. has been determined, the Contractor shall place the dispensers on the ground around the tree in the root flare areas that will result in the best distribution of the material throughout the tree; close to the soil (2 to 6 inches above the soil-wood line). It is very important not to place the dispensers in valleys as poor distribution of the material will occur. If necessary, more than one dispenser can be placed in one root flare area.

Activate the dispenser by hitting the top of the dispenser with a rubber mallet, or by pressing between the hands. Using a drill with a 11/64 or 3/16 bit, drill a hole approximately 0.5 to .75 inches deep on a 45 degree angle to the main trunk where each dispenser is to be placed. The hole should extend just into the tree xylem area. Then insert the dispenser tube firmly into the micro injection unit and seat snugly into the hole in the tree. Tap the barrel section lightly with a rubber mallet to firmly seat the micro injection unit in the hole. A popping sound will be heard if the unit is properly in place. If not installed correctly, the material will not go into the tree and may possibly leak and cause environmental contamination.

Once treated, a sufficient amount of time is allowed for the material to empty out of the micro injection unit and into the tree. This can vary depending on the time of the year, weather

conditions, and tree species. Moist soil conditions facilitates the emptying of the micro injection units. At the time of notification of treatment, APHIS will encourage residents and landowners to water soil under the trees to increase the effectiveness of the treatment.

The Contractor shall comply with State and local laws, regulations, and policies for chemical treatments and disposal of empty Mauget capsules. Prior to the application of the pesticide, the Contractor shall provide the occupants of a dwelling with a written copy of the information, including any warnings, contained on the label of the pesticide applied. On the premises of a multiple dwelling, a written copy of this information shall be supplied to the owner or agent of the dwelling. The Contractor shall place markers within or along the perimeter of the area where the pesticides will be applied. The markers are to be placed so as to be clearly visible to persons immediately outside the perimeter of such property. The markers shall be posted at least twelve inches above ground and shall be at least four inches by five inches in size. The markers shall be in place on the day during which the pesticide is applied and shall instruct persons not to enter the property and not to remove the signs for a period of at least 24 hours. Such instructions shall be printed boldly in letters at least 3/8 of an inch in height. The Contractor shall remove such markers from the treated properties within a time period of 24 to 48 hours after completion of the application. The Contractor shall flag the treated tree with yellow plastic forestry tape (1 inch or wider) during treatment. The tape shall be removed when the Mauget units are removed. The micro injector units shall remain on the treated trees until empty. If a unit, or units, have not emptied at the end of a 4-hour period, remove the unit(s) and note on the daily report the location of the tree and the approximate percentage of material remaining in each capsule. The amount of time can vary depending on the time of the year, weather conditions and tree species. The time required for complete dispersion of the material into the tree will vary from ½ hour to over four hours. APHIS requires all Mauget trunk injection treatments to be completed by 2:00 P.M. to ensure the material is emptied out of the micro injection unit and into the tree. Micro injection units must be completely removed from all treated trees by 6:00 P.M. daily.

Contractor personnel must be trained by the J.J. Mauget Company before they attempt to do this type of treatment.

This contract does not relieve the Contractor of any other federal, state, or local laws, regulations, or policies for the application of chemical treatments in the State of New York.

VIII. SAFEGUARDING AND DISPOSAL OF MAUGET TRUNK MICRO INJECTION UNITS

The Contractor is responsible for safeguarding the Mauget trunk injection units during treatment, watching or guarding treated trees until Mauget micro injectors are emptied, removing the micro injectors from treated trees, and properly disposing of injection units. Each applicator must carry a copy of the 2EE label, pesticide label, pesticide application license for the State of New York, and certification of completion of Mauget trunk injection treatment training.

The Contractor shall bury used or empty Mauget injection units in an EPA approved landfill or burn in an incinerator approved for pesticide destruction, according to all applicable Federal, State, or Local laws. There shall be no Mauget micro injectors left at a treatment site. Containers shall not be reused.

The Contractor shall provide personnel to ensure that all Mauget micro injectors are not disturbed by people or animals during treatment (which may take up to 4 hours). Personnel designated for safeguarding must wear photo identification. Persons designated for safeguarding trees may be assigned up to 10 treated host trees, provided all are within line of sight and within a maximum 100 ft. radius of a centrally located point. Exceptions to these criteria, or additional safeguarding needs specific to the site, will be noted on the essential data sheet and included on the work order. The COR, or his/her authorized representative, will conduct unannounced site visits to determine proper treatment is applied, and monitor the Contractor's safeguarding performance.

IX. IMPORTANCE OF STARTING AND FINISHING ONTIME

There are numerous biological and entomological factors that determine the time and sequence of treatments. The importance of starting and completing a treatment project within specified time limits is critical. APHIS may deduct from moneys due the Contractor equitable compensation for failure to complete a project within specified time limits, or for failure to report and start ontime, or for leaving a treatment area early (i.e. before treatment site has been restored to original condition, before all micro injection units have emptied and been removed from the treated tree, etc.).

X. CONDITION OF EQUIPMENT: The Contractor shall report with equipment in good working order. If equipment malfunctions during operation, the Contractor must provide operational replacement equipment (hand held and heavy equipment) to the treatment site **within 2 hours** of receiving notification of an equipment malfunction.

XI. PRECAUTIONS/PUBLIC RELATIONS

All work shall be performed in a professional manner, and in accordance with the most recent revision of the American National Standards for Tree Care Operations: Tree, Shrub, and other Woody Plant Maintenance and Standard Practices A-300-1995, published by the American National Standards Institute (ANSI), and applicable Occupational Safety and Health Administration (OSHA) regulations. Precautions shall be taken against injury to all persons engaged in the work of any contract awarded to the Contractor by APHIS, the general public (including animals) and damage to property. Work shall be completed without inconvenience or disruption to the general public and property owners, and work sites restored to original condition.

It is essential for all employees of the Contractor, and subcontractor's employees, to display a positive image of USDA and the State of New York by ensuring that their employees, and the employees of their subcontractors, maintain favorable relations with the public. Personnel must be courteous in their dealings with property owners whose trees they are treating. The Contractor shall perform the work with due care taking precautions against injury to persons or animals, damage to property, and interference with vehicular or pedestrian traffic. The Contractor shall protect against damage to all existing trees, plants, grass, vegetation, and other fixtures. The Contractor shall restore to the condition existing prior to treatment operations all areas of paving, lawns, walkways, sidewalks, fixtures, fences, etc., damaged, dirtied, altered or displaced by treatment work. The Contractor must be able to resolve employee conflict, or other personnel matters, in a timely fashion.

XII. MARKING OF VEHICLES

The Contractor shall have two (2) signs secured to each vehicle used during the performance of this contract. The signs shall be clearly legible at approximately 20 feet, with green lettering on a white background, and include the following official reading:

ASIAN LONGHORNED BEETLE COOPERATIVE ERADICATION PROGRAM
BY ORDER OF NEW YORK
DEPARTMENT OF AGRICULTURE
1-866-265-0301
CITY OF NEW YORK, PARKS AND RECREATION
USDA, ANIMAL AND PLANT HEALTH INSPECTION SERVICE

The Contractors name, address and telephone numbers shall be legibly printed on both truck doors. Material for the signs shall be plywood, tempered masonite or metal, and be of professional quality.

XIII. CONTRACTOR LIABILITY

The Contractor is liable for any damages, losses, or injuries to people, property, and animals, which occur as a result, directly or indirectly, from its work performed while under contract with APHIS. The Contractor shall immediately notify the COR, and/or the Contracting Officer, of any damages, losses, or injuries occurring during the performance of any contract with APHIS.

XIV. CONTRACTOR PERFORMANCE STANDARDS

Contractor performance will be monitored throughout the effective period of the contract. The Contractor will be measured based on the following criteria:

PERFORMANCE ELEMENT	PERFORMANCE STANDARD	MAXIMUM ERROR RATE OR PERFORMANCE REQUIREMENT	METHOD OF SURVEILLANCE
Completion of Contract on Time	All aspects of the Contract Must Be Completed Within Estimated Time for Completion.	No More Than 1% of Host Trees Are Untreated by Estimated Time for Completion.	Review Daily Reports; Onsite Monitoring
Public Relations	Work Must be Completed Without Inconvenience or Disruption to the General Public and Property Owners.	No More Than 2 Instances of Disruption or Inconvenience to the General Public and Property Owners.	Complaints Received from General Public and Property Owners; Observation of Contractors' Employees.
	Work Sites Must Be Restored to Original Condition.	0 Tolerance	Complaints Received from General Public and Property Owners, and Onsite Monitoring.
	Property Damage is Dealt with Promptly. Insurance Claims are Filed Within 24 Hours of Incident. Property is Restored to Original Condition Expeditiously.	0 Tolerance	Complaints Received from General Public and Property Owners.
	Employees are Courteous and Considerate to General Public and Property Owners.	No More Than 1 Instance.	Complaints Received from General Public and Property Owners.

Application of Treatments	Treatments Must be Applied According to Label and Guidelines Provided in this Contract.	No More Than 1% of Treatments are Improperly Applied.	100 Inspection by the Government.
Marking and Safeguarding of Treatment Site	Treatment Sites Are Marked and Mauget Micro Injection Units Are Safeguarded and Disposed of as Specified in this contract.	0 Tolerance	100 Inspection by the Government.

XV. CONTRACTOR QUALITY ASSURANCE

The Contractor shall provide supervision and training to employees (including subcontractor employees) designated to work on this contract for quality control and compliance with the terms and conditions of the contract. According to the Inspection of Services clause, FAR 52.246-4 INSPECTION OF SERVICES - FIXED PRICE (Aug 1996), located at Section E.1 of this contract, the Government will evaluate the Contractor's performance under any contract awarded under this contract for treatment of ALB in the State of New York. For those tasks identified in the Contractor Performance Standards of this PWS, the COR, the Contracting Officers' Technical Representative (COTR), or other designated representative of APHIS will follow the methods of surveillance specified above. Government personnel will record all surveillance observations. When an observation indicates defective performance, the COR, COTR, or designated APHIS representative will require the Contractor's Project Manager, or representative at the site, to initial the observation. The initialing of the observation does not necessarily constitute concurrence with the observation, only acknowledgment that he or she has been made aware of the defective performance. Government surveillance of tasks not listed in the Contractor Performance Standards of this PWS (such as provided for by the Inspection of Services clause) may occur during the performance period of contracts awarded under this prospectus. Such surveillance will be done according to standard inspection procedures ,or other contract provisions. Any action taken by the Contracting Officer, as a result of surveillance, will be in accordance with the terms of this prospectus.

XVI. CONTRACTOR QUALIFICATION REQUIREMENTS

The Contractor must meet the following minimum skills and equipment requirements to receive consideration for the QBL and the opportunity to compete for treatment contracts.

Minimum Skills and Experience

- A valid pesticide applicator's license for the States of New York.
- All licenses, registrations, and permits required by the States of New York to apply pesticides to soil, trees, etc.
- Bonded and insured at the minimum levels established by the State of New York, or by Federal Acquisition Regulation (FAR), whichever is higher. The minimum insurance levels of the FAR are contained elsewhere in this RFP.
- A minimum 5 years of arboriculture experience.
- At least one full-time arborist certified by the International Society of Arboriculture, employed on a full time basis, and designated to work on contracts awarded for the treatment of ALB.
- Personnel trained and certified by the J.J. Mauget Company for the application of Mauget trunk micro-injection treatments.

XVII. CONTRACTOR'S REPRESENTATIVE

The Contractor shall designate a representative for each work order. Therefore, if multiple treatment zones are required to be treated concurrently, the Contractor shall designate a representative for each of the treatment zones. The Contractors' Representative (CR) shall be present at the work site at all times work is being performed at the treatment site(s). The CR shall maintain regular communications with the APHIS COR until the project is satisfactorily completed. The Contractor, or his/her designated CR, shall be available by either cellular telephone or pager twenty-four (24) hours a day during the period any contract awarded by APHIS for treatment and control of ALB in the State of New York is in effect.

SECTION D - PACKAGING AND MARKING

THERE ARE NO CLAUSES INCLUDED IN THIS SECTION

SECTION E - INSPECTION AND ACCEPTANCE

E.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

www.arnet.gov/far

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

NUMBER	TITLE	DATE
52.246-4	INSPECTION OF SERVICES - FIXED-PRICE	AUG 1996

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

(a) Definitions. "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the

E.2 (Continued)

defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service or (2) terminate the contract for default.

SECTION F - DELIVERIES OR PERFORMANCE

F.1 52.242-15 STOP-WORK ORDER (AUG 1989)

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

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

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

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

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

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

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer

F.1 (Continued)

shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

F.2 52.242-17 GOVERNMENT DELAY OF WORK (APR 1984)

(a) If the performance of all or any part of the work of this contract is delayed or interrupted (1) by an act of the Contracting Officer in the administration of this contract that is not expressly or impliedly authorized by this contract, or (2) by a failure of the Contracting Officer to act within the time specified in this contract, or within a reasonable time if not specified, an adjustment (excluding profit) shall be made for any increase in the cost of performance of this contract caused by the delay or interruption and the contract shall be modified in writing accordingly. Adjustment shall also be made in the delivery or performance dates and any other contractual term or condition affected by the delay or interruption. However, no adjustment shall be made under this clause for any delay or interruption to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an adjustment is provided or excluded under any other term or condition of this contract.

(b) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved, and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the delay or interruption, but not later than the day of final payment under the contract.

F.3 AGAR 452.211-74 PERIOD OF PERFORMANCE (FEB 1988)

The period of performance of this contract is from April 1, 2001, or date of award whichever is later, through September 30, 2001, unless extended in accordance with other terms contained herein.

SECTION G - CONTRACT ADMINISTRATION DATA

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G.1 CONTRACTING OFFICER'S REPRESENTATIVE (COR)

The Contracting Officer will designate a Contracting Officer's Representative (COR) at time of award. The COR will be the Contractor's local Government contact for contracts awarded against this prospectus.

The COR is responsible for monitoring the performance of work under contracts awarded as written in the contract. In no event, however, will any understanding, agreement, modification, change order, or other matter deviating from the terms of the contract be effective or binding upon the Government unless advance authorization is received from the Contracting Officer, and proper contractual documents executed by the Contracting Officer prior to performing the work.

The COR shall inform the Contracting Officer as soon as possible of any understandings, tentative agreements, recommended modifications, and actions or inactions of the Contractor or the Government which could effect the Contractor's ability to comply with contract performance requirements or completion times.

Whenever, in the opinion of the Contractor, the COR requests effort outside the scope of the contract, the Contractor shall so advise the COR. If the COR persists and there still exists a disagreement as to proper contractual coverage, the Contracting Officer shall be notified immediately.

PROCEEDING WITH WORK WITHOUT PROPER CONTRACTUAL COVERAGE AND APPROVAL OF THE CO COULD RESULT IN A BREACH OF CONTRACT AND NONPAYMENT.

An exception will be considered by the Contracting Officer for additional work determined necessary by the COR after contract work hours, or on Saturday, Sunday, or Holiday's, provided the additional work is within the scope of the contract. If additional work within the scope of the contract is required outside contract work hours, the Contractor and COR shall inform the Contracting Officer on the next business day of the circumstances, and request issuance of a contract modification. Please note, Adding additional treatment sites to a contract <u>are not</u> within the scope of a contract and <u>is not authorized</u>.

G.2 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)

The COR may designate Contracting Officer's Technical Representative's (COTR) to assist them with the technical aspects of the contract. Although the COTR is a representative of the Contracting Officer, they will report directly to the COR. The designation (delegation of authority) shall be provided in writing to the Contractor with a copy to the Contracting Officer. The delegation of authority shall clearly explain the COTR's role and responsibility on the contract, and

G.2 (Continued)

limitations of authority.

As with the COR, in no event will any understanding, agreement, modification, change order, or other matter deviating from the contract be effective or binding to the Government unless it is approved by the Contracting Officer.

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1 AGAR 452.236-73 ARCHEOLOGICAL OR HISTORIC SITES (FEB 1988)

If a previously unidentified archeological or historic site(s) is encountered, the Contractor shall discontinue work in the general area of the site(s) and notify the Contracting Officer immediately.

H.2 AGAR 452.236-74 CONTROL OF EROSION, SEDIMENTATION, AND POLLUTION (NOV 1996)

(a) Operations shall be scheduled and conducted to minimize erosion of soils and to prevent silting and muddying of streams, rivers, irrigation systems, and impoundments (lakes, reservoirs, etc.).

(b) Pollutants such as fuels, lubricants, bitumens, raw sewage, and other harmful materials shall not be discharged on the ground; into or nearby rivers, streams, or impoundments; or into natural or man-made channels. Wash water or waste from concrete or aggregate operations shall not be allowed to enter live streams prior to treatment by filtration, settling, or other means sufficient to reduce the sediment content to not more than that of the stream into which it is discharged.

(c) Mechanized equipment shall not be operated in flowing streams without written approval by the Contracting Officer.

H.3 AGAR 452.237-74 KEY PERSONNEL (FEB 1988)

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

Project Manager
Certified/Licensed Pesticide Applicators

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

(c) The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any

H.3 (Continued)

additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on substitutions. The contract will be modified to reflect any approved changes of key personnel.

PART II - CONTRACT CLAUSES

SECTION I - CONTRACT CLAUSES

I.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

www.arnet.gov/far

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

NUMBER	TITLE	DATE
52.202-1	DEFINITIONS	MAR 2001
52.203-3	GRATUITIES	APR 1984
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT Alternate I (OCT 1995)	JUL 1995
52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	JUN 1997
52.204-4	PRINTED/COPIED DOUBLE-SIDED ON RECYCLED PAPER	AUG 2000
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT	JUL 1995
52.212-4	CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS	MAR 2001
52.215-2	AUDIT AND RECORDS--NEGOTIATION	JUN 1999
52.215-8	ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT	OCT 1997
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS	OCT 2000
52.222-3	CONVICT LABOR	AUG 1996
52.222-21	PROHIBITION OF SEGREGATED FACILITIES	FEB 1999
52.222-26	EQUAL OPPORTUNITY	FEB 1999
52.222-35	AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA	APR 1998

I.1 (Continued)

NUMBER	TITLE	DATE
52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES	JUN 1998
52.222-43	FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT--PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS)	MAY 1989
52.223-6	DRUG-FREE WORKPLACE	MAR 2001
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	JUL 2000
52.227-1	AUTHORIZATION AND CONSENT	JUL 1995
52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT	AUG 1996
52.227-3	PATENT INDEMNITY Alternate II (APR 1984)	APR 1984
52.229-3	FEDERAL, STATE, AND LOCAL TAXES	JAN 1991
52.229-5	TAXES - CONTRACTS PERFORMED IN U.S. POSSESSIONS OR PUERTO RICO	APR 1984
52.232-17	INTEREST	JUN 1996
52.232-23	ASSIGNMENT OF CLAIMS	JAN 1986
52.232-25	PROMPT PAYMENT	MAR 2001
52.232-29	TERMS FOR FINANCING OF PURCHASES OF COMMERCIAL ITEMS	OCT 1995
52.232-30	INSTALLMENT PAYMENTS FOR COMMERCIAL ITEMS	OCT 1995
52.233-1	DISPUTES	DEC 1998
52.233-3	PROTEST AFTER AWARD	AUG 1996
52.242-13	BANKRUPTCY	JUL 1995
52.243-1	CHANGES - FIXED-PRICE Alternate I (APR 1984)	AUG 1987
52.249-2	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE)	SEP 1996
52.249-8	DEFAULT (FIXED-PRICE SUPPLY AND SERVICE)	APR 1984
52.253-1	COMPUTER GENERATED FORMS	JAN 1991

I.2 52.216-18 ORDERING (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of a work order by the Contracting Officers Represntative (COR). Such orders may be issued from the effective date of the contract through September 30, 2001.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

I.3 52.216-19 ORDER LIMITATIONS (OCT 1995)

(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than 1,000 d.b.h., the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) Maximum order. The Contractor is not obligated to honor--

(1) Any order for a single item in excess of 35,000 d.b.h.;

(2) Any order for a combination of items in excess of 50,000 d.b.h.; or

(3) A series of orders from the same ordering office within 3 days that together call for quantities exceeding the limitation in subparagraph (b)(1) or (2) of this section.

(c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 2 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

I.4 52.216-21 REQUIREMENTS (OCT 1995)

(a) This is a requirements contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government's requirements do not result in orders in the quantities described as "estimated" or "maximum" in the Schedule, that fact shall not constitute the basis for an equitable price adjustment.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. Subject to any limitations in the Order Limitations clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the Ordering clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

I.4 (Continued)

(c) Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.

(d) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.

(e) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services from another source.

(f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after September 30, 2001.

I.5 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 30 days.

I.6 52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (JAN 1999)

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

(b) Evaluation preference.

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

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

I.6 (Continued)

(ii) Otherwise successful offers from small business concerns;

(iii) Otherwise successful offers of eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is exceeded (see 25.402 of the Federal Acquisition Regulation (FAR)); and

(iv) Otherwise successful offers where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government.

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

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

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

[__] Offeror elects to waive the evaluation preference.

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

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

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

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

I.6 (Continued)

small business concerns; or

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

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

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

I.7 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2000) Alternate II (OCT 2000)

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

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

"Commercial item" means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

"Commercial plan" means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

"Individual contract plan" means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

"Master plan" means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

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

(c) Proposals submitted in response to this solicitation shall include

I.7 (Continued)

a subcontracting plan that separately addresses subcontracting with small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate a subcontracting plan shall make the offeror ineligible for award of a contract.

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

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. Service-disabled veteran-owned small business concerns meet the definition of veteran-owned small business concerns, and offerors may include them within the subcontracting plan goal for veteran- owned small business concerns. A separate goal for service-disabled veteran-owned small business concerns is not required. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of--

(i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

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

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to HUBZone small business concerns;

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

(vi) Total dollars planned to be subcontracted to women-owned small business concerns.

I.7 (Continued)

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to --

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) HUBZone small business concerns;

(iv) Small disadvantaged business concerns; and

(v) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration (SBA), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in PRO- Net as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran- owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of PRO-Net as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

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

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) HUBZone small business concerns;

(iv) Small disadvantaged business concerns; and

(v) Women-owned small business concerns.

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

I.7 (Continued)

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

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

(10) Assurances that the offeror will--

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;

(iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with paragraph (j) of this clause. The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, small disadvantaged business concerns, women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with the instructions on the forms or as provided in agency regulations.

(iv) Ensure that its subcontractors agree to submit SF 294 and SF 295.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

I.7 (Continued)

(i) Source lists (e.g., PRO-Net), guides, and other data that identify small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, HUBZone small business, small disadvantaged business or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than $100,000, indicating --

(A) Whether small business concerns were solicited and, if not, why not;

(B) Whether veteran-owned small business concerns were solicited and, if not, why not;

(C) Whether HUBZone small business concerns were solicited and, if not, why not;

(D) Whether small disadvantaged business concerns were solicited and, if not, why not;

(E) Whether women-owned small business concerns were solicited and, if not, why not; and

(F) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact --

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and

(D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through --

(A) Workshops, seminars, training, etc.; and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government,

I.7 (Continued)

including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

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

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

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

(3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

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

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

(1) The master plan has been approved;

(2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this

I.7 (Continued)

contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Commercial plans are also preferred for subcontractors that provide commercial items under a prime contract, whether or not the prime contractor is supplying a commercial item.

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

(i) The failure of the Contractor or subcontractor to comply in good faith with --

(1) The clause of this contract entitled "Utilization of Business Concerns;" or

(2) An approved plan required by this clause, shall be a material breach of the contract.

(j) The Contractor shall submit the following reports:

(1) Standard Form 294, Subcontracting Report for Individual Contracts. This report shall be submitted to the Contracting Officer semiannually and at contract completion. The report covers subcontract award data related to this contract. This report is not required for commercial plans.

(2) Standard Form 295, Summary Subcontract Report. This report encompasses all of the contracts with the awarding agency. It must be submitted semi-annually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

I.8 52.219-16 LIQUIDATED DAMAGES--SUBCONTRACTING PLAN (JAN 1999)

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

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

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

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

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

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

I.9 52.219-23 NOTICE OF PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS (MAR 2001)

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

"Small disadvantaged business concern" means an offeror that represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either--

(1) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

(i) No material change in disadvantaged ownership and control has occurred since its certification;

(ii) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(iii) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net).

(2) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR part 124, subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted. In this case, in order to receive the benefit of a price evaluation adjustment, an offeror must receive certification as a small disadvantaged business concern by the Small Business Administration prior to contract award; or

(3) Is a joint venture as defined in 13 CFR 124.1002(f).

"Historically black college or university" means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense (DoD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

"Minority institution" means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k, including a

I.9 (Continued)

Hispanic-serving institution of higher education, as defined in Section 316(b)(1) of the Act (20 U.S.C. 1101a)).

"United States" means the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, and the District of Columbia.

(b) Evaluation adjustment.

(1) The Contracting Officer will evaluate offers by adding a factor of 10 percent to the price of all offers, except--

(i) Offers from small disadvantaged business concerns that have not waived the adjustment;

(ii) An otherwise successful offer of eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is equaled or exceeded (see section 25.402 of the Federal Acquisition Regulation (FAR));

(iii) An otherwise successful offer where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government;

(iv) For DoD, NASA, and Coast Guard acquisitions, an otherwise successful offer from a historically black college or university or minority institution; and

(v) For DoD acquisitions, an otherwise successful offer of qualifying country end products (see sections 225.000-70 and 252.225-7001 of the Defense FAR Supplement).

(2) The Contracting Officer will apply the factor to a line item or a group of line items on which award may be made. The Contracting Officer will apply other evaluation factors described in the solicitation before application of the factor. The factor may not be applied if using the adjustment would cause the contract award to be made at a price that exceeds the fair market price by more than the factor in paragraph (b)(1) of this clause.

(c) Waiver of evaluation adjustment. A small disadvantaged business concern may elect to waive the adjustment, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of this clause do not apply to offers that waive the adjustment.

_____ Offeror elects to waive the adjustment.

I.9 (Continued)

(d) Agreements.

(1) A small disadvantaged business concern, that did not waive the adjustment, agrees that in performance of the contract, in the case of a contract for--

(i) Services, except construction, at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern;

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

(iii) General construction, at least 15 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern; or

(iv) Construction by special trade contractors, at least 25 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.

(2) A small disadvantaged business concern submitting an offer in its own name agrees to furnish in performing this contract only end items manufactured or produced by small disadvantaged business concerns in the United States. This paragraph does not apply in connection with construction or service contracts.

I.10 52.222-37 EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1999)

(a) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on--

(1) The number of disabled veterans and the number of veterans of the Vietnam era in the workforce of the contractor by job category and hiring location; and

(2) The total number of new employees hired during the period covered by the report, and of that total, the number of disabled veterans, and the number of veterans of the Vietnam era.

(b) The above items shall be reported by completing the form entitled "Federal Contractor Veterans' Employment Report VETS-100."

I.10 (Continued)

(c) Reports shall be submitted no later than September 30 of each year beginning September 30, 1988.

(d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date:

(1) As of the end of any pay period during the period January through March 1st of the year the report is due, or

(2) as of December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The count of veterans reported according to paragraph (a) of this clause shall be based on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program at 38 U.S.C. 4212 to identify themselves to the Contractor. The invitation shall state that the information is voluntarily provided; that the information will be kept confidential; that disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and that the information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.

(f) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary.

I.11 52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED (MAY 1989)

(a) Definitions. "Act," as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.).

"Contractor," as used in this clause or in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

"Service Employee," as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual

I.11 (Continued)

relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) Applicability. This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.

(c) Compensation. (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2) (i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within

I.11 (Continued)

30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv) (A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the

I.11 (Continued)

performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commended contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) Adjustments of Compensation. If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) Obligation to Furnish Fringe Benefits. The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) Minimum Wage. In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act

I.11 (Continued)

of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) Successor Contracts. If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) Notification to Employees. The Contractor and any subcontractor under this contract shall notify each service

I.11 (Continued)

employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) Safe and Sanitary Working Conditions. The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) Records. (1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Act--

(A) Name and address and social security number;

(B) Correct wage classification or classifications, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation.

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision(C)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

I.11 (Continued)

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) Pay Periods. The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(k) Withholding of Payments and Termination of Contract. The Contracting Officer shall withhold or cause to be withheld form the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) Subcontracts. The Contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) Collective Bargaining Agreements Applicable to Service Employee. If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are

I.11 (Continued)

provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be make upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) Seniority List. Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173) the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names, of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) Rulings and Interpretations. Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.

(p) Contractor's Certification. (1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) Variations, Tolerances, and Exemptions Involving Employment. Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to this

I.11 (Continued)

amendment by Pub. L 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business.

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio

I.11 (Continued)

permitted to the Contractor as to his entire work force under the registered program.

(s) Tips. An employee engaged in an occupation in which the employee customarily and regularly receives more than $30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations 29 CFR Part 531. However, the amount of credit shall not exceed $1.34 per hour beginning January 1, 1981. To use this provision--

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(t) Disputes Concerning Labor Standards. The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

I.12 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) ALTERNATE I (JUL 1995)

(a) "Hazardous material," as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information

I.12 (Continued)

shall be included on the Material Safety Data Sheet submitted under this contract.

Material (If none, insert NONE)

_____
_____
_____

Identification No.

_____
_____
_____

(c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.

(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate, and disclose any data to which this clause is applicable. The purposes of this right are to--

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

I.12 (Continued)

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

(i) Except as provided in paragraph (i)(2) the Contractor shall prepare and submit a sufficient number of Material Safety Data Sheets (MSDS's), meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous materials identified in paragraph (b) of this clause.

(1) For items shipped to consignees, the Contractor shall include a copy of the MSDS's with the packing list or other suitable shipping document which accompanies each shipment. Alternatively, the Contractor is permitted to transmit MSDS's to consignees in advance of receipt of shipments by consignees, if authorized in writing by the Contracting Officer.

(2) For items shipped to consignees identified by mailing address as agency depots, distribution centers or customer supply centers, the Contractor shall provide one copy of the MSDS's in or on each shipping container. If affixed to the outside of each container, the MSDS's must be placed in a weather resistant envelope.

I.13 52.232-34 PAYMENT BY ELECTRONIC FUNDS TRANSFER--OTHER THAN CENTRAL CONTRACTOR REGISTRATION (MAY 1999)

(a) Method of payment.

(1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT) except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

I.13 (Continued)

(ii) Request the Government to extend payment due dates until such time as the Government makes payment by EFT (but see paragraph (d) of this clause).

(b) Mandatory submission of Contractor's EFT information.

(1) The Contractor is required to provide the Government with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereafter: "designated office") no later than 15 days prior to submission of the first request for payment. If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office(s).

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information supplied to a designated office shall be applicable only to contracts that identify that designated office as the office to receive EFT information for that contract.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment. (1) The Government is not required to make any payment under this contract until after receipt, by the designated office, of the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(2) If the EFT information changes after submission of correct EFT information, the Government shall begin using the changed EFT information no later than 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the Contractor may

I.13 (Continued)

request that no further payments be made until the updated EFT information is implemented by the payment office. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) Liability for uncompleted or erroneous transfers. (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provisions of paragraph (d) shall apply.

(f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer

I.13 (Continued)

to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.

(i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address in the contract.

(j) EFT information. The Contractor shall provide the following information to the designated office. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

(1) The contract number (or other procurement identification number).

(2) The Contractor's name and remittance address, as stated in the contract(s).

(3) The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.

(4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.

(5) The Contractor's account number and the type of account (checking, saving, or lockbox).

I.13 (Continued)

(6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.

(7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and, therefore, not the receiver of the wire transfer payment.

I.14 52.236-7 PERMITS AND RESPONSIBILITIES (NOV 1991)

The Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

I.15 INSURANCE REQUIREMENTS

The Contractor at its own expense, provide and maintain during the entire performance of any contract awarded by APHIS for the treatment of ALB, the following minimum insurance coverage.

(1) Worker's Compensation and Employer's Liability - The Contractor shall comply with applicable Federal and State Workers' compensation and occupational disease statutes. If occupational disease statutes are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy. Employer's liability coverage of at least $100,000 is required.

(2) General Liability - Bodily injury and property damage liability coverage written on the comprehensive form of a policy of at least $500,000 per occurrence.

(3) Automobile Liability - Bodily injury and property damage liability coverage written on the comprehensive form of a policy covering the operation of all automobiles used in connection with the performance of any contract awarded by APHIS under this prospectus. The coverage shall provide coverage of at least $200,000 per person and $500,000 per occurrence for bodily injury, and $20,000 per occurrence for property damage. The amount of liability coverage on other policies shall be commensurate with any legal requirements

I.15 (Continued)

of the locality and sufficient to meet normal and customary claims.

Policies shall contain an endorsement to the effect that any cancellation, or any material change, adversely affecting APHIS' interest shall not be effective --

(1) For such period as the laws of the States of New York and/or Illinois prescribe; or

(2) Until 30 days after the insurer, or the Contractor, gives written notice to the Contracting Officer, whichever period is longer.

The Contractor shall insert the substance of this clause in subcontracts awarded to the Contractor under this prospectus, and shall require subcontractors to provide and maintain the required minimum insurance coverage specified herein. The Contractor shall maintain a copy of all subcontractors proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

I.16 MATERIAL SAFETY DATA SHEETS

The Contractor shall have on its possession during the performance of this contract copies of all applicable Material Data Safety Sheets.

PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS

SECTION J - LIST OF ATTACHMENTS

J.1 AGAR 452.252-70 LIST OF ATTACHMENTS (FEB 1988)

EXHIBIT OR ATTACHMENT		NUMBER OF PAGES
A. LONG ISLAND MASS TREATMENT ZONE MAPS		**1**
A1.	Massapequa Park	1
A2.	Islip	1
A3.	Lindenhurst East and West	1
B. NEW YORK CITY MASS TREATMENT ZONE MAPS		**1**
B1.	Manhattan - Rupert Park	1
B2.	Manhattan - Lower East Side	1
B3.	Corona Flushing Meadows Park	1
B4.	Flushing	1
B5.	Bayside	1
B6.	Brooklyn/Queens East River	1
C.	Application for Consideration for Addition to USDA, APHIS Qualified Bidder's List (QBL) of Approved Sources for Treatment for Control of Asian Longhorned Beetle for the State of New York.	3
D.	J.J. Mauget Company Micro-Injection Product Catalog with Six Easy Step Instructions to Apply Micro-Injection Products.	4
E.	Merit 75 WP Specimen Label.	6
F.	Material Data Safety Sheet (MDSS), for Merit 75 WP Insecticide, Bayer Corporation, Agriculture Division, Kansas City, Missouri.	8
G.	U.S. Department of Labor, Wage Determination No. 1994-2375, Revision 16 (9/15/2000).	8

J.1 (Continued)

H.	Standard Form (SF)-LLL, Disclosure of Lobbying Activities and SF-LLLA, Continuation Sheet.	2
I.	Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities.	1
J.	Federal Contractor Veterans' Employment Report and Instruction Sheet.	2
K.	SF-294, Subcontracting Report for Individual Contracts (Rev. 10/2000) and Instruction Sheet.	2
L.	SF-295, Summary Subcontract Report (Rev. 10/2000) and Instruction Sheet.	2

PART IV - REPRESENTATIONS AND INSTRUCTIONS

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

K.1 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 subparagraphs (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 subparagraphs (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];

K.1 (Continued)

(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 subparagraphs (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 subparagraphs (a)(1) through (a)(3) of this provision.

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

K.2 52.203-11 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS DEVIATION (APR 1991)

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989 --

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer, and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of

K.2 (Continued)

$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend this disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than $10,000, and not more than $100,000, for each such failure.

K.3 SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

In accordance with FAR 52.203-11, above: (Check applicable statement)

[] An SF-LLL is not required.

[] An SF-LLL is required and is attached hereto.

K.4 52.204-5 WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (MAY 1999)

(a) Definition. Women-owned business concern, as used in this provision, means a concern that is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) Representation. [Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (b)(1) of FAR 52.219-1, Small Business Program Representations, of this solicitation.] The offeror represents that it [_] is a women-owned business concern.

K.5 52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (MAR 1996)

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

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

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

(B) Have ( ) have not ( ), within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them

K.5 (Continued)

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

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

(2) "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

K.5 (Continued)

Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

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

K.6 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS--COMMERCIAL ITEMS (MAR 2001) Alternate III (OCT 2000)

(a) Definitions. As used in this provision:

"Emerging small business" means a small business concern whose size is no greater than 50 percent of the numerical size standard for the NAICS code designated.

"Forced or indentured child labor" means all work or service--

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process of penalties.

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

(1) Means a small business concern--

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

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

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

"Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on

K.6 (Continued)

Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and size standards in this solicitation.

"Veteran-owned small business concern" means a small business concern--

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern" means a small business concern--

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

"Women-owned business concern" means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) Taxpayer Identification Number (TIN) (26 U.S.C. 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (b)(3) through (b)(5)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 Internal Revenue Service (IRS).

(2) 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.

(3) Taxpayer Identification Number (TIN).

K.6 (Continued)

[_] TIN: _____.

[_] TIN has been applied for.

[_] TIN is not required because:

[_] 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;

[_] Offeror is an agency or instrumentality of a foreign government;

[_] Offeror is an agency or instrumentality of the Federal Government.

(4) Type of organization.

[_] Sole proprietorship;

[_] Partnership;

[_] Corporate entity (not tax-exempt);

[_] Corporate entity (tax-exempt);

[_] Government entity (Federal, State, or local);

[_] Foreign government;

[_] International organization per 26 CFR 1.6049-4;

[_] Other _____.

(5) Common parent.

[_] Offeror is not owned or controlled by a common parent;

[_] Name and TIN of common parent:

Name _____

TIN _____

(c) Offerors must complete the following representations when the resulting contract is to be performed inside the United States, its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia.

K.6 (Continued)

Check all that apply.

(1) Small business concern. The offeror represents as part of its offer that it [_] is, [_] is not a small business concern.

(2) Veteran-owned small business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that it [_] is, [_] is not a veteran-owned small business concern.

(3) Service-disabled veteran-owned small business concern. [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.] The offeror represents as part of its offer that it [_] is, [_] is not a service-disabled veteran-owned small business concern.

(4) Small disadvantaged business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(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.

(5) Women-owned small business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [_] is, [_] is not a women-owned small business concern.

Note: Complete paragraphs (c)(6) and (c)(7) only if this solicitation is expected to exceed the simplified acquisition threshold.

(6) Women-owned business concern (other than small business concern). [Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [_] is a women-owned business concern.

(7) Tie bid priority for labor surplus area concerns. If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price:

_____

(8) Small Business Size for the Small Business Competitiveness Demonstration Program and for the

K.6 (Continued)

Targeted Industry Categories under the Small Business Competitiveness Demonstration Program. [Complete only if the offeror has represented itself to be a small business concern under the size standards for this solicitation.]

(i) [Complete only for solicitations indicated in an addendum as being set-aside for emerging small businesses in one of the four designated industry groups (DIGs).] The offeror represents as part of its offer that it [_] is, [_] is not an emerging small business.

(ii) [Complete only for solicitations indicated in an addendum as being for one of the targeted industry categories (TICs) or four designated industry groups (DIGs).] Offeror represents as follows:

(A) Offeror's number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or

(B) Offeror's average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts).

(Check one of the following):

Number of Employees	Average Annual Gross Revenues
__ 50 or fewer	__ $1 million or less
__ 51-100	__ $1,000,001-$2 million
__ 101-250	__ $2,000,001-$3.5 million
__ 251-500	__ $3,500,001-$5 million
__ 501-750	__ $5,000,001-$10 million
__ 751-1,000	__ $10,000,001-$17 million
__ Over 1,000	__ Over $17 million

(9) [Complete only if the solicitation contains the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, or FAR 52.219-25, Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting, and the offeror desires a benefit based on its disadvantaged status.]

(i) General. The offeror represents that either--

(A) It [_] is, [_] is not certified by the Small Business Administration as a small disadvantaged business concern and identified,

K.6 (Continued)

on the date of this representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net), and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, the net worth of each individual upon whom the certification is based does not exceed $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); or

(B) It [_] has, [_] has not submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(ii) [_] Joint Ventures under the Price Evaluation Adjustment for Small Disadvantaged Business Concerns. The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(7)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: _____.]

(10) (Reserved)

(11) HUBZone small business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(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 place of ownership, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

K.6 (Continued)

(ii) It [_] is, [_] is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (c)(11)(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.

(d) Representations required to implement provisions of Executive Order 11246--

(1) Previous contracts and compliance. The offeror represents that--

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

(ii) It [_] has, [_] has not filed all required compliance reports.

(2) Affirmative Action Compliance. The offeror represents that--

(i) It [_] has developed and has on file, [_] has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or

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

(e) Certification Regarding Payments to Influence Federal Transactions (31 U.S.C. 1352). (Applies only if the contract is expected to exceed $100,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of

K.6 (Continued)

any resultant contract.

(f) Buy American Act--Balance of Payments Program Certificate. (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225-1, Buy American Act--Balance of Payments Program--Supplies, is included in this solicitation.)

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product as defined in the clause of this solicitation entitled "Buy American Act--Balance of Payments Program--Supplies" and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

(2) Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

(List as necessary)

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(g) (1) Buy American Act--North American Free Trade Agreement--Israeli Trade Act--Balance of Payments Program Certificate. (Applies only if the clause at FAR 52.225-3, Buy American Act--North American Free Trade Agreement--Israeli Trade Act--Balance of Payments Program, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product as defined in the clause of this solicitation entitled "Buy American Act--North American Free Trade Agreement--Israeli Trade Act--Balance of Payments Program" and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States.

(ii) The offeror certifies that the following supplies are NAFTA country end products or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act--North American Free Trade Agreement--Israeli Trade

K.6 (Continued)

Act--Balance of Payments Program":

NAFTA Country or Israeli End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN

(List as necessary)

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this solicitation entitled "Buy American Act--North American Free Trade Agreement--Israeli Trade Act--Balance of Payments Program." The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

Other Foreign End Products

LINE ITEM NO.	COUNTRY OF ORIGIN

(List as necessary)

(iv) The government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(2) Buy American Act--North American Free Trade Agreements--Israeli Trade Act--Balance of Payments Program Certificate, Alternate I (Feb 2000). If Alternate I to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g) (1) (ii) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled "Buy American Act--North American Free Trade Agreement--Israeli Trade Act--Balance of Payments Program":

Canadian End Products

LINE ITEM NO.

K.6 (Continued)

_____
_____
_____
(List as necessary)

(3) Buy American Act--North American Free Trade Agreements--Israeli Trade Act--Balance of Payments Program Certificate, Alternate II (Feb 2000). If Alternate II to the clause FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g) (1) (ii) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act--North American Free Trade Agreement--Israeli Trade Act--Balance of Payments Program":

Canadian or Israeli End Products

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

(List as necessary)

(4) Trade Agreements Certificate. (Applies only if the clause at FAR 52.225-5, Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(4)(ii) of this provision, is a U.S.-made, designated country, Caribbean Basin country, or NAFTA country end product, as defined in the clause of this solicitation entitled "Trade Agreements."

(ii) The offeror shall list as other end products those end products that are not U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products.

Other End Products

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

(List as necessary)

K.6 (Continued)

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25. For line items subject to the Trade Agreements Act, the Government will evaluate offers of U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products without regard to the restrictions of the Buy American Act or the Balance of Payments Program. The Government will consider for award only offers of U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

(h) Certification Regarding Debarment, Suspension or Ineligibility for Award (Executive Order 12549). The offeror certifies, to the best of its knowledge and belief, that--

(1) The offeror and/or any of its principals [_] are, [_] are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency; and

(2) [_] Have, [_] have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government 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 [_] are, [_] are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

(i) Certification Regarding Knowledge of Child Labor for Listed End Products (Executive Order 13126). [The Contracting Officer must list in paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at 22.1503(b).]

(1) Listed end products.

Listed End Product

K.6 (Continued)

Listed Countries of Origin

(2) Certification. [If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.]

[_] (i) The offeror will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

[_] (ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

K.7 52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS (MAR 2001) Alternate I (OCT 2000)

(a) (1) The North American Industry Classification System (NAICS) code for this acquisition is 115310.

(2) The small business size standard is no more than $05.0 MILLION average annual receipts for an offeror's preceeding 3 FYs.

(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

K.7 (Continued)

[_] is, [_] is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) [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 it [_] is, [_] is not a women-owned small business concern.

(4) [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 it [_] is, [_] is not a veteran-owned small business concern.

(5) [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) 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 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 of ownership, 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"--

(1) Means a small business concern--

K.7 (Continued)

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

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

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

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

"Veteran-owned small business concern" means a small business concern--

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern," means a small business concern--

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(d) Notice.

(1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or

K.7 (Continued)

women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall--

(i) Be punished by imposition of fine, imprisonment, or both;

(ii) Be subject to administrative remedies, including suspension and debarment; and

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

K.8 52.219-22 SMALL DISADVANTAGED BUSINESS STATUS (OCT 1999)

(a) General. This provision is used to assess an offeror's small disadvantaged business status for the purpose of obtaining a benefit on this solicitation. Status as a small business and status as a small disadvantaged business for general statistical purposes is covered by the provision at FAR 52.219-1, Small Business Program Representation.

(b) Representations.

(1) General. The offeror represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either--

[_] (i) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

(A) No material change in disadvantaged ownership and control has occurred since its certification;

(B) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(C) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net); or

K.8 (Continued)

[_] (ii) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(2) [_] For Joint Ventures. The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements at 13 CFR 124.1002(f) and that the representation in paragraph (b)(1) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture:_____.]

(c) Penalties and Remedies. Anyone who misrepresents any aspects of the disadvantaged status of a concern for the purposes of securing a contract or subcontract shall--

(1) Be punished by imposition of a fine, imprisonment, or both;

(2) Be subject to administrative remedies, including suspension and debarment; and

(3) Be ineligible for participation in programs conducted under the authority of the Small Business Act.

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 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 proposed subcontractors, will be obtained before subcontract awards.

K.10 52.222-25 AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

The offeror represents that

K.10 (Continued)

(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.

K.11 AGAR 452.222-70 COMPLIANCE WITH VETERANS EMPLOYMENT REPORTING REQUIREMENTS (JAN 1999) (DEVIATION)(USDA)

(a) The Offeror represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212 (d)(i.e., the VETS-100 report required by FAR clause 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era), it **has [ ], has not[ ]**, submitted the most recent report required by 38 U.S.C. 4212(d).

(b) An offeror who checks "has not" may not be awarded a contract until the required report is filed.

SECTION L - INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS

L.1 52.204-6 DUNS UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (JUNE 1999)

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" followed by the DUNS number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet Information Services.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. A DUNS number will be provided immediately by telephone at no charge to the offeror. For information on obtaining a DUNS number, the offeror, if located within the United States, should call Dun and Bradstreet at 1-800-333-0505. The offeror should be prepared to provide the following information:

(1) Company name.
(2) Company address.
(3) Company telephone number.
(4) Line of business.
(5) Chief executive officer/key manager.
(6) Date the company was started.
(7) Number of people employed by the company.
(8) Company affiliation.

(c) Offerors located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at http://www.customerservice@dnb.com.
If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@mail.dnb.com.

L.2 52.215-1 INSTRUCTIONS TO OFFERORS--COMPETITIVE ACQUISITION (MAR 2001)

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

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

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

"Proposal modification" is a change made to a proposal before

L.2 (Continued)

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

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

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

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

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

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

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

(i) The solicitation number;

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

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

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

L.2 (Continued)

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

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

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

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

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

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

(3) It is the only proposal received.

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

(iii) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the

L.2 (Continued)

proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

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

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

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

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

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

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

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

(d) Offer expiration date. Proposals in response to this solicitation will be valid for the number of days specified on

L.2 (Continued)

the solicitation cover sheet (unless a different period is proposed by the offeror).

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

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

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

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

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

(f) Contract award.

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

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

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

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

L.2 (Continued)

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

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

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

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

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

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

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

(11) The Government may disclose the following information in postaward debriefings to other offerors:

(i) The overall evaluated cost or price and technical rating of the successful offeror;

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

(iii) A summary of the rationale for award; and

L.2 (Continued)

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

L.3 52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a firm-fixed price requirements contract resulting from this solicitation.

L.4 52.233-2 SERVICE OF PROTEST (AUG 1996)

(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:

ROBERT J. CROWTHER

USDA,APHIS,MRP-Business Services-Contrac
Butler Square, Fifth Floor
100 North Sixth Street
Minneapolis, MN 55403

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

L.5 AGAR 452.204-70 INQUIRIES (FEB 1988)

Inquiries and all correspondence concerning this solicitation should be submitted in writing to the Contracting Officer. Offerors should contact only the Contracting Officer issuing the solicitation about any aspect of this requirement prior to contract award.

L.6 AGAR 452.215-72 AMENDMENTS TO PROPOSALS (FEB 1988)

Any changes to a proposal made by the offeror after its initial submittal shall be accomplished by replacement pages. Changes from the original page shall be indicated on the outside margin by vertical lines adjacent to the change. The offeror shall include the date of the amendment on the lower right corner of the changed pages.

L.7 AGAR 452.219-70 SIZE STANDARD AND NAICS CODE INFORMATION (NOV 1996) (AGAR DEVIATION)

L.7 (Continued)

The North American Industrial Classification System (NAIC) Code(s) and business size standard(s) describing the products and/or services to be acquired under this solicitation are listed below:

Contract line item(s): 1
-- NAICS Code 115310
-- Size Standard no more than $05.0 MILLION average annual receipts for an offeror's preceeding 3 FYs.

SECTION M - EVALUATION FACTORS FOR AWARD

M.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

www.arnet.gov/far

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) PROVISIONS

NUMBER	TITLE	DATE
52.217-5	EVALUATION OF OPTIONS	JUL 1990

M.2 AGAR 452.216-72 EVALUATION QUANTITIES -- INDEFINITE DELIVERY CONTRACT (FEB 1988)

To evaluate offers for award purposes, the Government will apply the offeror's proposed fixed-prices/rates to the estimated quantities included in the solicitation, and will add other direct costs if applicable.

M.3 EVALUATION CRITERIA

Offerors must satisfy the APHIS technical qualification requirements and have been approved for addition to the "qualified bidder's list (QBL)" by the date and time established for receipt of offers. Applications for the QBL that have are not approved prior to the date and time for receipt of offers will be evaluated for consideration of future contract requirements.

The Government will make award to the responsible offeror with the lowest-priced technically acceptable proposal. To be considered responsible, a prospective Contractor must be preapproved and on the APHIS QBL **AND** satisfy the requirements at FAR 9.104. To be considered technically acceptable, a proposal must full conform to solicitation requirements and the offeror must have a satisfactory past performance record.

Offerors shall provide references of all contracts/projects involving

M.3 (Continued)

the application of pesticides during the last 12 months. Please provide a summary of the work performed and provide the name of the organization for each contract/project, the point of contact, address, telephone number, and contract or purchase order number, and value of the contract. Please also identify the Project Manager and key personnel that worked on the project. The Government may, at their discretion, contact references for evaluation of the offerors past performance. Prior work on Government contracts will also be considered.

The following past performance factors are equally weighted:

Compliance with Performance Schedules

a. Schedule Compliance - In terms of how well the contractor adhered to performance schedules (i.e. reporting on time, completion of projects on time, etc.).

b. Quality of Service - In terms of compliance with contract technical requirements, technical excellence, appropriateness of personnel.

c. Business Relations - In terms of the number and severity of problems encountered and the effectiveness of corrective actions taken.