

SECTION E
INSPECTION AND ACCEPTANCE

E-1. INSPECTION AND ACCEPTANCE

Inspection and acceptance will be at the project site by the Contracting Officer or his authorized representative.

E-2. PRE-FINAL AND FINAL INSPECTION

(a) Pre-Final Inspection:

(1) In addition to the requirements in Section I, Contract Clause I-27, the Contracting Officer and his Technical Representatives will jointly conduct a pre-final inspection prior to a final inspection of the facility.

(2) The Contractor shall notify the Contracting Officer in writing when the entire project has been inspected by his design team and the project is ready for the Contracting Officers pre-final inspection. With this notification, the Contractor shall prepare and submit a list of items to be corrected or completed.

(3) Upon completion of the Pre-final inspection, the Contracting Officer will transmit a punch list report to the Contractor listing discrepancies requiring correction or completion and establishing a date for the final inspection. Upon receipt of this punch list, the Contractor shall within seven (7) days advise the Contracting Officer of any questions that he or any of his subcontractors may have concerning the requirements of the report.

(b) Final Inspection:

(1) When all pre-final inspection discrepancies have been corrected, the Contractor shall submit a written request for final inspection to the Contracting Officer at least fourteen (14) days before the desired date of inspection.

(2)(i) The Contracting Officer will conduct the final inspection with his Technical Representatives, the Contractor, and any needed subcontractor to determine whether the project can be finally accepted upon written notice from the Contractor that the reinspection punch list items are complete.

(ii) If, upon the first reinspection, it is found that punch list items or other discrepancies are not sufficiently complete that the Project can be finally accepted, the Contractor shall be responsible for the Fund's costs for additional technical services for preparation of a new punch list and any subsequent reinspection prior to final acceptance. The Fund's costs for additional services will be charged to the Contractor through an appropriate change order to recover applicable reimbursable expenses for activities involved in the reinspection (this includes but is not limited to, Title II A-E expenses incurred by the Fund).

(3) Upon written notice from the Contractor that the reinspection punch list items are complete, the Contracting Officer will conduct the final inspection to verify that the discrepancies have been completed and determine whether the project can be finally accepted.

SECTION F

DELIVERIES OR PERFORMANCE

1. GENERAL:

1-1 Completion Time: The Contractor shall complete the work within the time periods set forth in the time schedule, SECTION B, of this contract.

1-2 Exceptions for Landscaping: In the event the Contracting Officer determines that seeding, planting, or the required maintenance of landscaping materials is not feasible during the construction period, such work will be excepted from the time schedule and liquidated damages, and shall be accomplished during the first planting or growing period following the completion date.

2. TURFING AND PLANTING:

2-1 Turfing shall be accomplished as soon as construction allows protection of the turfed areas or during the first planting season after completion of the building. Maintenance of turfing work shall commence immediately after turfing and shall include watering, fertilizing, weeding, and cutting, until such time that the work is accepted by the Contracting Officer or his representatives.

2-2 Planting shall be accomplished during the first planting season, following substantial completion of building construction. Maintenance of trees, shrubs and vines shall continue until all work is completed and accepted. Replacement of trees, shrubs and vines shall continue for a period of one (1) year after all plants are accepted.

3. LIQUIDATED DAMAGES - CONSTRUCTION:

In accordance with Section I, paragraph I-51 "LIQUIDATED DAMAGES - CONSTRUCTION", if the Contractor fails to complete the work within the time specified in the contract, or any extension, the Contractor shall pay to the Fund (NAFI) as liquidated damages, the sum of ~~\$700.00~~ for each calendar day of delay for completion of work.

SECTION G

CONTRACT ADMINISTRATION DATA

1. ADDRESS FOR PAYMENT:

Contractor is requested to indicate below the address to which payment should be mailed, if such address is different from the one shown on DA Form 4069-R of this contract.

(Name)

(Street Address)

(City, State, Zip)

(Area Code)(Telephone Number)

2. PAYMENTS:

2-1 Progress payments to the Contractor are authorized on a monthly basis in accordance with SECTION I, Contract Clause I-20.

2-2 The Contractor shall submit an itemized application for payment, in the original and three copies, to the Contracting Officer Representative at USACE, Norfolk District, 803 Front Street, Norfolk, VA 23510-1096. The application for payment will be made using AIA Forms G-702 and G-703. The applications for payment must be verified and signed (certified) by the Contractor's architect and coordinated with the on-site Contracting Officer's Representative (COR) prior to submission to the Contracting Officer.

3. CONTRACT ADMINISTRATION:

3-1 Contracting Officer: This contract will be administered by a Contracting Officer assigned to the U.S. Army Engineer District, Norfolk, 803 Front Street, Norfolk, Virginia, 23510-1096.

3-2 Contracting Officer's Representative: The Contracting Officer will designate one (1) or more Contracting Officer's Representative(s) (COR) for the purpose of surveillance of the contractor's quality control and assurance activities for work being performed under this contract. No inspector or COR is authorized to change the terms and conditions of this contract or any provision of the specifications without written authorization of the Contracting Officer, nor shall the presence or absence of an inspector or COR relieve the Contractor from any requirements of the contract.

SECTION H

SPECIAL CONTRACT REQUIREMENTS

1. STATEMENT OF INTENT

It is the declared and acknowledged intention and meaning to obtain a complete and useable Community Activity Center, Fort Monroe, Virginia, of commercial quality which will operate efficiently and remain free of unreasonable failure and defects throughout its intended lifespan. The work includes, but is not necessarily limited to, complete architectural design, full engineering design, and construction of a completely equipped, ready to operate, building, site improvements, and all utility systems. This is a Nonappropriated Fund (NAF) procurement and is not funded by Appropriated Funds of the United States.

2. TIME EXTENSIONS FOR UNUSUALLY SEVERE WEATHER

(a) This provision specifies the procedure for the determination of time extensions for unusually severe weather in accordance with the contract clause entitled "Default (Fixed-Price Construction)." The listing below defines the monthly anticipated adverse weather for the contract period and is based upon NOAA or similar data for the geographic location of the project.

MONTHLY ANTICIPATED ADVERSE WEATHER (CALENDAR DAYS)

JAN	FEB	MAR	APR	MAY	JUN	JULY	AUG	SEP	OCT	NOV	DEC
4	5	6	7	6	6	6	5	2	5	4	3

(b) Upon acknowledgement of the notice to proceed (NTP) and continuing throughout the contract period, the Contractor shall record on the daily Contract Quality Control (CQC) report, the occurrence of adverse weather and resultant impact to normally scheduled work. Actual adverse weather delay days must prevent work on critical activities for fifty (50%) percent or more of the Contractor's scheduled work day. The number of actual adverse weather delay days shall include days impacted by actual adverse weather (even if adverse weather occurred in the previous month), and be recorded as full days. If the number of actual adverse weather delay days exceeds the number of days stated above, the Contracting Officer will convert any qualifying delays to calendar days, giving full consideration for equivalent fair weather work days, and issue a modification allowing for additional time in the Contract schedule.

3. CONTRACT QUALITY CONTROL/QUALITY ASSURANCE:

3-1 Definitions:

(a) Contractor Quality Management System (CQMS): The means by which the contractor assures himself that his design and construction comply with the requirements of the contract.

(b)Contractor Quality Control (QC): The Contractor's inspection, examination and control of his own, his suppliers', and his subcontractor's work and activities to ensure compliance with contract requirements.

(c)Contractor Quality Assurance (QA): The means by which the Contractor fulfills his responsibility for assuring that the QC system is functioning effectively.

3-2General: The Contractor shall establish and maintain an effective quality management system in compliance with contract clauses, professionally accepted design and professionally accepted inspection of construction practices and as herein provided. The CQMS consists of plans, procedures, and organization necessary to provide a design and materials, equipment, workmanship, fabrication, construction and operations which comply with contract intent and specific requirements. The system shall cover both design and construction functions, both on site and off site, and shall be keyed to the proposed design and construction sequence. The contractor will designate a Professional Engineer or Architect, registered in the State where the work is being performed, as the responsible CQMS authority. Different professionals may be assigned QC responsibilities for the separate design and construction phases under the supervision of the QC Chief. Quality management personnel shall also be charged with the responsibility for overseeing the Contractor's Safety Program. This duty will be clearly set forth in the CQMS documentation.

3-3Coordination Meeting: As soon as practicable after contract award and before start of design, the Contractor shall meet with the Contracting Officer and discuss the CQMS. During the meeting, a mutual understanding of the system details shall be developed, including the forms for recording the QC operations; design and construction quality control activities, testing, administration of the system for both on site and off site, and the interrelationship of Contractor quality control/assurance and Government quality assurance. A copy of the letter, signed by an authorized official of the firm, which describes the responsibilities and delegates the authorities of the Chief of Quality Management shall be furnished to the Contracting Officer at this time. Minutes of the meeting shall be by both the Contractor and the Contracting Officer, and shall become a part of the contract file. There may also be occasions when subsequent conferences will be called to reconfirm understandings.

3-4Quality Management Plan: The plan will include as a minimum:

(a)A description of the quality management organization.

(b)The number, classifications, qualifications, duties, responsibilities and authorities of personnel.

(c)The method of design review proposed to assure that the design meets all contract intent and specific requirements.

(d) Procedures for processing, reviewing, and approving shop drawings, samples, certificates, and other submittals.

(e) QC activities to be performed, including those of subcontractors, off site fabricators and suppliers. Each phase of QC; preparatory, initial and follow up as hereinafter defined; will be covered for each separable activity.

(f) Control testing procedures.

(g) Documentation format for QC activities and testing.

(h) Performance testing for acceptance of all facility electrical, mechanical and other systems.

3-5 Notification of Changes: After acceptance of the QC plan, the Contractor shall receive the Contracting Officer's approval in writing of any proposed change to his QC system or QC personnel.

3-6 Corrective Actions: At any time it is determined by the Contracting Officer that the QC system, personnel, instructions, controls, tests or records are not providing design or construction which conforms to contract requirements, the Contractor will be required to correct the deficiency, i.e., replacement of personnel, additional QC inspection, etc.

3-7 Quality Control Organization:

(a) Design: Design quality assurance shall be the responsibility of a senior Architect who will seal all drawings and specifications as the "Architect of Record". He shall also be the final approval authority for shop drawings and any other tests and submittals effecting the final design. The design quality management system shall require senior professional engineering designers other than the designer to review and approve (seal) all engineering calculations and designs unless otherwise approved by the Contracting Officer.

(b) Construction: Chief of Quality Control: The Contractor shall identify an individual other than the job superintendent, whose qualifications are subject to approval by the Contracting Officer, who shall be responsible for overall quality control and have the authority to act in all QC matters for the Contractor. Minimum qualifications will include State registration as a professional engineer or architect. This individual will certify, and seal where required, all submittals and QC approval and disapproval documentation. Replacement of the QC Chief will be subject to approval of the Contracting Officer and require full justification. The QC Chief shall be present at the work site full time to observe all construction activities including testing unless the Contracting Officer has approved that the work can proceed under inspection by the QC Chief's designated representative. The CQ Chief shall be at the worksite during scheduled weekly meetings with the COR unless otherwise specified at the initial coordination meeting.

(c)QC Personnel: The QC Chief will assign QC responsibilities in writing with copies of assignments to the Contracting Officer. All personnel assigned QC responsibilities under the Chief shall be fully qualified by experience and technical training to perform their assigned responsibilities. Under no circumstances will QC personnel report to anyone other than the QC Chief. The job superintendent will not be assigned QC functions.

3-8Submittals: The Contractor shall prepare a submittal register and submit it for approval to the Contracting Officer prior to start of construction. This register may be modified later with the Contracting Officer's approval. The register will list all proposed submittals and tests for purchased materials and equipment, and for subcontracts.

(a)Procedures: The QC Chief will ensure that only materials and equipment which comply with contract requirements are purchased and delivered to the job site or used in off site fabrication, unless specific deviations are approved as specified hereinafter.

3-9Control: The Contractor's QC system shall include at least the following three phases of quality control for each major feature of work:

(a)Preparatory: Include a review of contract requirements to assure that materials, sample panels and equipment conform to contract requirements, and that control testing including procedures is finalized. Include examination of the work area, upon which new work is to be placed, to verify that work over which new work is to be placed conforms to contract requirements, and determination that required materials are on hand and properly stored. Listed below is a checklist of items to be covered.

- (1) Contract plans and specifications.
- (2)Approval of submittals.
- (3)Physical examination of materials.
- (4)Completion of preliminary work.
- (5)Procedures for accomplishing work.
- (6)Specifications review.
- (7)Safety related issues.
- (8)Testing, i.e. number of tests, when, where, and method of recording.

(b)Execution: Implement the QC procedures for each major work element. The following steps are suggested:

- (1)Identify full compliance.
- (2)Check preliminary work.
- (3)Establish level of workmanship.
- (4)Apply controls.
- (5)Resolve all differences.
- (6)Check safety.

(c)Follow Up: The follow up phase shall be performed continuously to verify that

control procedures are providing an end product which complies with contract requirements. Adjustments to control procedures may be required based upon the results of this phase and control testing.

3-10 Tests:

(a) Testing Procedures: The Contractor shall perform tests specified or required to verify that control measures are adequate to provide a product which conforms to contract requirements. Procedures include methods of performing quality control which include that for his subcontractor's work. The Contractor will provide a statement in his Quality Control Plan describing quality control measures to be used in work described in each technical section of his specifications. All mechanical and electrical testing procedures, specified or required to demonstrate satisfactory system performance, shall be described in the Quality Control Plan in detail and approved prior to performing actual work. Where technical specifications require recording of test data, proposed test log, including planned duration of test, readings to be taken, and instrumentation to be used, will be made a part of the Quality Control Plan. Appropriate forms shall be used to document each test performed. Tests of air-conditioning systems, boilers, chillers, and the like, will be as described above. The Contractor shall procure the services of an industry recognized testing laboratory or he may establish an approved testing laboratory at the project site. A copy of all reports of tests performed by an industry recognized independent laboratory shall be kept on file at the site and made available to the Contracting Officer on request. This requirement is in addition to any requirement elsewhere established and does not reduce reports required elsewhere to be submitted or the number thereof. A list of tests to be performed shall be furnished to the Contracting Officer. The list shall give the test name, specification paragraph containing the test requirements, and the personnel and laboratory responsible for each type of test. The Contractor shall perform the following activities and record and provide the following data:

- (1) Verify that testing procedures comply with contract requirements.
- (2) Verify that facilities and testing equipment are available and comply with testing standards.
- (3) Check test instrument calibration data against certified standards.
- (4) Verify that recording forms, including all of the test documentation requirements, have been prepared.

3-11 Defective Work: The Contractor shall not build upon or conceal defective work.

3-12 Acceptance Inspections: At the 60% (prior to close-in) and 95% completion of the work stages, the QC representative together with the Contractor's design team professional architects and civil, structural, electrical and mechanical engineers shall conduct a construction quality acceptance review. During these reviews, the work shall be examined, quality control shall be reviewed, and a list shall be developed of work not properly completed or not conforming to plans and

specifications. This list shall be included in the quality control documentation with an estimated date for correction of each deficiency. The Contractor shall ensure that deficiencies have been corrected and notify the Contracting Officer in writing when the deficiencies have been corrected to the satisfaction of the QC Chief. The Government with its professional technical consultants retain the right to conduct a walk-thru accompanied by the Contractor's QC Chief to verify the performance of the Contractor's Quality Control activities and compile a list of any additional deficiencies at the 60% and 95% construction completion stages. Payment will be withheld for defective or deficient features until they are satisfactorily corrected except as otherwise provided in the contract clause, *INSPECTION OF CONSTRUCTION*.

3-13 Documentation: The Contractor shall maintain current records, on an appropriate accepted form, of quality control operations, activities, and tests performed including the work of suppliers and subcontractors. These records shall include factual evidence that the required activities or tests have been performed, including but not limited to the following:

(a) CQC Reports: The specified reports must be completed no later than 10:00 a.m. the following workday and must be factual records of the Contractor's daily quality control activities and resulting actions. As such, they should stress as major components of the report the following:

- (1) Construction underway during the time frame of the report (i.e., earthwork, concrete work, structural steel erection, etc.).
- (2) Phase (preparatory, initial, follow up), and locations of control activities and/or check tests that were made. As a minimum, the reports address items noted under paragraphs 3-7 (a) and 3-7 (b) above.
- (3) Results of control activities, including control actions taken, nature of deficiencies observed, and corrective actions taken or to be taken. If no activities are listed on the report, it must be assumed that no work was underway or no control activities were accomplished and that CQC is not being implemented.
- (4) Report of tests performed, with the results of the tests, including failures and remedial action to be taken. Test results, including all computations, should be attached to the report form. Where test results cannot be completed by the time the report is submitted, a notation should be made that the test was performed and the approximate date test results will be available. Delayed test results should be submitted with the report form on the date received.
- (5) Actions taken in review of submittals, including submittals approved and delays or predicted delays caused by a lack of submittal actions. (This can be included on the Contractor's marked-up submittal schedule if all information can be included to show adequate management of submittals.)
- (6) Monitoring of materials and equipment upon arrival at the job site and prior to incorporation into the work for compliance with submittal approvals, damage

and storage information.

(7) Off site surveillance activities, including status of fabrication and production, control actions taken, and estimate of need date for next control actions.

(8) Job safety; safety hazards/violations, corrective action taken, safety meetings; daily comments required.

(b) The report must contain a record of control actions and tests for all work accomplished subsequent to the previous report. Separate reports of different phases of the work may be submitted by the responsible CQC representatives or they may be combined into one consolidated report.

(c) In all cases, the report or reports must be verified and signed by the designated Chief, Quality Control. The verification should contain the statement that all supplies and materials incorporated in the work are in compliance with the terms of the contract except as noted. These records shall cover both conforming and defective or deficient features. Legible copies of these records shall be maintained at the site and furnished to the Contracting Officer or his designated representative when so directed.

3-14 The Government's quality assurance activities will consist of construction project observation, review of CQC activities and records, and discussions of areas where contract deviations appear evident. **Under no circumstances will the presence or absence of Government observation relieve the Contractor from full compliance with contract provisions.**

4. PROJECT SIGN

The Contractor shall furnish and install a project sign at the location selected by the Contracting Officer. The project sign shall be painted on 1/2 inch thick exterior grade plywood. The sign layout shall be in accordance with the graphic format shown in SECTION J.

5. BULLETIN BOARD

Immediately upon beginning of work under this contract, the Contractor shall provide at the job site a weatherproof glass covered bulletin board for displaying the fair employment poster, wage rates, and safety bulletins and posters. Emergency telephone numbers and reporting instructions for ambulance, physician, hospital, fire and police shall be posted. The bulletin board shall be located in a conspicuous place easily accessible to all and legible copies of the aforementioned data shall be displayed until all other work under the contract is completed. No direct payment will be made for the bulletin board which shall then be relocated inside the completed structure where directed.

6. COLOR BOARDS

Two (2) sets of color boards shall be submitted as part of the design submittal.

Each set of boards shall include samples of colors and finishes for both interior and exterior surfaces. Heavy or bulky samples and materials may be presented by clear color photographs which indicate actual colors and textures. Samples will be presented on 8-1/2" X 11" boards (modules) with a maximum spread of 25-1/2" X 33" for foldouts. The modules shall be designed to fit in a standard loose-leaf three-ring binder. Where special finishes, such as architectural concrete, carpet or prefinished textured metal panels are required, samples not less than 12 inches square shall be submitted with the board. The project name and location shall occur at the top of each module, and the location of the colors and/or samples, whether interior or exterior, shall be stated thereon. Each set of boards shall include an index module. The Contractor shall certify that he has reviewed the color samples in detail and that they are in strict accordance with the contract drawings and specifications, except as may be otherwise explicitly stated. Submittal of the color samples shall not relieve the Contractor of the responsibility to submit the samples required by the technical provisions.

7. SCHEDULED OUTAGES

All outages, including but not limited to utility interruptions and road closures, shall be of as short in duration as possible and shall be scheduled during non-working hours between 5:00 P.M. and 7:00 A.M., Monday thru Friday, or Weekends by the Contractor in writing, as far in advance as possible with the Contracting Officer. In no case shall scheduling occur less than ten (10) days prior to the required outage. The Contractor's outage request shall include the following:

- (a) Type of utility, access or service to be disrupted.
- (b) Areas and/or facilities affected.
- (c) Expected duration of outage.
- (d) Date of proposed outage.
- (e) Names of authorized personnel.
- (f) Point of contact and telephone numbers.

The Contractor shall obtain in writing from the Contracting Officer a statement of schedule, giving the permissible times of outages for particular installations or activities and the maximum time allowed for each outage. Any utility outage expected to effect utilities to the existing club house facility shall be scheduled for a time period after close of business for the golf course. Any utility outage scheduled during the week (Monday through Friday) shall not exceed one (1) hour in duration. No outage shall occur until written approval is received from the Contracting Officer. The Contractor shall strictly observe such schedules and will be held responsible for any violations. The Contractor shall include with each outage request a list or bill of materials and equipment that will be used during said outage. The Contractor will be solely responsible for ensuring that all materials and equipment will be on hand and ready for use during any scheduled outage.

8. CONTRACTOR'S AREA USE PLAN

The Contractor shall submit an Area Use Plan to the Contracting Officer, for approval, within thirty (30) days after receipt of Notice to Proceed. The Area Use Plan

shall not effect normal operation of the existing golf course and club house and shall show the following:

- (a) Location of Contractor sheds and trailers.
- (b) Location of all Contractor storage areas.
- (c) Location of Contractor staging areas.
- (d) Temporary utility tie-ins.
- (e) Location of Contractor security fencing.
- (f) Location of project sign.
- (g) Required telephone service and locations.

9. CONSTRUCTION DEBRIS REMOVAL AND DISPOSAL

The construction refuse materials must be disposed of off site and off Fort Monroe.

10. COORDINATION CONFERENCES

Routine coordination conferences will be scheduled by the Contracting Officer throughout the life of this contract. Coordination conferences will be held to discuss contract administration, Contractor quality control, phasing, scheduling, and other aspects relating to this construction. An authorized representative of the Contractor shall be required to be present at each of these meetings.

11. CONTRACTOR MAINTENANCE

At the end of each working day the Contractor shall police the work area and the area immediately surrounding the work area of all work-related debris. The Contractor shall comply with all applicable safety requirements and shall conduct his operations in a manner to ensure an accident-free environment. Contractor shall keep all grassed areas within his work area in a neatly trimmed state during the growing season. Stacked materials shall not be within 25 feet of an active roadway.

12. HAUL ROADS

Contractor's haul roads shall be in accordance with the Fort Monroe regulations and shall be coordinated with the DPW.

13. REQUIRED INSURANCE

(a) In accordance with Section I, Contract Clause I-18, the Contractor shall procure and maintain during the entire period of his performance under this contract the following types of insurance; in no less than the minimum amounts set forth herein:

- (1) Workman's Compensation and all occupational diseases ----- As required by the State of

Virginia

(2) Employer's liability including all occupational diseases when not so covered in Workman's Compensation above ----- \$100,000 per accident.

(3) General Liability (Comprehensive Bodily Injury and Property Damage per occurrence) ----- \$500,000

(4) Automobile Liability (Comprehensive)
Bodily Injury per person ----- \$200,000
Bodily Injury per occurrence ----- \$500,000
Property Damage per accident ----- \$ 20,000

(5) Professional Liability Insurance
General Coverage (errors and omissions)
in an amount no less than ----- \$500,000

(b) The Contractor shall be fully responsible to the Fund for his associates and his professional consultant's work.

(c) Prior to the commencement of work hereunder, the Contractor shall furnish to the Contracting Officer a certificate or written statement of the above required insurance. The policies evidencing required insurance shall contain an endorsement to the effect that cancellation or any material change in the policies adversely affecting the interest of the Fund in such insurance shall not be effective for such period as may be prescribed by the laws of the State in which this contract is to be performed and in no event less than thirty (30) days after written notice thereof to the Contracting Officer.

(d) The Contractor agrees to insert the substance of this clause, including this paragraph in all subcontracts hereunder.

14. PHYSICAL DATA

Data and information furnished or referred to below are furnished for the Contractor's information. The Fund will not be responsible for and interpretation or conclusion drawn from the data or information by the Contractor.

(a) Physical conditions when indicated on the drawings and in the specifications are the result of site investigations, by surveys, borings, test pits and probings.

(b) Weather Conditions: The Contractor shall make his own investigations as to weather conditions at the site. Data may be obtained from various National Weather Service offices located generally at airports of principal cities. Historical data for all areas may be obtained from:

U. S. Department of Commerce
National Climatic Center
Federal Building

Asheville, NC 28801

(c) Transportation Facilities: Access ways shall be investigated by the Contractor to satisfy himself of their existence and allowable use.

15. RESPONSIBILITY OF THE CONTRACTOR

(a) All design documents shall be prepared and seals affixed thereto by architect-engineers registered or temporarily authorized to practice in the professional discipline involved in the state of North Carolina where the project is located.

(b) The Contractor shall be responsible for the professional quality, technical accuracy and the coordination for all design, drawings and specifications furnished by the Contractor under this contract. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in his designs, drawings and specifications. In addition, the Contractor shall construct the project without additional compensation, in accordance with such corrected or revised designs, drawings and specifications.

(c) Neither the Government's review, approval or acceptance of, nor payment for, any of the services required under this contract shall be construed to operate as a waiver of any rights under this contract, and the Contractor shall be and remain liable to the Government in accordance with applicable law for all damages to the Government caused by the Contractor's negligent acts or omissions in connection with designs, drawings and specifications furnished under this contract or to perform in accordance therewith.

16. SUBMISSION OF CONSTRUCTION DRAWINGS, SPECIFICATIONS, AND DESIGN ANALYSIS AFTER AWARD

(a) For each of the design submittals, the Contractor shall submit 12 copies of his design. Upon acceptance by the Contracting Officer of the completed plans and specifications, the Contractor shall within 15 calendar days furnish one reproducible copy, one computer disk Autocadd version 12.0 or higher if drawings are done on CADD and 12 prints of the drawings and 12 copies of the specifications. All drawings and specifications submitted will become the property of the Government and will not be returned to the Contractor. All construction drawings and design calculations of the Contractor shall be affixed with the registration stamp (seal) of the design architect and that of all consultants such as civil, structural, mechanical, electrical and fire protection engineers.

(b) General Design Data:

(1) Design analyses shall include calculations, tables, methods and sources used in determining equipment and material sizes and capacities, and shall provide sufficient information to support the design.

(2) Drawings shall be prepared on acceptable mylar drafting material and shall include as a minimum:

(A) Golf course site area plan showing the existing buildings and adjacent golf course holes, building areas, layout of major utility lines (including location of valves, hydrants, etc.), irrigation lines, streets, driveways, parking, sidewalks, location of all buildings, existing and finished grade contours and drainage.

(B) Floor plan for the building showing overall dimensions, room dimensions, typical layouts, plumbing fixtures, door swings, location of electrical lights, switches, outlets, fans, etc., heating and air conditioning diagrammatic layout, equipment, and the calculated gross and net floor area.

(C) All exterior and necessary interior elevations.

(D) Building cross sections.

(E) Typical wall, foundation, floor and roof sections indicating design, materials, insulation, etc., for the building.

(F) Plans, elevations, sections and details shall indicate complete construction methods. Complete door, window, hardware and finish schedules shall be included on the plans

(G) Structural drawings shall include foundation and framing plans and details identifying sizes and shapes of structural members. Type and depth of foundation shall be clearly indicated.

(H) Mechanical drawings shall include, in addition to layout drawings for all systems, single line diagrams of each type of piping system. Type and capacity of all mechanical equipment shall be clearly indicated including necessary schedules listing operating data.

(I) Fire Protection drawings shall include layout drawings for fire service mains, fire hydrant locations, single line drawings for sprinkler piping, details of the fire detection and alarm system, details of range hoods and other special equipment, identification of fire-resistive assemblies, identification of the egress system, and locations for emergency lighting and signage.

(J) Electrical Criteria:

(i) Electrical, Interior: The electrical drawings shall include all power and lighting circuits. Panels and circuits for the various pieces of equipment and lighting system shall be properly identified on the drawings. One line diagram shall be provided for each system such as power, fire alarm, telephone, television, etc. Panel schedules for lighting, power and distribution panelboards shall be provided on drawings.

(ii) Electrical, Exterior: The electrical drawings shall include all exterior distribution transformers, primary electrical service, telephone, street lighting and fire alarm systems where required. Drawings will also show all

underground electrical, concrete encased ducts, manholes and details of all new construction.

(K) Site irrigation and utility drawings shall include details for paving, manholes and other utility structures. Drawings will also include profiles of sanitary, drainage, and water lines, steam lines, cross section of ducts, conduits, pavements and walks, complete grading contours (both existing and proposed) clearly indicating drainage patterns, location and detail of street and parking area lighting.

(3) Contract Specifications: The technical provisions shall be in sufficient detail so that, when used with the applicable construction drawings, construction can be completed without additional specifications except as necessary to deal with unforeseen conditions or to accomplish changes made during construction. The specifications may require furnishing additional information such as shop or working drawings, manufacturer's literature, certificates of compliance, material samples, and guarantees necessary to assure that the work can be completed and conforms with the criteria contained in the contract and that supervision and inspection of the projects can be maintained.

(4) If the Contractor elects to obtain additional topographic surveys or soil investigations beyond those furnished with the RFP, this data shall be submitted for review with the other design data.

(A) Topographic survey shall include contour lines of sufficient frequency for development of construction plans. Horizontal and vertical control shall be shown.

(B) Soil investigations shall include any boring logs, testing results, or design analyses performed by the Contractor.

c. Design reviews will be held at locations determined by the Government. The Contracting Officer will review the Contractor's submittal for compliance with the contract requirements and the proposal on which the award was based. If the submittal is not accepted, the Contractor shall make the necessary corrections or revisions and submit a completed corrected design not later than fourteen (14) calendar days after being returned by the Contracting Officer. No additional time extensions will be granted for the processing of re-submittals.

d. The Contractor shall make a minimum of two design submittals in addition to any others required for fast track approval (i.e. limited Notice to Proceed) or for correction, clarification, etc. The first scheduled submittal shall be at 50 percent design completion, the second scheduled submittal shall be at 100 percent design completion. In addition to the design submittals listed below the Contractor is required to submit the architectural and site design to the Fort Bragg Architectural Review Committee for their approval.

(1) Minimum requirements for 50% design submittal:

(A) All drawings and items required by paragraph H-16-b (General Design Data)

developed to approximately 50 percent completion, except that all Civil and Structural drawings shall be developed to approximately 75 percent completion. A fully developed site drawing will be required before consideration of advance (or limited) Notice to Proceed for Construction.

(B)A preliminary color schedule and color board showing colors, materials, textures, finishes, etc. (interior and exterior) proposed for the project.

(C)Specifications for site work and site utilities and a draft outline of the specifications for the remaining work, including index, general conditions, and technical sections.

(D)Design analysis developed to the extent required to support the design or that portion of utility distribution, structural, electrical, fire protection and mechanical systems included in this submittal.

(E)Additional soils report and topographic survey (if completed or required).

(F)A colored perspective rendering showing the exterior architectural character of the building if not provided previously.

(2)Materials required for 100% design submittal:

(A)All drawings and items included in paragraph H-16-b (General Design Data) above, completely developed.

(B)A final color schedule and color board showing any changes in colors, materials, textures, finishes, etc. (interior and exterior) proposed for the project. This must be consistent with the Fort Bragg Installation Design Guide.

(C)Completed specifications including index, general conditions, and technical sections.

(D)Completed design analysis required to support the design of utility distribution, structural, electrical, fire protection and mechanical systems included in this submittal.

(E)Equipment Schedules: Based on the results of calculations, provide a complete list of the material and equipment proposed for heating, plumbing and cooling with the manufacturer's published cataloged product installation specifications and roughing-in data.

(F)Shop Drawing submittal register as required by the Contractor Quality Control Plan.

(G)For the final project drawings, the Contractor shall utilize reproducible mylar material 28 X 40 inches trim to trim.

e. Acceptance of Design Submittals prior to Construction:

(1) Review and acceptance of the final plans and specifications must be obtained from the Contracting Officer before start of construction. The Fund may accept a design submission for site development and other design elements and, if found satisfactory, allow the Contractor to proceed with earthwork and other elements of development while final plans and specifications for the total work are completed. The responsibility for a totally integrated design in accordance with the contract shall remain with the Contractor and this limited NTP for Construction will in no way mitigate against that responsibility.

(2) If the Contracting Officer agrees to issue a limited NTP for Construction, it will not be issued until sufficient design is accepted by the Contracting Officer and the Contractor has received required approval of the site and architectural design from the Fort Bragg Architectural Review Committee.

17. DESIGN DISCREPANCIES

In the event design discrepancies or omissions become apparent during construction, the Contractor shall be responsible for correction of the design and shall furnish the necessary drawings, specifications, and other support data as required to resolve the condition to the satisfaction of the Contracting Officer. The Contractor shall further perform all work necessary to execute the correct design. The full cost of all such corrective work shall be borne by the Contractor.

21. AVAILABILITY OF UTILITY SERVICES

Existing utility systems and supplies are adequate for the needs and use of the Contractor as well as the Fund. Utilities required during construction will be furnished to the offeror at rates set forth below when the utilities are obtained from the existing facilities. If the offeror requires any utility service that is more than the existing facility can provide, or if a separate connection or meter is required, the Contractor shall, at his own expense, make all temporary connections, provide all meters, and install distribution lines. All temporary lines shall be maintained by the Contractor in a workmanlike manner satisfactory to the Contracting Officer and shall be removed by the Contractor in like manner prior to final acceptance of the construction. Utilities usage will be charged to the Contractor for the additional tie-ins, separate connection, and/or meter, based on the current rates as indicated below. Rates are subject to change at any time prior to contract award and should be verified with the Base Utility Office.

UTILITY RATES SUMMARY

Water -----	\$1.0433 per 1,000 gallons
Sewage -----	\$1.6166 per 1,000 gallons
Electricity -----	\$0.0717 per KWH
Natural Gas -----	\$0.4442 per Therm

22. SAFETY

The Contractor shall comply with OSHA (Occupational Safety and Health Act) Standards for design and construction of this facility. Also see Section I, paragraph I-31.

23. ARCHAEOLOGICAL FINDINGS DURING CONSTRUCTION

There are no known archaeological remains at the project site. Should any skeletons, artifacts, or other archaeological remains be uncovered, the Contractor shall suspend operations at the site of discovery and continue operations in other areas. The Contractor shall notify the Contracting Officer immediately of the finding. Included with the notification shall be a brief statement to the Contracting Officer of the location and the findings. Should the discovery site require archaeological studies resulting in delays and/or additional work, the Contractor will be compensated by an adjustment under Section I of the contract.

24. RECORD (AS-BUILT) DRAWINGS

(a) **At least 14 days prior to the pre-final inspection**, the Contractor shall prepare and submit to the Contracting Officer six (6) complete sets of reproducible project drawings on mylar and six (6) complete sets of bound specifications. Documents shall be neatly marked to show an accurate "as-built" record of construction.

(1) Changes and corrections entered on the documents shall be indicated by a lettered circle and noted as "Record Drawings" in the revision space provided. If no revisions or corrections are necessary on individual drawings, insert the notation "Record Drawing - No Changes" in or below the revision block.

(2) Neatly mark specifications to indicate names of products and manufacturers incorporated in the project.

(b) Carefully mark drawings during construction to accurately locate elements that will be concealed when the project is completed. Carefully measure and show dimensions of all concealed work including, but not limited to, piping, electrical services, and conduit.

(c) The As-Built drawings shall also show the location and description of any utility lines or other installations known to exist within the construction area. The location and description of exterior utilities, including measured horizontal distances from utilities to permanent facilities/features shall be shown. Measurements shall be within an accuracy range of six (6") inches and shall be shown at sufficient points to permit easy location of utilities for future maintenance purposes. Measurements shall show all change-in-direction points and all surface and underground components (i.e., valves, manholes, drop inlets, cleanouts, meters, etc.). The general depth range of each underground utility line shall be shown (i.e., 3' - 4' depth, etc.). A complete description of all exterior utilities shall include the actual quantities, sizes, and materials.

(d) A historical design library for completed NAF projects is kept by the Kansas City District, Corps of Engineers. **The Contractor shall send one copy of the completed as-built drawings (or a copy on magnetic disks if the design is accomplished on a CADD system) to:**

U.S. Army Engineer District, Kansas City
Attn: CEMRK-ED-C (Bobby Kincaid)
700 Federal Building
Kansas City, MO 64106-2869
[ph.# 816-426-5243]

25. RIGHTS IN SHOP DRAWINGS

(a) The term "shop drawings" for construction means drawings, submitted to the construction Contractor, subcontractor or any lower-tier subcontractor pursuant to a construction contract, showing in detail (i) the proposed fabrication and assembly of structural elements and (ii) the installation (i.e., form, fit, and attachment details) of materials or equipment. The Government may obtain, duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(b) This clause, including this paragraph b, shall be included in all subcontracts hereunder at any tier.

26. GOVERNMENT RIGHTS (UNLIMITED)

The Government shall have unlimited rights, in all drawings, designs, specifications, notes and other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Contractor. The Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws. The Contractor, for a period of three (3) years after completion of the project, agrees to furnish the original or copies of all such works on the request of the Contracting Officer.

27. INVENTORY OF INSTALLED EQUIPMENT

A list of equipment or units of equipment that require electrical power or fuel, or may require removal or replacement, such as air handling units (AHU's), fans, air conditioners, compressors, unit kitchens, condensers, boilers, thermal exchanges, pumps, cooling towers, tanks, fire hydrants, etc., shall be made and kept up to date as installed. The list will be reviewed periodically by the Government to ensure completeness and accuracy. Partial payment may be withheld at the discretion of the Contracting Officer for equipment not incorporated in the list. The list shall include on each item as applicable: description, manufacturer, model or catalog number, serial number, input (power voltage, BTU's, tons, etc.), size or capacity (tanks) and net inventory costs; any other data necessary to describe item. Final list shall be turned over to the authorized representative of the Contracting Officer two (2) weeks prior to final inspection.

28. EXTENDED WARRANTIES

In addition to the requirements outlined in Section I, contract clause I-30, the Contractor shall provide extended warranties which run from the time of acceptance for the periods indicated in the various technical requirements of Section C.

29. SCHEDULE OF VALUES FOR INSTALLED FIXTURES AND FURNISHINGS

The Contractor shall prepare and provide to the Contracting Officer or his authorized representative a schedule of values listing all Contractor furnished and installed fixtures and furnishings. Schedule shall include such items as chandeliers, carpet, drapes, tables, chairs, lamps, free-standing decorative screens, tuners, amplifiers, etc. Progress payments may be withheld if the schedule is not complete, as determined by the Contracting Officer. The schedule shall include as applicable: item description; quantity; gross acquisition cost; manufacturer; model or catalog number; and any other data necessary to describe the item. Said schedule shall be submitted not later than two (2) weeks prior to pre-final inspection.

30. OPERATION AND MAINTENANCE DATA

(a) At least 14 days prior to the final inspection, the Contractor shall prepare and submit to the Contracting Officer three (3) complete sets of information describing the operation and maintenance of all building systems, equipment, finishes and irrigation/control systems. The information shall be in 8 1/2" x 11" three-ring binders with durable plastic covers with the words "Operation and Maintenance Manual" and the name and address of the project, Contractor, and architect neatly and permanently marked on the cover.

(b) Information shall be logically organized and subdivided in sections on the basis of operation without regard to construction trades, subcontractors, or specification sections. Each section shall be neatly tabbed and identified for easy reference.

(c) The operation and maintenance manuals shall contain, as a minimum:

(1) Complete list of subcontractors noting applicable specification section, item of work, subcontractor's name, address, telephone number, and the name of the person to contact.

(2) Color Schedule.

(3) Schedule of values of construction work incorporating costs of any change orders.

(4) Manufacturer's recommendations for operation and maintenance of all fixtures, equipment, and systems including charts, diagrams, performance curves,

catalog data, and maintenance manuals.

(5) Manufacturer's recommendations for use and maintenance of all finish materials.

(6) Duplicate copies of all warranties, guarantees, and bonds.

31. SYSTEMS DEMONSTRATION

(a) Prior to final inspection the Contractor shall demonstrate the operation of each mechanical, electrical, plumbing, communication, equipment and specialties system to the Contracting Officer and/or his representatives. The Contractor shall also instruct the Government's and/or DPW personnel in the operation, adjustment and maintenance of all equipment and systems using the operation and maintenance manual as the training basis.

(b) Upon completion of the training session, the Contractor shall prepare a certificate indicating the date of instruction, the system or equipment involved, and a statement that the instruction was sufficient to explain the requirements for proper operation and/or maintenance. The certificate shall be signed by the Contractor, the individual providing the instruction, and the Government or DPW personnel receiving the instruction. These certificates shall be submitted to the Contracting Officer with the Contractor's application for final payment.

32. INTERPRETATION OF CONTRACT TERMINOLOGY

Wherever in the Request for Proposal the terms "Invitation for Bids," "bid(s)," "bidder(s)," "solicitation," are used such shall be deemed to include "Request for Proposal," "proposer," "offer," "offeror."

33 CONTRACTOR-PREPARED PROGRESS SCHEDULE:

(a) In accordance with the Contract Clause, "Schedules for Construction Contracts," the Contractor shall submit as part of his initial design submittal, a critical path progress schedule showing the manner in which he intends to prosecute the work. Preparation and updating of the schedule shall be as follow:

(1) Preparation: The progress schedule shall be prepared in the form of time-scaled (Gantt Chart) summary network diagram graphically indicating the sequence proposed to accomplish each work operation and appropriate inter-dependencies between the various activities. The chart shall show the starting and completion dates of all activities on a linear horizontal time scale beginning with the dates of Notice to Proceed and indicating calendar days to completion. Each significant activity in both design and construction phases of the project shall be represented and a cost for the activity indicated. The sum of the activity costs will total to the contract amount for the project. The Contractor shall indicate on the chart the important work activities that are critical to the timely overall completion of the project. Key dates for important features or portions of work features are milestone dates and shall be indicated on the chart. Based on this chart, the Contractor shall

prepare an earnings-time curve ("S" curve) showing the rate of progress in terms of money and percent completion. Schedule progress may not include the value of materials or equipment delivered to the job site but not yet incorporated into the work. This schedule shall be the medium through which the timelessness of the Contractor's construction effort is appraised, and periodic payment estimates are processed pursuant to the Contract Clauses.

(b) The Contractor shall participate in a review and evaluation of the proposed diagram and analysis with the Contracting Officer. Any revision necessary as a result of this review shall be resubmitted for approval of the Contracting Officer within ten (10) calendar days after the conference. The approved network and mathematical analysis will then be used by the Contractor for planning, organizing and directing the work, for reporting progress and for requesting payment for work accomplished.

(c) The initial and subsequent update submittals of the progress schedule shall be summarized on one sheet, maximum size of 30 by 42 inches.

(d) Failure by the Contractor to maintain adequate progress in accordance with the progress schedule may result in withholding of progress payments, as determined by the Contracting Officer.

**SECTION I - CONTRACT CLAUSES
(NONAPPROPRIATED FUND CONSTRUCTION, ALTERATION AND REPAIR
CONTRACTS)**

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- I-1. DEFINITIONS (FEB 1997).

"Head of the agency" (also called "agency head") or "Secretary" means the Secretary of the Army, the Under Secretary, and the term "authorized representative means any person, or board (other than the Contracting Officer) authorized to act for the head of agency or secretary.

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

I-2. NONAPPROPRIATED FUND INSTRUMENTALITY (FEB 1997).

The Nonappropriated Fund Instrumentality (NAFI) which is party to this contract is a nonappropriated fund instrumentality of the Department of the Army. NO APPROPRIATED FUNDS OF THE UNITED STATES SHALL BECOME DUE OR BE PAID THE CONTRACTOR BY REASON OF THIS CONTRACT. This contract is NOT subject to The Contract Disputes Act of 1978.

I-3. COVENANT AGAINST CONTINGENT FEES (FEB 1997).

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. For breach or violation of this warranty the NAFI shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

I-4. CHANGES--CONSTRUCTION (FEB 1997).

The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the general scope of this contract, including changes -

- (1) In the specifications (including drawings and designs);
- (2) In the method or manner of performance of the work;
- (3) In the NAFI-furnished facilities, equipment, materials, services, or site;

or

Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances, and source of the order and (2)

that the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the NAFI is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of proposal, unless this period is extended by the NAFI. The statement of proposal for adjustment may be included in the notice under paragraph (b) above.

(f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

I-5. OFFICIALS NOT TO BENEFIT (FEB 1997).

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

I-6. GRATUITIES (FEB 1997).

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

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

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

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

(c) If this contract is terminated under paragraph a above, the NAFI is entitled to pursue the same remedies as in a breach of the contract.

(d) The rights and remedies of the NAFI provided in this clause shall no be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

I-7. MATERIAL AND WORKMANSHIP (FEB 1997).

(a) All equipment, material, and articles incorporated into the work covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, articles, or processes that, the judgment of the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.

(b) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to incorporated into the work. When requesting approval, the contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating in the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. When directed to do so, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

(c) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may require, in wring, that the Contractor remove from the work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

I-8. COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1997).

The Contractor shall comply with the requirements of which are hereby incorporated by reference in this contract.

I-9. EXAMINATION OF RECORDS (FEB 1997).

(a) This clause is applicable if the amount of this contract exceeds \$10,000, and the contract was entered into by means of negotiation. The Contractor agrees that the Contracting Officer or the Contracting Officer's duly authorized representative shall have the right to examine and audit the books and records of the Contractor directly pertaining to the contract during the period of the contract and until the expiration of three years after the final payment under the contract.

(b) The Contractor agrees to include the clause in (a) above, in all subcontracts hereunder that exceed \$10,000.

I-10. CONVICT LABOR (FEB 1997).

The Contractor agrees not to employ in the performance of this contract any person undergoing a sentence of imprisonment which has been imposed by any court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands. This limitation, however, shall not prohibit the employment by the Contractor in the performance of this contract of persons on parole or probation to work at paid employment during the term of their sentence or persons who have been pardoned or who have served their terms. Nor shall it prohibit the employment by the Contractor in the performance of this contract of persons confined for violation of the laws of any of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if--

(a) (1) The worker is paid or is in an approved work training program on a voluntary basis;

(2) Representatives of local union central bodies or similar labor union organizations have been consulted;

(3) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and

(4) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the

work is being performed; and

(b) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

I-11. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—
OVERTIME COMPENSATION (Applicable to construction contracts of \$2,000 or more) (FEB 1997).

(a) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborers or mechanics in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in paragraph (a) of this clause, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions set forth in paragraph (a) of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

(c) Withholding for unpaid wages and liquidated damages. The Contracting Officer shall upon his or her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

(d) Payrolls and basic records. (1) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of contract work and shall preserve them for a period of 3 years from the completion of the

contract for all laborers and mechanics working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Nothing in this paragraph shall require the duplication of records required to be maintained for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The records to be maintained under paragraph (d)(1) of this clause shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit such representatives to interview employees during working hours on the job.

(e) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts, exceeding \$100,000, the provisions set forth in paragraphs (a) through (e) of this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (e) of this clause.

I-12. WALSH-HEALEY PUBLIC CONTRACTS ACT (FEB 1997).

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed \$10,000, and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), the following terms and conditions apply:

(a) All stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.

(b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and handicapped workers may be employed at less than the prescribed minimum wage (see 41 CFR 50-203.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (41 U.S.C. 40).

I-13. EQUAL OPPORTUNITY (FEB 1997).

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of

\$10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(b) During performing this contract, the Contractor agrees as follows:

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EEO-1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed within 12 months preceding the date of award.

(8) The Contractor shall permit access to its books, records, and accounts by the contracting agency or the Office of Federal Contract Compliance Programs (OFCCP) for the purposes of investigation to ascertain the Contractor's compliance with the applicable rules, regulations, and orders.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government/NAFI contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of subparagraph (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract.

I-14 AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS (Applicable to contracts \$10,000 or more) (FEB 1997).

(a) Definitions.

"Appropriate office of the State employment service system," as used in this clause, means the local office of the Federal-State national system of public employment offices assigned to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"Openings that the Contractor proposes to fill from within its own organization," as used in this clause, means employment openings for which no one outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) will be considered and includes any openings that the Contractor proposes to fill from regularly established "recall" lists.

"Openings that the Contractor proposes to fill under a customary and traditional employer-union hiring arrangement," as used in this clause, means

employment openings that the Contractor proposes to fill from union halls, under their customary and traditional employer-union hiring relationship.

"Suitable employment openings," as used in this clause--

(1) Includes, but is not limited to, openings that occur in jobs categorized as--

- (i) Production and nonproduction;
- (ii) Plant and office;
- (iii) Laborers and mechanics;
- (iv) Supervisory and nonsupervisory;
- (v) Technical; and

Executive, administrative, and professional positions compensated on a salary basis of less than \$25,000 a year; and

(2) Includes full-time employment, temporary employment of over 3 days, and part-time employment, but not openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement, nor openings in an educational institution that are restricted to students of that institution.

(b) General. (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against the individual because the individual is a special disabled or Vietnam Era veteran. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled and Vietnam Era veterans without discrimination based upon their disability or veterans' status in all employment practices such as--

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion or transfer;
- (iv) Recruitment;
- (v) Advertising;
- (vi) Layoff or termination;

(vii) Rates of pay or other forms of compensation; and

(viii) Selection for training, including apprenticeship.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended.

(c) Listing openings. (1) The Contractor agrees to list all suitable employment openings existing at contract award or occurring during contract performance, at an appropriate office of the State employment service system in the locality where the opening occurs. These openings include those occurring at any Contractor facility, including one not connected with performing this contract. An independent corporate affiliate is exempt from this requirement.

(2) State and local Government agencies holding Federal contracts of \$10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service.

(3) The listing of suitable employment openings with the State employment service system is required at least concurrently with using any other recruitment source or effort and involves the obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(4) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State employment service system, in each State where it has establishments, of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State system, it need not advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(5) Under the most compelling circumstances, an employment opening may not be suitable for listing, including situations when (i) the Government/NAFI's needs cannot reasonably be supplied, (ii) listing would be contrary to national security, or (iii) the requirement of listing would not be in the Government/NAFI's interest.

(d) Applicability. (1) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam, Virgin Islands, American Samoa, and

the Trust Territory of the Pacific Islands.

(2) The terms of paragraph (c) above of this clause do not apply to openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(e) Postings. (1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era, and (ii) the rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor (Director), and provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Act, and is committed to take affirmative action to employ, and advance in employment, qualified special disabled and Vietnam Era veterans.

(f) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(g) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Director to enforce the terms, including action for noncompliance.

I-15. AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS (Applicable to contracts over \$25,000) (FEB 1997).

(a) General. (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental handicap. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as--

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion or transfer;
- (iv) Recruitment;
- (v) Advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation; and
- (viii) Selection for training, including apprenticeship.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) Postings. (1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped individuals and (ii) the rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor (Director), and provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified physically and mentally handicapped individuals.

(c) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$2,500 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Director to enforce the terms, including action for noncompliance.

I-16. BUY AMERICAN ACT-CONSTRUCTION MATERIALS (FEB 1997).

(a) The Buy American Act (41 U.S.C. 10) provides that the Government/NAFI give preference to domestic construction material.

"Components," as used in this clause, means those articles, materials, and supplies incorporated directly into construction materials.

"Construction material," as used in this clause, means an article, material, or supply brought to the construction site for incorporation into the building or work. Construction material also includes an item brought to the site pre-assembled from articles, materials or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, which are discrete systems incorporated into a public building or work and which are produced as a complete system, shall be evaluated as a single and distinct construction material regardless of when or how the individual parts or components of such systems are delivered to the construction site.

"Domestic construction material," as used in this clause, means (1) an unmanufactured construction material mined or produced in the United States, or (2) a construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as the construction materials determined to be unavailable pursuant to , paragraph 1-17 of AR 215-4.

(b) The Contractor agrees that only domestic construction material will be used by the Contractor, subcontractors, materialmen, and suppliers in the performance of this contract, except for foreign construction materials, if any, listed in this contract. (The foregoing requirements are administered in accordance with Executive Order No. 10582, dated December 17, 1954, as amended, and Subpart 25.2 of the FAR.)

I-17. RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (FEB 1997).

(a) Unless advance written approval of the Contracting Officer is obtained, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through countries whose products are banned from incorporation into the United States under regulations of the Office of Foreign Assets Control, Department of Treasury. Those countries include Cuba, Iran, Iraq, Libya and North Korea.

(b) The Contractor shall not acquire for use in the performance of this contract any supplies or services from entities controlled by the Government of Iraq.

(c) The Contractor agrees to insert the provisions of this clause, including this paragraph (c), in all subcontracts hereunder.

I-18. INSURANCE WORK ON A GOVERNMENT INSTALLATION (FEB 1997).

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance period of this contract at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract. In no event shall the amount be lesser than the minimum requirements established by applicable state and local regulations and laws.

(b) Before commencing work under this contract, the Contractor shall certify to the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the NAFI's interest shall not be effective for such period as the laws of the contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), on subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in this Schedule, or elsewhere in the contract. At least 5 days before entry of each such subcontractor's personnel on the Government installation, the Contractor shall furnish (or ensure that there has been furnished) to the Contracting Officer a current certificate of insurance meeting the requirements of paragraph (b) above, for each such subcontractor.

I-19. TAXES (FEB 1997).

(a) Except as may be otherwise provided in this contract, the contract price includes all taxes, duties, or other public charges in effect and applicable to this contract on the contract date, except any tax, duty or other public charge which by law, regulation or governmental agreement is not applicable to expenditures made by the NAFI or on its behalf: or any tax, duty, or other public charge from which the Contractor, or any subcontractor hereunder, is exempt by law, regulation or otherwise. If any such tax, duty, or other public charge has been included in the contract price, through error or otherwise, the contract price shall be correspondingly reduced.

(b) If for any reason, after the contract date of execution, the Contractor or subcontractor is relieved in whole or in part from the payment or the burden of any tax, duty or other public charge included in the contract price, the contract price shall be correspondingly reduced; or if the Contractor or a subcontractor is required to pay in whole or in part any tax, duty, or other public charge which was not included in the contract price and which was not applicable at the contract

date of execution the contract price shall be correspondingly increased.

(c) No adjustment of less than \$100 shall be made in the contract price pursuant to this clause.

(d) With respect to foreign taxes, NAFI's located in foreign countries will not pay to nor collect for any foreign country or political subdivision any tax unless the United States has consented to levy collection by treaty, convention, or executive agreement.

I-20. PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (FEB 1997).

(a) The NAFI pay the contract price as provided in this contract.

(b) The NAFI may make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates approved by the Contracting Officer. If requested by the Contracting Officer, the Contractor shall furnish a breakdown of the total contract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates the Contracting Officer may authorize material delivered on the site may also be taken into consideration if--

(1) Consideration is specifically authorized by this contract; and

(2) The Contractor furnished satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the NAFI and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.

(d) All material and work covered by progress payments made shall, at the time of payment, become the sole property of the NAFI, but this shall not be construed as--

(1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of the NAFI to require the fulfillment of all of the terms of the contract.

(e) In making these progress payments, the NAFI shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (c) above shall not apply to that portion of progress payments attributable to bond premiums.

(f) The NAFI shall pay the amount due the Contractor under this contract after--

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against the NAFI arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the assignment of Claims clause of this contract.

(g) Notwithstanding any other provision of this contract, progress payments shall not exceed eighty percent (80%) on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in AR 215-4, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

I-21. PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (FEB 1997)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments--(1) Types of invoice payments. For purposes of this clause, there are several types of invoice payments that may occur under this contract, as follows:

(i) Progress payments, if provided for elsewhere in this contract, based on Contracting Officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project:

(A) The due date for making such payments shall be 14 days after receipt of the payment request by the designated billing office. If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of receipt, the payment due date shall be the 14th day after the date of the Contractor's payment request, provided a proper payment request is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) The due date for payment of any amounts retained by the Contracting Officer in accordance with the clause at I-14, Payments Under Fixed-Price Construction Contracts, shall be as specified in the contract or, if not specified, 30 days after approval for release to the Contractor by the Contracting Officer.

(ii) Final payments based on completion and acceptance of all work and presentation of release of all claims against the Government arising by virtue of the contract, and payments for partial deliveries that have been accepted by the Government (e.g., each separate building, public work, or other division of the contract for which the price is stated separately in the contract):

(A) The due date for making such payments shall be either the 30th day after receipt by the designated billing office of a proper invoice from the Contractor, or the 30th day after Government acceptance of the work or services completed by the Contractor, whichever is later. If the designated billing office fails to annotate the invoice with the date of actual receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) On a final invoice where the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(2) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in subdivisions (a)(2)(i) through (a)(2)(ix) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice, with a

statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(4) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (e.g., prompt payment discount terms).

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(viii) For payments described in subdivision (a)(1)(i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at I-14, Payments Under Fixed-Price Construction Contracts.

(ix) Any other information or documentation required by the contract.

(x) While not required, the Contractor is strongly encouraged to assign an identification number to each invoice.

(3) Interest penalty. An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in subdivisions (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) Computing penalty amount. The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) (otherwise the CDA of 1978 does not apply to this contract) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and will be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(2) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor for payments described in subdivision (a)(1)(ii) of this clause, Government acceptance or approval shall be deemed to have occurred constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. In the event that actual acceptance or approval occurs within the constructive acceptance or approval period, the determination of an interest penalty shall be based on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days.

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) For incorrect electronic funds transfer (EFT) information, in accordance with the EFT clause of this contract.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at I-19, Disputes, or for more than 1 year. Interest penalties of less than \$1 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at I-19, Disputes.

(5) Prompt payment discounts. An interest penalty also shall be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(6) Additional interest penalty. (i) A penalty amount, calculated in accordance with subdivision (a)(6)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor--

(A) Is owed an interest penalty of \$1 or more;

(B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with subdivision (a)(6)(ii) of this clause, postmarked not later than 40 days after the date the invoice amount is paid.

(ii)(A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall--

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest was

due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that--

(1) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or

(2) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(iii)(A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty except--

(1) The additional penalty shall not exceed \$5,000;

(2) The additional penalty shall never be less than \$25; and

(3) No additional penalty is owed if the amount of the underlying interest penalty is less than \$1.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in subdivision (a)(4)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in subdivision (a)(6)(iii)(A) of this clause.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) Contract financing payments--(1) Due dates for recurring financing payments.

If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the [insert day as prescribed by Agency head; if not prescribed, insert 30th day] day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) Due dates for other contract financing. For advance payments, loans, or other arrangements that do not involve recurring submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) Interest penalty not applicable. Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) Subcontract clause requirements. The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:

(1) Prompt payment for subcontractors. A payment clause that obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.

(2) Interest for subcontractors. An interest penalty clause that obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause--

(i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) (otherwise CDA does not apply to this contract) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(3) Subcontractor clause flowdown. A clause requiring each subcontractor to include a payment clause and an interest penalty clause conforming to the standards set forth in subparagraphs (c)(1) and (c)(2) of this clause in each of its subcontracts, and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) Subcontract clause interpretation. The clauses required by paragraph (c) of this clause shall not be construed to impair the right of the Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions that--

(1) Retainage permitted. Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) Withholding permitted. Permit the Contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) Withholding requirements. Permit such withholding without incurring any obligation to pay a late payment penalty if--

(i) A notice conforming to the standards of paragraph (g) of this clause previously has been furnished to the subcontractor; and

(ii) A copy of any notice issued by a Contractor pursuant to subdivision (d)(3)(i) of this clause has been furnished to the Contracting Officer.

(e) Subcontractor withholding procedures. If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the Contractor shall--

(1) Subcontractor notice. Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

(2) Contracting Officer notice. Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to subparagraph (e)(1) of this clause;

(3) Subcontractor progress payment reduction. Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under subparagraph (e)(1) of this clause;

(4) Subsequent subcontractor payment. Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and--

(i) Make such payment within--

(A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under subdivision (e)(5)(i) of this clause; or

(B) Seven days after the Contractor recovers such funds from the Government; or

(ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes

Act of 1978 (41 U.S.C. 611)(otherwise the CDA of 1978 does not apply to this contract) in effect at the time the Contractor accrues the obligation to pay an interest penalty;

(5) Notice to Contracting Officer. Notify the Contracting Officer upon--

(i) Reduction of the amount of any subsequent certified application for payment; or

(ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying--

(A) The amounts withheld under subparagraph (e)(1) of this clause; and

(B) The dates that such withholding began and ended; and

(6) Interest to Government. Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1)), from the 8th day after receipt of the withheld amounts from the Government until--

(i) The day the identified subcontractor performance deficiency is corrected; or

(ii) The date that any subsequent payment is reduced under subdivision (e)(5)(i) of this clause.

(f) Third-party deficiency reports--(1) Withholding from subcontractor. If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a

"second-tier subcontractor") a written notice in accordance with section 2 of the Act of August 24, 1935 (40 U.S.C. 270b, Miller Act), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, the Contractor may, without incurring an obligation to pay an interest penalty under subparagraph (e)(6) of this clause--

(i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and

(ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under subdivision (f)(1)(i) of this clause.

(2) Subsequent payment or interest charge. As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall--

(i) Pay the amount withheld under subdivision (f)(1)(ii) of this clause to such first-tier subcontractor; or

(ii) Incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611)(otherwise CDA of 1978 does not apply to this contract) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(g) Written notice of subcontractor withholding. A written notice of any withholding shall be issued to a subcontractor (with a copy to the Contracting Officer of any such notice issued by the Contractor), specifying--

(1) The amount to be withheld;

(2) The specific causes for the withholding under the terms of the subcontract;
and

(3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) Subcontractor payment entitlement. The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and

certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.

(i) Prime-subcontractor disputes. A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the United States is a party. The United States may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) Preservation of prime-subcontractor rights. Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) Non-recourse for prime contractor interest penalty. The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the United States for such interest penalty. A cost-reimbursement claim may not include any amount for reimbursement of such interest penalty.

I-22. INVOICES (FEB 1997).

(a) An invoice is a written request for payment under the contract for supplies delivered or for services rendered. In order to be proper, an invoice must include as applicable the following:

(1) Name and address of the contractor.

(2) Invoice date.

(3) Contract number or other authorization for supplies delivered, services performed (including order number and contract line item number).

(4) Description, quantity, unit of measure, unit price and extended price of supplies delivered or services performed.

(5) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government/NAFI bills of lading.

(6) Name and address of contractor official to whom payment is to be sent (must be the same as that on the contract or on a proper notice of assignment.)

(7) Name (where applicable), title, phone number, mailing address of person to be notified in event of defective invoice.

(8) Any other information or documentation required by the contract (such as evidence of shipment). Invoices shall be prepared and submitted in quadruplicate (one copy shall be marked "original") unless otherwise specified.

(b) For purposes of determining if interest begins to accrue under the Prompt Payment Act (Public Law 97-177, as amended by P.L. 100-496):

(1) A proper invoice will be deemed to have been received when it is received by the office designated in the contract for receipt of invoices and acceptance of the supplies delivered or services rendered has occurred;

(2) Payment shall be considered made on the date on which check for such payment is dated;

(3) Payment terms (e.g., "net 20") offered by the contractor will not be deemed a "required payment date", and

(4) The following periods of time will not be included:

(i) after receipt of an improper invoice and prior to notice of any defect or impropriety, but not to exceed 7 days (3 days on contracts for meat food products, and 5 days on contracts for perishable agricultural commodities, dairy products, edible fats or oils and food products prepared from edible fats or oils); and

(ii) between the date of a notice of any defect or impropriety and the date a proper invoice is received. When the notice is in writing, it shall be considered made on the date shown on the notice.

I-23. EXTRAS (FEB 1997).

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefor have been authorized in writing by the Contracting Officer.

I-24. ASSIGNMENT OF CLAIMS (FEB 1997).

The contractor cannot assign any right or delegate any obligations under this contract without the prior written permission of the Contracting Officer.

I-25. DISPUTES (FEB 1997).

- (a) This contract is subject to the rules and regulations promulgated by the Secretary of Defense and Secretary of the Army for NAF contracting.
- (b) The contract is not subject to the Contract Disputes Act of 1978 (41 U.S.C. 601-613).
- (c) All disputes arising under or relating to this contract shall be resolved under this clause.
- (d) "Claims," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract forms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under this clause. The submission may be converted to a claim under this clause, by complying with the submission requirements of this clause. If it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- (e) (1) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the NAFI against the Contractor shall be subject to a written decision by the Contracting Officer.
- (2) For Contractor claims exceeding \$50,000, the Contractor shall submit with the claim a certification that-
- (i) The claim is made in good faith;
- (ii) Supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and
- (iii) The amount requested accurately reflects the contract adjustment for which the contractor believes the NAFI is liable.
- (3) (i) If the Contractor is an individual, the certification shall be executed by that individual.
- (ii) If the Contractor is not an individual, the certification shall be executed by-
- (A) A senior company official in charge at the Contractor's plant or location involved, or
- (B) An officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(f) For contract claims of \$50,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$50,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(g) The Contracting Officer's decision shall be final unless the contractor appeals as provided in paragraph (h) of this clause.

(h) The Contractor Officer's final decision may be appealed by submitting a written appeal to the Armed Services Board of Contract Appeals within 90 days of receipt of the Contracting Officer's final decision. Decisions of the Armed Services Board of Contract Appeals are final and are not subject to further appeal.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

I-26. NAFI PROPERTY (FEB 1997)

The Contractor shall sign a receipt for any property furnished by the NAFI and upon expiration of this contract shall return such property to the NAFI in the same condition as when received, except for fair wear and tear.

(a) Such property will be supplied to the Contractor in a condition suitable for the intended use and in a timely manner.

(b) If property is received in a less than functional state or in a time frame which would delay Contractor's performance, the Contractor shall, upon receipt of property, notify the Contracting Officer, detailing the facts, and as directed by the Contracting Officer and at NAFI expense, either repair, modify, return or otherwise dispose of the property. In the case of an untimely delivery by the NAFI, the Contracting Officer shall make a determination of the delay, if any, caused by the NAFI, the contracting officer shall make an equitable adjustment in accordance with paragraph (c).

(c) The Contracting Officer shall, upon written notification from the Contractor of any such discrepancies, make an equitable adjustment from such expenses incurred by the contractor.

(d) After completion of the contract, if any such property is lost, damaged or destroyed by the Contractor, the NAFI shall be paid the cost of repairs of damages or the fair market value of the property as determined by the Contracting Officer.

(e) Equitable adjustment. When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the NAFI. The right to any equitable adjustment shall be the Contractor's exclusive remedy. The NAFI shall not be liable to suit for breach of contract for--

(1) Any delay in delivery of NAFI furnished property;

(2) Delivery of NAFI furnished property in a condition not suitable for its intended use,

(3) A decrease in or substitution of NAFI furnished property; or

(4) Failure to repair or replace NAFI property for which the NAFI is responsible.

I-27. INSPECTION OF CONSTRUCTION (FEB 1997)

(a) Definition. "Work" includes, but is not limited to materials, workmanship, and manufacture and fabrication of components.

(b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under this contract conforms to contract requirements. The contractor shall maintain complete inspection records and make them available to the NAFI or the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to NAFI or Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

(c) NAFI or Government inspections and tests are for the sole benefit of the NAFI or the Government and do not--

(1) Relieve the Contractor of responsibility for providing adequate quality control measures;

(2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance.

(3) Constitute or imply acceptance; or

(4) Affect the continuing rights of the NAFI or the Government after acceptance of the completed work under paragraph (i) below.

(d) The presence or absence of a NAFI or Government inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer's written authorization.

(e) The Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonable needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The NAFI may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The NAFI or the Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

(f) The Contractor shall, without charge, replace or correct work found by the NAFI not to conform to contract requirements, unless in the public interest the NAFI consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

(g) If the Contractor does not promptly replace or correct rejected work, the NAFI may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor or (2) terminate for default the Contractor's right to proceed.

(h) If, before acceptance of the entire work, the NAFI decides to examine already completed work by moving it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

(i) Unless otherwise specified in the contract, the NAFI shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the NAFI's rights under any warranty or guarantee.

I-28. TERMINATION FOR CONVENIENCE (FEB 1997).

The Contracting Officer, by written notice, may terminate this contract, in whole

or in part, when it is in the best interest of the NAFI, in accordance with AR 215-4.

I-29. DEFAULT (FIXED-PRICE CONSTRUCTION) (FEB 1997).

(a) If the Contractor refuses or fails to prosecute the work, or any separable part, with the diligence that will ensure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the NAFI may, by written notice to the Contractor, terminate the right to proceed with the work or the separable part of the work that has been delayed. In this event, the NAFI may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the NAFI resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the NAFI in completing the work.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if:

(1) The delay in completing the work arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (i) acts of God or of the public enemy, (ii) acts of the NAFI and /or Government, in either its sovereign or contractual capacity, (iii) acts of another contractor in the performance of a contract with the NAFI or with the government, (iv) fires, (v) floods, (vi) epidemics, (vii) quarantine restrictions, (viii) strikes, (ix) freight embargoes, (x) and without the fault or negligence of both the Contractor and such subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the contractor's right to proceed, it is determined that the contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination has been issued for convenience of the NAFI.

(d) The rights and remedies of the NAFI in this clause are in addition to any other rights and remedies provided by law or under this contract.

I-30. WARRANTY OF CONSTRUCTION (FEB 1997).

(a) In addition to any other warranties in this contract, the contractor warrants, except as provided in paragraph (j) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If the NAFI takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the NAFI takes possession.

(c) The Contractor shall remedy at the Contractor's expense any damage to NAFI or Government owned or controlled real or personal property, when that damage is the result of--

(1) The Contractor's failure to conform to contract requirements; or

(2) Any defect of equipment, material, workmanship, or design furnished.

(d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(e) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discover of any failure, defect or damage.

(f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the NAFI shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall--

(1) Obtain all warranties that would be given in normal commercial practice;

(2) Require all warranties to be executed, in writing, for the benefit of the NAFI if directed by the Contracting Officer; and

(3) Enforce all warranties for the benefit of the NAFI, if directed by the Contracting Officer.

(h) In the event the Contractor's warranty under paragraph (b) of this clause has

expired, the NAFI may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

(i) Unless a defect is caused by the negligence of the contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the NAFI nor for the repair of any damage that results from any defects, gross mistakes, or fraud.

(j) This warranty shall not limit the NAFI's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.

I-31. ACCIDENT PREVENTION, FIRE PROTECTION, AND SANITATION (FEB 1997).

If this contract is performed in whole or in part on premises owned or under the control of the United States Government and/or the NAFI, the Contractor shall conform to all safety regulations and requirements concerning such premises in effect any time during the performance of the contract and take all necessary steps and precautions to prevent accidents. Any violation of safety regulations, Default (Fixed-Price Construction) Clause.

I-32. MODIFICATION PROPOSALS-PRICE BREAKDOWN (FEB 1997).

The Contractor, in connection with any proposal he makes for a contract modification, shall furnish a price breakdown, itemized as required by the Contracting Officer. Unless otherwise directed, the breakdown shall be in sufficient detail to permit any analysis of all material, labor, equipment,, subcontract and overhead costs, as well as profit, and shall cover all work involved in the modification, whether such work was deleted, added or changed. Any amount claimed for subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, the justification therefor shall also be furnished. The proposal, together with the price breakdown and time extension justification, shall be furnished by the date specified by the Contracting Officer.

I-33. NON-WAIVER OF DEFAULTS (FEB 1997).

Any failure by the NAFI at any time, or from time to time, to enforce or require strict performance of any terms or conditions of this contract will not constitute waiver thereof and will not affect or impair such terms or conditions in any way or the NAFI's right at any time to avail itself or such remedies as it may have for any breach or breaches of such terms and conditions.

I-34. PERMITS AND RESPONSIBILITIES (FEB 1997).

The Contractor shall, without additional expense to the NAFI, 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, and shall take proper safety and health precautions to protect the work, the workers, the public, and property of others. 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-35. REMOVAL OF CONTRACTOR'S EMPLOYEES (FEB 1997).

The Contractor agrees to utilize only experienced, responsive and capable people in the performance of the work. The Contracting Officer may require that the Contractor remove employees who endanger persons or property, or whose continued employment under this contract is inconsistent with the interest of military security.

I-36. SAVE HARMLESS (FEB 1997).

The Contractor shall save harmless the NAFI and the United States Government from any claims of third parties arising out of or from accidents or incidents involving acts or omissions of the Contractor, its officers, agents, or employees, occurring as a result of performance of the terms and conditions of this contract or as a result of operation of NAFI furnished equipment or materials, if any or of the performance of the services under this contract.

I-37. COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS (FEB 1997).

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are hereby incorporated by reference in this contract.

I-38. CONTRACT TERMINATION-DEBARMENT (FEB 1997).

A breach of the contract clauses entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act--Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Davis-Bacon and Related Act Regulations, or Certification of Eligibility may be grounds for termination of the contract and for debarment as a Contractor and subcontractor.

I-39. INTEREST (FEB 1997).

(a) Notwithstanding any other clause of this contract, all amounts that

become payable by the Contractor to the NAFI under this contract (net of any applicable tax credit under the internal revenue code (26 U.S.C. 1481) shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), (however other provisions of the Act are not applicable to NAFIs - see Disputes Clause) which is applicable to the period in which the amounts become due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(b) Amounts shall be due at the earliest of the following dates:

(1) The date fixed under this contract.

(2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.

(3) The date the NAFI transmits to the Contractor a proposed supplementary agreement not confirmed by contract modification.

(4) If this contract provided for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

The interest charge made under this clause may be reduced by the contracting officer.

I-40. DIFFERING SITE CONDITIONS (FEB 1997).

(a) The contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or (2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this contract.

(b) The Contracting Officer shall investigate the site conditions, promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.

(c) No request by the Contractor for an equitable adjustment to the

contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.

(d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

I-41. SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (FEB 1997).

(a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work, or its cost, including but not limited to (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the NAFI, as well as from drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the NAFI.

(b) The NAFI assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the NAFI. Nor does the NAFI assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers, employees, or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

I-42. OPERATIONS AND STORAGE AREAS (FEB 1997).

(a) The Contractor shall confine all operations (including storage of materials) on NAFI or Government premises to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government and the NAFI, its officers, employees, and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (e.g., storage sheds, shops, offices,) and utilities may be erected by the Contractor only with the approval of the Contracting Officer, and shall be built with labor and materials furnished by the Contractor without expense to the NAFI. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the contractor at the contractor's expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, side walks, or roads.

I-43. CLEANING UP (FEB 1997).

The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the NAFI or the Government. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.

I-44. SUSPENSION OF WORK (FEB 1997).

(a) The Contracting Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the NAFI.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified) an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is

provided for or excluded under any other term or condition of this contract.

(c) 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 (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date the final payment under the contract.

I-45. OTHER CONTRACTS (FEB 1997).

The NAFI or the Government may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with NAFI and Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by NAFI or Government employees.

I-46. NOTICE TO THE NAFI OF LABOR DISPUTES (FEB 1997).

(a) If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract to which a labor dispute may delay the timely performance of this contract; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay by an actual or potential labor dispute, the subcontractor shall immediately notify the next higher tier subcontractor or the prime Contractor, as the case may be, of all relevant information with respect to such dispute.

I-47. IDENTIFICATION OF CONTRACTOR'S EMPLOYEES (FEB 1997).

(a) The Contractor without expense to the NAFI shall provide for each employee, working on this contract, an identification badge as may be approved and directed by the Contracting Officer. Each such employee shall be required to wear his badge upon his person at all times while on duty at the site of work or at other times and places where identification is required, and in such manner that it will be plainly visible as a means of identification. If required by the Contracting Officer, the Contractor shall obtain fingerprints and other means of identification for all such employees.

(b) In the event the NAFI desires registration of all employees working on this project, the Contractor shall cause them to be registered at such place and in such manner as the Contracting Officer may direct. Upon notification that registration is to be effected, the Contractor shall not permit any employee to work on the job site until such employee has completed the required registration.

I-48. SCHEDULES FOR CONSTRUCTION CONTRACTS (FEB 1997).

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work schedules for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take such steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the NAFI. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of the construction plan, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of the contract.

I-49. PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (FEB 1997).

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

I-50. TIME EXTENSIONS (FEB 1997).

Notwithstanding any other provisions of this contract, it is mutually understood that the time extensions for changes in the work will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of construction. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements so delayed and that the remaining contract completion dates for all other portions of the work will not be altered and may further provide for an equitable readjustment of liquidated damages under the new completion schedule.

I-51. LIQUIDATED DAMAGES - CONSTRUCTION (FEB 1997).

(a) If the Contractor fails to complete the work within the time specified in the contract, or any extension, the Contractor shall pay to the NAFI as liquidated damages, the sum of \$ for each day of delay.

(b) If the NAFI terminates the Contractor's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned the NAFI in completing the work.

(c) If the NAFI does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted.

I-52. COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (FEB 1997).

The Contractor will be required to (a) commence work under this contract within seven calendar days (unless otherwise specified within this contract; after the date of receipt by him of notice to proceed, (b) to prosecute work diligently, and (c) to complete the entire work, ready for use not later than the time specified in the terms of the contract. The time stated for completion shall include final clean up of the premises.

I-53. CLEAN AIR AND WATER (Applicable to contracts in excess of \$100,000) (FEB 1997).

(a) "Air Act," as used in this clause, means the Clean Air Act (42 U.S.C. 7401, et seq.).

"Clean air standards," as used in this clause, means--

(1) Any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, work practices, or other requirements contained in, issued under, or otherwise adopted under the Air Act or Executive Order 11738;

(2) An applicable implementation plan as described in section 110(d) of the Air Act (42 U.S.C. 7410(d));

(3) An approved implementation procedure or plan under section 111(c) or section 111(d) of the Air Act (42 U.S.C. 7411(c) or (d)); or

(4) An approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 7412(d)).

"Clean water standards," as used in this clause, means any enforceable limitation, control, condition, prohibition, standard, or other requirement promulgated under the Water Act or contained in a permit issued to a discharger by the EPA or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).

"Compliance," as used in this clause, means compliance with--

(1) Clean air or water standards; or

(2) A schedule or plan ordered or approved by a court of competent

jurisdiction, the EPA, or an air or water pollution control agency under the requirements of the Air Act or Water Act and related regulations.

"Facility," as used in this clause, means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Contractor or subcontractor, used in the performance of a contract or subcontract. When a location or site of operations includes more than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee, of the EPA determines that independent facilities are collocated in one geographical area.

"Water Act," as used in this clause, means Clean Water Act (33 U.S.C. 1251, et seq.).

(b) The Contractor agrees--

(1) To comply with the requirements of section 114 of the Clean Air Act (42 U.S.C. 7414) and section 308 of the Clean Water Act (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, and all regulations and guidelines issued to implement those acts before the award of this contract;

(2) That no portion of the work required by this prime contract Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of the facility from the listing;

(3) To use best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed; and

(4) To insert the substance of this clause into any nonexempt subcontract, including this subparagraph (b)(4).

I-54. COMPOSITION OF CONTRACTOR (FEB 1997).

If the Contractor hereunder is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

I-55. AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (Applicable to construction contracts in excess of \$10,000) (FEB 1997).

(a) Definitions. "Covered area," as used in this clause, means the geographical area described in the solicitation for this contract.

"Director," as used in this clause, means Director, Office of Federal Contract Compliance Programs (OFCCP), United States Department of Labor, or any person to whom the Director delegates authority.

"Employer's identification number," as used in this clause, means the Federal Social Security number used on the employer's quarterly federal tax return, U.S. Treasury Department Form 941.

"Minority," as used in this clause, means--

(1) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(2) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);

(3) Black (all persons having origins in any of the black African racial groups not of Hispanic origin); and

(4) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race).

(b) If the Contractor, or a subcontractor at any tier, subcontracts a portion of the work involving any construction trade, each such subcontract in excess of \$10,000 shall include this clause and the Notice containing the goals for minority and female participation stated in the solicitation for this contract.

(c) If the Contractor is participating in a Hometown Plan (41 CFR 60-4) approved by the U.S. Department of Labor in a covered area, either individually or through an association, its affirmative action obligations on all work in the plan area (including goals) shall comply with the plan for those trades that have unions participating in the plan. Contractors must be able to demonstrate participation in, and compliance with, the provisions of the plan. Each Contractor or subcontractor participating in an approved plan is also required to comply with its obligations under the Equal Opportunity clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good-faith performance by other Contractors or subcontractors toward a goal in an approved plan does not excuse any Contractor's or subcontractor's failure to make good-faith efforts to achieve the plan's goals.

(d) The Contractor shall implement the affirmative action procedures in subparagraphs (g)(1) through (16) of this clause. The goals stated in the solicitation for this contract are expressed as percentages of the total hours of

employment and training of minority and female utilization that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for the geographical area where that work is actually performed. The Contractor is expected to make substantially uniform progress toward its goals in each craft.

(e) Neither the terms and conditions of any collective bargaining agreement, nor the failure by a union with which the Contractor has a collective bargaining agreement, to refer minorities or women shall excuse the Contractor's obligations under this clause, Executive Order 11246, as amended, or the regulations thereunder.

(f) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainee at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

(g) The Contractor shall take affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with this clause shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and implement affirmative action steps at least as extensive as the following:

(1) Ensure a working environment free of harassment, intimidation, and coercion at all sites and in all facilities where the Contractor's employees are assigned to work. The Contractor, if possible, will assign two or more women to each construction project. The Contractor shall ensure that foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at these sites or facilities.

(2) Establish and maintain a current list of sources for minority and female recruitment. Provide written notification to minority and female recruitment sources and community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

(3) Establish and maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant, referrals of minorities or females from unions, recruitment sources, or community organizations, and the action taken with respect to each individual. If an

individual was sent to the union hiring hall for referral and not referred back to the Contractor by the union or, if referred back, not employed by the Contractor, this shall be documented in the file, along with whatever additional actions the Contractor may have taken.

(4) Immediately notify the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred back to the Contractor a minority or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

(5) Develop on-the-job training opportunities and/or participate in training programs for the area that expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under subparagraph (g)(2) above.

(6) Disseminate the Contractor's equal employment policy by--

(i) Providing notice of the policy to unions and to training, recruitment, and outreach programs, and requesting their cooperation in assisting the Contractor in meeting its contract obligations;

(ii) Including the policy in any policy manual and in collective bargaining agreements;

(iii) Publicizing the policy in the company newspaper, annual report, etc.;

(iv) Reviewing the policy with all management personnel and with all minority and female employees at least once a year; and

(v) Posting the policy on bulletin boards accessible to employees at each location where construction work is performed.

(7) Review, at least annually, the Contractor's equal employment policy and affirmative action obligations with all employees having responsibility for hiring, assignment, layoff, termination, or other employment decisions. Conduct review of this policy with all onsite supervisory personnel before initiating construction work at a job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

(8) Disseminate the Contractor's equal employment policy externally by including it in any advertising in the news media, specifically including minority

and female news media. Provide written notification to, and discuss this policy with, other Contractors and subcontractors with which the Contractor does or anticipates doing business.

(9) Direct recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than 1 month before the date for acceptance of applications for apprenticeship or training by any recruitment source, send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

(10) Encourage present minority and female employees to recruit minority persons and women. Where reasonable, provide after-school, summer, and vacation employment to minority and female youth both on the site and in other areas of the Contractor's workforce.

(11) Validate all tests and other selection requirements where required.

(12) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities. Encourage these employees to seek or to prepare for, through appropriate training, etc., opportunities for promotion.

(13) Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the Contractor's obligations under this contract are being carried out.

(14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

(15) Maintain a record of solicitations for subcontracts for minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's equal employment policy and affirmative action obligations.

(h) The Contractor is encouraged to participate in voluntary associations that may assist in fulfilling one or more of the affirmative action obligations contained in subparagraphs (g)(1) through (16). The efforts of a contractor

association, joint contractor-union, contractor-community, or similar group of which the contractor is a member and participant may be asserted as fulfilling one or more of its obligations under subparagraphs (g)(1) through (16), provided the Contractor--

(1) Actively participates in the group;

(2) Makes every effort to ensure that the group has a positive impact on the employment of minorities and women in the industry;

(3) Ensures that concrete benefits of the program are reflected in the Contractor's minority and female workforce participation;

(4) Makes a good-faith effort to meet its individual goals and timetables; and

(5) Can provide access to documentation that demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply is the Contractor's, and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

(i) A single goal for minorities and a separate single goal for women shall be established. The Contractor is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the Contractor may be in violation of Executive Order 11246, as amended, if a particular group is employed in a substantially disparate manner.

(j) The Contractor shall not use goals or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

(k) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts under Executive Order 11246, as amended.

(l) The Contractor shall carry out such sanctions and penalties for violation of this clause and of the Equal Opportunity clause, including suspension, termination, and cancellation of existing subcontracts, as may be imposed or ordered under Executive Order 11246, as amended, and its implementing regulations, by the OFCCP. Any failure to carry out these sanctions and penalties as ordered shall be a violation of this clause and Executive Order 11246, as amended.

(m) The Contractor in fulfilling its obligations under this clause shall implement affirmative action procedures at least as extensive as those

prescribed in paragraph (g) above, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of Executive Order 11246, as amended, the implementing regulations, or this clause, the Director shall take action.

(n) The Contractor shall designate a responsible official to--

(1) Monitor all employment-related activity to ensure that the Contractor's equal employment policy is being carried out;

(2) Submit reports as may be required by the Government/NAFI; and

(3) Keep records that shall at least include for each employee the name, address, telephone number, construction trade, union affiliation (if any), employee identification number, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, separate records are not required to be maintained.

(o) Nothing contained herein shall be construed as a limitation upon the application of other laws that establish different standards of compliance or upon the requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

I-56. SUPERINTENDENCE BY CONTRACTOR (FEB 1997).

At all times during the performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

I-57. USE AND POSSESSION PRIOR TO COMPLETION (FEB 1997).

(a) The NAFI or the Government shall have the right to take possession of any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall Furnish the Contractor a list of items of work remaining to be performed or corrected on these portions of the work that the NAFI or the Government intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The NAFI's or the Government's possession or use shall not be deemed an acceptance of any work under the contract.

(b) While the NAFI or the Government has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the work resulting from the NAFI's or the Government's possession or use, notwithstanding the terms of the clause in this contract entitled "Permits and Responsibilities." If prior possession or use by the NAFI or the Government delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

I-58. AVAILABILITY AND USE OF UTILITY SERVICES (FEB 1997).

(a) The Government/NAFI shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. Unless otherwise provided in the contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the Government/NAFI or, where the utility is produced by the Government/NAFI, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge.

The Contractor, at its expense and in a workmanlike manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges.

Before final acceptance of the work by the Government/NAFI, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.

I-59 . APPRENTICES AND TRAINEES (FEB 1997).

(a) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not

registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is Performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) Trainees. Trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work

actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(c) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended.

I-60. PAYROLLS AND BASIC RECORDS (FEB 1997).

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b) (1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who

pays or supervises the payment of the persons employed under the contract and shall certify--

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph (b)(2) of this clause.

(4) The falsification of any of the certifications in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action.

I-61. SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997).

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like

effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory", or words of like import shall mean "approved by," or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(c) Where "as shown," "as indicated", "as detailed", or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed".

(d) Shop drawings means drawings, submitted to the Government/NAFI by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements, and (2) the installation (i.e., fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail specific portions of the work required by the contract. The Government/NAFI may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the Government/NAFI's reasons therefor. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract,

except with respect to variations described and approved in accordance with (f) below.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor.

(h) This clause shall be included in all subcontracts at any tier.

I-62. LAYOUT OF WORK (FEB 1997).

The Contractor shall lay out its work from established base lines and bench marks indicated on the drawings furnished by the NAFI, and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work. The Contractor shall be responsible for executing the work to the lines and grades that may be established or indicated by the Contracting Officer. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Contracting Officer may replace them and deduct the expense of the replacement from any amounts due or two become due to the Contractor.

I-63. DAVIS-BACON ACT (FEB 1995)

(a) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably

anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (d) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period. Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (b) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(b) (1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the construction industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(iv) With respect to helpers, such a classification prevails in the area in which the work is performed.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator or an authorized representative will

approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to subparagraphs (b)(2) and (b)(3) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(c) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit, which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(d) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

I-64. WITHHOLDING OF FUNDS (FEB 1997).

The Contracting Officer shall, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other Federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers employed by the Contractor or any subcontractor the full amount of wages required by the Contractor or any subcontractor the full amount

of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

I-65. SUBCONTRACTS (LABOR STANDARDS) (FEB 1997).

(a) The Contractor or subcontractor shall insert in any subcontracts the clauses entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act-Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Withholding of Funds, Subcontracts (Labor Standards), Contract Termination-Debarment, Disputes Concerning Labor Standards, Compliance with Davis-Bacon and Related Act Regulations, and Certification of Eligibility, and such other clauses as the Contracting Officer may, by appropriate instructions, require, and also a clause requiring subcontractors to include these clauses in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with all the contract clauses cited in this paragraph.

(b) (1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed Statement and Acknowledgment Form (SF 1413) for each subcontract, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (a) of this clause have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for such additional subcontract.

I-66. LABOR STANDARDS FOR CONSTRUCTION WORK--FACILITIES CONTRACTS (FEB 1997).

(a) In the event that construction, alteration, or repair (including painting and decorating) of public buildings or public works is to be performed hereunder, the Contractor shall comply with the following listed clauses in performance of such work: (1) Contract Work Hours and Safety Standards Act-Overtime Compensation; (2) Davis-Bacon Act; (3) Withholding of Funds; (4) Payrolls and Basic Records; (5) Apprentices and Trainees; (6) Compliance with Copeland Act Requirements; (7) Subcontracts (Labor Standards); (8) Contract Termination-Debarment; (9) Compliance with Davis-Bacon and Related Act Regulations; (10) Disputes Concerning Labor Standards; and (11) Certification of Eligibility.

(b) Upon determination by the Contracting Officer that the Davis-Bacon Act is applicable to any item of work to be performed hereunder, a determination

of the prevailing wage rates shall be incorporated into the contract by modification.

(c) No construction, alteration, or repair (including painting and decorating) of public buildings or public works shall be performed under this contract without incorporation of the wage determination unless the Contracting Officer authorizes the start of work because of unusual or emergency situations, in which case the wage determination shall be incorporated as soon as possible and made retroactive to the start of the work.

I-67. ANTI-KICKBACK PROCEDURES (FEB 1997).

(a) Definitions.

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

I-68. PERFORMANCE AND PAYMENT BONDS (FEB 1997).

(a) Within ten (10) calendar days after notification of contract award is received by the Contractor, the Contractor shall obtain and submit to the Contracting Officer two (2) bonds (namely "Performance" and "Payment" Bonds, each with good and sufficient surety or sureties acceptable to the Fund.

(b) If the contractor, upon acceptance of its bid or proposal by the fund within the period specified for acceptance, fails to execute all contractual documents or give performance and payment bonds as required by the contract within the time specified, the Contracting Officer may terminate the contract for default.

(c) Army regulation applicable to Nonappropriated funds require performance and payment bonds for any construction contract exceeding \$25,000. The Contractor shall furnish to the Fund a Performance Bond (Standard Form 25) and a Payment Bond (Standard Form 25-A) within 10 days after award of contract before receiving a Notice to Proceed with the work or being allowed to start work. The Bonds shall include a statement that states that "The term United States of America, as set forth in this bond form shall mean the United States Nonappropriated Fund Instrumentality (herein after referred to as the Army, Morale, Welfare, and Recreation Fund) which is a party to this contract." The penal sums of such bonds shall be as follows:

(1) Performance Bond: The penal sum of the performance bond shall

be 100 percent of the original contract price.

(2) Payment Bond: The penal sum of the payment bond shall equal (i) 50 percent of the contract price if the contract price is not more than \$1 million; (ii) 40 percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or (iii) \$2.5 million if the contract price is more than \$5 million.

(d) Corporate sureties offered for bonds furnished with your awarded contract must appear on the list contained in the Department of the Treasury Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsuring Companies." The penal amount of the bond should not exceed the surety's underwriting limit, the bond will be acceptable only if (i) the amount which exceeds the specified limit is coinsured or reinsured and (ii) the amount of coinsurance or reinsurance does not exceed the underwriting limit of each coinsurer or reinsurer.

Individual sureties will not be acceptable under the requirements of this contract

I-69. NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (APR 1984):

(a) The Contractor's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.

(b) The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

Goals for minority participation for each trade	69.1%	Goals for female participation for each trade	6.9%
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These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographic area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the Federal Register in notice form, and these notices may be obtained from any Federal Contract Compliance Programs office.

(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60 4 shall be based on (1) its implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and (3) its efforts to meet the

goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority and female employees or trainees from Contractor to Contractor, or project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60

4. Compliance with the goals will be measured against the total work hours performed.

(d) The Contractor shall provide written notification to the Director, Office of Federal Contract Compliance Programs, within ten working days following award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the

(1) Name, address, telephone number, and Employer identification number of the subcontractor;

(2) Estimated dollar amount of the subcontract;

(3) Estimated starting and completion dates of the subcontract; and

(4) Geographical area in which the subcontract is to be performed.

(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is: Honolulu, Hawaii.

I-70. Year 2000 Compliance Warranty

The contractor warrants that each non-commercial item of hardware, software, and firmware delivered or developed under this contract shall be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations to the extent that other information technology, used in combination with the information technology being acquired, properly exchanges date/time data with it. If the contract requires that specific listed items must perform as a system in accordance with the foregoing warranty, that warranty shall apply to those listed items as a system. The duration of this warranty and the remedies available to the NAFI for breach of this warranty shall be as defined in, and subject to, the terms and limitations of any general warranty provisions of this contract, provided that notwithstanding any provision to the contract in such warranty provision(s), or in the absence of any such warranty provision(s), the remedies available to the NAFI under this warranty shall include repair or replacement of any listed item whose non-compliance is discovered and made known to the contractor in writing within ninety (90) days after acceptance. Nothing in this warranty shall be

constructed to limit any rights or remedies the NAFI may otherwise have under this contract with respect to defects other than Year 2000 performance.

I-71. RESTRICTION ON EMPLOYMENT OF PERSONNEL (DEC 1991)

(a) The Contractor shall employ, for the purpose of performing that portion of the contract work in the State of Hawaii, individuals who are residents of the State, and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills to perform the contract.

(b) The Contractor agrees to insert the substance of this clause, including paragraph (b) in each subcontract.

**SECTION K
REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF
OFFERORS OR QUOTERS**

K-1. CONTINGENT FEE REPRESENTATION AND AGREEMENT

K-2. TYPE OF BUSINESS ORGANIZATION

K-3. CERTIFICATE OF INDEPENDENT PRICE DETERMINATIONS
(Applicable to solicitations for contracts anticipated to exceed \$25,000)

K-4. WALSH-HEALEY PUBLIC CONTRACTS ACT REPRESENTATION
(Applicable to solicitations in which the resultant contract will be for the manufacture of materials, supplies, articles or equipment that exceeds or may exceed \$10,000)

K-5. CERTIFICATION OF NONSEGREGATED FACILITIES (Applicable to solicitations for contracts which are expected to exceed \$10,000 and are covered by the Equal Opportunity Clause)

K-6. AFFIRMATIVE ACTION COMPLIANCE (Applicable to solicitations for contracts which are expected to exceed \$10,000 and are covered by the Equal Opportunity clause)

K-7. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (Applicable to solicitations for contracts which are expected to exceed \$10,000 and are covered by the Equal Opportunity clause)

K-8. CLEAN AIR AND WATER CERTIFICATION (Applicable to solicitations where contracts are expected to exceed \$100,000 or where orders under and indefinite quantity contract in any year are anticipated to exceed \$100,000)

K-9. BUY AMERICAN ACT - TRADE AGREEMENTS - BALANCE OF PAYMENTS PROGRAM CERTIFICATE (All solicitations under \$150,000 for supplies for use within the US, and for contracts between \$25,000 and \$150,000 for supplies (except perishable subsistence) for use outside the US)

K-10. TAXPAYER IDENTIFICATION NUMBER (TIN)

K-11. CERTIFICATION REGARDING DEBARMENT, SUSPENSION,

PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

**K-12. CERTIFICATION OR DISCLOSURE OF OWNERSHIP OR CONTROL BY
A FOREIGN GOVERNMENT THAT SUPPORTS TERRORISM**

K-13. AUTHORIZED NEGOTIATORS

REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS OR QUOTERS

DA FORM 5564-R

K-1. CONTINGENT FEE REPRESENTATION AND AGREEMENT (FEB 1997).

(a) Representation. The offeror represents that, except for full-time bona fide employees working solely for the offeror, the offeror -
(Note: The offeror must check the appropriate boxes. A "bona fide employee" means a person employed by a contractor and subject to the contractor's supervision and control as to time, place and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain NAF contract(s) through improper influence.)

(1) has, has not employed or retained any person or company to solicit or obtain this contract, and

(2) has, has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(b) Agreement. The offeror agrees to provide information relating to the above Representation as requested by the Contracting Officer and, when subparagraph (a)(1) or (a)(2) is answered affirmatively, to promptly submit to the Contracting Officer -

(1) A completed Standard Form 119, Statement of Contingent or Other Fees, (SF 119); or

(2) A signed statement indicating the SF 119 was previously submitted to the same contracting office, including the date and applicable solicitation or contract number, and representing that the prior SF 119 applies to this offer or quotation.

K-2. TYPE OF BUSINESS ORGANIZATION (FEB 1997).

The offeror or quoter, by checking the applicable box, represents that--

(a) It operates as a corporation incorporated under the laws of the State of _____, an individual, a partnership, a nonprofit organization, or a joint venture.

(b) If the offeror or quoter is a foreign entity, it operates as an individual,

_ a partnership, _ a nonprofit organization, _ a joint venture, or _ a corporation, registered for business in _____.(country)

K-3. CERTIFICATE OF INDEPENDENT PRICE DETERMINATIONS (FEB 1997). (Applicable to solicitations for contracts anticipated to exceed \$25,000)

(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, agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit and offer, or (iii) the methods or factor 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 bidding 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) above; or

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

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

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

(c) If the offeror deletes or modifies subparagraph (a)(2) above, the

offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

K-4. WALSH-HEALEY PUBLIC CONTRACTS ACT REPRESENTATION

(FEB 1997). (Applicable to solicitations in which the resultant contract will be for the manufacture of materials, supplies, articles or equipment that exceeds or may exceed \$10,000)

The offeror represents as a part of this offer that the offeror is or is not a regular dealer in, or is or is not a manufacturer of, the supplies offered.

K-5. CERTIFICATION OF NONSEGREGATED FACILITIES (FEB 1997).

(Applicable to solicitations for contracts which are expected to exceed \$10,000 and are covered by the Equal Opportunity Clause)

(a) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(b) By the submission of this offer, the offeror certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract.

(c) The offeror further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will --

(1) Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;

(2) retain the certifications in the files; and

(3) Forward the following notice to the proposed subcontractors (except if the proposed subcontracts have submitted identical certifications for specific time periods).

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES.

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract under which the subcontractor will be subject to the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

K-6. AFFIRMATIVE ACTION COMPLIANCE (FEB 1997). (Applicable to solicitations for contracts which are expected to exceed \$10,000 and are covered by the Equal Opportunity clause)

The offeror represents that (a) it has developed and has on file, has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of labor (41 CFR 60-1 and 60-2), or (b) it has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

K-7. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1997). (Applicable to solicitations for contracts which are expected to exceed \$10,000 and are covered by the Equal Opportunity clause)

(a) It has, has not participated in a previous contract or subcontract subject either to the Equal Opportunity Clause of this solicitation, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114.

(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-8. CLEAN AIR AND WATER CERTIFICATION (FEB 1997). (Applicable to solicitations where contracts are expected to exceed \$100,000 or where orders under and indefinite quantity contract in any year are anticipated to exceed \$100,000)

The offeror represents that --

(a) Any facility to be used in the performance of this proposed contracts is,
is not, listed on the Environmental Protection Agency List of Violating Facilities;

(b) The offeror will immediately notify the Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection agency, (EPA), indicating that any

facility that the offeror proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and

(c) The offeror will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

K-9. BUY AMERICAN ACT - TRADE AGREEMENTS - BALANCE OF PAYMENTS PROGRAM CERTIFICATE (FEB 1997). (All solicitations under \$150,000 for supplies for use within the US, and for contracts between \$25,000 and \$150,000 for supplies (except perishable subsistence) for use outside the US)

(a) The offeror hereby certifies that each end product, except those listed in paragraph (b) of this provision, is a domestic end product (as defined in the clause entitled "Buy American Act--Trade Agreements--Balance of Payments Program" and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States, a designated country, a North American Free Trade Agreement (NAFTA) country, or a Caribbean Basin country.

(b) Excluded End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

(List as necessary)

(c) Offers will be evaluated by giving certain preferences to domestic end products, designated country end products, NAFTA country end products, and Caribbean Basin country end products over other end products. In order to obtain these preferences in the evaluation of each excluded end product listed in paragraph (b) of this provision, offerors must identify and certify below those excluded end products that are designated or NAFTA country end products, or Caribbean Basin country end products. Products that are not identified and certified below will not be deemed designated country end products, NAFTA country end products, or Caribbean Basin country end products. Offerors must certify by inserting the applicable line item numbers in the following:

(1) The offeror certifies that the following supplies qualify as "designated or NAFTA country end products" as those terms are defined in the clause entitled "Buy American Act--Trade Agreements--Balance of Payments Program:"

(Insert line item numbers)

(2) The offeror certifies that the following supplies qualify as "Caribbean Basin country end products" as that term is defined in the clause entitled "Buy American Act--Trade Agreements Act--Balance of Payments Program":

(Insert line item numbers)

(d) Offers will be evaluated in accordance with AR 215-4.

K-10. TAXPAYER IDENTIFICATION:

10-1 Definitions.

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

"Corporate status," as used in this solicitation provision, means a designation as to whether the offeror is a corporate entity, an unincorporated entity (e.g., sole proprietorship or partnership), or a corporation providing medical and health care services.

"Taxpayer Identification Number (TIN)," as used in this solicitation provision, means the number required by the IRS to be used by the offeror in reporting income tax and other returns.

10-2 The offeror is required to submit the information required in paragraphs (c) through (e) of this solicitation provision in order to comply with reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M and implementing regulations issued by the Internal Revenue Service (IRS). If the resulting contract is subject to the reporting requirements described in 4.902(a), the failure or refusal by the offeror to furnish the information may result in a 20 percent reduction of payments otherwise due under the contract.

10-3 Taxpayer Identification Number (TIN).

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 U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.;

 Offeror is an agency or instrumentality of a foreign government;

 Offeror is an agency or instrumentality of a Federal, state, or local government;

 Other. State basis.

10-4 Corporate Status.

 Corporation providing medical and health care services, or engaged in the billing and collecting of payments for such services;

 Other corporate entity;

 Not a corporate entity;

 Sole proprietorship

 Partnership

 Hospital or extended care facility described in 26 CFR 501(c)(3) that is exempt from taxation under 26 CFR 501(a).

10-5 Common Parent.

 Offeror is not owned or controlled by a common parent as defined in paragraph (10-1) of this clause.

 Name and TIN of common parent:

Name _____

TIN _____

K-11. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS.

11-1 The Offeror certifies, to the best of its knowledge and belief, that
(a) The Offeror and/or any of its Principals

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

(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 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, or receiving stolen property; and

(3) 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 (11-1)(a)(2) of this provision.

(b) 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.

(c) "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.

11-2 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.

11-3 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.

11-4 Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the

certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

11-5 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 Fund, the Contracting Officer may terminate the contract resulting from this solicitation for default.

K-12. CERTIFICATION OR DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT THAT SUPPORTS TERRORISM:

12-1 "Significant interest" as used in this provision means:

- (a) Ownership of or beneficial interest in five percent (5%) or more of the firm's or subsidiary's securities. Beneficial interest includes holding five percent (5%) or more of any class of the firm's securities in "nominee shares", "street names", or some other method of holding securities that does not disclose the beneficial owner;
- (b) Holding a management position in the firm such as director or officer;
- (c) Ability to control or influence the election, appointment, or tenure of directors or officers of the firm;
- (d) Ownership of ten percent (10%) or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or
- (e) Holding fifty percent (50%) or more of the indebtedness of a firm.

12-2 Unless paragraph 12-3 (below) has been completed, the Offeror, by submission of its offer, certifies, to the best of its knowledge and belief, that no government of a foreign country, or agent or instrumentality of a foreign country, listed below, has, directly or indirectly, a significant interest in the Offeror or, if the Offeror is a subsidiary, in the firm that owns or controls, directly or indirectly, the Offeror. Such countries currently include:

- (a) Cuba;
- (b) Iran;
- (c) Libya;
- (d) Syria; and
- (e) South Yemen.

12-3 If the Offeror is unable to certify in accordance with 12-2 (above), the Offeror represents that the following country or countries (listed in 12-2 above) or

an agent or instrumentality of such country or countries, have a significant interest in the Offeror's firm:

Country _____

Significant Interest _____

K-13. AUTHORIZED NEGOTIATORS.

The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations:

Name Number	Title	Telephone
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

SECTION L
SOLICITATION INSTRUCTIONS AND CONDITIONS

L-1. DEFINITIONS

As used herein:

a. The term “solicitation” means an invitation for bids (IFB) when using sealed bidding and a request for proposal (RFP) when an acquisition is negotiated.

b. The term “offer” means “bid” when sealed bidding is used and “proposal” when an acquisition is negotiated.

L-2. PREPARATION OF OFFERS (FEB 1997).

(a) Offerors are expected to examine the drawings, specifications, Schedule, and all instructions. Failure to do so will be at the offeror’s risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the offer and print or type its name on the Schedule and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by the agent shall be accompanied by evidence of that agent’s authority, unless that evidence has been previously furnished to the issuing office.

(c) For each item offered, offerors shall (1) show the unit price/cost, including, unless otherwise specified, packaging, packing and preservation and (2) enter the extended price/cost for the quantity of each item offered in the “Amount” column of the Schedule. In case of discrepancy between a unit price/cost and an extended price/cost, the unit price/cost will be presumed to be correct, subject, however, to correction the same extent and in the same manner as any other mistake.

(d) Offers for supplies or services other than those specified will not be considered unless authorized by the solicitation.

(e) Offerors must state a definite time for delivery of supplies or for performances of services, unless otherwise specified the solicitation.

(f) Time, if stated as a number of days, will include Saturdays, Sundays, and holidays.

L-3. EXPLANATION TO PROSPECTIVE OFFERORS (FEB 1997).

Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

L-4. AMENDMENTS TO SOLICITATIONS (FEB 1997).

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Offerors shall acknowledge receipt of any amendments to this solicitation by (1) signing and returning the amendment, (2) identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer, (3) letter or telegram, or (4) facsimile, if facsimile offers are authorized in the solicitation. The NAFI must receive the acknowledgment by the time specified for receipt of offers.

L-5. SUBMISSION OF OFFERS (FEB 1997).

(a) Offers and modifications thereof shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation, and (2) showing the time specified for receipt, the solicitation number, and the name and address of the offeror.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic notice.

(c) Facsimile offers, modifications or withdrawals will not be considered unless authorized by the solicitation.

(d) Offers submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.

(e) Item samples, if required, must be submitted within the time specified for receipt of offers. Unless otherwise specified in the solicitation these samples shall be (1) submitted at no expense to the NAFI, and (2) returned at the sender's request and expense, unless they are destroyed during preaward testing.

L-6. FAILURE TO SUBMIT OFFER (FEB 1997).

Recipients of this solicitation not responding with an offer should not return this solicitation, unless it specifies otherwise. Instead, they should advise the issuing office by letter, postcard, or established electronic commerce methods, whether they want to receive future solicitations for similar requirements. If a recipient does not submit an

offer and does not notify the issuing office that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

L-7. LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF PROPOSALS (FEB 1997).

(a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it--

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(2) Was sent by mail or, if authorized by the solicitation, was sent by telegram or via facsimile and it is determined by the NAFI that the late receipt was due solely to mishandling by the NAFI after receipt at the Government installation;

(3) Was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays;

(4) Was transmitted through an electronic commerce method authorized by the solicitation and was received by the NAFI not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(5) Is the only proposal received.

(b) Any modification of a proposal or quotation, except a modification resulting from the Contracting Officer's request for "best and final" offer, is subject to the same conditions as in subparagraphs (a)(1), (2), and (3) of this provision.

(c) A modification resulting from the Contracting Officer's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the NAFI after receipt at the Government installation.

(d) The only acceptable evidence to establish the date of mailing of a late proposal or modification sent either by U.S. Postal Service registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the proposal, quotation, or modification shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as

having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors or quoters should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(e) The only acceptable evidence to establish the time of receipt at the Government installation is the time/date stamp of that installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.

(f) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph (d) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, offerors or quoters should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(g) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful proposal that makes its terms more favorable to the NAFI will be considered at any time it is received and may be accepted.

(h) Proposals may be withdrawn by written notice or telegram (including mailgram) received at any time before award. 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 entitled "Facsimile Proposals." Proposals may be withdrawn in person by an offeror or an authorized representative, if the representative's identity is made known and the representative signs a receipt for the proposal before award.

(i) If an emergency or unanticipated event interrupts normal NAFI 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 NAFI requirements preclude amendment of the solicitation or other notice of an extension of the closing date, 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 NAFI processes resume. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated NAFI office.

L-8. DISCOUNTS FOR PROMPT PAYMENT (FEB 1997)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a prompt payment discount in conjunction with the offer, offerors

awarded contracts may include prompt payment discounts on individual invoices.

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

L-9. CONTRACT AWARD (FEB 1997) (NEGOTIATED PROCUREMENTS ONLY).

(a) The NAFI will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the NAFI, cost or price and other factors, specified elsewhere in this solicitation, considered.

(b) The NAFI may (1) reject any or all offers if such action is in the public interest, (2) accept other than the lowest offer, and (3) waive informalities and minor irregularities in offers received.

(c) The NAFI intends to evaluate proposals and award a contract after conducting written or oral discussions with all responsible offerors whose proposals have been determined to be within the competitive range. However, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint.

(d) The NAFI may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may be submitted for quantities less than those specified. The NAFI 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 offer.

(e) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the NAFI may accept an offer (or part of an offer, as provided in paragraph (d) above), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by the NAFI.

(f) Neither financial data submitted with an offer, nor representations concerning facilities or financing, will form a part of the resulting contract. However, if the resulting contract contains a clause providing for price reduction for defective cost or pricing data, the contract price will be subject to reduction if cost or pricing data furnished is incomplete, inaccurate, or not current.

(g) The NAFI may disclose the following information in post-award debriefings to other offerors: (1) the overall evaluated cost or price and technical rating of the successful offeror; (2) the overall ranking of all offerors, when any ranking was developed by the agency during source selection; (3) a summary of the rationale for award; and (4) for acquisitions of commercial end items, the make and model of the item to be delivered by the successful offeror.

L-10. LABOR INFORMATION.

General information regarding the requirements of the Walsh-Healey Public Contracts Act (41 U.S.C. 35-45), the Contract Work Hours Standards Act (40 U.S.C. 327-330), and the Service Contract Act of 1965 (41 U.S.C. 351-357) may be obtained from the Department of Labor, Washington, D.C. 20210, or from any regional office of that agency. Requests for information should include the solicitation number, the name and address of the issuing agency, and a description of the supplies or services.

L-11. ORDER OF PRECEDENCE (FEB 1997).

Any inconsistency in this solicitation shall be resolved by giving precedence in the following order: (a) the Schedule; (b) Section C – Specification and Work Statement to include the Drawings in Attachment J; (c) Representations and Other Instructions; (d) Contract Clauses; and (e) Other Documents, Exhibits and Attachments.

L-12. SITE VISIT (FEB 1997).

Offerors or quoters are **urged and expected** to inspect the site where the services are to be performed and satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site constitute grounds for a claim after contract award.

L-13. TYPE OF CONTRACT (FEB 1997).

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

SECTION L (CONTINUED)

L-15. PRE-PROPOSAL CONFERENCE

(a) There will be a pre-proposal conference at Fort Monroe Community Activity Center use, on _____ at 10:00 AM.

(b) All prospective offerors are **urged** to attend this conference. In order to make this conference as productive as possible, offerors are requested to submit any questions they may have in writing to U.S. Army Engineer District, Norfolk, 803 Front Street, ATTN: CENAO-CT-C (Miss Patricia D. Lee, Contract Specialist), Norfolk, Virginia 23510-1096, or telephone (804) 441-7790 or Fax (804) 441-7183 no later than _____.

(c) A walk through of the project site will be conducted after the conference.

(d) Prospective offerors shall notify the Contracting Officer, at the above address, in writing of the names of those company officials who will attend the conference by no later than _____.

(c) All prospective offerors are advised that at the conclusion of the conference, unless the solicitation is amended in writing, it will remain unchanged and; that if an amendment is issued, normal procedures relating to the acknowledgement and receipt of such amendment shall be applicable.

L-16. CONTRACTOR ESTABLISHMENT CODE

In the block with its name and address, the offeror should supply the Contractor Establishment Code applicable to that name and address, if known, to the offeror. The number should be preceded by "CEC." Offerors should take care to report the correct CEC and not a similar number assigned to the Offeror in a different system.

The CEC is a 9-digit code assigned to a contractor establishment that contracts with a Federal executive agency. The CEC system is a contractor identification coding system which is currently the Dun and Bradstreet Data Universal Number System (DUNS). The CEC system is distinct from the Federal Taxpayer Identification Number (TIN) system.

L-17. RESTRICTION ON DISCLOSURE AND USE OF DATA

Offerors or quoters who include in their proposals or quotations data that they do not want disclosed to the public for any purpose or used by the Government except for evaluation purposes, shall:

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

"This proposal or quotation 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 or quotation. If, however, a contract is

awarded to this offeror or quoter 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

(b) 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 or quotation."

L-18. CHANGES IN SPECIFICATIONS AND DRAWINGS

(a) The right is reserved as the interest of the Government may require, to revise or amend the specifications and/or drawings prior to the date set for opening proposals. Such revisions and amendments, if any, will be announced by amendment or amendments to this solicitation. Copies of such amendments as may be issued will be furnished to all prospective offerors. If the revisions and amendments are of a nature which require material changes in quantities or prices offered, or both, the date set for opening proposals may be postponed by such number of days as in the opinion of the Contracting Officer will enable the offerors to revise their proposals. In such cases, the amendment will include an announcement of the new date for opening proposals.

(b) Receipt of amendments should be acknowledged on page A-1, DA Form 4069-R.

L-19. CLARIFICATION OF SPECIFICATIONS AND DATA

Offerors should carefully examine the specifications and fully inform themselves as to all conditions and matters which can in any way affect the work or the cost thereof. Should an offeror find discrepancies in, or omission from, the specifications, or other documents, or should he be in doubt as to their meaning, he should at once notify the Contract Specialist, Miss Patricia D. Lee, (804) 441-7790 or by facsimile at (804) 441-7183.

L-20. SUBMISSION REQUIREMENTS

Each proposer is required to submit the following volumes of their proposals:

- | | |
|------------------|--|
| Volume I ----- | Technical Proposal (<i>8 copies plus original</i>) |
| Volume II ----- | Project Management Plan (<i>8 copies plus original</i>) |
| Volume III ----- | Design-Build Team's Qualifications and Past Performance Data (<i>8 copies plus original</i>) |
| Volume IV ----- | Financial Data and Firm's Financial History (<i>2 copies plus original</i>) |
| Volume V ----- | Price Proposal (<i>2 copies plus original</i>) |

L-20-1 VOLUME I, TECHNICAL PROPOSAL REQUIREMENT:

(a) The following technical data shall be submitted as part of the technical proposal. Contractor's accepted proposal will be incorporated into the contract. Offerors are advised that the required data listed below will be utilized for technical review and evaluation. Requirements, codes, standards and any other information contained or specified in SECTION C and elsewhere in this RFP will be assumed to be included and to be a part of the offeror's proposal. It need not be repeated therein. All alternates shall be specifically addressed and expanded upon in the proposal. The criteria specified in this RFP are binding contract criteria and in cases of any conflict, subsequent to award, between RFP criteria and Contractor's submittals, the RFP criteria shall govern unless there is a written agreement between the Contracting Officer and the Contractor waiving the specific requirement or accepting a specific condition pertaining to the offer.

(b) Drawings and Specifications for Proposal Submission: Offerors submitting proposals for this project should limit submissions to data essential for evaluation of proposals so that a minimum of time and monies will have been expended in preparing information hereinafter required. Data submitted must reflect the designer's interpretation of criteria furnished by the RFP. Drawing information should present basic concepts, arrangements and layouts. The arrangements, layout plans and notes may be all combined together on single sheets in order to simplify the presentation so long as clarity can be maintained. Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are not desired and may be construed as an indication of the offeror's lack of cost consciousness. Elaborate art work, expensive paper and bindings, and expensive visual and other presentation aids (except as required in para.(c) below) are neither necessary nor wanted. These drawings are not intended to be construction detail plans.

(c) Proposals will be evaluated for conformance to the minimum criteria in the RFP and for quality scoring. While the intent is to keep pre-award design effort to a minimum, proposals must provide enough design for the evaluation team to determine whether the proposed design meets the functional requirements for operational use during the anticipated life of the facility and to show engineering sufficiency and soundness and the degree to which the proposal may exceed the minimum requirements. It must also form sufficient basis for developing a fair and reasonable price proposal.

(d) In general, the proposal will be considered responsive if it includes:

(1) SITE DESIGN:

(A) Site Analysis Narrative: A brief description of the basic site layout and the rationale behind site design. Address environmental conditions, existing site features, demolition requirements and the relationship of the site and building

activities to the surrounding environment and proposed future development of the site.

(B) Site/Utility Plans: A concept presentation plan of the entire site shall be provided to include the following information:

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- (i) Proposed facility superimposed on existing contours. Include proposed contours, walls, etc. Contour intervals are to be 2'-0" elevations.
- (ii) Show north arrow and approximate finish floor elevations.
- (iii) Show building surrounds and foot prints, existing, new, revised or removed. Show how existing club house facility will remain operational during construction of new facility including any temporary construction.
- (iv) Drainage plan, include catch basins, pipes, surface drainage patterns, slopes etc.
- (v) Paved drives, walks, ramps, dumpster location and access, and parking areas with service and vehicular loading and proposed signage.
- (vi) Show existing and new landscaping treatments, materials, plants, etc.
- (vii) Irrigation plan with schedule of components and system description
- (viii) Site utilities, water, gas, electric, steam, sewer, fire hydrants, etc.

(2) NEW COMMUNITY ACTIVITY CENTER DESIGN:

(A) Architectural Design Narrative: Provide a brief description of the building's architectural configuration and the rationale behind the design. Address environmental conditions, the relationship of the site and site activities to the building, appearance of the building, response to the architectural program requirements, selection of interior and exterior materials, and construction techniques. Address the acoustical characteristics proposed. Describe fire safety measures, including fire egress routes, stair and passage dimensions, detection and alarm systems, and fire suppression systems. The Contractor's Registered Fire Protection Engineer shall provide and certify a detailed Life Safety/Fire Protection Narrative/Design Analysis.

(B) Architectural Submittal/Drawings:

(i) Floor Plan(s): Include the following:

Walls and partitions.
Doors, windows, openings.

features. Overall exterior dimensions, basic interior dimensions.
Location of equipment, furnishings, and other plan

Room titles and net areas.
Personnel occupancy.

(ii) Elevations: Include the following:

Exterior materials.
Fenestration, openings, doors.
Foundation outline, finish grade.
Grills, rails, and other architectural specialties.
Graphics and signage.

(iii) Sections, one long dimension, one short dimension: Include the following:

Roof, floor, and foundation structure; finish grade.
Wall thickness.
Ceilings.
Overall vertical dimensions; interior vertical clearances.

(vi) One Typical Wall Section: Include the following:

Materials.
Wall thickness.
Wall structure.
Surfaces and finishes.
Thermal insulation.
Water, moisture, and vapor protection.
Detail at roof.
Detail at floors.
Detail at foundation.

(v) Door, window, and equipment schedules (*as appropriate*).

(C) Interior Design:

(i) Interior Design Description: Provide a brief description of the building's interior design scheme and the rationale behind the design. Include product literature and other descriptive materials, as appropriate. Address function, appearance, use of materials, considerations for safety or prevention of hazards, and considerations for the detailing or concealment of building utilities.

(ii) Cabinetry and Trim: Provide product

literature or other descriptive materials, as appropriate.

(iii) Color Scheme: Provide a basic color scheme for the facility.

(iv) Signage and Graphics: Provide product literature or other descriptive materials, as appropriate.

(v) Provide a finish schedule.

(D) Building Engineering:

(i) Outline Specifications: Provide outline specifications for the facility in CSI format. Include product literature and other descriptive material, as appropriate to describe the proposed materials, systems, and equipment. Equipment schedules must include all items of equipment, electrical, mechanical, electronic, irrigation, fixture, furnishing, lighting, etc., to be provided, size or capacities, manufacturer and model, if not provided on the concept drawings or in the outline specifications. Manufacturer's catalog data is to be provided where applicable.

(ii) Structural Design:

1. Provide a brief narrative description of the proposed structural approach. Describe the basic construction type and major structural materials. Indicate the rationale behind the proposed structural approach.

2. Identify the codes, standards, criteria, and design methods around which the structural design will be developed. Indicate how the specified minimum structural criteria will be met or exceeded in the proposed design.

3. Basic structural plan, if not evident in the architectural drawings. Indicate such items as bay dimensions, expansion joints, seismic joints, and control joints. Structural submittal/drawings shall include:

Roof and floor system, type of roof deck, type foundations etc.

Walls and partitions - describe composition and

general range of thicknesses.

Design loads to include roof and floor live loads, wind loads, and any unusual dead loads.

The design data used for seismic design.

The allowable soil bearing value and the minimum footing depth and width on which it is based.

(iii) Mechanical Systems (*HVAC*).

1. Provide a brief narrative description of the proposed mechanical design. Indicate the rationale behind the selection of the proposed systems. Address fuel source, environmental conditions, thermal envelope design, and operating characteristics of the HVAC system.

2. Identify the codes, standards, criteria, and design methods around which the designs will be developed. Indicate how the specified minimum mechanical and environmental criteria will be met or exceeded in the proposed design.

3. Basic Mechanical Plan: Indicate distribution and equipment location. Indicate thermostat and control locations.

4. Equipment Schedule: Describe the mechanical equipment. Include product literature and other descriptive material, as appropriate.

(iv) Mechanical Systems (*Plumbing*).

1. Provide a brief narrative description of the proposed plumbing design. Indicate the rationale behind the selection of the proposed systems.

2. Identify the codes, standards, criteria and design methods around which the plumbing design will be developed. Indicate how the specified minimum plumbing criteria will be met or exceeded in the proposed design.

3. Plumbing Plan: Indicate distribution and equipment location. Indicate valves, clean outs, and controls.

4. Plumbing Schedule: Describe the plumbing fixtures

and equipment. Include product literature and other descriptive material as appropriate.

(v) Mechanical Systems (*Fire Protection*):

1. Provide a brief narrative description of the proposed fire protection design. Indicate the rationale behind the selection of the proposed systems.
2. Identify the codes, standards, criteria, and design methods around which the fire protection design will be developed. Indicate how the specified minimum fire protection criteria will be met or exceeded in the proposed design.
3. Fire Protection Plan: Indicate distribution and equipment location. Indicate risers, fire department connections, local alarms, and inspector's test connections.
4. Fire Protection Schedules: Describe the fire protection equipment. Include product literature and other descriptive material, as appropriate.

(vi) Electrical Systems:

1. Provide a brief narrative description of the proposed electrical and lighting design. Indicate the rationale behind the selection of the proposed systems.
2. Identify the codes, standards, criteria, and design methods around which the electrical and lighting designs will be developed. Indicate how the specified minimum electrical criteria will be met or exceeded in the proposed design.
3. Electrical Schedule: Describe the electrical and lighting fixtures and equipment. Include product literature and other descriptive material, as appropriate. Electrical plan submittal:

Indicate distribution and equipment location. Provide schematics of controls, Fire alarm system, Telephone, public address alarm, cable TV

distribution and intercom systems. Show Exterior lighting locations, to include security, parking areas, streets, and building mounted fixtures. Describe Electrical characteristics of power supply. Show location of building service. Indicate whether overhead or underground.

20-2 VOLUME II, PROJECT MANAGEMENT PLAN:

The Project Management Plan should describe how an offeror intends to manage the project from design through construction with emphasis on how a quality product will be produced, on schedule, to cost. phase of the work.]

(a) Design-Construction Schedule for Project: In addition to the time schedule to be submitted in SECTION B, the offeror is to provide with his proposal an outline of his plan for the design and construction of the project in accordance with SECTION C-1, paragraph Construction Phasing. Graphically represent the integration of all significant elements of design and construction in days of effort as required. The schedule shall be prepared in the form of time scaled (*i.e. Gantt Chart or other*) summary network diagram graphically indicating the sequence proposed to accomplish each work operation and appropriate interdependencies between the various activities. The chart shall show the starting and completion dates of all activities on a linear horizontal time scale beginning with the dates of Notice to Proceed and indicating calendar days to completion. Each significant activity in both design and construction phases of the project shall be represented and a cost for the activity indicated. The sum of the activity costs will total to the contract amount for the project. The Contractor shall indicate on the chart the important work activities that are critical to the timely overall completion of the project. Key dates for important features or portions of work features are milestone dates and shall be indicated on the chart.

(b) Project Management/Quality Control

(1) Submit the proposed method of project management. Identify the Project Manager, full time site superintendent, and other personnel, etc. that are key to the management plan. Show an authority line diagram and provide resumes of all key personnel.

(2) Quality Control Plan: The Quality Control Plan shall consist of a narrative and/or other information that reflects the requirements contained in SECTION H, paragraph 3, CONTRACTOR QUALITY CONTROL. Resumes and experience profiles of the CQMS Chief and other QC/QA personnel shall be included.

20-3 VOLUME III, QUALIFICATIONS AND PAST PERFORMANCE:

Submittal requirements are as follows:

(1) Present the design/build teams experience:

(A) Provide a standard Form SF 255 for the architect/engineer design team and a SF 254 for each architect and/or engineering firm involved in the project.

(B) Identify the project personnel structure and provide resume's for the design/build team members if not on the above forms.

(2) Furnish information indicated below for prime civilian and military design and construction contracts your firm has received during the past 3 years. Please Note if the contracts were/are for design only, design/build or construction only. This information should be provided for contracts that are in progress or are completed.

PROJECT TO BE LOCATION	TYPE OF FACILITY COMPLETED	DOLLAR VALUE	CONTRACTING AGENCY	CONTRACTING OFFICER	DATE
------------------------------	----------------------------------	-----------------	-----------------------	------------------------	------

Specifically note projects that are golf course club houses or similar types of recreational facilities and specific experience with golf course club house design and construction.

(3) Identify any awards for design or construction excellence received by participating firms and note if awards were received for design, design/build or construction contracts.

20-4 VOLUME IV, FINANCIAL DATA:

This volume consists of required submittals on the Contractor's Financial status and resources. This material will be used to verify the contractor's ability to perform and will not be point scored.

- (1) A narrative describing the firm's executive personnel.
- (2) Firm's financial resources.
- (3) Firm's previous experience other than as covered above.
- (4) Offeror shall submit one copy of their most recent annual financial report (*Balance Sheet and Income Statement as a minimum*). A CPA verified report is preferable.
- (5) Name, telephone number and location of the firm's bank.
- (6) Name, location and telephone number of the firm's proposed bonding agent.

20-5 VOLUME V, PRICE PROPOSAL:

This submittal will consist of completion of the bid cost form of SECTION B and explanation of any unusual costs included in the proposal. Cost will not be point scored.

21. CLARIFICATION OF THE PROVISIONS OF THIS REQUEST FOR PROPOSAL

Any explanation desired by an offeror regarding the meaning or interpretation of the RFP shall be requested in writing and received by the Contracting Officer not later than 14 days prior to the closing date of this solicitation. Any interpretation made will be in the form of an amendment to the RFP, and will be furnished to all prospective offerors. Receipt of all amendments must be acknowledged in the space provided on the proposal form, or by letter or telegram received by the time set for receipt of proposals.

22. TECHNICAL EVALUATION AND RATING OF PROPOSALS

Proposers are advised that the technical evaluation and rating of proposals are conducted in strict confidence in that technical evaluation personnel review and rate each proposal without knowledge of the price offered. Offerors are required to segregate their cost and pricing information.

23. NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (APR 1984).

(a) The Contractor's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.

(b) The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

Goals for minority participation for each trade _____	Goals for female participation for each trade _____
--	--

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographic area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the Federal Register in notice form, and these notices may be obtained from any Federal Contract Compliance Programs office.

(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on (1) its implementation of the

Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and (3) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority and female employees or trainees from Contractor to Contractor, or project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

(d) The Contractor shall provide written notification to the Director, Office of Federal Contract Compliance Programs, within ten working days following award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the--

- (1) Name, address, telephone number, and Employer identification number of the subcontractor;
- (2) Estimated dollar amount of the subcontract;
- (3) Estimated starting and completion dates of the subcontract; and
- (4) Geographical area in which the subcontract is to be performed.

(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is: The City of Fayetteville and surrounding counties in North Carolina.

24. PRE-AWARD INFORMATION

Each offeror shall furnish with his proposal a statement of whether he is now or ever has been engaged in any work similar to that covered by the specifications herein, the dollar value thereof, the year in which such work was performed, and the manner of its execution, and giving such other information as will tend to show the offeror's ability to prosecute the required work. The "such other information" referred to above shall include but is not limited to the following:

(a) The name and address of the office or firm under which such similar work was performed.

(b) A list of key personnel available for the instant project and their qualifications.

(c) A copy of offeror's latest financial statement, including the names of banks or other financial institutions with which the offeror conducts business. If the financial statement is more than 60 days old, a certificate should be attached stating that the financial condition is substantially the same, or if not the same, the changes that have taken place. Such statement will be treated as confidential.

(d) A list of present commitments, including the dollar value thereof, and name of office under which the work is being performed.

25. PROPOSAL SUBMITTAL INSTRUCTIONS

Proposals shall be submitted in two separate envelopes as follows:

(a) One envelope shall contain **Volumes I - III** (*8 copies ea. plus originals*) as described in L-21 above. It should be clearly marked "Technical Proposal, Project Management Plan, and Qualifications for RFP #NAFTG3-96-R-0001

(b) The second envelope shall contain **Volumes IV - V** (*2 copies ea. plus originals*), as described in L-21 above. It should be clearly marked "Price Proposal, RFP #NAFTG3-96-R-0001

26. REQUIREMENTS FOR SPECIAL MARKING OF TECHNICAL PROPOSALS

(a) The envelope containing the Technical Proposal, Project Management Plan, and Qualifications (Volumes I - III) shall be plainly marked on the lower left hand corner as follows:

Request for Proposal No.: NAFTG3-96-R-0001

RFP Closing Date: March 5, 1996_____

RFP Closing Time: 1 500 (3:00 p.m. Local Time

Proposal For: The Design-Build Project (Design and Construction) of a Community Activity Center, Fort Monroe, Virginia.

(b) Offerors are advised that the technical evaluation and rating of proposals are conducted in strict confidence in that technical evaluation personnel review and rate each proposal without knowledge of the name of the offeror or the price proposed. **Accordingly, offeror identification should not appear on any technical documents submitted for evaluation. To receive an identification number, call The Contract Specialist, Miss Patricia D. Lee at (804) 441-7790. This number is to be used by each offeror to identify the technical portions of his proposal. The offeror's name, address, signature, etc., as well as the assigned identification number, should only be inserted, as appropriate, on transmittal letters, the cost proposal, etc., required by the Request for Proposals.**

7. INSPECTION OF SITE

Arrangements for inspection of the site for this work must be made by contacting:

Community Activity Center
POC: Mr.

**28. ORDER OF PRECEDENCE
(This Provision Supersedes Contract Provision #L-11)**

Any inconsistency in this solicitation shall be resolved by giving precedence in the following order: (a) the Schedule (excluding the specifications), (b) Representations and Other Instructions, (c) contract Clauses, (d) Section C - Specifications and Work Statement, (e) and Other Documents, Exhibits and Attachments.

SECTION L
PROPOSAL SUBMISSION REQUIREMENTS AND INSTRUCTIONS

**SECTION L
PROPOSAL SUBMISSION REQUIREMENTS AND INSTRUCTIONS**

1.00 PROPOSAL SUBMISSION INSTRUCTIONS.

- a. General. Inasmuch as this proposal will describe the capability of the offeror to perform any resultant contract, it should be specific and complete in every detail. The proposal should be prepared simply and economically, providing straightforward, concise delineation of capabilities to perform satisfactorily the contract being sought. The proposal should therefore be practical, legible, clear and coherent.
- b. Format of Proposals. In order that the evaluation may be accomplished strictly on the merit of the material submitted, no dollar amounts for the proposed work are to be included in the proposal. In order that the evaluation may be accomplished efficiently, the evaluation criteria listed below in this section are to be addressed in order. **WARNING:** The proposals are evaluated in direct correspondence to the evaluation criteria, which are included in Section 00120. It is in the best interest of the offerors to format the proposal in the order of the evaluation criteria. If the offeror fails to provide information relating to the criteria or locates the information in another part of the proposal without providing any cross references, the offeror runs the risk of having their proposal receive a lower evaluation by the Government evaluators who were not able to locate the appropriate information.
- c. The proposal shall contain:
- (1) Title Page, including the title of the solicitation, solicitation number, and date of the submittal.
 - (2) Table of Contents, including a list of tables or exhibits.
- d. Exceptions to the contractual terms and conditions of the solicitation (e.g., standard company terms and conditions) must not be included in the proposal.

2.00 PROPOSAL REQUIREMENTS:

- a. Who May Submit.
- (1) Proposals may be submitted by construction contractors that have associated specifically for this project.
- b. General Requirements.
- (1) In order to effectively and equitably evaluate all proposals, the Contracting Officer must receive information sufficiently detailed to clearly indicate the personnel references provided.
- c. Size of Printed Matter Submissions.
- (1) Written materials: Size A4 [or 8-1/2" x 11"] format. Proposal shall be limited to a maximum of 60 typewritten pages (excluding Subcontracting Plan). The government will review only 60 pages. Table of Contents and Tab Sheets between sections is not included in the 60 pages. The technical evaluation board will not evaluate any documentation beyond the 60 pages.
- d. Where to Submit. Offerors shall submit their proposal packages to Norfolk District at the address shown in Block 8 of Standard Form 1442.
- e. Submission Deadline. Proposals shall be received by the Norfolk District] no later than the time and date specified in Block 13 of Standard Form 1442.

Youth Center, Langley Air Force Base, Virginia

f. Proposal Requirements and Submission Format. The proposals sought by this solicitation shall contain four categories of submittal information as follows:

(1) Factor 1: Past Performance. This information shall be submitted in a three-ring binders labeled "Offeror Past Performance" Provide original and three copies.

(2) Factor 2: Project Schedule. This information shall be submitted as a tab section within the three-ring binders labeled "Offeror Past Performance".

(3) Factor 3: Small Business Subcontracting Effort. This information shall be submitted in a three-ring binders labeled "Small Business Subcontracting Effort".

(4) Factor 4: Price. This information should be submitted in an envelope labeled "Pro Forma Requirements." This category consists of representations and certifications, subcontracting plan, proposal bonds, completed Standard Form 1442, and schedule of proposed prices. Provide original and two (2) copy.

The proposals shall contain a detailed table of contents. If more than one binder is used, the complete table of contents shall be included in each. Any materials submitted but not required by this solicitation, (such as company brochures), shall be relegated to appendices.

g. Nonresponsive proposals. Failure to submit all the data indicated in this section is cause for determining a proposal nonresponsive and, therefore, not considered for evaluation or award.

SECTION M EVALUATION FACTORS FOR AWARD

1. CONDITIONS GOVERNING EVALUATIONS OF OFFERS (FEB 1990)

1-1 Offerors must quote on all items of the Bidding Schedule (Section B).

1-2 If an offer is modified by a lump sum adjustment to the total estimated price, the application of the lump sum adjustment to each unit price, including lump sum units in the Bidding Schedule must be stated, or if it is not stated, the offeror agrees that the lump sum adjustment shall be applied on a pro rata basis to every item in the Bidding Schedule.

2. AWARD

2-1 The Fund will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Fund, price and other factors considered.

2-2 The Fund may (1) reject any or all offers if such action is in the Fund's interest, (2) accept other than the lowest priced offer, and (3) waive informalities and minor irregularities in offers received.

2-3 The Fund may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint.

2-4 A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Fund may accept an offer whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by the Fund.

2-5 The Fund may determine that an offer is unacceptable if the prices proposed are materially unbalanced between line items or subline items. An offer is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the offer will result in the lowest overall cost to the Fund, even though it may be the low evaluated offer, or it is so unbalanced as to be tantamount to allowing an advance payment.

2-6 Selection of a Contractor will be made by an integrated assessment of the proposals submitted. In essence, the integrated assessment will involve a determination by the NAFI of the overall merit of each Contractor's proposal, recognizing that subjective judgement on the part of the NAFI's evaluators is implicit in

the entire process. This award will be made to the offeror whom the NAFI determines best able to accomplish the necessary work and provide the required service to satisfy the objectives and requirements set forth herein. This award will result in a firm fixed-price contract. The evaluation of the Offeror's technical proposal will be accomplished without reference to cost. Cost will not be point scored but evaluated separately.

2-7 Discussions may be conducted with all offerors determined to be in the competitive range. HOWEVER, OFFERORS ARE ADVISED THAT AWARD MAY BE MADE WITHOUT DISCUSSION OR ANY CONTACT CONCERNING THE PROPOSALS RECEIVED. THEREFORE, PROPOSALS SHOULD BE SUBMITTED INITIALLY ON THE MOST FAVORABLE TERMS WHICH THE OFFEROR CAN SUBMIT TO THE FUND. DO NOT ASSUME THAT YOU WILL BE CONTACTED OR AFFORDED AN OPPORTUNITY TO CLARIFY, DISCUSS, OR REVISE YOUR PROPOSAL.

3. PROPOSAL EVALUATION SYSTEM

3-1 Proposal Evaluation: An evaluation team will be established to evaluate each proposal in response to this RFP. The technical and nontechnical aspects of each proposal will be evaluated. Proposals will be reviewed by qualified evaluators to initially determine conformance with the RFP, e.g., compliance with applicable codes, standards and specifications.

3-2 Each criterion will be applied as a discrete factor and the final determination as to the overall quality rating of each proposal will be based on the collective number of points scored. Proposals will be evaluated on their own merit, independently and as objectively as possible.

3-3 Presentations/negotiations may be conducted with those falling within the competitive range, after which the best and final offers will be solicited from those involved in the negotiations. Following receipt of the best and final offers, each received offer will be point-scored and an award will be made to that offeror whose offer, conforming to the solicitation, will be most advantageous to the FUND, price and other factors considered. Note that, as stated above, award may be made from the original proposal without further negotiations; therefore, the offeror should submit the best offer possible.

3-4 Design Freedom: While the intent of this RFP is to minimize design and proposal expense on the part of the offerors prior to award of the contract, innovative, creative, or cost-saving proposals which meet or exceed the RFP requirements are encouraged and will receive quality points accordingly. Deviations from space and adjacency requirements are discouraged, unless the change results in a significant improvement to the facility. Deviations from any requirements should be clearly noted and justified in the proposal. Informative drawing notes are encouraged.

4. PROPOSAL EVALUATION CRITERIA

4-1 Proposals will be evaluated in accordance with the following criteria, listed in descending order of importance. Descriptions of these criteria are in Section M-5.

a. Technical Evaluation:

- (1) Quality of engineering design and proposed construction and equipment
- (2) Functional and aesthetic design
- (3) Economics of design

b. Project Management Evaluation:

- (1) Plan for controlling design and construction quality.
- (2) Plan for controlling project resources and schedule.
- (3) Project management plan for this project performance.

c. Design/build team qualifications and past performance

4-2 The offeror shall submit pricing information as required in SECTION B of this Request for Proposals including detailed breakdown of prices submitted. Cost will be evaluated not only to determine whether it is reasonable and affordable, but also to determine the offeror's understanding of the work and ability to perform the contract. Price/Cost will not be point scored in the evaluation, but will be considered equal weight to the technical evaluation. The contract may be awarded to other than the low offeror if it is an acceptable offer and it is sufficiently more advantageous than the low offer so as to justify the payment of a higher price/cost. The degree of importance of the proposed price/cost in the price/cost evaluation increases with the degree of equality of the technical proposals. When competing proposals are determined to be substantially equal technically, price/cost shall become the controlling factor.

5. DESCRIPTION OF PROPOSAL EVALUATION CRITERIA

5-1 Technical Evaluation:

(a) Quality of proposed engineering design and construction to be provided : The degree to which the design, construction materials and equipment proposed satisfy operational requirements and exceed the minimum acceptable quality, including durability, specified in the RFP. Technical merit will be based upon:

- (1) Quality of civil design and methods and materials to be used in construction of the site roads, parking, drainage and site utility systems.
- (2) Quality of structural design and materials to be used in construction of the structural system.
- (3) Quality of interior and exterior surface construction methods, materials

and finishes to be provided.

(4)Quality of mechanical design, i.e., heating, ventilating, air conditioning and plumbing, and materials and equipment to be provided.

(5)Quality of electrical design, i.e., power, lighting, controls, communication, and materials and equipment to be provided.

(6)Quality of plantings, pavements, and other exterior equipment and materials to be provided.

(b)Functional and aesthetic design : The extent to which the design meets the functional and operational needs of the owner/operator and the eye appeal of the user. Technical merit will be based upon such considerations as:

(1)Functional arrangement. Compatibility of functions/areas, ease of flow and access, association between adjacent spaces, net floor space and room volume allocations and compliance with the overall square foot limitation and area requirements.

(2)Interior appearance. Finish materials, unique features and visual interest created by the design.

(3)Exterior appearance. The degree to which the building blends with outdoor features and the overall aesthetics of the building. Compliance with the Installation Design Guide, massing, fenestration, window placement, scale, materials texture, character, form.

(4)Operability. Efficiency of operation, visibility convenience, availability of storage, proximity and adequacy of facilities and general ease of accessibility for management.

(5) Site utilization and development. Site integration and compatibility with surroundings, traffic pattern and buffering, traffic circulation, pedestrian circulation to/from building, parking, refuse disposal, and access to parking areas.

(c) Economics of Design .

(1)Costs of ownership, e.g., durability, maintainability, reliability and energy consumption (efficiency of design).

5-2 Project Management Plans : The degree to which the submittal substantiates that the project management system will produce a quality project on time and to budget.

(a)Plan for controlling design and construction quality. The offeror's method of

assuring that the project design meets contract requirements, including: codes, standards, functional and specified design requirements; and that construction methods, materials and equipment meet design and contract requirements. Merit will be based upon:

- (1) Identification of quality control personnel and qualifications, authorities and responsibilities.
- (2) Proposed method of design quality control.
- (3) Proposed method of controlling quality of construction, including quality of subcontracted work, number and types of tests to be performed to assure quality of work segments.
- (4) Compliance with RFP provisions on Contractor Quality Control.

(b) Project Scheduling Plan): The offeror's methods of planning and scheduling of the work (design and construction). Consideration is given to the design and construction periods offered, scheduling system to be used, identification of the critical elements in design and construction which, if delayed, can delay the entire project, method of development of payment estimates from the progress schedule, method of updating. Specific factors include:

- (1) Proposed design and construction times.
- (2) Proposed type of scheduling system to be used (Automated or Manual CPM, Pert, Gantt Charts, CPM, manually or software generated, PM software system, etc.)

(c) Proposed management structure : Organizational authority and communication lines for design and construction functions for this project.

- (1) Responsibilities and professional licenses of key personnel.

5-3 Design/build team qualifications and past performance :

(a) Civilian and military projects completed successfully by the individuals and firms proposed for the design/build team including :

- (1) Community Activity Center Projects
- (2) Recreational Facility Projects similar to Community Activity Center Projects
- (3) Projects receiving awards for design or construction excellence.

(b) Experience and past performance of participating individuals and firms as a

design/build team

(c) Individual qualifications of team members

6. OPENING OF PROPOSALS AND NEGOTIATIONS:

No information regarding proposals received will be furnished prior to completion of evaluation, negotiation, and award of the contract.

7. EVALUATION OF OPTIONS:

Except when it is determined not to be in the Fund's best interests, the Fund will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Fund to exercise the option(s).

8. SELECTION:

8-1 Notification of Selection. The Contracting Officer will notify the selected offeror upon completion of the selection process.

8-2 Notification of Non-Selection. The Contracting Officer will notify all offerors not selected, advising them of the proposal selected. Unsuccessful offerors are invited to request in writing a debriefing by the Contracting Officer.

9. AWARD TO SINGLE OFFEROR:

Other provisions notwithstanding, award shall be made to a single offeror.

Youth Center, Langley Air Force Base, VA

SECTION M
PROPOSAL EVALUATION AND CONTRACT AWARD

**SECTION M
PROPOSAL EVALUATION AND CONTRACT AWARD**

1. PROPOSAL EVALUATION.

The major factors of consideration in the evaluation of proposals received in response to this solicitation are as follows:

FACTOR 1 PAST PERFORMANCE

FACTOR 2 PROJECT SCHEDULE

FACTOR 3 SUPPORT FOR SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS AND WOMEN-OWNED BUSINESS PROGRAM

FACTOR 4 PRICE

2. EVALUATION PROCESS

Proposals will be evaluated on their technical merits. Price and technical factors are of equal importance. Factors are in order of decreasing importance. Within each factor, sub-factors are listed in order of decreasing importance. Award for this procurement will be based on technical factors and price, which together constitute a best value to the Government. The proposers responses to these requirements will be evaluated with respect to the evaluation criteria set forth below.

3. BASIS OF AWARD

(1). The Government will award a firm fixed-price contract to that responsible Offeror whose proposal, conforming to the solicitation, is fair and reasonable, and has been determined to be most advantageous to the Government, quality (comprised of technical approach and performance capability factors), price and other factors considered. The rated/scored evaluation criteria and price are considered equal. As evaluation scores and relative advantages and disadvantages become less distinct, differences in price between proposals are of increased importance in determining the most advantageous proposal. Conversely, as differences in price become less distinct, differences in scoring and relative advantages and disadvantages between proposals are of increased importance to the determination.

(2). The Government reserves the right to accept other than the lowest priced offer. The right is also reserved to reject any and all offers. The basis of award will be a conforming offer; the price or cost of which may or may not be the lowest. If other than the lowest priced offer is accepted, that offer must be sufficiently more advantageous than the lowest priced offer to justify the payment of additional amounts.

(3). Offerors are reminded to include their best technical and price terms in their initial offer and not to automatically assume that they will have an opportunity to participate in discussions or be asked to submit a revised offer. The Government may make award of a conforming proposal without discussions, if deemed to be within the best interests of the Government.

4. STEP 1 EVALUATION CRITERIA:

FACTOR I - PAST PERFORMANCE

a. OFFEROR'S PAST PERFORMANCE. This factor considers the offeror's performance on past similar projects. Contractor shall submit a list of all military construction projects that were educational or youth activity type facilities and over \$5 million that were performed by the offeror. Include only projects completed within the last five years or projects currently under construction and over 50% complete. Do not include task order or indefinite delivery contracts, although individual task orders may be submitted if the individual task order meets these criteria. Include awards, customer letters of commendation, etc, with points of contact and telephone numbers. Points of contact should be with the contracting agency (ROICC, Resident Office, etc). The government will use references from offeror's submission, the CCASS system, and other sources.

b. EXPERIENCE MODIFIER RATIO: Submit your firm's Experience Modifier Ratio for the last five calendar years along with the computed average of those five. All five of the last five EMRs must be submitted or this subfactor will be considered non-compliant unless extenuating circumstances are satisfactorily explained. If there are extenuating circumstances concerning your rating, provide background information and references for validation.

FACTOR 2-PROJECT SCHEDULE

The offeror shall submit a contract duration which is less than or equal to the maximum duration of 360 calendar days. Durations less than 360 calendar days are preferred. The duration proposed by the successful offeror will be the required contract completion date.

FACTOR 3 - SUPPORT FOR SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS AND WOMEN-OWNED BUSINESS

a. PAST PERFORMANCE: If large business, contractors are required to submit a recent Standard Form 294, Subcontracting Report for Individual Contracts and SF 295, Summary Report to evaluate past performance in support of Small Business and Small Disadvantaged Business and Women-Owned Small Businesses. For Small Businesses, contractors are not required to submit a subcontracting plan or a SF 294 or 295, but must certify as a Small Business.

b. SUBCONTRACTING PLAN EFFORT: The following is submitted to satisfy the applicable requirements for the subcontracting plan effort factor. If a large business, contractors are required to submit a subcontracting plan, which conforms to the requirements of FAR 52.219-9 and DFARS 252.219-7003. The plan will be evaluated for support of Small Business, Small Disadvantages Business, and Women-Owned Small Business and considering the following:

1. The extent to which such firms is specifically identified.
2. The extent of commitment to use such firms.
3. The complexity and variety of the work small firms are to perform.
4. The realism of the proposal.
5. The extent of participation of such firms in terms of the value of the total acquisition.

Note: Secretary of the Army goals for subcontracting are as follows:

- 62% for Small Business
- 9% for Small Disadvantaged Business
- 5% for Women Owned Business
- 2% for Hubzone
- 3% for Small Business Veteran Owned

FACTOR 4 - PRICE

PRICE

6. RATING SCHEME

Adjective Ratings. The following adjective ratings will be used in evaluation of both the major technical factors and the technical sub-factors. Use uppercase letter ratings for major technical factors as well as the overall rating. Use lowercase letter ratings for technical sub-factors.

1. Unacceptable (U). The proposal fails to meet stated criteria and is not capable of becoming acceptable without major revisions.
2. Unacceptable but capable of becoming acceptable (UCA). The proposal/ factor fails to adequately satisfy the standards. However, significant weaknesses/deficiencies can be corrected through exchanges. Weaknesses/Deficiencies are such that failure to correct may render this major proposal/factor unacceptable.
3. Above Average (AA). The proposal essentially satisfies the standards; minor weaknesses, even if not corrected, do not render this proposal factor unacceptable. Further, the proposal exceeds the standard so as to provide additional value to the Government over proposals that just meet the standard.
4. Acceptable (A). The proposal essentially satisfies the standards; minor weaknesses, even if not corrected, do not render this proposal/factor unacceptable.
5. Superior (S). The proposal exceeds the basic requirements to the extent the technical factor considered as a whole provides significant additional value to the Government.

Overall Rating. Overall proposal ratings shall be assigned with strong consideration given to the most heavily weighted factors.

CORPORATE EXPERIENCE FORM

NAFTS3-04-R-00XY

Offeror: _____
Project Title: _____
Contract Number: _____
Location: _____
Contract Completion Duration: _____
Original Value: _____ Final Value: _____
Type of Contract: _____ Fixed Price _____ Cost Reimbursable

Project
Description: _____

List Name of your company's subcontractors on this project, the trade worked, the dollar value of project(s) the company worked on previously and the \$ value of subcontract contemplated.

Customer Contact: _____
Name _____
Organization _____
Address _____
Telephone Number _____

Circle one:

- P = Prime Contractor
- S = Subcontractor

Youth Center, Langley Air Force Base, VA