

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00-2206, MM Docket No. 00-98; RM-9811]

Digital Television Broadcast Services; Thomasville, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of WCTV Licensee Corporation, licensee of TV Station WCTV-TV, substitutes DTV Channel 46 for DTV Channel 52 at Thomasville, Georgia. See 65FR 36808, June 12, 2000. DTV Channel 46 can be allotted to Thomasville at coordinates (30-40-13 N. and 83-56-26 W.) with a power of 1000, HAAT of 619 meters, and with a DTV service population of 832 thousand.

With this action, this proceeding is terminated.

DATES: Effective November 16, 2000.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00-98, adopted September 29, 2000, and released October 2, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Georgia, is amended by removing DTV Channel 52 and adding DTV Channel 46 at Thomasville.

Federal Communications Commission.

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Chief, Video Services Division, Mass Media Bureau.

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ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1511, 1515, 1517, 1519, 1523, 1528, 1535, 1542, 1545 and 1552

[FRL-6878-9]

Acquisition Regulation; Administrative Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim rule with request for comments.

SUMMARY: EPA is issuing this interim rule amending the EPA Acquisition Regulation (EPAAR) to add clauses to the EPAAR which have been repeatedly used in EPA procurements but which have not formally been incorporated into the EPAAR, make other administrative changes, and remove from the EPAAR unnecessary coverage that duplicates existing Federal Acquisition Regulation (FAR) coverage.

DATES: Effective Date: October 3, 2000.

Comment Date: Interested parties should submit written comments to the address shown below on or before December 4, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: U.S. Environmental Protection Agency, Office of Acquisition Management, 1200 Pennsylvania Avenue, NW., Attention: Paul Schaffer, Mail Code (3802R), Washington, DC 20460. Comments and data may also be submitted electronically by sending electronic mail (E-mail) to: Schaffer.Paul@epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in Corel WordPerfect format or ASCII file format. No confidential business information (CBI) should be submitted through e-mail. Electronic comments on this rule may be filed on-line at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: Paul Schaffer, U.S. EPA, Office of Acquisition Management, Mail Code (3802R), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, Telephone: (202) 564-4366.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends the EPA Acquisition Regulation (EPAAR) (48 CFR Chapter 15) to publish for public comment EPA contract clauses which have not previously undergone formal Agency rulemaking subject to public review and comment because of the necessity of complying with FAR policies and procedures on a timely basis. As a result of recent procurement reform and streamlining initiatives, EPA has undertaken an extensive review of its procurement regulations. As part of this effort, EPA identified a number of clauses it has regularly used in its solicitations and contracts which had not previously undergone formal Agency rulemaking subject to public review and comment and which had not been incorporated into the EPAAR. This rulemaking action is to incorporate these existing EPA clauses into the EPAAR. EPA does not anticipate any adverse comments because, as stated above, these clauses have been regularly used in EPA solicitations and contracts for some time now without any objections or questions raised by entities responding to EPA procurements and/or contracting with the Agency.

B. Executive Order 12866

This interim rule is not a significant regulatory action for the purposes of Executive Order 12866; therefore, no review is required by the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB).

C. Paperwork Reduction Act

The information collection requirement in 1552.245-73, Government Property, is covered by OMB clearance number 9000-0075. The Paperwork Reduction Act does not apply to any other clause herein because this interim rule does not contain any new information collection requirements that require the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

D. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice

and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of today's rule on small entities, small entity is defined as: (1) A small business that meets the definition of a small business found in the Small Business Act and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's interim rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. This interim rule merely incorporates existing EPA solicitation and contract provisions into the EPAAR and will have no adverse impact on small entities. The requirements under this interim rule impose no additional reporting, record-keeping, or compliance costs on small entities.

E. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess their regulatory actions on State, local, and Tribal governments, and the private sector. This interim rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in one year. Any private sector costs for this action relate to

paperwork requirements and associated expenditures that are far below the level established for UMRA applicability. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

F. Executive Order 13045

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions on environmental health or safety risks.

G. Executive Order 13132

Executive Order 13132 entitled, "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This interim rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This interim rule merely incorporates existing EPA solicitation and contract provisions into the EPAAR. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

H. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian Tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by Tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian Tribal government "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian Tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs

EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rules report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 48 CFR Parts 1511, 1515, 1517, 1519, 1523, 1528, 1535, 1542, 1545, and 1552

Government procurement.

Authority: The provisions of this regulation are issued under 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b. 48 CFR Chapter 15 is amended as follows:

1. The authority citations for 48 CFR parts 1511, 1515, 1517, 1519, 1523, 1528, 1535, 1542, 1545, and for part 1552 continue to read as follows:

Authority: 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended; 40 U.S.C. 486(c); and 41 U.S.C. 418b.

2. Section 1511.011–80 is added to read as follows:

1511.011–80 Data Standards for the transmission of laboratory measurement results.

The contracting officer shall insert the clause at 1552.211–80 in all solicitations and contracts when the contract requires the electronic transmission of environmental measurements from laboratories to the Environmental Protection Agency (EPA).

3. Section 1515.209 is amended by adding paragraph (c) to read as follows:

1515.209 Solicitation provisions and contract clauses.

* * * * *

(c) The contracting officer shall insert the clause at 1552.215–75, Past

Performance Information, or a clause substantially the same as 1552.215–75, in all competitively negotiated acquisitions with an estimated value in excess of \$100,000.

4. Section 1517.208 is amended by removing paragraph (a) and redesignating paragraphs (b) through (g) as (a) through (f) respectively and adding paragraph (g) to read as follows:

§ 1517.208 Solicitation provisions and contract clauses.

* * * * *

(g) The Contracting officer shall insert the clause at 1552.217–77, Option to Extend the Term of the Contract—Fixed Price, when applicable.

5. Subpart 1519.2 is amended by adding section 1519.203 to read as follows:

§ 1519.203 Mentor protege.

(a) The Contracting officer shall insert the clause at 1552.219–70, Mentor-Protege Program, in all contracts under which the Contractor has been approved to participate in the EPA Mentor-Protege Program.

(b) The Contracting officer shall insert the provision at 1552.219–71, Procedures for Participation in the EPA Mentor-Protege Program, in all solicitations valued at \$500,000 or more which will be cost-plus-award-fee or cost-plus fixed-fee contracts.

6. Subpart 1519.2 is amended by adding section 1519.204 to read as follows:

§ 1519.204 Small disadvantaged business participation.

(a) The Contracting officer shall insert the provision at 1552.219–72, Small Disadvantaged Business Participation Program, or a provision substantially the same as 1552.219–72, in solicitations for acquisitions subject to FAR 19.12 that will evaluate the extent of the participation of Small Disadvantaged Business (SDB) concerns in the performance of a resulting contract.

(b) The Contracting officer shall insert the clause at 1552.219–73, Small Disadvantaged Business Targets, or one substantially the same as 1552.219–73, in solicitations and contracts for acquisitions subject to FAR 19.12 that evaluate the extent of participation of SDB concerns in the performance of the contract and which included solicitation provision 1552.219–72.

(c) The Contracting officer shall insert the evaluation provision at 1552.219–74, Small Disadvantaged Business Participation Evaluation Factor, (and assign a value to it), or one substantially the same as 1552.219–74, in solicitations for acquisitions subject to

FAR 19.12 that include the provision at 1552.219–72 and will evaluate the extent of participation of SDB concerns in the performance of the contract.

7. section 1523.303–72 is added to read as follows:

§ 1523.303–72 Care of Laboratory Animals.

Contracting officers shall insert the clause at 1552.223–72, Care of Laboratory Animals, in all contracts involving the use of experimental animals.

8. Section 1523.7003 is amended by designating the existing text as paragraph (b) and adding a new paragraph (a) to read as follows:

§ 1523.7003 Contract clause.

(a) Rehabilitation Act Notice.

Contracting officers shall insert the clause at 1552.239–70, Rehabilitation Act Notice, or one substantially the same as this clause, in all solicitations and contracts where the contractor may be required to provide any type of support to EPA in connection with EPA programs and activities, including conferences, symposia, workgroups, meetings, etc.

(b) * * *

9. Part 1528 is added to read as follows:

PART 1528—INSURANCE

Subpart 1528.1—Insurance

1528.101 Insurance Liability to Third Persons.

Contracting officers shall insert the clause at 1552.228–70, Insurance Liability to Third Persons, in cost-reimbursement solicitations and contracts, except those for construction and architect-engineer services. **Note:** This clause may be used in contracts awarded utilizing architect-engineer services such as requirements for Superfund cleanups (*e.g.*, response action contracts). The clause does not apply to Superfund indemnification for third party pollution liability or coverage for commercial pollution liability insurance as prescribed by section 119 of CERCLA as amended by SARA.

10. Section 1535.007–070 is amended by adding paragraph (g) to read as follows:

1535.007–070 Contract clauses.

* * * * *

(g) Contracting officers shall insert the clause at 1552.235–80, Access to Confidential Business Information (CBI), in all types of contracts when it is possible that it will be necessary for the contractor to have access to CBI during

the performance of tasks required under the contract.

11. Section 1542.705 is amended by designating the existing paragraph as (a) and adding paragraph (b) as follows:

1542.705 Final indirect cost rates.

(a) * * *

(b) Contracting officers shall insert the clause at 1552.242-72, Financial Administrative Contracting officers (FACO), in cost-reimbursement contracts when the Environmental Protection Agency (EPA) is the cognizant federal agency and a FACO will be assigned.

12. Section 1545.106 is amended by adding a new paragraph (d) to read as follows:

1545.106 Government property clauses.

* * * * *

(d) Contracting officers shall insert the clause at 1552.245-73, Government Property, in all cost-type solicitations and contracts regardless of whether Government Property is initially provided, and in all fixed-price solicitations and contracts whenever Government furnished property is provided.

* * * * *

13. Section 1552.208-70, Printing, is revised to read as follows:

1552.208-70 Printing.

As prescribed in 1508.870, insert the following clause:

Printing

October 2000

(a) *Definitions.*

"Printing" is the process of composition, plate making, presswork, binding and microform; or the end items produced by such processes and equipment. Printing services include newsletter production and periodicals which are prohibited under EPA contracts.

"Composition" applies to the setting of type by hot-metal casting, photo typesetting, or electronic character generating devices for the purpose of producing camera copy, negatives, a plate or image to be used in the production of printing or microform.

"Camera copy" (or "camera-ready copy") is a final document suitable for printing/duplication.

"Desktop Publishing" is a method of composition using computers with the final output or generation of camera copy done by a color inkjet or color laser printer. This is not considered "printing." However, if the output from desktop publishing is being sent to a typesetting device (*i.e.*, Linotronic) with camera copy being produced in either paper or negative format, these services are considered "printing".

"Microform" is any product produced in a miniaturized image format, for mass or general distribution and as a substitute for conventionally printed material. Microform

services are classified as printing services and includes microfiche and microfilm. The contractor may make up to two sets of microform files for archival purposes at the end of the contract period of performance.

"Duplication" means the making of copies on photocopy machines employing electrostatic, thermal, or other processes without using an intermediary such as a negative or plate.

"Requirement" means an individual photocopying task. (There may be multiple requirements under a Work Assignment or Delivery Order. Each requirement would be subject to the photocopying limitation of 5,000 copies of one page or 25,000 copies of multiple pages in the aggregate per requirement).

(b) *Prohibition.*

The contractor shall not engage in, nor subcontract for, any printing in connection with the performance of work under this contract. Duplication of more than 5,000 copies of one page or more than 25,000 copies of multiple pages in the aggregate per requirement constitutes printing. The intent of the limitation is not to allow the duplication of final documents for use by the Agency. In compliance with EPA Order 2200.4a, EPA Publication Review Procedure, the Office of Communications, Education, and Media Relations is responsible for the review of materials generated under a contract published or issued by the Agency under a contract intended for release to the public.

(c) *Affirmative Requirements.*

(1) Unless otherwise directed by the contracting officer, the contractor shall use double-sided copying to produce any progress report, draft report or final report.

(2) Unless otherwise directed by the contracting officer, the contractor shall use recycled paper for reports delivered to the Agency which meet the minimum content standards for paper and paper products as set forth in EPA's Web site for the Comprehensive Procurement Guidelines at: <http://www.epa.gov/cpg/>.

(d) *Permitted Contractor Activities.*

(1) The prohibitions contained in paragraph (b) do not preclude writing, editing, or preparing manuscript copy, or preparing related illustrative material to a final document (camera-ready copy) using desktop publishing.

(2) The contractor may perform a requirement involving the duplication of less than 5,000 copies of only one page, or less than 25,000 copies of multiple pages in the aggregate, using one color (black), so long as such pages do not exceed the maximum image size of 10¾ by 14¾ inches, or 11 by 17 paper stock. Duplication services below these thresholds are not considered printing. If performance of the contract will require duplication in excess of these limits, contractors must immediately notify the contracting officer in writing. EPA may then seek a waiver from the Joint Committee on Printing, U. S. Congress. The intent of the limitation is to allow "incidental" duplication (drafts, proofs) under a contract. The intent of the limitation is not to allow the duplication of copies of final documents for use by the Agency or as distributed as instructed by the Agency.

(3) The contractor may perform a requirement involving the multi-color duplication of no more than 100 pages in the aggregate using color copier technology, so long as such pages do not exceed the maximum image size of 10¾ by 14¾ inches, or 11 by 17 paper stock. Duplication services below these thresholds are not considered printing. If performance of the contract will require duplication in excess of these limits, contractors must immediately notify the contracting officer in writing. EPA may then seek a waiver from the Joint Committee on Printing, U. S. Congress.

(4) The contractor may perform the duplication of no more than a total of 100 diskettes or CD-ROM's. Duplication services below these thresholds are not considered printing. If performance of the contract will require duplication in excess of these limits, contractors must immediately notify the contracting officer in writing. EPA may then seek a waiver from the Joint Committee on Printing, U. S. Congress.

(e) *Violations.*

The contractor may not engage in, nor subcontract for, any printing in connection with the performance of work under the contract. The cost of any printing services in violation of this clause will be disallowed, or not accepted by the Government.

(f) *Flowdown Provision.*

The contractor shall include in each subcontract which may involve a requirement for any printing/duplicating/copying a provision substantially the same as this clause.

(End of clause)

14. In Section 1552.211-70, in the clause "Reports of Work" and in alternate I revise the OMB clearance expiration date of "January 31, 2000" to read "February 28, 2003."

15. Section 1552.211-79, is amended by removing paragraph (a)(5), revising the last sentence in paragraph (b)(3), and revising paragraph (d) to read as follows:

1552.211-79 Compliance with EPA policies for information resources management.

* * * * *

(b)(3) * * * (This document may be found at: <http://www.epa.gov/docs/etsdop/>.)

(c) * * *

(d) Electronic access. A complete listing, including full text, of documents included in the 2100 Series of the Agency's Directive System is maintained on the EPA Public Access Server on the Internet at <http://epa.gov/docs/irmpoli8/>.

(End of clause)

16. Section 1552.211-80, Data Standards for the Transmission of Laboratory Measurement Results, is added to read as follows:

1552.211-80 Data standards for the transmission of laboratory measurement results.

As prescribed in 1511.011-80, insert the following clause:

Data Standards for the Transmission of Laboratory Measurement Results

October 2000

This contract requires the transmission of environmental measurements to EPA. The transmission of environmental measurements shall be in accordance with the provisions of EPA Order 2180.2, dated December 10, 1987, which is incorporated by reference in this contract. Copies of the Order may be obtained by written request to: Office of Information Resources Management, Information Management and Systems Division, Mail Code (3404), Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

(End of clause)

17. Section 1552.215-75, Past Performance Information, is added to read as follows:

1552.215-75 Past Performance Information.

As prescribed in 1515.209(c), insert the following clause:

Past Performance Information

October 2000

(a) Offerors shall submit the information requested below as part of their proposal for both the offeror and any proposed subcontractors for subcontracts expected to exceed \$ * . The information may be submitted prior to other parts of the proposal in order to assist the Government in reducing the evaluation period.

(b) Offerors shall submit a list of all or at least * contracts and subcontracts completed in the last * years, and all contracts and subcontracts currently in process, which are similar in nature to this requirement.

(1) The contracts and subcontracts listed may include those entered into with Federal, State and local governments, and commercial businesses, which are of similar scope, magnitude, relevance, and complexity to the requirement which is described in the RFP. Include the following information for each contract and subcontract listed:

- (a) Name of contracting activity.
- (b) Contract number.
- (c) Contract title.
- (d) Contract type.
- (e) Brief description of contract or subcontract and relevance to this requirement.
- (f) Total contract value.
- (g) Period of performance.
- (h) Contracting officer, telephone number, and E-mail address (if available).
- (i) Program manager/project officer, telephone number, and E-mail address (if available).
- (j) Administrative Contracting officer, if different from (h) above, telephone number, and E-mail address (if available).
- (k) List of subcontractors (if applicable).

(1) Compliance with subcontracting plan goals for small disadvantaged business concerns, monetary targets for small disadvantaged business participation, and the notifications submitted under FAR 19.1202-4 (b), if applicable.

(c) Offerors should not provide general information on their performance on the identified contracts and subcontracts. General performance information will be obtained from the references.

(1) Offerors may provide information on problems encountered and corrective actions taken on the identified contracts and subcontracts.

(2) References that may be contacted by the Government include the contracting officer, program manager/project officer, or the administrative contracting officer identified above.

(3) If no response is received from a reference, the Government will make an attempt to contact another reference identified by the offeror, to contact a reference not identified by the offeror, or to complete the evaluation with those references who responded. The Government shall consider the information provided by the references, and may also consider information obtained from other sources, when evaluating an offeror's past performance.

(4) Attempts to obtain responses from references will generally not go beyond two telephonic messages and/or written requests from the Government, unless otherwise stated in the solicitation. The Government is not obligated to contact all of the references identified by the offeror.

(d) If negative feedback is received from an offeror's reference, the Government will compare the negative response to the responses from the offeror's other references to note differences. A score will be assigned appropriately to the offeror based on the information. The offeror will be given the opportunity to address adverse past performance information obtained from references on which the offeror has not had a previous opportunity to comment, if that information makes a difference in the Government's decision to include the offeror in or exclude the offeror from the competitive range. Any past performance deficiency or significant weakness will be discussed with offerors in the competitive range during discussions.

(e) Offerors must send Client Authorization Letters (see Section J of the solicitation) to each reference listed in their proposal to assist in the timely processing of the past performance evaluation. Offerors are encouraged to consolidate requests whenever possible (i.e., if the same reference has several contracts, send that reference a single notice citing all applicable contracts). Offerors may send Client Authorization Letters electronically to references with copies forwarded to the contracting officer.

(1) If an offeror has no relevant past performance history, an offeror must affirmatively state that it possesses no relevant past performance history.

(2) Client Authorization Letters should be mailed or E-mailed to individual references no later than five (5) working days after

proposal submission. The offeror should forward a copy of the Client Authorization Letter to the contracting officer simultaneously with mailing to references.

(f) Each offeror may describe any quality awards or certifications that indicate the offeror possesses a high-quality process for developing and producing the product or service required. Such awards or certifications include, for example, the Malcolm Baldrige Quality Award, other Government quality awards, and private sector awards or certifications.

(1) Identify the segment of the company (one division or the entire company) which received the award or certification.

(2) Describe when the award or certification was bestowed. If the award or certification is over three years old, present evidence that the qualifications still apply.

(g) Past performance information will be used for both responsibility determinations and as an evaluation factor for award. The Past Performance Questionnaire identified in section J will be used to collect information on an offeror's performance under existing and prior contracts/subcontracts for products or services similar in scope, magnitude, relevance, and complexity to this requirement in order to evaluate offerors consistent with the past performance evaluation factor set forth in section M. References other than those identified by the offeror may be contacted by the Government and used in the evaluation of the offeror's past performance.

(h) Any information collected concerning an offeror's past performance will be maintained in the official contract file.

(i) In accordance with FAR 15.305 (a) (2) (iv), offerors with no relevant past performance history, or for whom information on past performance is not available, will be evaluated neither favorably nor unfavorably on past performance.

* Indicates that the contracting officer inserts applicable dollar figure and number.

(End of clause)

18. Section 1552.217-77 is added to read as follows:

1552.217-77 [Added]

As prescribed in 1517.208(g), insert the following clause:

Option to Extend the Term of the Contract Fixed Price

October 2000

The Government has the option to extend the term of this contract for ____ additional period(s). If more than ____ days remain in the contract period of performance, the Government, without prior written notification, may exercise this option by issuing a contract modification. To exercise this option within the last ____ days of the period of performance, the Government must provide to the Contractor written notification prior to that last ____-day period. This preliminary notification does not commit the Government to exercising the option. Use of an option will result in the following contract modifications:

(a) The "Period of Performance" clause will be amended as follows to cover the Base and Option Periods:

Period	Start date	End date

(b) During the option period(s) the Contractor shall provide the services described below:

Period	Attachment

(c) The "Consideration and Payment" clause will be amended to reflect increased fixed prices for each option period as follows:

Fixed price	Option period

(End of clause)

19. Section 1552.219-70 Mentor-Protege Program is added to read as follows:

1552.219-70 Mentor-Protege Program.

As prescribed in 1519.203, insert the following clause:

Mentor-Protege Program

October 2000

(a) The Contractor has been approved to participate in the EPA Mentor-Protege program. The purpose of the Program is to increase the participation of small disadvantaged businesses (SDBs) as subcontractors, suppliers, and ultimately as prime contractors; to establish a mutually beneficial relationship with SDB's and EPA's large business prime contractors (although small businesses may participate as Mentors); to develop the technical and corporate administrative expertise of SDBs which will ultimately lead to greater success in competition for contract opportunities; to promote the economic stability of SDBs; and to aid in the achievement of goals for the use of SDBs in subcontracting activities under EPA contracts.

(b) The Contractor shall submit an executed Mentor-Protege agreement to the Contracting officer, with a copy to the Office

of Small and Disadvantaged Business Utilization or the Small Business Specialist, within thirty (30) calendar days after the effective date of the contract. The Contracting officer will notify the Contractor within thirty (30) calendar days from its submission if the agreement is not accepted.

(c) The Contractor as a Mentor under the Program agrees to fulfill the terms of its agreement(s) with the Protege firm(s).

(d) If the Contractor or Protege firm is suspended or debarred while performing under an approved Mentor-Protege agreement, the Contractor shall promptly give notice of the suspension or debarment to the Office of Small and Disadvantaged Business Utilization and the Contracting officer.

(e) Costs incurred by the Contractor in fulfilling their agreement(s) with the Protege firm(s) are not reimbursable on a direct basis under this contract.

(f) In an attachment to Standard Form 294, Subcontracts Report for Individual Contracts, the Contractor shall report on the progress made under their Mentor-Protege agreement(s), providing:

- (1) The number of agreements in effect; and
- (2) The progress in achieving the developmental assistance objectives under each agreement, including whether the objectives of the agreement have been met, problem areas encountered, and any other appropriate information.

(End of clause)

20. Section 1552.219-71, Procedures for Participation in the EPA Mentor-Protege Program, is added to read as follows:

1552.219-71 Procedures for Participation in the EPA Mentor-Protege Program.

As prescribed in 1519.203, insert the following provision:

Procedures for Participation in the EPA Mentor-Protege Program

October 2000

(a) This provision sets forth the procedures for participation in the EPA Mentor-Protege Program (hereafter referred to as the Program). The purpose of the Program is to increase the participation of small disadvantaged businesses (SDBs) as subcontractors, suppliers, and ultimately as prime contractors; to establish a mutually beneficial relationship with SDBs and EPA's large business prime contractors (although small businesses may participate as Mentors); to develop the technical and corporate administrative expertise of the SDBs which will ultimately lead to greater success in competition for contract opportunities; to promote the economic stability of SDBs; and to aid in the achievement of goals for the use of SDBs in subcontracting activities under EPA contracts. If the successful offeror is accepted into the Program they shall serve as a Mentor to a Protege (SDB) firm(s), providing developmental assistance in accordance with an agreement with the Protege firm(s).

(b) To participate as a Mentor, the offeror must receive approval in accordance with paragraph (h).

(c) A Protege must be a small disadvantaged business (SDB) as defined under Federal Acquisition Regulation (FAR) 19.001, and a small business for the purpose of the Small Business Administration (SBA) size standard applicable to the North American Industry Classification System (NAICS) code applicable to the contemplated supplies or services to be provided by the Protege firm to the Mentor firm. Further, consistent with EPA's 1993 Appropriation Act, socially disadvantaged individuals shall be deemed to include women.

(d) Where there may be a concern regarding the Protege firm's eligibility to participate in the program, the protege's eligibility will be determined by the contracting officer after the SBA has completed any formal determinations.

(e) The offeror shall submit an application in accordance with paragraph (k) as part of its proposal which shall include as a minimum the following information.

(1) A statement and supporting documentation that the offeror is currently performing under at least one active Federal contract with an approved subcontracting plan and is eligible for the award of Federal contracts;

(2) A summary of the offeror's historical and recent activities and accomplishments under their SDB program. The offeror is encouraged to include any initiatives or outreach information believed pertinent to approval as a Mentor firm;

(3) The total dollar amount (including the value of all option periods or quantities) of EPA contracts and subcontracts received by the offeror during its two preceding fiscal years. (Show prime contracts and subcontracts separately per year);

(4) The total dollar amount and percentage of subcontract awards made to all SDB firms under EPA contracts during its two preceding fiscal years. If recently required to submit a SF 295, provide copies of the two preceding year's reports;

(5) The number and total dollar amount of subcontract awards made to the identified Protege firm(s) during the two preceding fiscal years (if any).

(f) In addition to the information required by (e) above, the offeror shall submit as a part of the application the following information for each proposed Mentor-Protege relationship.

(1) Information on the offeror's ability to provide developmental assistance to the identified Protege firm and how the assistance will potentially increase contracting and subcontracting opportunities for the Protege firm, including subcontract opportunities in industry categories where SDBs are not dominant in the offeror's vendor base.

(2) A letter of intent indicating that both the Mentor firm and the Protege firm intend to enter into a contractual relationship under which the Protege will perform as a subcontractor under the contract resulting from this solicitation and that the firms will negotiate a Mentor-Protege agreement. Costs incurred by the offeror in fulfilling the

agreement(s) with the Protege firm(s) are not reimbursable as a direct cost under the contract. The letter of intent must be signed by both parties and contain the following information:

- (i) The name, address and phone number of both parties;
- (ii) The Protege firm's business classification, based upon the NAICS code(s) which represents the contemplated supplies or services to be provided by the Protege firm to the Mentor firm;
- (iii) A statement that the Protege firm meets the eligibility criteria;
- (iv) A preliminary assessment of the developmental needs of the Protege firm and the proposed developmental assistance the Mentor firm envisions providing the Protege. The offeror shall address those needs and how their assistance will enhance the Protege. The offeror shall develop a schedule to assess the needs of the Protege and establish criteria to evaluate the success in the Program.

(v) A statement that if the offeror or Protege firm is suspended or debarred while performing under an approval Mentor-Protege agreement the offeror shall promptly give notice of the suspension or debarment to the EPA Office of Small Disadvantaged Business Utilization (OSDBU) and the contracting officer. The statement shall require the Protege firm to notify the Contractor if it is suspended or debarred.

(g) The application will be evaluated on the extent to which the offeror's proposal addresses the items listed in (e) and (f). To the maximum extent possible, the application should be limited to not more than 10 single pages, double spaced. The offeror may identify more than one Protege in its application.

(h) If the offeror is determined to be in the competitive range, the offeror will be advised by the Contracting officer whether their application is approved or rejected. The Contracting officer, if necessary, may request additional information in connection with the offeror's submission of its revised or best and final offer. If the successful offeror has submitted an approved application, they shall comply with the clause titled "Mentor-Protege Program."

(i) Subcontracts of \$1,000,000 or less awarded to firms approved as Proteges under the Program are exempt from the requirements for competition set forth in FAR 44.202-2(a)(5), 52.244-2(b)(2)(iii) and 52.244-5. However, price reasonableness must still be determined and the requirements in FAR 44.202-2(a)(8) and 52.244-2(b)(2)(iv) for cost or price analysis continue to apply.

(j) Costs incurred by the offeror in fulfilling their agreement(s) with a Protege firm(s) are not reimbursable as a direct cost under the contract. Unless EPA is the responsible audit agency under FAR 42.703-1, offerors are encouraged to enter into an advance agreement with their responsible audit agency on the treatment of such costs when determining indirect cost rates. Where EPA is the responsible audit agency, these costs will be considered in determining indirect cost rates.

(k) Submission of Application and Questions Concerning the Program.

The application for the Program shall be submitted to the contracting officer, and to the EPA OSDBU, at the following addresses for headquarters procurements: Socioeconomic Business Program Officer, Office of Small and Disadvantaged Business Utilization, U. S. Environmental Protection Agency, Ariel Rios Building (3801R), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, Telephone: (202) 564-4322, Fax: (202) 565-2473.

The application for the Program shall be submitted to the Contracting officer, and to the Small Business Specialist, at the following address for RTP procurements: Small Business Program Officer, Contracts Management Division (MD-33), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, Telephone: (919) 541-2249, Fax: (919) 541-5539.

The application for the Program shall be submitted to the Contracting officer, and to the Small Business Specialist, at the following address for Cincinnati procurements: Small and Disadvantaged Business Utilization Officer, Contracts Management Division, 26 West Martin Luther King Drive, Cincinnati, OH 45268, Telephone: (513) 487-2004, Fax: (513) 487-2342.

(End of provision)

21. Section 1552.219-72, Small Disadvantaged Business Participation Program, is added to read as follows:

1552.219-72 Small disadvantaged business participation program.

As prescribed in 1519.204(a), insert the following clause:

Small Disadvantaged Business Participation Program

October 2000

(a) Section M of this solicitation contains a source selection factor or subfactor related to the participation of small disadvantaged business (SDB) concerns in the performance of the contract. The nature of the evaluation of an SDB offeror under this evaluation factor or subfactor is dependent upon whether the SDB concern qualifies for the price evaluation adjustment under the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns and whether the SDB concern specifically waives this price evaluation adjustment.

(b) In order to be evaluated under the source selection factor or subfactor, an offeror must provide, with its offer, the following information:

(1) The extent of participation of SDB concerns in the performance of the contract in terms of the value of the total acquisition. Specifically, offerors must provide targets, expressed as dollars and percentages of the total contract value, for SDB participation in any of the Standard Industrial Classification (SIC) Major Groups as determined by the Department of Commerce. Total dollar and percentage targets must be provided for SDB participation by the prime contractor, including team members and joint venture partners. In addition, total dollar and

percentage targets for SDB participation by subcontractors must be provided and listed separately;

(2) The specific identification of SDB concerns to be involved in the performance of the contract;

(3) The extent of commitment to use SDB concerns in the performance of the contract;

(4) The complexity and variety of the work the SDB concerns are to perform; and

(5) The realism of the proposal to use SDB concerns in the performance of the contract.

(c) An SDB offeror who waives the price evaluation adjustment provided in FAR 52.219-23 shall provide, with their offer, targets, expressed as dollars and percentages of the total contract value, for the work that it intends to perform as the prime contractor in the applicable and authorized North American Industry Classification System (NAICS) Industry Subsectors as determined by the Department of Commerce. All of the offeror's identified targets described in paragraphs (b) and (c) of this clause will be incorporated into and made part of any resulting contract.

(End of provision)

22. Section 1552.219-73, Small Disadvantaged Business Targets, is added to read as follows:

1552.219-73 Small Disadvantaged Business Targets.

As prescribed in 1519.204(b), insert the following clause:

Small Disadvantaged Business Targets

October 2000

(a) In accordance with FAR 19.1202-4(a) and EP 52.219-145, the following small disadvantaged business (SDB) participation targets proposed by the contractor are hereby incorporated into and made part of the contract:

Contractor targets	SIC/NAICS major group	Dollars	Percentage of total contract value
Total Prime Contractor Targets (including joint venture members and team members)			
Total Subcontractor Targets			

(b) The following specifically identified SDB(s) was (were) considered under the Section M SDB participation evaluation factor or subfactor (continue on separate sheet if more space is needed):

- (1) _____
- (2) _____
- (3) _____
- (4) _____
- (5) _____

The contractor shall promptly notify the contracting officer of any substitution of firms if the new firms are not SDB concerns.

(c) In accordance with FAR 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting, the contractor shall report on the participation of SDB concerns in the performance of the contract no less than thirty (30) calendar days prior to each annual contractor performance evaluation [contracting officer may insert the dates for each performance evaluation (i.e., every 12 months after the effective date of contract)] or as otherwise directed by the contracting officer.

(End of provision)

23. Section 1552.219-74, Small Disadvantaged Business Participation Evaluation Factor, is added to read as follows:

1552.219-74 Small disadvantaged business participation evaluation factor.

As prescribed in 1519.204(c), insert the following clause:

Small Disadvantaged Business Participation Evaluation Factor

October 2000

Under this factor [or subfactor, if appropriate], offerors will be evaluated based on the demonstrated extent of participation of small disadvantaged business (SDB) concerns in the performance of the contract in each of the authorized and applicable North American Industry Classification System (NAICS) Industry Subsectors as determined by the Department of Commerce. As part of this evaluation, offerors will be evaluated based on:

(1) The extent to which SDB concerns are specifically identified to participate in the performance of the contract;

(2) The extent of the commitment to use SDB concerns in the performance of the contract (enforceable commitments will be weighed more heavily than nonenforceable commitments);

(3) The complexity and variety of the work the SDB concerns are to perform under the contract;

(4) The realism of the proposal to use SDB concerns in the performance of the contract; and

(5) The extent of participation of SDB concerns, at the prime contractor and subcontractor level, in the performance of the contract (in the authorized and applicable NAICS Industry Subsectors in terms of dollars and percentages of the total contract value.

(End of provision)

24. Section 1552.223-72, Care of Laboratory Animals, is added to read as follows:

1552.223-72 Care of Laboratory Animals.

As prescribed in 1523.303-72, insert the following clause:

Care of Laboratory Animals

October 2000

(a) Before undertaking performance of any contract involving the use of laboratory animals, the Contractor shall register with the Secretary of Agriculture of the United States in accordance with section 6, Public Law 89-544, Laboratory Animal Welfare Act, August 24, 1966, as amended by Public Law 91-579, Animal Welfare Act of 1970, December 24, 1970. The Contractor shall furnish evidence of such registration to the contracting officer.

(b) The Contractor shall acquire animals used in research and development programs from a dealer licensed by the Secretary of Agriculture, or from exempted sources in accordance with the Public Laws enumerated in (a), above, of this provision.

(c) In the care of any live animals used or intended for use in the performance of this contract, the Contractor shall adhere to the principles enunciated in the Guide for Care and Use of Laboratory Animals prepared by the Institute of Laboratory Animal Resources, National Academy of Sciences (NAS)—National Research Council (NRC), and the United States Department of Agriculture's (USDA) regulations and standards issued under Public Laws enumerated in (a) above. In case of conflict between standards, the higher standard shall be used. The Contractor's reports on portions of the contract in which animals were used shall contain a certificate stating that the animals were cared for in accordance with the principles enunciated in the Guide for Care and Use of Laboratory Animals prepared by the Institute of Laboratory Animals Resources (NAS-NRC), and/or in the regulations and standards as promulgated by the Agricultural Research Service, USDA, pursuant to the Laboratory Animal Welfare Act of August 24, 1966 as amended (Public Law 89-544 and Public Law 91-579). NOTE: The Contractor may request registration of his facility and a current listing of licensed dealers from the Regional Office of the Animal and Plant Health Inspection Service (APHIS), USDA, for the region in which his research facility is located. The location of the appropriate APHIS Regional Office as well as information concerning this program may be obtained by contacting the Senior Veterinary, Animal Care Staff, USDA/APHIS, Federal Center Building, Hyattsville, MD 20782.

(End of clause)

25. Section 1552.232-73 is amended by revising paragraph (b) (2), to read as follows:

1552.232-73 Payments—Fixed-Rate Services Contract.

* * * * *

(b) Materials, other direct costs, and subcontracts.

* * * * *

(2) Subcontracted effort may be included in the fixed hourly rates discussed in paragraph (a)(1) of this clause and will be reimbursed as discussed in that paragraph. Otherwise, the cost of subcontracts that are authorized under the subcontracts clause of this contract shall be reimbursable costs under this clause provided that the costs are consistent with

subparagraph (3) of this clause. Reimbursable costs in connection with subcontracts shall be payable to subcontractors consistent with FAR 32.504 in the same manner as for items and services purchased directly for the contract under paragraph (a)(1) of this clause. Reimbursable costs shall not include any costs arising from the letting, administration, or supervision of performance of the subcontract, if the costs are included in the hourly rates payable under paragraph (a)(1) of this clause.

* * * * *

26. Section 1552.228-70, Insurance Liability to Third Persons, is added to read as follows:

1552.228-70 Insurance Liability to Third Persons.

As prescribed in 1528.101, insert the following clause:

Insurance—Liability to Third Persons

October 2000

(a)(1) Except as provided in subparagraph (2) below, the Contractor shall provide and maintain workers' compensation, employer's liability, comprehensive general liability (bodily injury), and comprehensive automobile liability (bodily injury and property damage) insurance, and such other insurance as the Contracting officer may require under this contract.

(2) The Contractor may, with the approval of the Contracting officer, maintain a self-insurance program; provided that, with respect to workers' compensation, the Contractor is qualified pursuant to statutory authority.

(3) All insurance required by this paragraph shall be in a form and amount and for those periods as the Contracting officer may require or approve and with insurers approved by the Contracting officer.

(b) The Contractor agrees to submit for the Contracting officer's approval, to the extent and in the manner required by the Contracting officer, any other insurance that is maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement.

(c) The Contractor shall be reimbursed for that portion of the reasonable cost of insurance allocable to this contract, and required or approved under this clause, in accordance with its established cost accounting practices.

(End of clause)

27. Section 1552.235-80, Access to Confidential Business Information (CBI), is added to read as follows:

1552.235-80 Access to confidential business information.

As prescribed in 1535.007-70(g), insert the following clause.

Access to Confidential Business Information

October 2000

It is not anticipated that it will be necessary for the contractor to have access to confidential business information (CBI)

during the performance of tasks required under this contract. However, the following applies to any and all tasks under which the contractor will or may have access to CBI:

The contractor shall not have access to CBI submitted to EPA under any authority until the contractor obtains from the Project Officer a certification that the EPA has followed all necessary procedures under 40 CFR part 2, subpart B (and any other applicable procedures), including providing, where necessary, prior notice to the submitters of disclosure to the contractor.

(End of clause)

28. Section 1552.239-70, Rehabilitation Act Notice, is added to read as follows:

1552.239-70 Rehabilitation act notice.

As prescribed in 1523.7003(a), insert the following clause.

Rehabilitation Act Notice

October 2000

(a) EPA has a legal obligation under the Rehabilitation Act of 1973, 29 U.S.C. 791, to provide reasonable accommodation to persons with disabilities who wish to attend EPA programs and activities. Under this contract, the contractor may be required to provide support in connection with EPA programs and activities, including conferences, symposia, workshops, meetings, etc. In such cases, the contractor shall, as applicable, include in its draft and final meeting announcements (or similar documents) the following notice:

It is EPA's policy to make reasonable accommodation to persons with disabilities wishing to participate in the agency's programs and activities, pursuant to the Rehabilitation Act of 1973, 29 U.S.C. 791. Any request for accommodation should be made to the specified registration contact for a particular program or activity, preferably one month in advance of the registration deadline, so that EPA will have sufficient time to process the request.

(b) Upon receipt of such a request for accommodation, the contractor shall immediately forward the request to the EPA contracting officer, and provide a copy to the appropriate EPA program office. The contractor may be required to provide any accommodation that EPA may approve. However, in no instance shall the contractor proceed to provide an accommodation prior to receiving written authorization from the contracting officer.

(c) The contractor shall insert in each subcontract or consultant agreement placed hereunder provisions that shall conform substantially to the language of this clause, including this paragraph, unless otherwise authorized by the contracting officer.

(End of clause)

29. Section 1552.242-72, Financial administrative contracting officer, is added to read as follows:

1552.242-72 Financial administrative contracting officer.

As prescribed in 1542.705 (b), insert the following clause:

Financial Administrative Contracting Officer

October 2000

(a) A Financial Administrative Contracting Officer (FACO) is responsible for performing certain post-award functions related to the financial aspects of this contract when the EPA is the cognizant federal agency. These functions include the following duties:

(1) Review the contractor's compensation structure and insurance plan.

(2) Negotiate advance agreements applicable to treatment of costs and to Independent Research & Development/Bid and Proposal costs.

(3) Negotiate changes to interim billing rates and establish final indirect cost rates and billing rates.

(4) Prepare findings of fact and issue decisions related to financial matters under the Disputes clause, if appropriate.

(5) In connection with Cost Accounting Standards:

(A) Determine the adequacy of the contractor's disclosure statements;

(B) Determine whether the disclosure statements are in compliance with Cost Accounting Standards and FAR Part 31;

(C) Determine the contractor's compliance with Cost Accounting Standards and disclosure statements, if applicable; and

(D) Negotiate price adjustments and execute supplemental agreements under the Cost Accounting Standards clauses at FAR 52.230-3, 52.230-4, and 52.230-5.

(6) Review, approve or disapprove, and maintain surveillance of the contractor's purchasing system.

(7) Perform surveillance, resolve issues, and establish any necessary agreements related to the contractor's cost/schedule control system, including travel policies/procedures, allocation and cost charging methodology, timekeeping and labor distribution policies and procedures, subcontract payment practices, matters concerning relationships between the contractor and its affiliates and subsidiaries, and consistency between bid and accounting classifications.

(8) Review, resolve issues, and establish any necessary agreements related to the contractor's estimating system.

(b) The FACO shall consult with the contracting officer whenever necessary or appropriate and shall forward a copy of all agreements/decisions to the contracting officer upon execution.

(c) The FACO for this contract is:

(End of clause)

30. Section 1552.245-73, Government Property, is added to read as follows:

1552.245-73 Government property.

As prescribed in 1545.106(d), insert the following clause:

Government Property

October 2000

(a) The contractor shall not fabricate or acquire, on behalf of the Government, either

directly or indirectly through a subcontract, any item of property without written approval from the Contracting officer.

(b) In accordance with paragraph (a) above, the contractor is authorized to acquire and/or fabricate the equipment listed below for use in the performance of this contract. The equipment is subject to the provisions of the "Government Property" clause.

(c) The Government will provide the following item(s) of Government property to the contractor for use in the performance of this contract. This property shall be used and maintained by the contractor in accordance with the provisions of the "Government Property" clause.

(d) The "EPA Contract Property Administration Requirements" provided below apply to this contract.

U.S. Environmental Protection Agency

Property Administration Requirements (PAR)

1. *Purpose.* This document sets forth the requirements for Environmental Protection Agency (EPA) contractors in the performance of their Government property management responsibilities under contracts with EPA. These requirements supplement those contained in the Government property clause(s) in this contract, and part 45 of the Federal Acquisition Regulation (FAR).

2. *Delegation of Contract Property Administration.* EPA has delegated much of its contract property management oversight to the Defense Contract Management Command (DCMC). Shortly after award of a contract, the EPA contracting officer (CO) delegates the functions of property administration and plant clearance (disposal) for the contract to DCMC. Upon acceptance of that delegation, DCMC will provide notification to the contractor, identifying the assigned property administrator (PA) and plant clearance officer (PLCO). If the contract is not delegated to DCMC for administration, any reference to PA and PLCO throughout this document shall be construed to mean CO. The DCMC PA is available to the contractor for assistance in all matters of property administration. Notwithstanding the delegation, as necessary, the contractor may contact their EPA CO. In the event of disagreement between the contractor and the DCMC PA, the contractor should seek resolution from the CO. Unless otherwise directed in the contract, or this document, all originals of written information or reports, except direct correspondence between the contractor and the DCMC PA, relative to Government property, should be forwarded to the administrative CO assigned to this contract.

3. *Requests for Government Property.*

a. In accordance with FAR 45.102, the contractor shall furnish all property required for performing Government contracts. If a contractor believes that Government facilities are required for performance of the contract, the contractor shall submit a written request to the CO. At a minimum, the request shall contain the following elements:

1. Contract number for which the facilities are required.
2. An item(s) description, quantity and estimated cost.

3. Certification that no like contractor facilities exist which could be utilized.

4. A detailed description of the task-related purpose of the facilities.

5. Explanation of negative impact if facilities are not provided by the Government.

6. If applicable, recommend the exception under FAR 45.302-1(a) or any applicable EPA class deviation (available upon request), and provide any other information which would support the furnishing of facilities, including contractor-acquired property (CAP).

7. Except when the request is for material, a lease versus purchase analysis shall be furnished with the request to acquire property on behalf of the Government. The contractor may not proceed with acquisition of facilities on behalf of the Government until receipt of written authorization from the EPA CO.

4. *Transfer of Government Property.* When the contractor receives Government-furnished property (GFP), the contractor should receive, from the transferor, (either EPA or another contractor) all of the applicable data elements (Attachment 1 of this clause) needed to maintain the required records. If this information is not provided at the time of receipt of the property, the contractor shall request it from the EPA CO. The CO will attempt to obtain the data from the previous property holder, or, if data does not exist, will assist the current property holder in estimating the elements. Prior to signing an acceptance document for the property, the receiving contractor should perform a complete inventory of the property. Responsibility, as well as accountability, passes with the signed acceptance. When, at the written direction of the EPA CO, the contractor transfers GFP to another contractor, or another Agency, the contractor shall provide the applicable data elements (Attachment 1 of this clause). Upon return of the property to EPA, the same data must be provided by the contractor to the EPA CO.

5. *Records of Government Property.*

a. In accordance with FAR 45.505 and 45.505-1, the contractor shall establish and maintain adequate property records for all Government property, regardless of value, including property provided to and in the possession of a subcontractor. Material (supplies) provided by the Government or acquired by the contractor and billed as a direct charge to the Government is Government property and records must be established as such.

b. The contractor shall establish and maintain the official Government property record. (If the contract contains the FAR Clause 52.245-1, the Government will maintain the official Government property records.) Such records shall contain the applicable data elements (Attachment 1 of this clause) for all items of Government property regardless of cost.

c. The Contractor shall identify all Superfund property and designate it as such both on the item and on the official Government property record. If it is not practicable to tag the item, the contractor shall write the ID number on a tag, card or

other entity that may be kept with the item or in a file.

d. Support documentation used for posting entries to the property record shall provide complete, current and auditable data. Entries shall be posted to the record in a timely manner following an action.

e. For Government vehicles, in addition to the data elements required by EPA, the contractor shall also comply with the General Services Administration (GSA) and Department of Energy (DOE) record and report requirements supplied with all EPA provided motor vehicles. If the above requirements were not provided with the vehicle, the contractor shall notify the EPA CO.

f. When Government property is disclosed to be in the possession or control of the contractor but not provided under any contract, the contractor shall record and report the property in accordance with FAR 45.502(f) and (h).

6. *Inventories of Government Property.* The contractor shall conduct a complete physical inventory of EPA property at least once per year, unless otherwise directed by the PA. Reconciliation shall be completed within 30 calendar days of inventory completion. The contractor shall report the results of the inventory, including any discrepancies, to the DCMC PA upon completion of the reconciliation. The contractor's records shall indicate the completion date of the inventory. See section 9 herein. Contract Closeout, for information on final inventories.

7. *Reports of Government Property.* In accordance with FAR 45.505-14, EPA requires an annual summary report, for each contract, by contract number, of Government property in the contractor's possession as of September 30 each year.

a. For each classification listed in FAR 45.505-14(a), except material, the contractor shall provide the total acquisition cost and total quantity. If there are zero items in a classification, or if there is an ending balance of zero, the classification must be listed with zeros in the quantity and acquisition cost columns.

b. For material, the contractor shall provide the total acquisition cost only.

c. Property classified as facilities, special tooling, special test equipment, and agency peculiar must be reported on two separate lines. The first line shall include the total acquisition cost and quantity of all items or systems with a unit acquisition cost of \$25,000 or more. The second line shall include the total acquisition cost and quantity of all items with a unit acquisition cost of less than \$25,000.

d. For items comprising a system, which is defined as "a group of interacting items functioning as a complex whole," the contractor may maintain the record as a system noting all components of the system under the main component or maintain individual records for each item. However, for the annual report of Government property the components must be reported as a system with one total dollar amount for the system, if that system total is \$25,000 or more.

e. The reports are to be received at EPA and DCMC no later than October 31 of each year.

f. Distribution shall be as follows:

Original to: EPA CO

1 copy: DCMC PA

g. EPA Contractors are required to comply with GSA's and DOE's special reporting requirements for motor vehicles. A statement of these requirements will be provided by the EPA Facility Management and Services Division (FMSD) concurrent with receipt of each vehicle.

h. The contractor shall provide detailed reports on an as-needed basis, as may be requested by the CO or the PA.

8. *Disposition of Government Property.* The disposition process is composed of three distinct phases: identification of excess property, reporting of excess property, and final disposition.

a. *Identification of Excess Property.* The disposition process begins with the contractor identifying Government property that is excess to its contract. Effective contractor property control systems provide for disclosing excesses as they occur. Once inactive Government property has been determined to be excess to the contract to which it is accountable, it must be screened against the contractor's other EPA contracts for further use. If the property may be reutilized, the contractor shall notify the CO in writing. Government property will be transferred to other contracts only when the COs on both the current contract and the receiving contract authorize such a transfer in writing.

b. *Reporting Excess Government Property.* Excess Government property shall be reported in accordance with FAR Subpart 45.6. Inventory schedules A-E (SF Forms 1426-1434) provide the format for reporting of excess Government property. Instructions for completing the forms are located at FAR 45.606-5 and samples may be found in FAR 53.301-1426 thru 1434. Inventory schedules shall be forwarded to the DCMC PLCO with a copy to the EPA CO. The cover letter, which accompanies the inventory schedules, must include the EPA CO's name, address and telephone number. Inventory schedules must also contain a notification if the property is Superfund property. If the property is Superfund property, the contractor must also prominently include the following language on the inventory schedule: "Note to PLCO: Reimbursement to the EPA Superfund is required." When requested, by the PLCO or the CO, the contractor will provide the fair market value for those items requested.

c. *Disposition Instructions.*

1. If directed in writing by the EPA CO, the contractor will retain all or part of the excess Government property under the current contract for possible future requirements. The contractor shall request, from the PLCO, withdrawal from the inventory schedule of those items to be retained.

2. If directed in writing by the EPA CO, the contractor shall transfer the property to another EPA contractor. The contractor will transfer the property by shipping it in accordance with the instructions provided by the CO. The contractor shall request, from the PLCO, withdrawal from the inventory schedule of those items to be transferred. Further, the contractor shall notify the CO when the transfer is complete.

3. If directed in writing by the EPA CO, the contractor shall transfer the property to EPA. The contractor shall ship/deliver the property in accordance with the instructions provided by the CO. The contractor will request, from the PLCO, withdrawal from the inventory schedule of those items to be transferred to EPA. Further, the contractor shall notify the CO when the transfer is complete.

4. The contractor will ship the property elsewhere if directed, in writing, by the PLCO.

5. The PLCO will either conduct the sale or instruct the contractor to conduct a sale of surplus property. The contractor will allow prospective bidders access to property offered for sale.

6. Property abandoned by the PLCO on the contractor's site must be disposed of in a manner that does not endanger the health and safety of the public.

7. To effect transfer of accountability, the contractor shall provide the recipient of the property with the applicable data elements set forth in Attachment 1 of this clause. The contractor shall also obtain either a signed receipt from the recipient, or proof of shipment. The contractor shall update the official Government property record to indicate the disposition of the item and to close the record.

9. *Contract Closeout.* The contractor shall complete a physical inventory of all Government property at contract completion and the results, including any discrepancies, shall be reported to the DCMC PA. In the case of a terminated contract, the contractor shall comply with the inventory requirements set forth in the applicable termination clause. The results of the inventory, as well as a detailed inventory listing, must be forwarded to the CO. For terminated contracts, the contractor will conduct and report the inventory results as directed by the CO. However, in order to expedite the disposal process, contractors may be required to, or may elect to submit to the CO, an inventory schedule for disposal purposes up to six (6) months prior to contract completion. If such an inventory schedule is prepared, the contractor must indicate the earliest date that each item may be disposed. The contractor shall update all property records to show disposal action. The contractor shall notify the DCMC PA, in writing, when all work has been completed under the contract and all Government property accountable to the contract has been disposed.

Attachment 1

Required Data Elements. Where applicable (all elements are not applicable to material) the contractor is required to maintain, at a minimum, the information related to the following data elements for EPA Government property: Contractor Identification/Tag Number; Description; Manufacturer; Model; Serial Number; Acquisition Date; Date received; Acquisition Cost*; Acquisition Document Number; Location; Contract Number; Account Number (if supplied); Superfund (Yes/No); Inventory Performance Date; Disposition Date.

* Acquisition cost shall include the price of the item plus all taxes, transportation and installation charges allocable to that item.

Note: For items comprising a system which is defined as, "a group of interacting items functioning as a complex whole," the contractor may maintain the record as a system noting all components of the system under the main component or maintain individual records for each item. However, for the Annual Report of Government Property, the components must be reported as a system with one total dollar amount for the system, if that system total is \$25,000 or more.

(End of clause)

Dated: September 21, 2000.

John C. Gherardini,

Acting Director, Office of Acquisition Management.

[FR Doc. 00-25046 Filed 10-2-00; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1807, 1811, 1815, 1816, 1817, 1819, 1834, 1843, 1845, and 1852

North American Industry Classification System (NAICS)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA Federal Acquisition Regulation Supplement (NFS) to conform to changes made in the Federal Acquisition Regulation (FAR) by Federal Acquisition Circular (FAC) 97-19 and make editorial corrections and miscellaneous changes dealing with NASA internal and administrative matters.

EFFECTIVE DATE: October 3, 2000.

FOR FURTHER INFORMATION CONTACT: Celeste Dalton, Code HK, (202) 358-1645, e-mail: celeste.dalton@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

Federal Acquisition Circular (FAC) 97-19 replaced the Standard Industrial Classification (SIC) system with the North American Industry Classification System (NAICS). Additionally, FAC 97-19 amended the title to section 7.107, revised subpart 11.5, and amended section 43.205. This final rule amends the NASA FAR Supplement (NFS) to conform to these changes. Changes unrelated to FAC 97-19 are made to: update references to internal documents; revise the dollar threshold for use of Government bills of lading at 1852.247-73; revise the instructions for amending the clause at 1852.242-70

when its Alternate II is used; and make a technical correction at 1819.202.

B. Regulatory Flexibility Act

NASA certifies that this final rule does not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), because it does not impose new requirements on offerors or contractors.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1807, 1811, 1815, 1816, 1817, 1819, 1834, 1843, 1845, and 1852

Government procurement.

Thomas S. Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1807, 1811, 1815, 1816, 1817, 1819, 1834, 1843, 1845, and 1852 are amended as follows:

1. The authority citation for 48 CFR Parts 1807, 1811, 1815, 1816, 1817, 1819, 1834, 1843, 1845, and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1807—ACQUISITION PLANNING

2. Revise the section heading at 1807.107 to read as follows:

1807.107 Additional requirements for acquisitions involving bundling.

PART 1811—DESCRIBING AGENCY NEEDS

3. Revise subpart 1811.5 to read as follows:

Subpart 1811.5—Liquidated Damages

1811.501 Policy.

(d) The procurement officer must forward recommendations concerning remission of liquidated damages to the Headquarters Office of Procurement (Code HS).

PART 1815—CONTRACTING BY NEGOTIATION

1815.7001 [Amended]

4. Amend section 1815.7001 by removing the words "Procurement Guidance" and adding the words