



Section 9 : GOVERNMENT CONTRACT REQUIREMENTS

CLAUSE 90C (12/20/01) **P4500 PROGRAM** **GOVERNMENT CONTRACT REQUIREMENTS**

(a) The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" shall mean Seller.

- (1) 52.203-6 Restrictions on Subcontractor Sales to the Government (JUL 1995). This clause applies only if this contract exceeds \$100,000.
- (2) 52.203-7 Anti-Kickback Procedures (JUL 1995) [excluding subparagraph (c)(1)]. This clause applies only if this contract exceeds \$100,000. Buyer may withhold from sums owed Seller the amount of any kickback paid by Seller or its subcontractors at any tier if (a) the Contracting Officer so directs, or (b) the Contracting Officer has offset the amount of such kickback against money owed Buyer under the prime contract.
- (3) 52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (JAN 97). This clause applies to this contract if Seller, its employees, officers, directors or agents participated personally and substantially in any part of the preparation of a proposal for this contract. Seller shall indemnify Buyer for any and all losses suffered by Buyer due to violations of the Act (as set forth in this clause) by Seller or its subcontractors at any tier.
- (4) 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997). This clause applies only if this contract exceeds \$100,000. If the Government reduces Buyer's price or fee for violations of the Act by Seller or its subcontractors at any tier, Buyer may withhold or recover from Seller the amount of the reduction.
- (5) 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (APR 1991)
- (6) 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (JUN 1997). This clause applies only if this contract exceeds \$100,000. Paragraph (c) (4) is modified to read as follows: "(c) (4) Seller will promptly submit any disclosure required (with written notice to Buyer) directly to the PCO for the prime contract. Buyer will identify the cognizant Government PCO at Seller's request. Each subcontractor certification will be retained in the subcontract file of the awarding contractor."
- (7) 52.204-2 Security Requirements (AUG 1996) (excluding any reference to the Changes clause of this contract). This clause applies only if access to classified information is required.
- (8) 52.211-15 Defense Priority and Allocation Requirements (SEP 1990)
- (9) 52.215-2 Audit and Records -- Negotiation (JUN 1999). This clause applies only if this contract exceeds \$100,000 and (i) is cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these types; (ii) Seller was required to provide cost or pricing data, or (iii) Seller is required to

furnish reports as discussed in paragraph (e) of the referenced clause.

(10) 52.215-19 Notification of Ownership Changes (OCT 1997). This clause applies only if under this contract certified cost or pricing data is required or preaward or postaward cost determinations are subject to FAR subpart 31.2. Buyer may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this clause. "Contracting Officer" shall mean Buyer.

(11) 52.215-27 Termination of Defined Benefit Pension Plans (MAR 1996). This clause applies only if under this contract certified cost or pricing data is required or preaward or postaward cost determinations are subject to FAR part 31. Buyer may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this clause. "Contracting Officer" shall mean Buyer.

(12) 52.215-39 Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB) (MAR 1996). This clause applies only if under this contract certified cost or pricing data is required or preaward or postaward cost determinations are subject to FAR part 31. Buyer may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this clause. "Contracting Officer" shall mean Buyer.

(13) 52.215-41 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data (JAN 1997)

(14) 52.215-42 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data - Modifications (JAN 1997)

(15) 52.219-8 Utilization of Small Business Concerns (JUN 1997)

(16) 52.219-9 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (JAN 1999). This clause applies only if this contract exceeds \$500,000 and Seller is not a small business concern. In paragraph (c), "Contracting Officer" shall mean Buyer.

(17) 52.222-4 Contract Work Hours and Safety Standards Act -- Overtime Compensation (JUL 1995). This clause applies only if this contract exceeds \$100,000. Buyer may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this clause.

(18) 52.222-20 Walsh-Healey Public Contracts Act (DEC 1996). This clause applies only if this contract exceeds \$10,000.

(19) 52.222-26 Equal Opportunity (FEB 1999) [subparagraphs (b)(1) through (11)]

(20) 52.222-35 Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (APR 1998). This clause applies only if this contract is for \$10,000 or more.

(21) 52.222-36 Affirmative Action for Workers With Disabilities (JUN 1998). This clause applies only if this contract exceeds \$10,000.

(22) 52.222-37 Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (JAN 1999). This clause applies only if this contract is for \$10,000 or more.

(23) 52.223-2 Clean Air and Water (APR 1984). This clause applies only if this contract exceeds \$100,000.

- (24) 52.223-14 Toxic Chemical Release Reporting (OCT 1996) [excluding paragraph (e)]. This clause applies only if this contract was competitively awarded, exceeds \$100,000 (including all options), is not for commercial items as defined in FAR Part 12 and Seller has a SIC designation of major groups 20 through 39 as set forth in FAR 19.102.
- (25) 52.225-13 Restrictions on Certain Foreign Purchases (JUL 2000)
- (26) 52.227-1 Authorization and Consent (JUL 1995), Alternate I (APR 1984)
- (27) 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (AUG 1996). This clause applies only if this contract exceeds \$100,000. A copy of each notice sent to the Government will be sent to Buyer.
- (28) 52.227-10 Filing of Patent Applications - Classified Subject Matter (APR 84). This clause applies only if this contract will involve access to classified information.
- (29) 52.227-14 Rights in Data -- General (JUN 1987) and Alternates I through V (JUN 1987)
- (30) 52.227-16 Additional Data Requirements (JUN 1987). This clause applies only if this contract involves experimental, developmental, research, or demonstration work.
- (31) 52.244-5 Competition in Subcontracting (DEC 1996)
- (32) 52.245-2 Government Property (DEC 1989)
- (33) 52.245-18 Special Test Equipment (FEB 1993)
- (34) 52.247-63 Preference for U.S. - Flag Air Carriers (JAN 1997). This clause applies only if this contract may involve international air transportation

(b) The following contract clauses are incorporated by reference from the Department of Defense Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" shall mean Seller.

- (1) 252.203-7001 Special Prohibition on Employment (JUN 1997) [excluding paragraph (g)]. This clause applies only if this contract exceeds \$100,000 and is not for commercial items or components.
- (2) 252.209-7000 Acquisition From Subcontractors Subject to On-Site Inspection Under the Intermediate-Range Nuclear Forces (INF) Treaty (NOV 1995). This clause applies only if this contract exceeds \$100,000 and is not for commercial items.
- (3) 252.219-7003 Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts) (APR 1996)
- (4) 252.223-7006 Prohibition on Storage and Disposal of Toxic and Hazardous Materials (APR 1993)
- (5) 252.225-7012 Preference for Certain Domestic Commodities (SEP 1997)
- (6) 252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software

Documentation (JUN 1995). This clause applies only if this contract requires Seller to provide noncommercial computer software or noncommercial computer software documentation to Buyer for delivery to the Government.

(7) 252.228-7005 Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles (DEC 1991)

(8) 252.231-7000 Supplemental Cost Principles (DEC 1991)

(9) 252.249-7001 Notification of Substantial Impact on Employment (DEC 1991). This clause applies only if this contract is \$500,000 or more.

(c) Cost Accounting Standards

If clause 383 or 384 is incorporated in this contract, the FAR designation for the "Administration of Cost Accounting Standards" clause is hereby changed from FAR 52.230-5 (AUG 1992) to FAR 52.230-6 (APR 1996) and the dates of the "Cost Accounting Standards" and "Disclosure and Consistency of Cost Accounting Practices" clauses are hereby changed from AUG 1992 to APR 1998.

(d) Cost and Pricing Data

If clause 307 or 308 is incorporated in this contract, the following changes are made:

(1) In paragraph (a): Delete "FAR 52.215-25" and substitute in lieu thereof "FAR 52.215-13 (OCT 1997)." Delete the words "in effect on the date of this contract." In clause 307 only, delete "FAR 52.215-24" and substitute in lieu thereof "FAR 52.215-12 (OCT 1997)."

(2) In paragraph (b)(1): Delete "FAR 15.804-2, 15.804-4, 15.804-6, 15.806-1, and 15.806-2, in effect on the date of this contract" and substitute in lieu thereof "FAR 15.403-4, 15.403-5, 15.404-3, and 15.406-2, in effect on August 1, 1999."

(3) In paragraph (b)(3): Delete "FAR 52.215-22(d) or 52.215-23(e)" and substitute in lieu thereof "FAR 52.215-10(d) (OCT 1997) or 52.215-11(e) (OCT 1997)."

(4) In paragraph (b)(5): Delete "FAR 52.215-22(c)(1)" and substitute in lieu thereof "FAR 52.215-10(c)(1) (OCT 1997)."

(e) Foreign Nationals - Foreign Sources

(1) For the purposes of this clause,

(A) Foreign nationals are those persons not citizens of, not nationals of, or resident/immigrant aliens to, the United States;

(B) Foreign representative is anyone, regardless of nationality or citizenship, acting as an agent, representative, official, or employee of a foreign government, a foreign-owned or influenced firm, corporation, or person; and

(C) Foreign sources are those sources (vendors, subcontractors, and suppliers) not owned and controlled by citizens or immigrant aliens of the United States.

(2) Nothing in this clause is intended to waive any requirement imposed by any other U.S. Government agency with respect to employment of foreign nationals or export-controlled data and information.

(3) Seller acknowledges that equipment and technical data generated or delivered in the performance of this contract is controlled by the International Traffic in Arms Regulation (ITAR), 22 CFR Sections 121 through 128, and require an export license before assigning any foreign national to perform work under this contract or before granting access to foreign nationals to any equipment and technical data generated or delivered in performance of this contract (see 22 CFR Section 125). Seller agrees to notify and obtain the written approval of Buyer prior to assigning or granting access to any work, equipment, or technical data generated or delivered in the performance of this contract to foreign nationals or their representatives. This notification will include the name and country of origin of the foreign national or representative, the specific work, equipment, or data to which the person will have access, and whether the foreign national is cleared to have access to technical data (DoD 5220.22-M, National Industrial Security Program Operating Manual (NISPOM)).

(f) PERSONAL CONDUCT. Seller and its employees shall comply with the conduct requirements at Buyer and Government work sites. Buyer reserves the right to exclude or remove from the work site any employees of Seller whom Buyer deems careless, uncooperative, or whose continued employment on the work site is deemed by Buyer or the Government to be contrary to the public interest. Seller shall inform its employees that Buyer and the Government have a zero tolerance for harassing behavior; and that any Seller employee determined by Buyer to have engaged in harassing behavior shall be immediately escorted from Buyer/Government premises and denied further access to the premises.

(g) USAGE OF THE METRIC SYSTEM OF MEASUREMENT. This order requires that all supplies, components, reports, documentation or services which are designed, fabricated, assembled, delivered or performed under this order shall utilize the "International System of Units" (SI). The "International System of Units" is as established by the General Conference of Weights & Measures in 1960; it is also know as "System International (SI)" or "Metric System"; and it is interpreted for US usage by the Department of Commerce's Interpretation of the International System of Units for the United States as printed in the Federal Register Volume 55, page 52242, Dec. 20 1990, and supplemented for the Federal Government's usage by the GSA's Federal Standard 376, Preferred Metric Units of General Use by the Federal Government.

(h) ORGANIZATIONAL CONFLICT OF INTEREST. Seller warrants that to the best of Seller's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as defined in FAR Subpart 9.5, or that the Seller has disclosed all such relevant information. Seller agrees that if an actual or potential organizational conflict of interest is discovered after award, Seller will make a full disclosure in writing to Buyer; this disclosure shall include a description of actions which Seller has taken or proposes to take, after consultation with Buyer, to avoid, mitigate, or neutralize the actual or potential conflict. Buyer may terminate this order for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If Seller was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose the relevant information to Buyer, Buyer may terminate the order for default, or pursue such other remedies as may be permitted by law or this order.